

Rural injustice:

The low prosecution rates for farm attacks and murders

AfriForum
NAVORSING

Table of contents

Introduction **1**
Definition of a farm attack **2**
Methodology **2**
The process from arrest to conviction **4**
Farm murders 2019 to 2022 ..... **5**
Murder **5**
Arrests and convictions over time 5
Nationality: Murder arrests and convictions 7
Attacks **8**
Arrests and convictions over time 8
Nationality: Attack arrests and convictions 9
Conclusion **10**

This report was adapted from AfriForum's report *Trends in farm murders and an analysis of arrests and prosecutions*.[1]

[1] AfriForum. 2022. *Trends in farm murders and an analysis of arrests and prosecutions 2016–2021*. Available at https://afriforum.co.za/wp-content/uploads/2022/03/20220301-Johan-N-Plaasmoordverslag-2022-ENG-GFdB.pdf. Accessed on 23 July 2023.

Introduction

AfriForum has been involved in responding to farm attacks and murders since the organisation was established as part of the Solidarity Movement in 2006. This response initially involved various awareness raising campaigns both in South Africa and abroad. Local campaigns include lobbying the South African government to recognise farm murders as a priority crime, marches and peaceful protests against farm murders and sending petitions to the Minister of Police, while international campaigns include informing and addressing international organisations such as the United Nations about the phenomenon of farm attacks.[2] [3] [4] [5] [6] However, over the past couple of years AfriForum has intensified its commitment to the fight against both farm attacks and other forms of criminal activities by expanding its safety and security network. This expansion includes increasing the number of neighbourhood watches across the country, the establishment of a trauma unit to assist victims of farm attacks and offering training programmes to farmers, including first-aid classes, firearm handling and radio communication instruction.[7]

The purpose of this report is to evaluate convictions regarding farm attacks and murders. In order to gain a comprehensive understanding of whether strategies such as the National Rural Safety Strategy (NRSS) of the SAPS (South African Police Service) and the fight against farm attacks are effective, one cannot merely rely on the frequency of these attacks as an indicator. A more comprehensive evaluation of the South African criminal justice system, including the performance of the courts and prosecuting authorities, is necessary to assess whether strategies to curb farm attacks are effective. The South African Judiciary emphasises that resolving and reducing the backlog of criminal cases is a fundamental step in enhancing the public's trust in the judicial system.[8]

The identified shortcomings in the criminal justice system regarding the arrest and conviction of farm attack perpetrators will become clear in this report. However, the aim of the report is not to

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2 AfriForum. 2020. *AfriForum reprimands Cele over prioritisation of farm murders; intensifies campaign*. Media statement on 22 September. Available at https://afriforum.co.za/en/afriforum-reprimands-cele-over-prioritisation-of-farm-murders-increases-campaign/. Accessed on 23 July 2023.

3 AfriForum. 2020. *AfriForum organises peaceful protest against farm murders in Senekal for Friday*. Media statement on 13 October. Available at https://afriforum.co.za/en/84194/. Accessed on 23 July 2023.

4 AfriForum. 2017. *Organisations unite in opposition to farm murders.* Available at https://afriforum.co.za/en/organisations-stand-together-farm-murders/. Accessed on 23 July 2023.

5 Van Zyl, E. 2022. *AfriForum participates in march against farm murders*. Politicsweb, 24 October. Available at https://www.politicsweb.co.za/politics/afriforum-participates-in-march-against-farm-murders. Accessed on 23 July 2023.

6 AfriForum. 2021. *AfriForum highlights the impact of farm murders on minors to the UN*. Media statement on 5 February. Available at https://afriforum.co.za/en/afriforum-brings-the-effect-of-farm-murders-on-minors-to-the-attention-of-the-un/. Accessed on 23 July 2023.

7 AfriForum. 2022. *Farm murders and attacks in South Africa for 2022*. Available at https://stopdiemoorde.co.za/wp-content/uploads/2023/03/20230228-Johan-N-Farm-murders-and-attacks-in-SA-for-2022-ENG-GFdB-1.pdf. Accessed on 23 July 2023.

8 The South African Judiciary. 2022. *Annual report 2021/2021*, p.34. Available at https://www.judiciary.org.za/images/news/2023/Judiciary_Annual_Report_2021-22.pdf. Accessed on 22 July 2023.

criticise the individual work done by members of the SAPS and the National Prosecuting Authority. AfriForum is well aware that there are numerous unsung dedicated individuals within the criminal justice system. Instead, the report highlights the shortcomings of the criminal justice system as a whole with respect to arresting and sentencing of suspects and criminals involved in farm attacks and murders. Indeed, AfriForum has in the past also expressed its concern over the low conviction rates of other serious crimes such as serial rape and the inadequacies of the criminal justice system and government to curb rape-related incidents.[9]

As with all of AfriForum's reports on farm murders, this report is dedicated to the murder victims and their family members and friends. You are not forgotten.

Definition of a farm attack

To ensure consistency in the collection of data on farm attacks, the SAPS has developed a standardised definition for assaults on farms and smallholdings,[10] since a definition of what constitutes a farm attack is essential to document such instances. Consequently, the SAPS' NRSS defines a farm attack as:[11]

> … acts of violence against person(s) living in rural areas, including farms and smallholdings, refer to acts aimed at person(s) residing in, working in, or visiting rural areas, whether with the intent to murder, rape, rob or inflict bodily harm. In addition, all acts of violence against the infrastructure and property in the rural community, which is aimed at disrupting farming or other commercial concerns, irrespective of whether the motive(s) are related to the commission of other crime(s), ideology, land disputes, land issues, revenge, grievances, racist concerns, or intimidation are included in this definition.

The definition excludes cases relating to domestic violence or alcohol abuse, cases that result from commonplace social interaction between people, or any labour disputes. Therefore, the abovementioned NRSS definition is also the definition used by AfriForum when verifying whether an attack or murder that took place in a rural setting can be considered a farm attack.

Methodology

From 2019 onwards AfriForum's Community Safety division has developed its own database that tracks and documents farm attacks and murders. While the database was primarily designed to

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9 AfriForum. 2020. *Serial Rape in South Africa.* Available at https://afriforum.co.za/wp-content/uploads/2021/08/Serial-Rape-in-South-Africa.pdf. Accessed on 24 August 2023.

10 Human Rights Watch. 2001. *Unequal protection: State response to violent crime on South African farms*. Available at https://www.hrw.org/reports/2001/safrica2/Safarms7.htm#_1_33. Accessed on 28 July 2023.

11 South African Police Service. 2019. *The National Rural Safety Strategy*, p. 7. Available at https://www.saps.gov.za/resource_centre/publications/national_rural_safety_strategy_2019.pdf. Accessed on 22 July 2023.

provide an intelligence product about farm attacks to specific stakeholders, the development of the database was also prompted, in part, by the possibility that if the SAPS chooses not to disclose statistics on farm murders for whatever reason, as has previously occurred,[12] AfriForum will have access to records on farm attacks. Although the Community Safety database records the number of suspects apprehended for each incident, the database does not keep track of the conviction of perpetrators.

As a result, AfriForum requested this information in terms of Section 18(1) of the Promotion of Access to Information Act 2 of 2000 in February 2023 to determine how many prosecutions were successful following farm attacks and murders for the 2019 to 2022 calendar years.[13] The PAIA request was eventually received in June of 2023, following a request for extension and several details on the part of the SAPS.[14]

As part of the particulars of the request, AfriForum requested the Case Administrative System (CAS) or case number of the incidents. Every crime reported to the SAPS results in the opening of a docket, which is then transcribed electronically into the CAS. Each case in the CAS is assigned a number in chronological order based on the month and year the crime was reported.[15] The inclusion of the CAS numbers in the information AfriForum requested would have made a comparison between AfriForum's dataset and that of the SAPS possible. However, the information received from the SAPS did not contain the CAS numbers for the incidents. Consequently, the arrest and conviction numbers in this report are based on official SAPS crime statistics, unless otherwise specified. Another point to consider when interpreting the statistics is that in a few instances data was either missing or incorrectly recorded by the SAPS. A case in point is where the one individual was arrested on 2 December 2020, but the date of conviction was recorded as 17 May 2020. As a result, certain data points have been omitted in certain sections of the available data.

The report is divided into two sections. The first section will assess murder arrest and conviction incidents, as well as the nationality of the arrested suspects and perpetrators. The second section of this report will specifically focus on the arrests and convictions resulting from farm attacks, that is those incidents that did not result in the murder of the victims.

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12 Burger, J. 2017. *Accurate statistics are needed for the SA farm murder debate*. Institute for Security Studies. 11 December. Available at https://issafrica.org/iss-today/accurate-statistics-are-needed-for-the-sa-farm-murder-debate. Accessed on 23 July 2023.

13 HurterSpies. 2023. *AfriForum // South African Police Service – Request for information in terms of the Promotion of Access to Information Act (No. 2 of 2000).* Email correspondence to Col. A. Crooks, 6 February. Available pending approval from HurterSpies.

14 HurterSpies. 2023. *AfriForum // SAPS – Plaasmoorde PAIA*. Email correspondence from Daniël Eloff, 30 June. Available pending approval from HurterSpies.

15 Back to Basics. Towards a safer tomorrow. *Crime situation in South Africa: 1 April 2016 to 31 March 2017*, p. 4. Available at https://www.saps.gov.za/services/final_crime_stats_presentation_24_october_2017.pdf. Accessed on 23 July 2023.

The process from arrest to conviction

South Africa's lack of an integrated criminal justice system database that would connect cases between law enforcement agencies and courts, makes systematic investigation and research on convictions difficult.[16] [17] The following is a summary of the steps taken in South Africa from the time a crime is committed until a verdict is reached.

Firstly, the SAPS is tasked with investigating reported crimes and arresting suspects. This process involves among other things gathering forensic evidence that is subsequently delivered to state prosecutors via a SAPS docket. The next step involves the prosecution process where prosecutors evaluate the content of the police docket and then decide whether the case warrants charges. The National Prosecuting Authority (NPA) plays an essential role in this process and acts as a bridge between the SAPS and the courts. After this, if a charge is filed, the courts will review the case in order to hand down a verdict. During criminal trials in court, the responsibility of prosecutors (the NPA) is to convince the court of the accused's guilt beyond a reasonable doubt; this can be distinguished from civil cases where evidence is evaluated based on a balance of probabilities.[18] It is important to note that most reported crimes never make it to court, let alone lead to a conviction; a phenomenon referred to as the *sieve effect*.[19] This means that the number of prosecutions will in all likelihood be fewer than the number of reported cases since certain cases with inadequate evidence are removed during the various stages of the investigation and prosecution.[20]

According to Africa Criminal Justice Reform the method used by the NPA to calculate its conviction rate only evaluates success in terms of cases that have been prosecuted to verdict and does not factor in the success rate for cases that are initially reported to the SAPS and later handed over to the NPA for prosecution;[21] this means that the conviction rate only includes instances where the NPA decides to prosecute.[22] The next section will examine arrests and

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16 Kriegler, A. & Shaw, M. 2016. *Citizen's guide to crime trends in South Africa*. Johannesburg: Jonathan Ball Publishers, p. 35.

17 Simkins, C. 2020. *Crime and punishment in contemporary SA I – The system and the data*. Helen Suzman Foundation, 2 June. Available at https://hsf.org.za/publications/hsf-briefs/crime-and-punishment-in-contemporary-south-africa-i-the-system-and-the-data. Accessed on 23 August 2023.

18 The Institute for Security Studies. 2020. *Understanding the National Prosecuting Authority*. Available at https://issafrica.org/crimehub/analysis/fact-sheets/understanding-the-national-prosecuting-authority#:~:text=The%20National%20Prosecuting%20Authority%20(NPA,evaluate%20cases%20and%20pass%20judgments. Accessed on 23 August 2023.

19 Legget, T. 2003. The sieve effect: South Africa's conviction rates in perspective. *South African Crime Quarterly* 5: 11–14. DOI: https://doi.org/10.17159/2413-3108/2003/v0i5a1060.

20 Ibid.

21 Redpath, J. 2022. *NPA Issue Paper 3: Effectiveness and Efficiency*. Africa Criminal Justice Reform, pp. 1–7 (p. 5). Available at https://acjr.org.za/issue-paper-3-npa-effectiveness-and-efficiency.pdf. Accessed on 23 July 2023.

22 Qukula, Q. 2020. NPA's conviction numbers aren't what they seem, researchers warn. *CapeTalk*, 6 November. Available at https://www.capetalk.co.za/articles/400859/npa-s-conviction-numbers-aren-t-what-they-seem-researchers-warn. Accessed on 23 July 2023.

convictions relating to farm murders and attacks in terms of incidents opened by the SAPS and those that resulted in guilty verdicts.

Farm murders 2019 to 2022

While AfriForum's database recorded 182 incidents of farm attacks in which at least one person was murdered (217 murder victims) for the 2019 to 2022 calendar years, the SAPS recorded 153 of these incidents for the same period. The reason for the variation is unknown. However, according to Action SA a possible explanation could be that farm murders may not be documented correctly.[23] The majority of incidents involving attacks on farms were reported to the SAPS. Nonetheless, a significant issue arose in relation to the categorisation and classification of these cases since police at ground level might not be well-versed in the definition of a farm attack.[24] Along with the frequency of farm attacks, the particular role of farmers within their community and the geographical isolation, AfriForum believes that one of the defining elements of farm attacks is the extreme levels of violence that are often associated with these incidents.[25]

Murder

Arrests and convictions over time

For the period under review, according to the SAPS data there was a total of 153 recorded murder incidents, while in 75 of these incidents suspects were arrested. Figure 1 provides a provincial breakdown of the number of murder incidents and arrests made per murder incident.

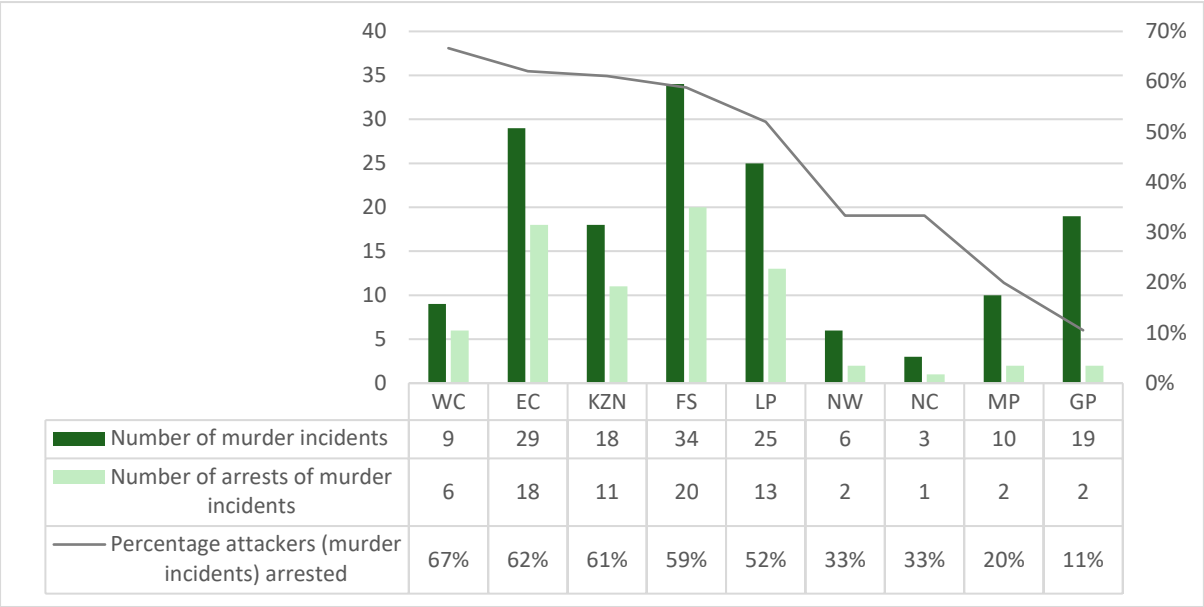
Although the Western Cape had the highest arrest rate (67%) of all the provinces, it recorded just nine murder incidents, whereas the Eastern Cape recorded 29, with an arrest rate (62%) that is the second highest. Mpumalanga and Gauteng have the lowest rate of incidents relative to arrests, with 20% and 11% respectively. The total arrest rate for all the provinces was 49%.

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[23] Coetzer, M. 2023. Farm murders and attacks gradually decreasing, according to statistics. *The Citizen*, 1 March. Available at https://www.citizen.co.za/news/farm-murders-and-attacks-gradually-decreasing-stats-february-2023/. Accessed on 30 July 2023.

[24] Ibid.

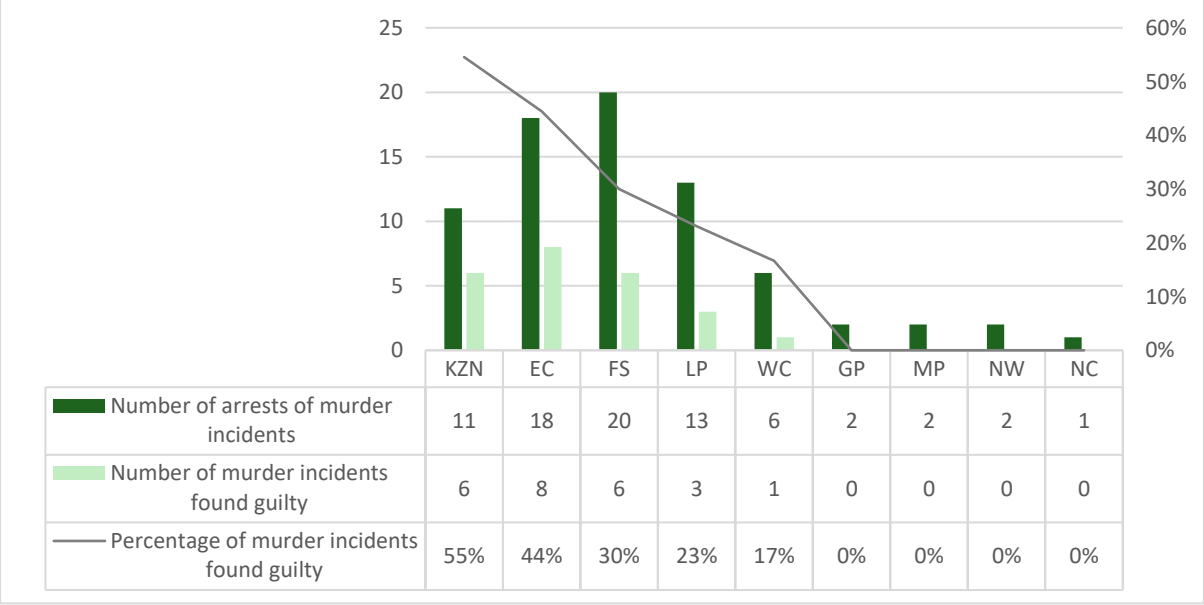
[25] Roets, E. 2018. *Kill the Boer*. Pretoria: Kraal Uitgewers, p. 27.



	WC	EC	KZN	FS	LP	NW	NC	MP	GP
Number of murder incidents	9	29	18	34	25	6	3	10	19
Number of arrests of murder incidents	6	18	11	20	13	2	1	2	2
Percentage attackers (murder incidents) arrested	67%	62%	61%	59%	52%	33%	33%	20%	11%

Figure 1: Number of attackers and arrests, and percentage of attackers arrested.

Figure 2 presents the number of murder incidents of finalised cases with the status of the docket reflecting a guilty verdict. There were 24 cases that resulted in a guilty verdict. This indicates an overall conviction rate of 32%. Of the 167 suspects arrested, 39 perpetrators were found guilty. In relation to the provincial breakdown, only one province namely KwaZulu-Natal managed to achieve a conviction rate of over 50%, with a rate of 55%. Gauteng, Mpumalanga, North West as well as the Northern Cape province did not have any murder convictions for the period under review.



	KZN	EC	FS	LP	WC	GP	MP	NW	NC
Number of arrests of murder incidents	11	18	20	13	6	2	2	2	1
Number of murder incidents found guilty	6	8	6	3	1	0	0	0	0
Percentage of murder incidents found guilty	55%	44%	30%	23%	17%	0%	0%	0%	0%

Figure 2: Number of farm murder instances in which arrests were made that resulted in a guilty verdict.

Table 1 displays a timeline; from the date the arrest was made through to the date of the conviction. The data below shows that 26% of the incidents were resolved within one year, 43% were concluded within a two-year span, and the remaining 30% were finalised within a timeframe extending slightly over two years, but not exceeding three years.

Table 1: Murder: Arrests to convictions timeline. Percentages have been rounded off.[26]

Interval between arrests and convictions	Percentage
0 to 12 months	26%
13 to 24 months	43%
25 to 36 months	30%

Nationality: Murder arrests and convictions

Of the suspects that were arrested, the majority were South Africans (86%), followed by Lesotho nationals with 8%. The data provided by the SAPS did not indicate the nationality of the perpetrators that were sentenced. The data outlined in Table 2, pertaining to sentencing, were calculated by analysing the nationality of suspects who were arrested and later sentenced. This was possible since all of the incidents that resulted in sentencing were homogeneous in terms of nationality, meaning there were no diverse groups or gangs in terms of nationality. It is evident from the data that 90% of the convicted perpetrators were South African nationals. In total, sentences amounting to at least 628 years in prison, along with six life sentences, were handed down.[27]

Table 2: Nationality of arrested suspects and sentenced for murder. Percentages have been rounded off.[28]

Nationality	Arrest count	Arrest percentage	Sentenced count	Sentenced percentage
RSA	144	86%	35	90%
Lesotho	14	8%	1	3%
Zimbabwe	7	4%	3	8%
Mozambique	1	1%	-	-
Unknown	1	1%	-	-

[26] Note that in one incident the date of conviction was missing from the SAPS dataset.

[27] Five instances of life imprisonments and one life sentence.

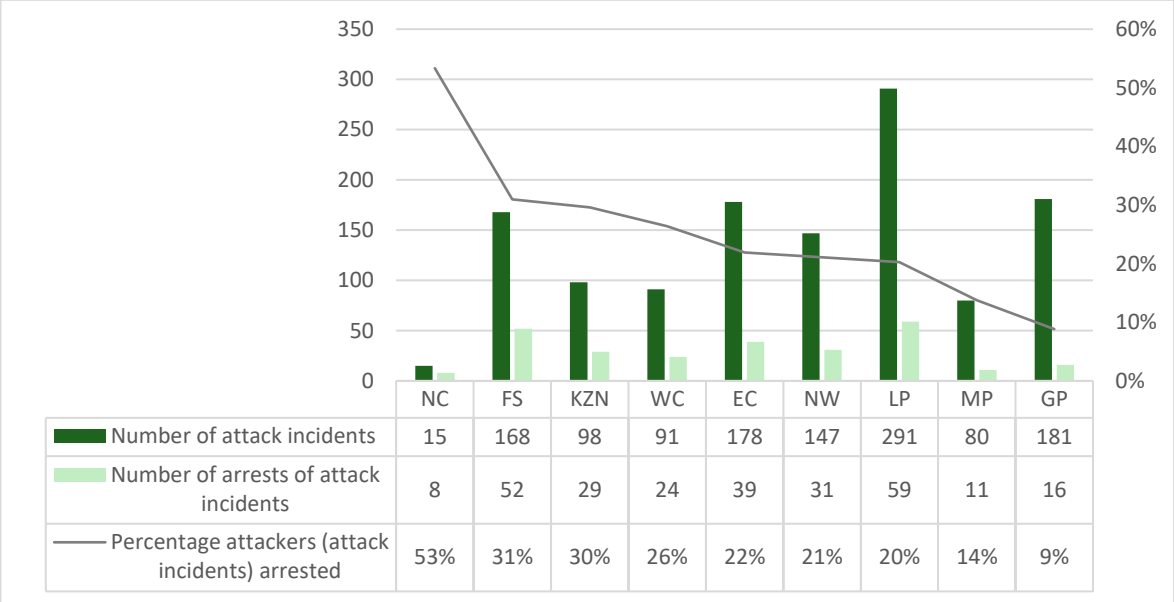
[28] In one incident, there could not be differentiated between the nationalities of the perpetrators, therefore only one RSA perpetrator that was sentenced was counted.

Attacks

The following section relates to attack incidents, meaning incidents that did not involve a charge of murder by the SAPS. The SAPS recorded 1 249 attack incidents that resulted in 269 instances of arrest, with an overall arrest rate of 22%.

Arrests and convictions over time

Figure 3 demonstrates that the known number of attacks is not uniformly spread across regions.

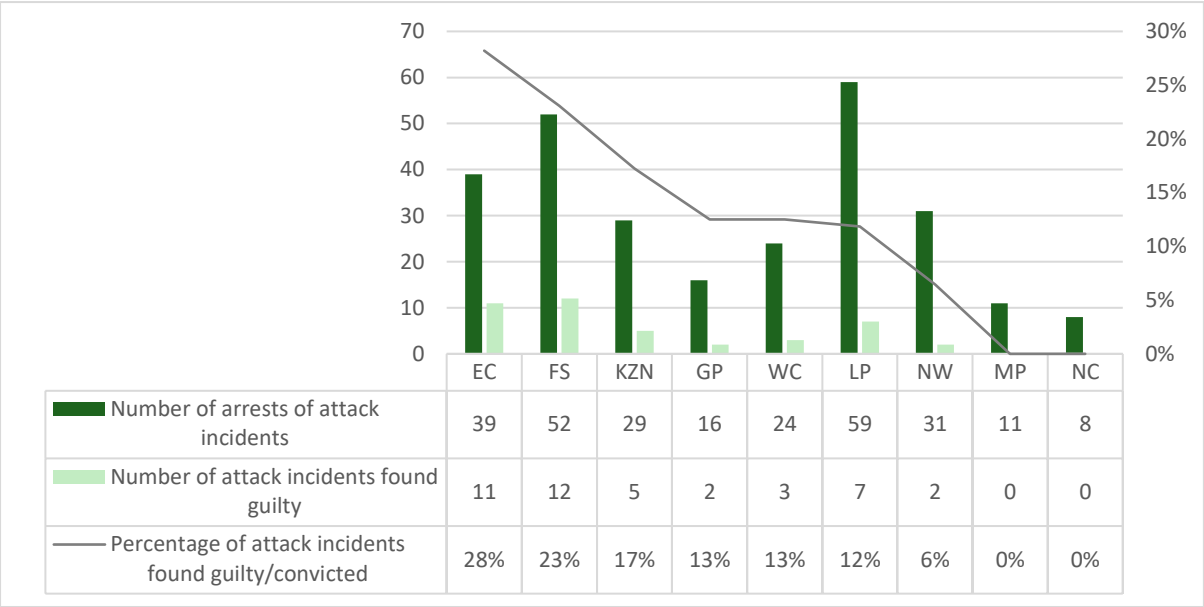


	NC	FS	KZN	WC	EC	NW	LP	MP	GP
Number of attack incidents	15	168	98	91	178	147	291	80	181
Number of arrests of attack incidents	8	52	29	24	39	31	59	11	16
Percentage attackers (attack incidents) arrested	53%	31%	30%	26%	22%	21%	20%	14%	9%

Figure 3: Number of attacks and arrests, and percentage of attackers arrested (excluding the charge of murder).

Before proceeding it is important to mention that there were some inconsistencies in the data provided by the SAPS. For instance, some instances noted a 'false' classification in terms of the status of the docket, while in other instances where arrest and conviction dates were provided, the case docket status indicated that the charges were 'withdrawn' or 'not guilty'. In addition, these cases did not specify the type of sentence. Consequently, it was decided that the status of the case docket would be the decisive factor in determining whether an incident led to a conviction, indicating a 'guilty' status in the case docket. As can be seen from Figure 4, there were 269 incidents with a total conviction rate of 16% for attacks. No convictions were secured in either Mpumalanga or the Northern Cape.

In addition, no single province achieved a conviction rate of above 50%, as with the murders. As with percentage of attack convictions, the Eastern Cape had the highest conviction rate with 28%.



	EC	FS	KZN	GP	WC	LP	NW	MP	NC
Number of arrests of attack incidents	39	52	29	16	24	59	31	11	8
Number of attack incidents found guilty	11	12	5	2	3	7	2	0	0
Percentage of attack incidents found guilty/convicted	28%	23%	17%	13%	13%	12%	6%	0%	0%

Figure 4: Number of farm attack instances in which arrests were made that resulted in a guilty verdict (excluding the charge of murder).

Table 3, like Table 2, presents the sequence from the date of the initial arrest to the date of the conviction and/or sentencing. Notably, around 90% of these incidents were resolved within a 24-month timeframe, with one particular case extending up to 38 months.

Table 3: Attack: Arrests to convictions timeline. Percentages have been rounded off.[29]

Interval between arrests and convictions	Percentage
0 to 12 months	45%
13 to 24 months	45%
25 to 38 months	11%

Nationality: Attack arrests and convictions

In 2022, Police Minister Bheki Cele contended that law enforcement officials find it difficult to track down foreigners who commit crimes, and insinuated that farmers were to blame for hiring undocumented foreign workers.[30] This suggested that because these workers are undocumented the statistics do not accurately reflect those who commit crimes.[31]

[29] Note that in three incidents, the date of conviction was missing, and one incident had a date error. Meaning the conviction date preceded the arrest date.

[30] SA Police Service. 2022. *Rural Safety Summit, Parys, Free State*. [YouTube video]. 27 June, at 3:19:51. Available at https://www.youtube.com/watch?v=rDsm5O8Zwpo. Accessed on 27 July 2023.

[31] Dayimani, M. 2022. '*Foreign nationals are not a problem. It's South Africans' – Cele's reality check on crime in SA*. News24, 9 September. Available at https://www.news24.com/news24/southafrica/news/foreign-nationals-are-not-a-problem-its-south-africans-celes-reality-check-on-crime-in-sa-20220909. Accessed on 27 July 2023.

The nationality of all attackers is unknown since the nationality of suspects can only be determined after an arrest. According to table 4, the majority of attackers that were arrested were South Africans (78%). Again, the nationality of convicted perpetrators was calculated by assessing the nationality of arrested suspects, that ultimately resulted in sentencing. However, unlike with the murder incidents, there were two instances of mixed group differences in terms of the nationalities of perpetrators being sentenced. As a result, two instances have been omitted from the sentence count. Data available from convicted suspects indicate that the majority of those sentenced are South Africans (78%), with Zimbabwean nationals constituting the second biggest group of suspects (13%) in terms of nationality. These results, as a proportion of the nationality of South African suspects, is somewhat similar to data that was previously made public by the SAPS. As per crime statistics published in 2022 for the financial years spanning from 2013/2014 to 2017/2018, out of the 1 904 suspects apprehended in relation to farm attacks, 86% were South African nationals.[32]

Table 4: Attack: Nationality of arrested suspects and sentenced attackers. Percentages have been rounded off.[33]

Nationality	Arrest count	Arrest	Sentenced count	Sentenced
RSA	467	78%	43	78%
Zimbabwe	77	13%	7	13%
Mozambique	27	5%	2	4%
Lesotho	13	2%	2	4%
Namibia	2	0,3%	1	2%
Tanzania	2	0,3%	-	-
Malawi	1	0,2%	-	-
Unknown	9	2%		

Conclusion

The purpose of this report was to evaluate the arrest and conviction rate of suspects and perpetrators involved in farm attacks and murders. The results indicate that the arrest and conviction rate for both farm murders and attacks are low. The low arrest rate for attacks (22%) and murders (49%) is of particular concern for two reasons. The low arrest rate has two implications, firstly there is the possibility that the perpetrators of attacks will continue to

[32] Heyns, T. 2022. *Net 30% van plaasaanvallers vervolg*. Maroela Media, 31 May. Available at https://maroelamedia.co.za/nuus/sa-nuus/net-30-van-plaasaanvallers-eindig-agter-tralies/. Accessed on 26 July 2023.

[33] Regarding the nationality of arrested suspects. In a small number of instances, a minimum number of nationalities was assigned to an instance. For example, in one case the data noted five suspects were arrested. However, the nationalities tab only indicated one South African and one Zimbabwean. Thus, only these two nationalities were assigned, instead of five. Regarding sentencing, in two incidents the nationalities corresponding to sentencing could not be determined. The instances have been omitted.

commit crimes, while the victims of these crimes live with the knowledge and fear that these perpetrators have not been apprehended.

While it is expected that convictions will almost always be lower than arrests, the low conviction rate for both murders (32%) and attacks (16%) suggests a serious deficiency within either the SAPS or NPA.

Farmers and people living on smallholdings, like other victims of crime, deserve fair and speedy justice. Unfortunately, the findings of this report indicate that there are significant delays and inefficiencies within the criminal justice system, leading to protracted court cases and a lack of closure for victims. The low conviction rates and slow pace of the proceedings exacerbate the insecurity and fear among these communities, underscoring the urgent need for reform.