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Kenyan police come to Canada for training in dealing with sex crimes

By JEFF GRAY

Activists say such sex crimes are an epidemic in Kenya

Inside a dark wood-panelled law-firm boardroom 40 storeys above Bay Street, 11 senior Kenyan police officers watch a video of a Canadian police investigator interrogating a sexual-assault suspect, and discuss how long DNA evidence can last in the African heat.

The officers, who help train Kenya's 60,000 police, were in Toronto recently for a four-day session with a veteran Vancouver police sex-crimes investigator in an effort to dramatically improve the way their country investigates sexual assaults against women and young girls.

Activists say such sex crimes are an epidemic in Kenya, an epidemic exacerbated by a patriarchal society where some men believe that sex with a virgin can cure HIV/AIDS. These crimes are often either subject to botched or delayed investigations or, in many cases, completely ignored by police.

The session, held at the offices of Blake Cassels & Graydon LLP, comes after a Toronto-based non-governmental organization called the Equality Effect, with pro bono legal work from the firm, helped win a landmark judgment in a Kenyan High Court last year.

The case was launched on behalf of more than 200 girl victims, some as young as 3, whose cases had been ignored or botched by police in Meru, a town in central Kenya. The court ruling declared that the blind eye Kenyan police were turning to sexual assaults had created a "climate of impunity" and was a violation of the country's constitution. The decision relies in part on the well-known 1998 Jane Doe ruling about Toronto Police negligence in investigating sexual assaults. And it has now prompted an effort by Kenyan police at reform.

Leading the discussions earlier this month was Inspector Tom McCluskie of the Vancouver Police Department, who has also conducted similar training programs for officers in Cambodia. Patricia Nyaundi, the head of the Kenyan National Commission on Human Rights and a force behind the legal case, and Fiona Sampson, the Toronto-based human-rights lawyer who founded the Equality Effect, sat in on the sessions.

Those hoping to change Kenya's police force have their work cut out for them. According to government figures, 32 per cent of Kenyan girls have suffered sexual violence. Last year, even after the high-profile court ruling, three of six attackers allegedly involved in a brutal gang rape of a 16-year-old left bleeding in a pit latrine were quickly set free by local police, after being ordered only to cut the police station's grass.

But Insp. McCluskie, who heads to Kenya in November to help roll out the training for front-line investigators, said the Kenyan officers in Toronto were committed to change: "There's nobody in that room that wants to see children raped. There's nobody. And there's nobody in that room that doesn't want to see it stopped. ... I'm just there to enhance whatever skills they already have and introduce them to the best practices that we do here in Canada."

Clearly, progress also requires broader cultural change in Kenya. But in the mean time, there are more immediate concerns. When Insp. McCluskie visited Kenya in July to watch its police and justice systems in action, he said he saw Crown prosecutors leave their evidence in a drug case unattended at the front of a crowded courtroom. Police investigations of sexual assaults in Kenya are also often plagued with missing documents and failures to gather evidence.

Insp. McCluskie says his training program urges Kenyan officers to "take ownership" of their investigations, even if they lack the resources available to Canadian police. Among the tips were best practices for interviewing child victims, who often refuse to say what has happened to them. And while DNA evidence can degrade in the African heat and Kenya's ability to test it exists only in the capital, Nairobi, Insp. McCluskie said Kenyan officers were unaware that DNA evidence can last as long as seven days inside a victim.

"We're learning little things like that that encourage them to try anyway, to keep going," he said. "... Okay, no chance of DNA. But what else have we got? Have you gone to the crime scene? No, not yet. Well, go back to it. Okay, it's seven days later, let's go back anyway. Maybe she was dragged to the scene, let's go see if there's two drag marks there on the ground that show her feet were dragged. Maybe a button fell off the accused."

In addition to the training, Ms. Sampson's Equality Effect is also spearheading an effort with ad agency BBDO Toronto to develop a smartphone app that would assist Kenyan officers, offering a checklist to ensure sex-crime cases are being investigated properly.

Masoud Mwinyi, a senior superintendent with Kenya's national police service, said in an interview that the new training will help address the shortcomings outlined in the High Court ruling: "That judgment was, if we may use that phrase, an awakening call. ... We feel challenged. But we've also said we won't allow this to happen again."

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