



MINIMUM STANDARDS ON SERVICES FOR VICTIMS OF CRIME



FOR IMPLEMENTING THE
SERVICE CHARTER
FOR VICTIMS OF CRIME
IN SOUTH AFRICA



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PURPOSE OF THE MINIMUM STANDARDS

The Minimum Standards on Services for Victims of Crime (the “Minimum Standards”) is an information document, which was developed in order to further explain your rights as contained in the Service Charter for Victims of Crime in South Africa (the “Victims’ Charter”) and make these rights a reality. The Victims’ Charter, together with the Minimum Standards, is intended to provide you with information relating to government’s commitment to improving service delivery for victims of crime. The Minimum Standards aim to explain the minimum standards on services provided for victims of crime. The Minimum Standards not only outline basic rights and principles, but also supply detailed information to enable you to exercise your rights and to enable service providers to uphold your rights as explained in the Victims’ Charter, by setting out the minimum standards that you can expect from service providers. The Minimum Standards will assist you to hold everyone involved in the criminal justice system accountable to ensure that you receive appropriate assistance and services.



INTRODUCTION

When you report crime and give evidence in court, you play a crucial role in making the criminal justice system more responsive to the needs of society and ensuring offender accountability. In return, the criminal justice system should attend to you promptly and courteously, and treat you with respect for your dignity and privacy and meet your needs. The Minimum Standards are an attempt to ensure that this does happen, by empowering you with the necessary information to enable you to enforce your rights.

The Minimum Standards are divided into four parts. Part I briefly provides background information on your rights and outlines who can access the rights. Part II briefly explains the processes in the criminal justice system and what will happen to you if you fall prey to a crime and report the crime to the police. Part III contains the minimum standards on services that you can expect from the various role-players in the criminal justice system, with reference to each right explained in the Victims’ Charter. This is the most important part of the Minimum Standards, as it is intended to make the rights listed in the Charter real for you. It is in this section that you will see that a number of the Restorative Justice principles are embodied in

the legal framework explained in the Victims’ Charter and the Minimum Standards.

Part IV outlines the complaints procedures.. Although the role-players within the criminal justice system will aim to ensure that the unpleasant effects of the crime are not made worse by what happens later, and will aim to treat you fairly and courteously and provide you with good services, things sometimes do go wrong. You may feel that the services you received did not meet the standards that you reasonably expected. This section explains how to file a complaint and also contains an address list with important contact numbers.

The Minimum Standards are intended to make the monitoring of service delivery easier as they set out minimum standards against which service delivery will be measured. Relevant institutions, agencies and departments will monitor the application of the rights and standards of services set out in the Minimum Standards and, as part of their own monitoring, these agencies may consult with you. Some of the results of this monitoring and consultation process may be published.

YOUR RIGHTS AS A VICTIM OF CRIME

If you have been a victim of crime, you can expect that the role-players in the criminal justice system will ensure that your rights, as explained in the Victims' Charter, are enforced and that the minimum standards of services outlined in this document are implemented.

For the purposes of this document, and in line with the definition set forth in the United Nation's Declaration of the Basic Principles of Justice for Victims of Crime and Abuse of Power (GA/Res/40/30), to which South Africa is a signatory, a victim of crime is defined as a person who has suffered harm, including physical or mental injury; emotional suffering; economic loss; or substantial impairment of his or her fundamental rights, through acts or omissions that are in violation of our criminal law. The term 'victim' also includes, where appropriate, the immediate family or dependants of the direct victim. A person may be considered a victim regardless of whether the perpetrator is identified, apprehended, prosecuted or convicted, and regardless of the familial relationship between the perpetrator and the victim.

The provisions contained in the Minimum Standards are applicable to all victims without prejudice of any kind on the grounds of race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth, as set out in Section 9 of the Constitution of the Republic of South Africa (Act 108 of 1996).

During your contact with the criminal justice system the following rights, as explained in the Victims' Charter and in accordance with the Constitution and relevant legislation, will be upheld:

- The right to be treated with fairness and with respect for dignity and privacy
- The right to offer information
- The right to receive information
- The right to protection
- The right to assistance
- The right to compensation
- The right to restitution

What will happen?

If a crime has been committed:

1. If a crime has been committed, reporting it to the SA Police Service will set the criminal justice system in motion. The South Africa Police Service is responsible for investigating crimes and bringing offenders to book. Once a charge is laid, the police will open a docket and investigate the charge. If the police are not sure whether a prosecution should follow, a formal charge will not be brought immediately. However, the police will still investigate such a case and submit the police docket to the public prosecutor for a decision.
2. From the moment that a crime is committed and reported, it is important that all the available evidence is collected and protected in a way that will assist in the investigation of the case and subsequent trial. Injuries or damages sustained by you can serve to corroborate your evidence against the accused. A medical report should be completed and submitted, where applicable.
3. Once someone is charged, the case is referred to the court where the prosecutor assumes responsibility for the prosecution of the case.

When the case is handed to the prosecutor:

4. The prosecutor will consider the facts of every case carefully. The prosecutor may do one of three things:
 - Decide that there is sufficient evidence on which to prosecute and proceed with the prosecution.

- Decide that more information is needed to make an informed decision and therefore instruct the investigating officer to further investigate the case.
- For various reasons, such as public interest, decide to withdraw the charges.

The prosecutor will take your interests into account when making any of these decisions and may also decide to alter the charges, depending on the relevant facts of the case.

5. You can expect a speedy and efficient process, which will ensure that the case comes before court as soon as possible.
6. You can expect that the prosecutor will request all information relevant to the bail proceedings from the investigating officer and present this to the court, to ensure that the decision to grant or deny bail to the accused is taken with your best interests and protection in mind.
7. Before accepting a plea of guilty, the prosecutor will take your interests, as well as that of your family, into account.

If you are called as a witness for the prosecution:

8. The police will inform you if you need to appear in court as a witness. Most cases are dealt with in the magistrates' courts and the more serious offences go to the regional or the high court.
9. Getting a case to court for trial can be complicated, particularly if there are a number of people involved. Those dealing with the case

will do their best to make sure that it comes to court as quickly as possible.

10. The investigating officer, the senior public prosecutor or a representative of the Office of the Director of Public Prosecutions will ensure that, after a proper first assessment and where certain requirements are met, you be placed in a witness protection programme if you are under threat or intimidation.

If you have to be a witness in court:

11. Giving evidence in court can be stressful. Those involved - the police, the prosecutor and court staff - will support, prepare and give you as much information as possible about what is likely to happen.
12. You will be handed a subpoena, informing you when and where the trial will be held. A leaflet explaining what will happen in court, will accompany the subpoena in certain cases. If you are going to a magistrate's court and have any questions about the court facilities, you should contact the investigating officer in the case or, where available, a victim assistant and preparation officer, who will direct or refer you to the appropriate person who will put you in touch with the court.
13. When you arrive at the court, you may find clear signs to help you find your way. If there are no clear signs and you do not know where the court is, you can, where available, enquire at the Help/Information/Advice Desk to find out in which courtroom your evidence will be heard or about the facilities at the court. You can also approach members of the prosecution staff, who will be able to deal with any questions you may have about

procedures. The prosecutor assigned to your case will be able to tell you approximately how long you will have to wait before giving evidence.

14. The prosecutor will do his or her best to make sure that you are called to give evidence as soon as possible. The prosecutor assigned to your case will, where necessary, consult with you before you are called to testify. However, sometimes there are delays. You must ensure that you arrive at the court on time. You have to inform the prosecutor if you will be arriving late or if you will not be able to attend court on the court date.

At the trial:

15. If you have to give evidence you may, in certain cases, ask a friend or supporter to accompany you to the court. After you have given evidence you will be told whether you may leave. You may attend the rest of the proceedings if you so wish.
16. The law allows for the following provisions when you are giving evidence:
 - You may, under certain circumstances, testify by way of a closed-circuit television system (this means you are not in the court in the presence of the accused, but in another room).
 - You may also, if you are under the age of 18 and if the presiding officer (i.e. the magistrate or judge) is of the view that testifying at the trial would cause you undue mental stress or suffering, have the assistance of an intermediary (person acting as a go-between) when testifying by way of closed-circuit television.

PART II: THE PROCESSES AND RESPONSIBILITIES OF THE RELEVANT DEPARTMENTAL ROLE-PLAYERS WITHIN THE CRIMINAL JUSTICE SYSTEM

- If you have to testify in court the proceedings may, under certain circumstances, take place *in camera* (behind closed doors).

17. A high standard of proof is needed before someone can be found guilty. The prosecution has to prove the accused's guilt beyond a reasonable doubt. This may mean that someone whom you believe to be guilty, is found not guilty. This is not a judgment on you, but is based on the strength of the prosecution's case as a whole.
18. The prosecutor will call state witnesses in support of the case against the accused in appropriate cases. An interpreter will be made available when required. The accused will be given the opportunity to question (cross-examine) you, give evidence and to call witnesses. After the court has heard all the evidence for the prosecution and the defence, the parties will be allowed to address the court before judgment is given.

After conviction:

19. If the accused is convicted (found guilty), the prosecution and the defence may lead evidence and address the court on the sentence to be imposed. This is done by way of argument in aggravation (for a heavier) or in mitigation (for a lighter) of sentence. If the argument in mitigation of sentence includes information that is untrue, this information must be communicated to the court. At the sentencing stage you may seek redress or compensation for damages. If the court awards compensation, it is not regarded as a sentence, therefore the award can be made in addition to any other form of punishment. A court may also suspend a sentence on certain conditions, including a condition that the accused must compensate you. The prosecutor may submit a victim impact statement or lead further evidence in support of an appropriate sentence, where available and relevant.
20. Before sentence is passed, the presiding officer, the prosecutor or the defence may request that a probation officer or any other expert prepare a report on you or the accused. The report may include an assessment of the effect the crime has had on you. The information may be taken from the statement you made to the police, or the probation officer may interview you in person or you may be called to testify at the sentencing stage.
21. If you believe that the sentence is too lenient, you may discuss it with the Senior or Chief Prosecutor, who may decide to bring it to the attention of the relevant Director of Public Prosecutions. The Director of Public Prosecutions may appeal against the sentence to a court that can hear appeals. The appeal must be noted within a specified period.
22. An accused may appeal against a conviction and the sentence imposed by the court. If an appeal is filed, you may ask the prosecutor in the original case, or the state advocate dealing with the appeal, to be kept informed of further developments in the case, for example, the date set for the appeal hearing, whether the accused has been granted bail, and the result of the appeal.
23. If there is concern about your safety or that of

a state witness, the police, the prosecutor or a representative from the Witness Protection Unit will be able to give you advice on what needs to be done for protection. They will assist you as far as possible.

When sentence is executed:

24. The Department of Correctional Services will ensure that sentences of imprisonment are served in accordance with the law. When the release of the accused is being considered, the Department of Correctional Services will carefully consider the supervision of the accused person released on parole.
 25. You may request to attend the Correctional Supervision and Parole Board (the "Parole Board") hearings. If you wish to attend, you will be informed of the date of the hearing and the Board will take your concerns into account when considering the accused's release on parole.
 26. In every case where the accused is released on parole, the Parole Board will attach conditions to the accused's release, if it deems this to be in your best interests.
 27. If, after being released on parole, the accused behaves in a way that suggests that he or she may present a risk to public safety, or contravenes any conditions attached to his or her release, he or she may be arrested to serve the remainder of the sentence in prison.
- If you are in need of assistance:**
28. A number of government departments will provide assistance to you. The police will assist in on-site crisis intervention; in referrals for medical or psychological assistance; in explaining police procedures; in providing information about your rights; in referral to non-governmental and community-based organisations (NGOs and CBOs) or community-based victim support services; in ensuring your safety at the scene of the crime; in the preservation of evidence; and in advising you on crime prevention.
 29. If there is any further threat after sentence, you, the investigating officer or the prosecutor must immediately contact the office of the Witness Protection Unit.
 30. The Department of Social Services and other social service providers will, if available, offer emotional and practical support services, which may include court preparation programmes.
 31. Health care workers will ensure that your rights, as contained in the Patients' Rights Charter, are upheld.
 32. The Department of Education will ensure that intervention programmes such as counselling, referral and support procedures, are in place for victims within the educational system.

1. THE RIGHT TO BE TREATED WITH FAIRNESS AND RESPECT FOR YOUR DIGNITY AND PRIVACY

1.1 You can expect that all role-players in the criminal justice system will treat you fairly, with respect for your dignity and privacy, and in a sensitive manner.

If a crime has been reported to the police, you can expect that -

- 1.2 the crime will be investigated;
- 1.3 if you have reported the crime by contacting the police, they will respond to your report as quickly as they can;
- 1.4 measures will be taken to minimise any inconvenience to you;
- 1.5 a police official will take your statement and complete the forms necessary to register the crime;
- 1.6 you will be referred for medical attention or counselling if required;
- 1.7 if you are a victim of sexual violence, you will be interviewed in private by a member of the police;
- 1.8 you will be interviewed in a language that you understand, and if the person speaking to you cannot speak a language you understand, you may ask for an interpreter; and
- 1.9 you may ask to be interviewed by a member of the police who is of the same sex as yourself

and, if available, your request will be granted.
If the case goes to court, you can expect that:

The presiding officer -

1.10 will ensure that the trial proceedings are conducted in a manner that does not violate your right to fair treatment and respect for your dignity and privacy.

The prosecutor -

- 1.11 will take steps, especially in cases of sexual offences and domestic violence, to ensure that wherever possible, the case is handled by only one prosecutor throughout the proceedings;
- 1.12 will call you to give evidence as soon as possible; and if there is any delay, the prosecutor assigned to your case will inform you why there is a delay and how long you are likely to wait;
- 1.13 will give you the chance to refresh your memory, read your statement and, where necessary, consult with you; and
- 1.14 a member of the court staff will inform you that you are entitled to be paid travelling and certain other expenses for the time you spent at court to give evidence, and will also give you information on and assist you in claiming these expenses.

The court staff -

1.15 will do their best to protect you from being further victimised or traumatised by what happens in court;

- 1.16 will designate, where available, staff and trained volunteers from Victim Support Services to assist you and your family at the court before, during and after the trial;
- 1.17 will on request and if possible, allow you to see a courtroom before the case starts to familiarise you with the court facilities, so that you know what to expect when you testify;
- 1.18 will allow a support person (a relative or friend) to accompany you to court; and
- 1.19 will allow you, on request and if facilities are available, to wait separately from the accused or his or her witnesses in the case.

From social service providers and volunteers you can expect that -

- 1.20 if you are interviewed, you will be interviewed in private, the conversation will be treated as confidential and you will be interviewed in a language that you understand;
- 1.21 you will not be left to deal with the case on your own. If you have not yet reported the case to the police, the social service provider will help you to report the case; and
- 1.22 if you have been a victim of a sexual offence, the police may need your clothing as evidence, in which case you may ask the social service provider to assist you in obtaining alternative clothing.

From health care workers you can expect that -

- 1.23 a complete assessment will be made of your physical, emotional and psychological state;
- 1.24 you will be consulted in an environment conducive to confidentiality, privacy and dignity and the consultation will be conducted in a language that you understand;
- 1.25 you will be requested to consent to a medical examination or treatment, but you will be informed that you may refuse any medical attention or psychological support, in which case the consequences of this will be explained to you;
- 1.26 in the case of a sexual offence, if requested and possible, a medical practitioner of the same sex will perform the medical examination or treatment;
- 1.27 they will ensure that all medical information is included in your case records; and
- 1.28 you will be treated as soon as possible and with due regard to your rights as contained in the Patients' Rights Charter.

From officials of Correctional Services you can expect that -

- 1.29 if you asked to be present at a parole hearing, the Chairperson of the Parole Board will, prior to the hearing, inform you in a language you understand, of the procedures during the hearing and what is expected of you;

1.30 if you attend the Parole Board hearing and have to give input, you may request any person of your choice to accompany you to the hearing for support; and

1.31 if you attend the Parole Board hearing, every effort will be made to protect you from being victimised or traumatised again during the hearing.

2. THE RIGHT TO OFFER INFORMATION

During the investigation of the case you can expect that -

- 2.1 a. a police officer will take your statement and ask you to read and confirm its contents by signing it;
- b. if you cannot read, you should inform the police, in which case the police officer will read the statement to you and require you to confirm its contents by signing it or by placing your thumbprint on it; and
- c. if an interpreter is available and you wish your statement to be read to you in a language that you understand before confirming it by signature or thumbprint, an interpreter will be engaged for this purpose.

2.2 if you realise that your statement is incomplete or incorrect, you will be allowed to add to or amend your initial statement or to make a further statement;

2.3 you will be given the chance to explain in your statement how the crime has affected you and, where relevant your interests will be taken into account.

2.4 you will be informed that you may request a copy of your statement;

2.5 the police will ask you for details of your loss, damage or injury and this will be recorded;

2.6 you will be required to keep the investigating officer informed of your address, contact particulars and whereabouts until the investigation and the trial have been finalised; and

2.7 you will be required to inform the investigating officer if the accused interferes or tries to interfere with the investigation of the case, if he or she will not attend the trial or if you are threatened by him or her.

If the case goes to court you can expect that:

The prosecutor will -

2.8 among other factors, take your interests into account when considering whether or not to prosecute;

2.9 ask you to disclose any information relevant to a decision in connection with the release of the accused on bail, for example, that the accused is interfering with evidence or witnesses, or that the accused is intimidating or threatening you or your family, or that the accused will not stand trial; and, if appropriate, the prosecutor will call you to give evidence in this regard at the bail hearing;

2.10 give you the opportunity to refresh your memory through consultation or by allowing you to read your statement before giving evidence;

- 2.11 consult with you prior to acceptance of a lesser plea and ask you to explain how the crime has affected you or your family.

At this consultation you will have the chance to disclose details of any loss or harm that you have suffered as a result of the crime. The prosecutor will take these circumstances into account before taking any decision on the acceptance of a plea on a lesser charge. The effect that the crime has had on you or your family will be disclosed to the court or you will be given the opportunity to give evidence in court, or a report prepared by an expert will be submitted to the court during the sentencing stage; and

- 2.12 at the consultation stage, ask you to disclose any additional facts which have not yet been included in your statement. If relevant, the prosecutor will disclose these facts to the defence prior to trial.

Social service providers will -

- 2.13 if necessary, interview you and if obtaining medical evidence is relevant to the case, make arrangements for a medical examination; and
- 2.14 as far as possible, maintain continuity by ensuring that the same social service provider or volunteer work with you from the time of reporting the crime to the finalisation of the case.

Health care workers will -

- 2.15 if the court (prosecutor or magistrate) requests them to do so, provide the court with your

medical records and any other information relevant to the case which you have offered to them.

Correctional Services officials will -

- 2.16 allow you to make a written application to the Chairperson of the Parole Board to attend the parole hearing and the Chairperson will inform you of the time, date and venue of the hearing; and
- 2.17 if you attend the Parole Board hearing, allow you to give your input either verbally at the hearing or submit a written input.

3. THE RIGHT TO RECEIVE INFORMATION

If a crime has been reported you can expect that the police will inform you -

- 3.1 of the nature and purpose of your statement;
- 3.2 of the name and telephone number of the investigating officer assigned to the case and the police case number (CAS or Crime Administrative System Number);
- 3.3 of the possibility of instituting a private prosecution at your own expense if the Director of Public Prosecutions declines to prosecute in the case; and
- 3.4 on request, of the details relating to the following:
- The arrest of a suspect
 - Whether you must attend an identification parade and the date of the parade
 - The court case number

- d. The dates of bail hearings
- e. The outcome of the bail hearings (whether the suspect is to be released on bail)
- f. The progress of the investigation and prosecution of your case
- g. Any decision to withdraw or alter the charges substantially
- h. Whether you will have to attend the court proceedings, and the date or dates of those proceedings
- i. The trial date and the final result
- j. The date of sentencing and the outcome
- k. Whether the accused has appealed against conviction or sentence and the outcome of the appeal
- l. How and when confiscated property can be reclaimed
- m. What services are available to deal with your particular needs and how to make use of these services

- 3.8 inform you if the Director of Public Prosecutions has decided not to prosecute in the case, that you may institute a private prosecution and of the procedure to follow in this regard;
- 3.9 be able to deal with your questions about court procedures and, if there are delays, will tell you more or less how long you will have to wait before giving evidence;
- 3.10 when required, give you the opportunity for a proper consultation prior to case decisions;
- 3.11 inform you of the outcome of bail proceedings, of any special bail conditions imposed, and explain the implications of such bail conditions;
- 3.12 protect you from unduly aggressive, harmful and degrading cross-examination; and
- 3.13 inform you of the outcome of the case and whether there is an appeal against the conviction or sentence.

If the case goes to court you can expect that:

The court staff will -

- 3.5 where possible and on your request, enable you to see a courtroom before the case starts, so that you know what to expect; and
- 3.6 ensure that clear signs and directions are provided in the court and will give you directions to the courtroom. Where available the Help/Information/Advice Desk will inform you about which courtroom your evidence will be heard in.

The prosecutor assigned to your case will -

- 3.7 notify your employer of any proceedings that will necessitate your absence from work;

Victim support or social service providers will -

- 3.14 explain your rights and the procedures that are to follow;
- 3.15 on request, assist you to track the case through the system;
- 3.16 if possible, accompany you to court prior to the trial to familiarise you with the courtroom and its surroundings; and
- 3.17 offer you support and counselling or refer you to professional counselling and support services.

If a health care worker is involved in the case, you can expect that he or she will -

- 3.18 give you information on the examination or treatment procedures to be performed on you;
- 3.19 on request, give you a copy of your medical records; and
- 3.20 inform you of available community support services and relevant helplines.

Officials from educational services will -

- 3.21 on request, inform you of relevant school-based victim services available in the area.

If the offender has been sentenced to imprisonment, the Department of Correctional Services will -

- 3.22 on request, inform you when the offender is to be considered for release on parole;
- 3.23 on request or if necessary, inform you during the Parole Board hearing of available support and counselling services;
- 3.24 inform you in writing of any changes to hearing dates or postponements, of the outcome of the Parole Board hearing and of all conditions imposed;
- 3.25 if you asked to be present at the Parole Board hearing, the Chairperson will inform you in a language which you understand of the procedures during the hearing and what is expected of you; and

- 3.26 on request and with the accused's consent, inform you of the developmental programmes the accused has undergone and/or is undergoing to improve his or her behaviour.

4. THE RIGHT TO PROTECTION

When a crime has been reported to the police -

- 4.1 and you are a witness and you or a member of your family is being threatened or your life is in danger, you must immediately report the matter to the police or to the senior public prosecutor at the court and apply for witness protection, in which case you can expect that:
 - 4.1.1 the threat against you will be investigated by the police;
 - 4.1.2 in the event of the threat being confirmed, you will be required to enter into an agreement with the Witness Protection Unit before you are taken onto the Witness Protection Programme;
 - 4.1.3 if you are taken onto the Programme, you must comply with all the rules as set out in the agreement. The information in this agreement will be confidential;
 - 4.1.4 if you do not comply with the agreement you put yourself at risk and may be removed from the Witness Protection Programme;
 - 4.1.5 provision may be made for the pay-

ment of allowances whilst you are on the Programme, as determined by the Witness Protection Act and Regulations;

- 4.1.6 you will have to give all your financial details to the officials of the Witness Protection Programme, so that the correct allowances are determined;
- 4.1.7 when accepted onto the Programme, you will be placed in a safe-house and under no circumstances will your address be given to anybody, not even to family members;
- 4.1.8 after you have testified, you will be served with a notice informing you that you will be removed from the Programme within a reasonable period of time; and
- 4.1.9 you may contact the investigating officer at the police station or the senior public prosecutor for any further information on the Witness Protection Programme.
- 4.2 if you do not want the accused to know your personal particulars, you may contact the investigating officer and/or prosecutor and request that the information be withheld from the accused; .
- 4.3 a responsible official will at all times ensure that any property belonging to you and which is being held for evidentiary purposes, is maintained in good condition and returned to you as soon as it is no longer needed; and
- 4.4 if you are the complainant in a domestic violence case, and it appears to a police officer

that there are reasonable grounds that you may suffer imminent harm as a result of a breach of the protection order by the respondent -

- 4.4.1 you may submit an affidavit to the police outlining the circumstances of the breach by the respondent; and
- 4.4.2 the police officer will immediately arrest the respondent for contravention of a prohibition imposed by the court under Section 7 of the Domestic Violence Act, Act 116 of 1998.

If the case goes to court you can expect that:

The prosecutor will -

- 4.5 inform you that, if the accused before the court is under the age of eighteen years, you may be excluded from being present at the trial unless your presence is necessary or is authorised by the court; or where a witness is under the age of 18, that you may be excluded from listening to the evidence of that witness;
- 4.6 inform you that in certain circumstances the court may prohibit the publication of any information (including the identity of the complainant or a witness) relating to the trial or any part of it which is held behind closed doors; and
- 4.7 where appropriate, inform you that any person who unlawfully publishes any information or unlawfully reveals the identity of a witness, is guilty of an offence and can be prosecuted.

Social service providers will -

- 4.8 take steps to ensure that you or your family are

not at risk or in danger.

Health care workers will -

- 4.9 report or refer any case where a crime is suspected to the police.

Correctional Services -

- 4.10 if you have requested to be kept informed of the serving of the sentence by the accused, Correctional Services will inform you if the accused has escaped from custody and of any transfer of the accused and the particulars thereof; and
- 4.11 in rape and sexual abuse cases in particular, the Parole Board may include provisions in the accused's parole conditions if it appears to be necessary to prevent him or her from making unwanted contact with you.

5. THE RIGHT TO ASSISTANCE

You can expect that the police will assist you -

- 5.1 by making referrals to other service providers for the necessary support and on-site crisis intervention, for example, medical first aid;
- 5.2 by explaining police procedures;
- 5.3 by informing you of your rights;
- 5.4 by treating your safety as a priority;
- 5.5 by preserving evidence;
- 5.6 by giving you advice on crime prevention; and

- 5.7 by stopping the violence at the scene of the crime.

If the case goes to court you can expect that -

- 5.8 the prosecutor will present the case for the state and will consider your interests;
- 5.9 you may discuss the case with an attorney of your choice, in particular if you intend to institute a civil claim for compensation for damages or physical or psychological injuries;
- 5.10 provision will be made for interpreters, and, where appropriate, information will be made accessible to persons with disabilities;
- 5.11 persons with disabilities will, where available, be given the necessary support;
- 5.12 cases involving sexual offences will be heard in specialised courts where such courts are available;
- 5.13 the prosecutor and the police will inform you that, if you are under eighteen years of age and testifying at the trial would cause you undue mental stress or suffering, the court may, upon application by the prosecutor, appoint an intermediary to enable you to give your evidence through that intermediary or order that you give evidence through the use of closed-circuit television link;
- 5.14 the presiding officer will, if an intermediary has been appointed, ensure that all questions put to you will be done through the intermediary;
- 5.15 the presiding officer will inform you that the intermediary may, unless the court directs

otherwise, convey the general meaning of any question put to you;

5.16 the presiding officer may, if an intermediary has been appointed, direct that you give your evidence at any place which -

- a. is informally arranged so as to put you at ease;
- b. is situated in such a way that any person whose presence may upset you is out of your sight and hearing; and
- c. enables the court and any person whose presence is necessary at the relevant proceedings to see and hear - either directly or through any electronic or other device - you as well as the intermediary during your testimony.

5.17 cases involving vulnerable victims will be expedited as far as possible; and

5.18 if a closed-circuit television (CCTV) link is to be used during the court proceedings, the prosecutor will explain how the equipment works or where possible allow you and your parents or guardian to see a demonstration of the equipment before the trial.

Social service providers will, where possible and available -

5.19 provide counselling and practical support;

5.20 assist you by making available the services of social service providers or probation officers; and

- 5.21 provide –
- a. help in contacting family or friends
 - b. assistance if you have symptoms of post-

traumatic stress

- c. an explanation of the process that will be followed
- d. help in communicating with the SA Police Service and the prosecutor
- e. referral to a professional counselling service if traumatic response is profound
- f. access to information and services, in particular in places where the available services extend to 'Court Support', including:
 - i. helping you to understand the court process;
 - ii. explaining to you what will happen in court if you are called as a witness;
 - iii. describing to you who will be in court and what role they will play, as well as assisting you in finding the court; and
 - iv. preparing you to give evidence in court and promoting consultation with the prosecutor.

From officials of Correctional Services you can expect that -

5.22 you will, on request, be informed of amendments to or changes in sentences of correctional supervision; the Parole Board's functions; your role in the Parole Board hearing; and what to expect during the hearing;

5.23 if necessary, provision will be made for an interpreter during the Parole Board hearing;

5.24 they will, on request, facilitate mediation between you and the accused when the need arises; and

5.25 on request or where necessary, for example, if

you are a victim and you are in custody or if it appears during the Parole Board hearing that you are in need of support, you will be referred to appropriate service providers for counselling or support services.

You can expect that a health care worker will ensure that -

5.26 where appropriate, a medical certificate for absence from school or work be issued to you.

6. THE RIGHT TO COMPENSATION

“Compensation” refers to an amount of money that a criminal court awards to you if you have suffered loss or damage to property (including money) as a result of a criminal act or omission by the person convicted of committing the crime. The compensation award seeks to restore the recipients to the position prior to the loss or damage.

If the case goes to court you can expect that -

- 6.1 the prosecutor and the police will, in appropriate cases, inform you that you may be present at court on the date of sentencing and that you may ask the prosecutor to apply to the court for a compensation order;
- 6.2 in appropriate cases, the court may suspend a sentence on condition that the accused compensate you for loss or damage suffered to property as a result of the offence;
- 6.3 the prosecutor will inform you, and the clerk of the court will enforce such an award;

- 6.4 the clerk of the court or prosecutor will, in appropriate cases, inform you that where money of the person convicted is taken from him or her upon arrest, the court may order that payment from such money be made to you immediately;
- 6.5 the prosecutor will inform you that, if a compensation order is not given in your favour at the criminal trial, you may institute a civil action against the accused;
- 6.6 the prosecutor or the presiding officer will inform you that an award made by a court has the effect of a civil judgment and that you can enforce the order;
- 6.7 the presiding officer will inform you that, if an award was made in your favour, you have sixty (60) days to refuse or decline such an award in writing and, should you do so, you must return any money already paid to you to the registrar or the clerk of the court;
- 6.8 the presiding officer will inform you that, should you fail to decline the award within a period of sixty (60) days, you cannot institute a civil action against the accused; and
- 6.9 if you apply to the court to be compensated for medical expenses in respect of physical injuries sustained as a result of criminal activity, the health care worker who examined you will be able to support your application by giving evidence in court and providing relevant information to the court, including medical reports.

7. THE RIGHT TO RESTITUTION

“Restitution” refers to cases where the court, after a conviction, orders the accused to give back to you the property or goods which have been taken from you unlawfully or which have been damaged unlawfully, in order to restore the position you were in prior to the commission of the offence.

If the case goes to court you can expect that:

The prosecutor will –

- 7.1 inform you that you may, in appropriate cases, request the offender to make fair restitution to you, your family or dependants;
- 7.2 inform you that such restitution will involve the return of property or goods or reparation of damaged property or goods; and
- 7.3 inform you that your request in this regard can be enforced by the court and that in appropriate cases you will be allowed to submit such a request to the court.

PART IV: COMPLAINT MECHANISMS

COMPLAINTS

All the departments, institutions and agencies involved in the case aim to provide a high standard of service, but things sometimes go wrong. If they do, the departments, institutions and agencies want to know what happened. This part of the document tells you what you can do if you are not satisfied with –

- a. the way you have been treated;
- b. the information you have received; or
- c. decisions that have been made.

The South African Police Service:

1. You can file a complaint about a police officer, a police service policy, practice or procedure, by writing to the Station Commissioner of the police station concerned.
2. If your complaint is about your property having been lost or damaged while in police possession, you may be entitled to compensation. Address any enquiries to the Station Commissioner; or, if you are not satisfied, you can also approach the Area Commissioner of the police station concerned with details of your claim. If the complaint is still not addressed to your satisfaction, you can approach the Office of the Public Protector.
3. If your complaint still has not been addressed to your satisfaction, you can approach the Independent Complaints Directorate, but please note that this office can only be approached with complaints relating to cases of alleged criminal conduct or misconduct against Metro Police Service members and members of the South African Police Service, who failed to execute their duties.

Prosecutors:

4. The court where the case has been dealt with can solve most complaints. If you have a complaint, you can write to or make an appointment with the Senior Public Prosecutor at the court that dealt with the case. However, if the local Prosecutor's Office does not respond to your complaint to your satisfaction, you may complain to the Chief Prosecutor in the area. If your complaint is still not attended to satisfactorily, you can complain to the Director of Public Prosecutions of the area. He or she will carry out an independent review. If your complaint still has not been addressed satisfactorily, you can approach the National Director of Public Prosecutions.
5. If your complaint still has not been addressed to your satisfaction, you can approach the Office of the Public Protector. Please note that this Office can only be approached with complaints relating to administrative action. The Office of the Public Protector may not, by law, investigate decisions of the court.

The Courts:

6. If your complaint concerns the conduct of a presiding officer, you can write to or make an appointment to see the Head of the Judicial Head of the district. You can obtain the address and telephone particulars from the local magistrate's court.
7. If you are dissatisfied with the response from the District Head, you may write to or make an appointment with the Judicial Cluster Head of the particular region.

8. If your complaint concerns a regional court, you can write to or make an appointment to see the Regional Court President of the area concerned. You can obtain the address and telephone particulars from the local magistrate's court.
9. If your complaint concerns a high court judge, you can write to or make an appointment with the Judge President of the Division concerned. You can obtain the address and telephone particulars from your local magistrate's court or high court.
10. If you are not satisfied with the response, you can write to the Magistrates Commission if your complaint concerns a magistrate's court, or the Judicial Service Commission if the complaint concerns a high court. If the complaint still has not been addressed to your satisfaction, you can approach the Office of the Public Protector.
11. If your complaint concerns court personnel, for example clerks or interpreters, you can write to or make an appointment to see the court manager. If you are dissatisfied with the response of the court manager, you can write to the Deputy Director-General of Court Services or the Director-General: Department of Justice and Constitutional Development.

Social service providers:

12. If your complaint concerns an officer of the Department of Social Development, you can write to the head of the office concerned. If you are not satisfied with the response, you can contact the Head of the Regional or Provincial Office, as well as the National Office.

13. If you are still not satisfied with the response you have received from a government official, you can also contact the Council for Social Service Professions or the Office of the Public Protector.

Health care workers:

14. If you are not satisfied with the service rendered by a health care worker in the public health sector, you should first complain to the person who attended to you. However, if your complaint is not resolved to your satisfaction, you may refer your complaint to the head or manager of the public health facility where you have been examined or treated.
15. If you receive no response or are dissatisfied with the way in which your complaint has been attended to by the head or manager of the public health facility, you can refer your complaint to the relevant Provincial Health Department. If you are dissatisfied with the way in which the Provincial Health Department has dealt with your complaint, you can request the relevant professional board or council, such as the Health Professions Council of South Africa, to investigate the matter.

Officials from Educational Services:

16. If your complaint concerns an educator or any other member of staff at a particular school or educational institution, you can contact the principal of that school or educational institution. If the complaint concerns the principal, you can contact the Education District or Regional Manager.



COMPLAINT MECHANISMS

17. If you are not satisfied with the way in which your complaint is attended to, you can contact the Head of the Department of Education in that particular province.
18. If your complaint still has not been addressed satisfactorily, you can approach the MEC for Education or the National Department of Education.

Officials of Correctional Services:

19. If your complaint concerns a correctional services official, you can put it in writing to the National Commissioner of Correctional Services or the Inspecting Judge. On receiving your written complaint, the Commissioner will delegate it to the relevant office for attention.

Alternative Complaint Mechanisms:

20. If you remain dissatisfied with the way in which your complaint has been attended to by the role-players or service providers in the criminal justice process, you may have recourse to the services provided by organisations such as:
 - a. The Office of the Public Protector
 - b. The South African Human Rights Commission
 - c. The Independent Complaints Directorate
 - d. The Commission on Gender Equality
 - e. The Health Professions Council of South Africa
 - f. A lawyer of your own choice and at your own expense

USEFUL ADDRESSES

MORE INFORMATION

If you require more information on any issue contained in this document, you can contact the Department of Justice and Constitutional Development's Gender Directorate at the following numbers:

Tel: (012) 315 1670
Fax: (012) 315 1960
Email: victimcharter@justice.gov.za

The Minimum Standards on Services for Victims of Crime document was developed by the Gender Directorate in the Department of Justice and Constitutional Development, in co-operation with the Departments of Social Development, Correctional Services, Education, and Health, as well as with the National Prosecuting Authority of South Africa, the South African Police Service, the South African Law Reform Commission, the South African Human Rights Commission, the Office of the Public Protector, the Independent Complaints Directorate, members of the Magistrates and Judicial Service Commissions and members of Tshwane Metro Police.

The Department of Justice and Constitutional Development deeply appreciates the contribution made to the development of the document by various non-governmental organisations.

- **THE DIRECTOR-GENERAL**
Department of Justice and Constitutional Development
Private Bag X 81
PRETORIA
0001
Tel. No. : (012) 315 1111
Fax No.: (012) 326 0991
Website: <http://www.doj.gov.za>
- **THE DIRECTOR-GENERAL**
Department of Education
Private Bag X 895
PRETORIA
0001
Tel. No.: (012) 312 5911
Fax No.: (012) 321 6770
Website: <http://education.pwv.gov.za>
- **THE DIRECTOR-GENERAL**
Department of Social Development
Private Bag X 901
PRETORIA
0001
Tel. No.: (012) 312 7601
Fax No.: (012) 312 7782
Website: <http://www.welfare.gov.za>
- **THE COMMISSIONER**
Department of Correctional Services
Private Bag X 136
PRETORIA
0001
Tel. No.: (012) 307 2000
Fax No.: (012) 325 8080
Website: <http://www.dcs.gov.za>

USEFUL ADDRESSES

- **THE NATIONAL COMMISSIONER
The South African Police Service**

Private Bag X 94
PRETORIA
0001
Tel. No.: (012) 339 1000
Fax No.: (012) 339 1530
Website: <http://www.saps.org.za>

- **THE DIRECTOR-GENERAL
Department of Health**

Private Bag X 828
PRETORIA
0001
Tel. No.: (012) 312 0000
Fax No.: (012) 325 5706
Website: <http://www.doh.gov.za>

- **The National Prosecuting Authority**

Private Bag X 752
Silverton
PRETORIA
0001
Tel. No.: (012) 845 6000
Fax No.: (012) 845 7311
Website: <http://www.npa.gov.za>

- **THE SECRETARY
Magistrates Commission**

PO Box 9096
PRETORIA
0001
Tel. No.: (012) 325 3951
Fax No.: (012) 325 3957

- **National Director of the Witness Protec-
tion Programme**

National Prosecuting Authority
Private Bag X 655
PTA
0001
Tel. No.: (012) 315 1732/33
Fax No.: (012) 323 5434
Website: www.npa.gov.za

- **The Office of the Public Protector**

Private Bag X 677
PRETORIA
0001
Tel. No.: (012) 322 2916
Fax No.: (012) 322 5093
Website: <http://www.polity.org.za/govt>

- **Lawyers for Human Rights**

National Directorate
Democracy Centre
357 Visagie Street, cnr Prinsloo Street
PRETORIA
0002
Tel. No.: (012) 320 2943/8
Fax No.: (012) 320 2949
Website: <http://www.lhr.org.za>

- **Council for Social Service Professions**

The Registrar
Private Bag X 2
Hatfield
0028
Tel. No.: (012) 342 5437
Fax No.: (012) 342 3025



- **The Independent Complaints**

- **Directorate**

- Private Bag X 941
PRETORIA
0001
Tel. No.: (012) 320 0431
Fax No.: (012) 320 3116
Website: <http://www.icd.gov.za>

- **South African Human Rights Commission**

- Private Bag X 2700
HOUGHTON
2047
Tel. No.: (011) 484 8300
Fax No. (011) 484 1360
Website: <http://www.sahrc.org.za>

- **National Association of Democratic Lawyers (NADEL)**

- PO Box 15803
Vlaeberg
CAPE TOWN
8018
Tel. No.: (021) 421 0577
Fax No.: (021) 421 0633
Website: <http://sunsite.wits.ac.za>

- **Commission on Gender Equality**

- PO Box 32175
BRAAMFONTEIN
2017
Tel. No.: (011) 403 7182
Fax No.: (011) 403 7188
Website: <http://www.cge.org.za>

- **Health Professions Council of South Africa**

- PO Box 205
PRETORIA
0001
Tel. No.: (012) 338 9300/01
Fax No.: (012) 328 5120

- **Judicial Service Commission
The Secretary**

- PO Box x 258
BLOEMFONTEIN
9300
Tel. No.: (051) 447 2769
Fax No.: (051) 447 0836



NOTES



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DEPARTMENT OF JUSTICE AND
CONSTITUTIONAL DEVELOPMENT

Private Bag X81
Pretoria, 0001

329 Pretorius Street, Momentum
Building
Pretoria, 0002