

# **Victims' Charter**



**Consultative  
DRAFT**

**August 2001**

**Department of Justice and Constitutional Development**

# **BACKGROUND INFORMATION ON THE DRAFT VICTIMS' CHARTER**

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## **BACKGROUND**

In 1998 a draft Victims' Charter was developed and submitted to Minister Omar for approval. He indicated then that more research and consultation should be conducted before the draft is approved and circulated for comment to stakeholders.

Following extensive consultation with the relevant role-players such as SAPS, the Department of Social Development, the Department of Health, the Department of Correctional Services, the NDPP and the SALC, a draft Charter has been developed for consultation with the public, the NGO and academic sector.

## **CONTENT**

The draft Charter, as it stands at the moment, is based on basic principles regarding victims' rights, which are internationally acknowledged. Ultimately, the draft is as far as possible based on addressing the needs and experiences of South African victims/survivors of crime.

The Charter contains the following victims' rights:

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

## **STRUCTURE**

This Charter is divided into four parts. The first part outlines the rights and standard of services to which a victim is entitled to. The second part briefly explains the processes in the criminal justice system and what will happen to a victim if he or she has fallen prey to a crime. Part three lists the rights and gives an outline of the treatment and standard of services a victim can expect from the various role-players in the criminal justice system. Part four outlines the complaint procedures and also includes an address list of the relevant service providers.

## **IMPLEMENTATION**

The Victims' Charter will be implemented in two phases. Phase 1 will entail administrative implementation, which will be done as soon as the relevant Ministries have approved the Charter. Phase 2 will entail the legislative implementation. This will take effect as soon as all investigations by the South African Law Commission, on legislation that will have an effect on the Charter, is completed. This

process will in some instances necessitate that amendments be brought to the Victims' Charter to accommodate new legislation.

#### CONSULTATIVE WORKSHOP (17-19 September 2001)

A 3-day workshop is to be held on 17-19 September 2001, in Pretoria. The workshop will be attended by representatives from all government departments, various academic institutions and NGOs, as well as from various commissions and organisations.

Each day of the workshop has a specific aim. Day 1 will take the form of an information session regarding victim rights and victim empowerment on a national and international level. Day 2 will focus on the draft Charter itself and presentations from the various role-players who have specific responsibilities in terms of the Charter. Day 3 will be used to analyse the draft Charter in terms of its content and implementation.

After the consultative workshop, final changes will be made to the document and it will be submitted for final approval to our Ministry.

### **COMMENTS AND INPUTS**

Due to financial constraints only a certain number of representatives can be invited to the consultative workshop. Persons who would like to comment on the document are invited to do so. A copy of the draft Victims' Charter can be obtained from:

- Electronic copies: The Department of Justice and Constitutional Development's WEBSITE: [www.doj.gov.za](http://www.doj.gov.za).
- Hardcopies: Marié du Preez  
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All comments and inputs should be submitted by 31 October 2001 to Marié du Preez at the above-mentioned address via fax, letter or e-mail.

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## FOREWORD BY THE MINISTER FOR JUSTICE AND CONSTITUTIONAL DEVELOPMENT

1. The debate around improved services for victims of crime in South Africa was given momentum at a conference on victim empowerment, which was hosted by the Institute for Security Studies and the SA Police Services during the latter half of 1996 at the World Trade Centre in Kempton Park. The National Crime Prevention Strategy (NCPS), which was released in May 1996, promotes a victim-centric approach to crime prevention where the onus is on the government to deliver a crime prevention approach that places the rights and needs of victims at the centre of the strategy. It furthermore acknowledges that victimisation lies at the heart of much retributive crime and the absence of means of victim aid and empowerment play an important role in the cyclical nature of violence and crime in South Africa. A National Programme on Victim Empowerment was included in the activities of the NCPS and the Department of Social Development was appointed as the lead Department. The programme on victim empowerment, among other things, seeks to -
  - a. enhance the effectiveness of victim support services as a source of relief;
  - b. improve the access of dis-empowered groups to the criminal justice system, including women, children, and victims in general;
  - c. redesign the criminal justice system to empower victims;
  - d. provide a greater and more meaningful role for victims in the criminal justice system;
  - e. improve the service delivered by the criminal justice process to victims of crime; and
  - f. deal with the damage caused by criminal acts by providing remedial interventions for victims.
2. The Charter sets out, for the first time, the sort of services that victims of crime should expect, and explains how all the role-players and agencies that are involved in the criminal justice system should improve the treatment of victims of crime.
3. Since the start of the debate on improved treatment of victims, we have listened to what victims say and we have learned from their experiences. It has been determined that victims often want more information on what is likely to happen and to be kept up to date with developments in their cases. They want to be treated with respect when they attend court as witnesses and they want to know that their interests are being taken into account.

## PURPOSE OF THE CHARTER

4. The Charter is part of government's commitment to provide a better deal for victims of crime. However, a lot still needs to be done and we are aware of the dangers in making empty promises. Having regard to the shortcomings in the existing criminal justice system and the many projects still under investigation, this document is an attempt to give recognition to rights and services for victims of crime to which role-players and government departments have committed themselves. It gives details of the available services and as progress in this field is made, further improvements to services will be added.
5. The move towards the recognition of victims' rights is a recent development and it will take some time to put everything into place. Since a number of issues are at present under investigation, this document is the

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starting point of an evolving process. It is the first attempt to give recognition to the role of victims in the criminal justice system. The document not only outlines basic rights and principles but also provides detailed information to victims of crime to enable them to use the Charter effectively.

6. Everyone involved in the criminal justice system is cooperating to make sure that victims get a better deal. Victims who report crime and give evidence in court play a crucial role in making the criminal justice system more effective. In return, the criminal justice system should treat victims with respect and meet their needs.

## INTRODUCTION

7. If you have been the victim of a crime, this Charter aims to explain, as clearly as possible, what happens after the offence has been reported to the police and the standards of services you can expect. There is also a section referring you to other available information and a list of useful addresses. The Victims' Charter applies to all victims of crime who have suffered directly or indirectly as a result of the crime and also aims to incorporate some restorative justice principles, to ensure that the needs of victims are met by the services rendered in the criminal justice system.
8. The way you are treated cannot make up for what you have suffered. But we aim to make sure that the unpleasant effects of the crime are not made worse by what happens later. We aim to treat you fairly and courteously and to provide a good service. However, things sometimes go wrong. If you feel that you have not received the standards of services you should have received, this Charter includes a section telling you how to complain. If you think there is more that could be done to improve the service, you should contact either the agency concerned or the relevant department.
9. Relevant agencies and departments will monitor the application of the rights and standards of services set out in this Charter. As part of their own monitoring, the agencies may consult victims. Some of the results of this monitoring and consultation may be published locally. The Victim Empowerment Programme Management Team will also monitor the application of the rights and standards of services set out in this Charter.
10. This Charter is divided into four parts. The first part outlines the rights and standards of services to which you are entitled. The second part briefly explains the processes in the criminal justice system and what will happen to you if you have fallen prey to a crime. The third part lists the rights and gives an outline of the treatment and standards of services you can expect from the various role-players in the criminal justice system, and in part four the complaints procedures are outlined. Part four also includes an address list, which will provide you with important information.
11. The role-players in the criminal justice system will ensure that copies of the Charter will be available at the following offices:
  - Courts and Prosecutors' offices
  - Police stations

- Clinics
- Schools
- Welfare offices

12. You can approach any of the role-players or services providers mentioned in the Charter, if you require more information concerning any of the rights or standards of services or on issues such as:

- appearing as a witness in court;
- National Policy Guidelines for Victims of Sexual Offences;
- victim empowerment;
- how to protect your rights;
- domestic violence;
- victims of sexual offences; and
- “Law talk for children”

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## Part I

### What are your rights as a victim of crime?

13. When a crime is committed, your basic human rights, as set out in the Constitution, are violated. You can expect that the role-players in the criminal justice system will ensure that the rights and standards of services which are outlined in this Charter and which specifically relate to you as a victim of crime, will be protected once applied. Officers and employees of the Department of Justice and Constitutional Development and other government departments and agencies in South Africa engaged in the detection, investigation, or prosecution of crime and the provision of services, will to the best of their abilities see to it that victims of crime are accorded the rights and standards of services described in this Charter.
14. The provisions contained herein are applicable to all, without prejudice of any kind, on the grounds of race, colour, sex, age, language, religion, nationality, political or other opinion, cultural beliefs or practices, property, birth or family status, ethnic or social origin, and disability.
15. In your contact with the criminal justice system the following rights will be upheld:
  - a. The right to be treated with fairness and with respect for your dignity and privacy. You are entitled to access the mechanisms of justice and to seek expeditious redress as provided for in legislation and through procedures outlined in this Charter.
  - b. The right to offer information.
  - c. The right to receive information.
  - d. The right to protection.
  - e. The right to assistance.
  - f. The right to compensation.
  - g. The right to restitution.



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## Part II

# THE CRIMINAL JUSTICE PROCESS AND THE RESPONSIBILITIES OF THE RELEVANT ROLE-PLAYERS

### What will happen -

#### if someone is suspected of committing a crime:

16. If a crime has been committed, reporting thereof to the SA Police Service sets the criminal justice system in motion. The SA Police Service is responsible for investigating crimes and bringing offenders to book. If someone is caught, the police will decide whether to charge him/her. If the charge is not too serious or if the police are not sure whether a prosecution should follow, a formal charge will not be brought immediately. The police will still investigate such a case and submit the police docket to the public prosecutor for a decision. The prosecutor may decide not to press charges and in doing so will among other factors, consider your interests.
17. From the moment that a crime is committed and reported, it is important that all evidence be collected and protected in a way that will assist in the investigation of the case and subsequent trial. Injuries sustained by you can serve to corroborate your evidence against the accused.
18. Once someone is charged the case is passed on to the court where the prosecutor takes over control of the case.

#### when the case is handed to the prosecutor:

19. The prosecutor prosecutes cases in court. The prosecutor will consider every case carefully and will keep it under review. The prosecutor will decide whether there is enough evidence to support a decision to prosecute. If there is not, the case will not go ahead. If there is enough evidence, the prosecutor will take your interests into account when considering whether it is in the public interest for the prosecution to continue. The prosecutor may also decide to alter the charges, depending on the relevant facts in the case.
20. You can expect a speedy and efficient process, which will ensure that the case comes before court as soon as possible.

#### if you are called as a witness for the prosecution:

21. The police will inform you if you need to appear in court as a witness. Most cases are dealt with in magistrates' courts. The more serious offences go to the regional court and the high court.
22. Getting a case to court for trial can be complicated, particularly if there are a number of people involved. If the police have told you that you may be needed as a witness, let them know if there are any days on which it would be difficult for you to attend court. Those attending to the case will do their best to make sure that the case comes to court as quickly as possible and, if possible, that it is on a day which is convenient to you.

**if you go to court:**

23. Giving evidence in court can be stressful. The people involved - the police, the prosecutor and court staff - will give you as much information as possible about what is likely to happen. The prosecutor assigned to the case will consult with you prior to you being called to testify.
24. You will be handed a subpoena informing you where and when the trial will be. Accompanying the subpoena in certain cases, will be a leaflet, which explains what will happen in court. Some courts have a Help/Information/Advice Desk where you can ask about facilities at the court. If you are going to a magistrate's court and you have any questions about the facilities, you should contact the police, who will put you in touch with the court.
25. When you arrive at the court, you will find clear signs to help you find your way around. If you do not know where the court is, you can inquire at the Help/Information/Advice Desk where you will be informed in which courtroom your evidence will be heard. You can also approach members of the prosecution staff who will be able to deal with any questions you have about procedures and the prosecutor assigned to your case will be able to tell you how long you will approximately have to wait before giving your evidence.
26. The prosecutor will do his/her best to make sure that you are called to give evidence as soon as possible. However, sometimes there are delays. If you are a witness you must ensure to arrive on time at the court. If you will be arriving late or if you are not able to attend on the specific day, you have to inform the prosecutor.

**at the trial:**

27. If you have to give evidence you can request a friend or supporter to accompany you to the court. After you have given evidence you will be told whether you can leave. You can attend the rest of the case if you wish.
28. A high standard of proof is needed before someone can be found guilty. This may mean that someone whom you believe is guilty is not actually found guilty. This is not a judgement on you, but is based on the strength of the prosecution's case as a whole.
29. The prosecutor will call all the state witnesses in support of the case against the offender. The offender will also be given the opportunity to 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 judgement is given.

**after conviction:**

30. If the accused is found guilty the prosecution and the defence may address the court on the sentence to be imposed. This is done by way of argument in aggravation or mitigation of sentence. If the plea in mitigation of sentence includes information, which is untrue, this information must be communicated to the court. At

the sentencing stage you can seek redress or compensation for damages. If the court makes an award it is not regarded as a sentence and such award can therefore accompany any other form of punishment. A court may also suspend a sentence subject to conditions, including a condition that the accused compensates you.

31. Before sentence is passed the presiding officer, the prosecutor or the defence may request that a report on the offender be prepared by a probation officer. The report can include an assessment of the effect the crime had on you. The information may be taken from your statement made to the police and which was provided to the probation officer by the prosecutor, or you may be interviewed by the probation officer in person.
32. In cases where the sentence passed is unduly lenient, the Director of Public Prosecutions may lodge an appeal against the sentence to a court of appeal or to the Supreme Court of Appeal. This must be done within a specified period. If you believe that the sentence has been unduly lenient, you can discuss it with your local prosecutor who will bring it to the attention of the relevant Director of Public Prosecutions.
33. An accused can appeal against a conviction and the sentence imposed by the court. If an appeal is lodged you can request to be kept informed of further developments in the case, for example, the date of the appeal hearing, if the accused has been granted bail, and the result of the appeal.
34. If there is concern about your safety or that of a state witness, the police will be able to give advice on what needs to be done for protection and, where appropriate, they may be able to give practical assistance.

#### **the execution of sentences:**

35. The Department of Correctional Services will ensure that sentences of imprisonment are served in accordance with the law. When the release of offenders is being considered, the Department of Correctional Services will carefully consider the supervising of offenders to be considered for release on parole. In appropriate cases you can, if you wish to do so, request to attend parole hearings. If you do, you will be informed of the date of the hearing and the Parole Board will take your concerns into account when considering the release of the offender on parole. The offender may be released notwithstanding your concerns, but conditions may be attached to his/her release. If the offender behaves in a way that suggests that he/she may present a risk to public safety, or he/she contravenes any conditions attached to his/her release, he/she may be arrested to serve the remainder of the sentence in prison.

#### **if you are in need of assistance:**

36. A number of government departments will provide assistance to you. The Police will assist in on-site crisis intervention like, for example, medical/psychological first-aid; explanation of police procedures; providing information about your rights; referral to community agencies where appropriate; addressing your safety as a priority; preservation of evidence; and crime prevention advice.

37. The Department of Social Development, Education and non-governmental organisations will offer emotional and practical support and will assist you by making available services of social service officers and/or probation officers and non-governmental agencies.
38. Health care practitioners will ensure that you are treated with fairness and respect for your dignity and privacy; that you consent to examination and/or treatment; that you are treated quickly, in privacy and with confidentiality, and that a complete assessment is made of your condition, including your physical and emotional condition or psychological trauma experienced by you.

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## Part III

### EXERCISING YOUR RIGHTS IN PRACTICE

<b>1 YOU HAVE THE RIGHT TO BE TREATED WITH FAIRNESS AND RESPECT FOR YOUR DIGNITY AND PRIVACY</b>
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39. You can expect that all role-players will treat you fairly, with respect for your dignity and privacy, and in a sensitive manner.

**If you report a crime to the police you can expect that -**

- 40. the crime will be investigated;
- 41. if you have reported the crime by phoning the police, they will respond to your report as quickly as they can;
- 42. measures will be take to minimise any inconvenience to you;
- 43. a police official will take your statement and fill out the forms necessary to register the crime;
- 44. you will be referred for medical attention and/or counselling if required;
- 45. you will be interviewed in privacy by a member of the police;
- 46. you will be interviewed in a language you understand, and if the person speaking to you cannot speak a language you understand, you may ask for an interpreter;
- 47. you may request to be interviewed by a member of the police who is of the same sex as yourself (if available).

**If you go to court you can expect that  
the court staff-**

- 48. will endeavour to protect you from being victimised or traumatised again by what happens in the court;
- 49. where available, staff and trained volunteers from Victim Support Services (operating under the auspices of the NCPS Victim Empowerment Programme) will assist you, your family and friends at

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the court before, during and after the trial;

- 50. will allow you, on your request, to see a courtroom before the case starts so that you know what to expect;
- 51. will allow you to take a relative or friend to accompany you to court; and
- 52. will allow you, on request and facilities permitting, to wait separately from the accused or his/her witnesses in the case.

### **the prosecutor-**

- 53. will take steps to avoid where possible, that your case, especially in cases of sexual assault, is handled by different prosecutors.
- 54. will call you to give evidence as soon as possible and if delays occur, you will be informed by the prosecutor assigned to your case why there is a delay and how long you are likely to wait;
- 55. or a representative of the prosecution staff at the court will, if this is possible, while you are waiting to give evidence, inform you what to expect during the trial;
- 56. will give you the chance to refresh your memory and to read your statement; and/or consult with you; and
- 57. or a member of the court staff will inform you that you are entitled to be paid travel and certain other expenses for the time you are at court to give evidence and they will give you information and assist you to claim expenses.

### **From officials of social services you can expect that -**

- 58. you will be interviewed in private and the conversation will be regarded as confidential;
- 59. you will not be left alone to deal with the case and, if you have not yet reported the case to the SA Police Service, the social service officer will assist you to report the case; and
- 60. in the case of a sexual offence, the SA Police Service may need your clothing as evidence and you can request the social service officer to assist you in obtaining alternative clothing to wear.

### **From health care workers you can expect that -**

- 61. you will be allowed to choose not to receive medical attention or psychological help, however, such evidence can be used to support your evidence;

62. you will be consulted in an environment conducive to confidentiality, privacy and dignity; and
63. you will be requested to consent to examination and/or treatment.

### **From officials of Correctional Services you can expect that -**

64. all efforts will be made to protect you from being victimised or traumatised again during the Correctional Supervision and Parole Board hearing;
65. if you have to give an input to the Correctional Supervision and Parole Board hearings, you will be allowed to request a friend to accompany you to the hearing for support; and
66. while you are waiting to give your input, a representative/member of the Correctional Supervision and Parole Board will inform you of the procedures during the hearing.

## **2. YOU HAVE THE RIGHT TO OFFER INFORMATION**

### **During the investigation of the case you can expect that -**

67. the police officer will take a statement from you and that you will be asked to read and confirm the contents thereof or, if you cannot read, the police officer will read it to you and thereafter require you to sign it, or on your request that your statement be read to you by an interpreter if one is available, in a language that you understand;
68. if you realise that the statement is wrong or incomplete, you will be allowed to add to or amend your initial statement or to make a further statement;
69. you will be given the chance to explain in your statement how the crime has affected you and that your interests will be taken into account and reduced to writing;
70. on request you will receive a copy of your statement;
71. the police will ask you about your fears for further victimisation and details of your loss, damage or injury;
72. you will be required to keep the investigating officer informed of your address, contact particulars and whereabouts pending the finalisation of the investigation and of the trial; and
73. you will be required to inform the investigating officer if the suspect or accused interferes or tries to

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interfere with the investigation of the case or if the accused will not attend the trial or if you are threatened by the accused.

**If you go to court you can expect that  
the prosecutor-**

74. will take your interests as a victim into account when considering whether or not to prosecute;
75. will give you the opportunity to disclose to him/her evidence relevant to a decision related to 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 necessary, will call you to give evidence in this regard at bail hearings;
76. on your request, will give you the opportunity to refresh your memory through consultation and/or by reading your statement before giving evidence;
77. will give you the chance to explain to him/her how the crime has affected you or your family and to disclose details of any loss or harm that you have suffered as a result of the crime, and will take these circumstances into account before he/her takes any decision on acceptance of a plea on a lesser charge. The effect that the crime has had on you/ your family will be disclosed to the court or you will be given the opportunity to give evidence in court and/or a probation officers report will be submitted to the court during the sentencing stage; and
78. at the consultation stage will allow you to disclose to him/her additional facts that are not in the statement, and he/she will disclose this to the defence prior to trial if relevant.

**From social services you can expect that -**

79. you will be interviewed and steps will be taken to ensure that any evidential material you may have, is correctly gathered and protected; and
80. steps will be taken to facilitate a medical examination; and
81. as far as possible, they will ensure continuity in that the same social service officer or trained volunteer will work with you from the time of reporting the crime to the finalisation of the case.

**From officials of Correctional Services you can expect that -**

82. you will be allowed to give an input at the Correctional Supervision and Parole Board hearing, through a written or oral statement;
83. you or a relative of the victim will be allowed to submit an application to attend the Parole Board



Hearing and will inform you in writing to whom you may apply, as well as of the time, date and venue of the hearing; and

84. you will be given the opportunity to disclose to the Correctional Supervision and Parole Board hearing, evidence or factors relevant to a decision on the release of the prisoner on parole.

### **3. YOU HAVE THE RIGHT TO RECEIVE INFORMATION**

#### **If you report a crime you can expect that the police will inform you -**

85. that you may discuss the case with an attorney of your choice, if you wish to do so;
86. of the nature and purpose of your statement;
87. of the name and telephone number of the Investigating Officer allocated to your case; and the police case number (CAS or Crime Administrative System Number);
88. of the possibility to institute a private prosecution if the Director of Public Prosecution has declined to prosecute in the case;
89. that you may also request to be informed of the following:
- a. The arrest of a suspect.
  - b. Whether you are required to attend an identity parade and of the date thereof.
  - c. The court case number.
  - d. The date 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 of your case and the prosecution thereof.
  - g. Any decision to withdraw or alter the charges substantially.
  - h. Whether you will be required to attend the court proceedings and the date/s thereof.
  - i. The date of the trial and the final result.
  - j. The date of sentencing and the outcome thereof;
  - k. Whether the accused has appealed against conviction or sentence and the outcome thereof.
  - l. How and when confiscated property can be reclaimed.
  - m. What services are available to address your particular needs and how to access them.

#### **If you go to court you can expect that the court staff-**

90. will, on your request and where possible, allow you to see a courtroom before the case starts to enable you to know what to expect; and

91. will ensure that clear signs and directions are available in the court or, if not, they will give you directions to the courtroom, or the Help/Information/Advice Desk will inform you in which courtroom your evidence will be heard.

**the prosecutor-**

92. on your request, will notify your employer of any proceedings that necessitates your absence from work;
93. will inform you that if the Director of Public Prosecutions has declined to prosecute in the case, you may institute a private prosecution and of the procedure to follow in such a case;
94. assigned to your case, will be able to deal with your questions about court procedures and, if there are delays, will advise you on approximately how long you will have to wait before you give evidence;
95. assigned to your case, will provide you with the opportunity for meaningful consultation prior to major case decisions;
96. on your request, will inform you of the outcome of bail proceedings and of any special bail conditions imposed; and
97. assigned to your case, will, on your request inform you of the outcome of the case and whether a conviction or sentence is appealed.

**if officials from social services is involved in the case they will -**

98. explain the procedures that will follow and answer your questions;
99. if possible, accompany you to court prior to the trial to familiarise you with the environment;
100. assist you to track the case through the system; and
101. offer support and counselling or referral to professional counselling services.

**if officials from health services is involved in the case you can expect that they**

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102. will explain the reasons for the examination (i.e. the collection of evidence, the taking of samples, if needed and the recording of a detailed medical report), as well as the procedure which will be followed during the examination to you; and

103. on request provide you with a copy of the recording of the proceedings at the hospital or clinic relating to the date and time of your treatment, as well as the name, address and telephone number of the health care worker.

**You can expect that officials from educational services will -**

104. on request inform you of relevant school-based, as well as community victim services available in the area.

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

105. on request, inform you when the accused is to be considered for release on parole and the date thereof;
106. in appropriate cases, if and when you can attend the parole hearing and submit a statement to the Parole Board on the impact the crime had on you:
107. on request, inform you of support and counseling services during the Parole Board hearing to help relieve you of the trauma of the crime;
108. on request, inform you of the outcome of the Parole Board hearing and of any special conditions imposed;
109. while you are waiting to give your input at the Correctional Supervision and Parole Board hearing, will inform you of the board's procedures and what is expected from you during the hearing; and
110. on request, inform you of any changes to hearing dates, postponements or outcome of the Correctional Supervision and Parole Board hearing.

## **4. YOU HAVE THE RIGHT TO PROTECTION**

**If you reported a crime to the police you can expect that -**

111. if you have reason to believe that your safety or the safety of a member of your family or your household is being threatened, you will be allowed to report to a police station or local public prosecutor to apply for a protective order for yourself, your family or your household.
112. in appropriate cases you will be protected by a member of the South African Police Service at a place of safety or at your home, hotel etc, in the manner that is deemed necessary;

- 113. you will be given the opportunity to give your statement in private;
- 114. if you do not want the accused to know your address or name, you will be allowed to contact the investigating officer and/or prosecutor in order for them to try and withhold that information from the accused;
- 115. provision may be made for the payment of allowances to you while in protective custody as well as remuneration in respect of loss of income;
- 116. the police will inform you that the Department of Justice and Constitutional Development (acknowledging the crucial role that victims and witnesses play in the administration of justice and that witnesses are often too terrified to testify in court due to intimidation) is in charge of the administration of the Witness Protection Programme; and
- 117. at all times, a responsible official will ensure that any property belonging to you and which is being held for evidentiary purposes will be maintained in good condition and returned to you as soon as it is no longer needed for evidentiary purposes.

**If you go to court you can expect that  
the prosecutor-**

- 118. will inform you that if the accused/witness/spectator 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;
- 119. where appropriate, will inform you that where a court orders that the public or any class thereof may not be present in court, the court may direct that no information relating to the trial or any part thereof held behind closed doors may be published;
- 120. where appropriate, will inform you that where a court directs that any person or class of persons may not be present at the trial, no person may publish any information which might reveal the identity of any complainant/witness unless the court authorises the publication of such information; and
- 121. where appropriate, will inform you that any person who unlawfully publishes any information or who unlawfully reveals the identity of a witness is guilty of an offence and can be prosecuted.

**officials of social services -**

- 122. if you are a child, will take steps to ensure that other children and your family members are not at risk; and

123. will, as far as possible, prevent your further traumatisation or victimisation by the system.

### **From officials of Correctional Services you can expect that -**

124. you will, on request, be informed if the offender has escaped from custody; and

125. they will, on request and if relevant, include certain stipulations (e.g. no contact with victims or family members of victims after parole), in the prisoner's parole conditions, especially in rape and abuse cases.

## **5. YOU HAVE THE RIGHT TO ASSISTANCE**

### **You can expect that the Police will assist you in -**

126. making referrals to other service providers for the necessary support and on-site crisis intervention like for example medical first-aid;

127. explanation of police procedures;

128. information about victims' rights;

129. addressing your safety as a priority;

130. preservation of evidence;

131. crime prevention advice; and

132. reducing the violence at the crime scene.

### **If you go to court you can expect that -**

133. the prosecutor will present the case for the state and will consider your interests;

134. you will be allowed to discuss the case with an attorney, especially if you want to claim compensation for damages or physical/psychological injuries;

135. provision will be made for interpreters and where appropriate, information, will be made accessible to persons with disabilities;

136. where available, persons with disabilities will be given the necessary support if needed or may be

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seated during testifying;

137. where a special sexual offences court is available, cases (involving a sexual offence) will be tried in such a court;
138. the prosecutor and the police will inform you that if you are under 18 years of age and it would expose you to undue mental stress or suffering if you testify at the trial, the court will appoint a competent person as an intermediary in order to enable you to give your evidence through that intermediary; and
139. if a CCTV link is to be used during the court proceedings, the prosecutor will explain how the equipment works and, on request, allow you and your parents/guardian to see a demonstration thereof before the trial.
140. the presiding officer will, if an intermediary has been appointed, ensure that you will not be questioned, cross-examined or re-examined, except by the court, in any manner other than through the intermediary;
141. the presiding officer inform you that the said intermediary may, unless the court directs otherwise, convey the general purport of any question to you;
142. the presiding officer may, if an intermediary has been appointed, also direct that you give your evidence at any place
- a. which is informally arranged to set you at ease;
  - b. which is situated in such a way that any person whose presence may upset you, is outside your sight and hearing;
  - c. which enables the court and any person whose presence is necessary at the relevant proceedings to see and hear, either directly or through the medium of any electronic or other devices, you as well as that intermediary during your testimony; and
143. cases involving particularly vulnerable victims will be expedited.

**From officials of social services and non-governmental organisations you can expect that -**

144. you will be offered emotional and practical support;
145. they will assist you by making available the services of social service officers and/or probation officers and non-governmental agencies;

- 146. if you are in need of social services, you will be allowed to report to the social service officer at the office of the Department of Social Development nearest to where the incident occurred and where available, the social service officer will check the Central Case Register to see if you are already known to a social service officer in the area; and
- 147. all identifying particulars and information regarding the case will be recorded.

**From officials of Correctional Services you can expect that -**

- 148. you will be given a leaflet containing information on sentences of Correctional Supervision and on the Parole Board's functions, what your role is in the Parole Board hearing, as well as on what to expect during the hearing;
- 149. where available and appropriate, provision will be made for interpreters during the Parole Board hearing;
- 150. the Department will, on request, facilitate mediation between you and the offender, when the need arises; and
- 151. they will be able to refer you to appropriate internal or external service providers if need be.

**You can expect that, as far as possible and applicable the local authority will -**

- 152. ensure that the following principles of environmental design for a safer environment are upheld:
  - a. visibility, which is essential to safety;
  - b. good lighting;
  - c. open spaces will not be allowed to become derelict;
  - d. advise citizens regarding good practices;
- 153. ensure free and safe flow of traffic;
- 154. respond to incidents of crime in order to protect you;
- 155. record all information regarding the incident;
- 156. safeguard the scene of the crime;
- 157. render first aid to you and refer you to other medical practitioners;
- 158. minimise/eliminate hazards and prevent escalation of the incident; and

159. deal appropriately with deceased victims.

**You can expect that health care practitioners will ensure that -**

- 160. a complete assessment is made of your condition, including physical and emotional or psychological trauma (also clothing);
- 161. a full medical history will be taken;
- 162. your account of the alleged incident will be recorded in full and clear, simple explanations about treatment and procedures will be offered;
- 163. information regarding follow-up procedures will be offered;
- 164. where appropriate, you will be given a medical certificate for absence from school or work;
- 165. the SA Police Service will be requested to come to the health centre if required; and
- 166. if required, the health worker will give evidence in court.

**From community based victim support initiatives you can expect that -**

- 167. victim support initiatives staffed by volunteers and trained in 'debriefing' and practical support skills, will provide:
  - a. a shoulder to lean on;
  - b. help in contacting family or friends;
  - c. guidance in respect of the symptoms of post traumatic stress;
  - d. an explanation of the process that needs to be followed;
  - e. help in communicating with the SA Police Service and later the Prosecutor;
  - f. practical help to avoid further problems;
  - g. referral to a professional counselling service if traumatic response is profound;
  - h. in some places, services extend to "Court Support", including -
    - i. help in understanding the process of law;
    - ii. an explanation of what will happen in the court if you are called as a witness;
    - iii. description of who will be in court and what roles they play and assistance in finding the court; and
    - iv. preparation as a witness in court.

**6. YOU HAVE THE RIGHT TO COMPENSATION**



**If you go to court you can expect that -**

168. 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 request the prosecutor to apply to the court for a compensation order;
169. in appropriate cases, the court may suspend a sentence on condition that the accused compensate you for loss or damage suffered as result of the offence;
170. the prosecutor will inform you how to enforce such an award;
171. the prosecutor will, in applicable cases, inform you that where money of the person convicted is taken from him or her upon arrest, the court may order that payment be made to you forthwith from such money;
172. the prosecutor will inform you that should a compensation order not be given in your favour at the criminal trial, you may institute a civil action against the accused;
173. the prosecutor or the presiding officer will inform you that an award made by a court has the effect of a civil judgement and can be enforced by you;
174. the presiding officer will inform you that if an award was made in your favour, you may within sixty days after such order was made, renounce the award by lodging with the registrar or clerk of the court a letter of renunciation and by making a repayment of moneys already paid to you;
175. the presiding officer will inform you that if you do not renounce an award within the period of sixty days, no person against whom the award was made will be liable if you institute any other civil proceedings in respect of the injury for which the award was made; and
176. If you are applying for compensation for damages or physical or psychological injuries, the health care worker may give evidence in court and provide the court with medical reports and other relevant documentation.

**7. YOU HAVE THE RIGHT TO RESTITUTION****If you go to court you can expect that -**

177. the prosecutor will inform you that you may, in appropriate cases, request the offender to make fair restitution to you, your family or dependants;
178. the prosecutor will inform you that such restitution can include the return of property or payment for

the harm or loss suffered, reimbursement of expenses incurred as a result of the offence, the provision of services and the restoration of rights; and

179. the prosecutor will inform you that your request in this regard can be enforced by the court and in appropriate cases you will be allowed to submit such a request to the court.

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## Part IV

### Complaints

180. All of the agencies involved in your case aim to provide a high standard of service. But things sometimes go wrong. If they do, the agencies want to know what happened. This part of the Charter tells you what you can do if you are unhappy about -
- a. the way you have been treated;
  - b. the information you have received; or
  - c. decisions that have been made.

#### **If your complaint is about the police**

181. You can submit a complaint about a police officer, or a police service policy, practice or procedure at the police station involved by writing to the Commanding Officer of the police station concerned.
182. If you complain about a police officer acting unfairly or incorrectly, the matter will be overseen by the Independent Complaints Directorate.
183. If your property has been lost or damaged while it was in police possession, you may be entitled to compensation. Write to the Commanding Officer of the police station concerned with details of your claim.

#### **If your complaint is about a prosecutor**

184. Write to the Senior Public Prosecutor at the office, which dealt with the case. Most complaints can be solved by the office that dealt with your case. However, if your local Prosecutor's Office does not answer your complaint to your satisfaction, you may write to the Director of Public Prosecution of the area. He or she will carry out an independent review. If your complaint has not been addressed to your satisfaction you can approach the National Director of Public Prosecutions. If your complaint has still not been addressed to your satisfaction you can approach the Office of the Public Protector.

#### **If your complaint is about the Court**

185. If your complaint concerns a magistrate's court, you can write to the Chief Magistrate of the district concerned.
186. If your complaint concerns a regional court, you can write to the Regional Court President of the area concerned. You will get the address particulars from your local magistrate's court.
187. If your complaint concerns a high court, you can write to the Judge President of the Division concerned. You will get the address particulars from your local magistrate's court.
188. 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 Services Commission if your complaint concerns a high court.

**If your complaint is about a presiding officer**

189. If your complaint is about the treatment by a judicial officer, you can contact the Judicial Service Commission (for Higher Court Judicial Officers) and the Magistrates Commission (for Lower Court Judicial Officers).

**If your complaint is about a social service officer**

190. 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, contact the Head of the Regional or Provincial office.
191. If you are still not satisfied with the service you have received, you can contact the Council for Social Service Professions or the Office of the Public Protector.

**If your complaint is about a probation officer**

192. Complain to the head of the office you have been dealing with. If you are not satisfied with the response, you can complain to the head of the office of the region concerned. If you are still not satisfied, you can approach the Office of the Public Protector. If you are not satisfied with the response, contact the Head of the Regional or Provincial Office.
193. If you are still not satisfied with the service you have received, you can contact the Council for Social Service Professions or the Office of the Public Protector.

**If your complaint is about a health care practitioner**

194. If you are not happy with the service rendered by a health care worker, you can complain to the person who is attending to you. If your complaint cannot be resolved to your satisfaction, you may refer your complaint to the Head or Manager of the health facility where you are being examined or treated.
195. If you receive no response or feel dissatisfied with the way in which your complaint has been attended to, you can refer your complaint to the office of the Provincial Health Department. If the Provincial Health Department cannot attend to your complaint, the Provincial Office will refer it to the relevant Professional Board or Council.

**If your complaint is about the officials from educational services**

196. If your complaint concerns a teacher, you can contact the principal at the school or educational institution concerned.
197. If you are not satisfied with the way in which your complaint is attended to, you can contact the Regional or Provincial Director for Education.

198. If your complaint still has not been addressed satisfactorily, you can approach the MEC for Education or contact the National Department of Education.

### **If your complaint is about officials of Correctional Services**

199. If your complaint concerns a correctional official, you can forward it in writing to the Commissioner of Correctional Services. Upon receipt of your written complaint the Commissioner will delegate it to the relevant office for attendance.

### **If your complaint is about a Victim Support Service**

200. You should approach the head of the office to which your complaint is addressed. If your complaint concerns an office of the Department of Welfare you should write to the head of the office concerned. If you are not satisfied with the response, contact the head of the regional office.

### **Alternative Complaint Mechanisms**

201. Should 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 take recourse to the services provided by organisations such as:

- a. The Public Protector,
- b. Lawyers for Human Rights,
- c. The South African Human Rights Commission,
- d. A lawyer of your own choice and at your own cost.

## USEFUL ADDRESSES

<p>The Director-General <b>Department of Justice</b> Private Bag X 81 PRETORIA 0001 Tel no:(012) 315 1111 FAX no:(012) 326 0991</p>	<p>The Director-General <b>Department of Social Development</b> Private Bag X 901 PRETORIA 0001 Tel no:(012) 312 7601 Fax no: (012) 312 7782</p>	<p>The Director-General <b>Department of Health</b> Private Bag X 828 PRETORIA 0001 Tel no: (012) 312 0000 Fax no: (012) 325 5706</p>
<p>The Director-General <b>Department of Education</b> Private Bag X 895 PRETORIA 0001 Tel no: (012) 312 5911 Fax no: (012) 321 6770</p>	<p>The Director-General <b>Department of Correctional Services</b> Private Bag X 136 PRETORIA 0001 Tel no: (012) 307 2000 Fax no: (012) 325 8080</p>	<p><b>The National Director of Public Prosecutions</b> Maize Board Building Private Bag X 752 PRETORIA 0001 Tel no: (012) 321 9988 Fax no: (012) 328 9940</p>
<p>The Secretary <b>Magistrates Commission</b> PO Box 9096 PRETORIA 0001 Tel no:(012) 325 3951 Fax no: (012) 325 3957</p>	<p><b>The Independent Complaints Directorate</b> Private Bag X 941 PRETORIA 0001 Tel no:(012) 320 0431 Fax no: (012) 320 3116</p>	<p><b>The Office of the Public Protector</b> Private Bag X 677 PRETORIA 0001 Tel no:(012) 322 2916 Fax no:(012) 322 5093</p>
<p><b>Lawyers for Human Rights</b> National Directorate Democracy Centre 357 Visagie Street, cnr Prinsloo Street PRETORIA 0002 Tel no:(012) 320 2943/8 Fax no: (012) 320 2949</p>	<p><b>South African Human Rights Commission</b> Private Bag X 2700 HOUGHTON 2047 Tel no:(011) 484 8300 Fax no: (011) 484 1360</p>	<p>The Chairperson <b>Victim Empowerment Programme Management Team</b> Private Bag X 901 PRETORIA 0001 Tel no:(012) 312 7545 Fax no:(012) 324 2648</p>
<p><b>Council for Social Service Professions</b> The Registrar Private Bag x 2 Hatfield 0028 Tel no: (012) 342 5437 Fax no: (012) 342 3025</p>		