

National Policy Guidelines For Victim Empowerment

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FOREWORD

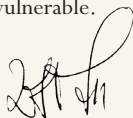
Crime and violence continue to present a dilemma to the South African democracy and they are an impediment to attaining a better life for all. Despite the best efforts of government as well as civil society organizations to prevent crime and violence, these remain challenges that impact on all South Africans, directly and/or indirectly. The impacts, which can be physical, emotional, social and economic, are experienced not only by the victims themselves, but by their families and communities. Moreover in some cases the services that are provided further victimise the people concerned rather than empower them. Services that are comprehensive, intersectoral and integrated are urgently needed to ensure a victim friendly criminal justice and associated system and to make sure that the negative impacts on victims is reduced.

South Africa's Victim Empowerment Policy is based upon the concept of restorative justice. This approach is fully in concert with international trends over the past decade to promote a victim-centred approach to criminal justice. Whereas formerly the focus was almost exclusively on the progress of the perpetrator through the system, the current focus is also strongly on serving the needs of the victim. Wherever a victim-centred approach has been put into practice internationally, it has invariably resulted in a reduction of victimisation, while simultaneously improving service standards in the system.

While services to and empowerment of victims in South Africa has increased somewhat in recent years, these services have not been managed as an integrated whole within and between the various government departments, nor with other stakeholders. Many services are also not yet comprehensive, or of the required standard. Role players render pockets of services without guidance from an institutional framework, thus often exposing the client to further victimisation and discontent with service delivery. The manner in which the programme currently operates has limited impact in creating a victim-friendly criminal justice and associated system and reducing the negative impact of victimisation.

These National Policy Guidelines provide a framework for sound inter-departmental and intesectional collaboration and for the integration of effective institutional arrangements for a multi-pronged approach in managing victim empowerment. Such an approach facilitates the establishment of partnerships in the victim empowerment sector to effectively address the diverse and sensitive needs of victims holistically. Of particular importance is the cross-cutting nature of the programme. In addition, the National Policy Guidelines serve as a guide for sector-specific victim empowerment policies, capacity development and a greater emphasis on the implementation of victim empowerment programmes by all relevant partners.

Through these National Policy Guidelines, victims will be empowered through more and better services, as well as improved co-ordination. I assert with confidence that we will achieve an approach to victims in which, as Lucia Zedner says, "...the victim has moved from being a forgotten actor to a key player in the criminal justice system"¹. The implementation of these National Policy Guidelines is indeed a core part of government's commitment to ensuring a better life for all, including, or, let me say, especially, the most vulnerable.



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¹ Zedner, L. (1997). Victims. In: M. Maguire, R. Morgan and R. Reiner (Eds.). The Oxford Handbook of Criminology. Oxford: Oxford University Press, 577 – 612.

1. INTRODUCTION

The high incidence of violent crime in South Africa, which includes among others murder, rape, car hijacking, armed robbery, common robbery, and serious and common assaults, contribute to widespread insecurity and heightened fear in all sectors of the population. The response of the criminal justice and associated systems to victims of crime and violence can mitigate or exacerbate such insecurity and fear and can assist in preventing further violence. Lack of suitable, supportive services for victims of crime and violence contributes to a vicious cycle of violence and often breeds popular contempt for human rights - which are sometimes seen as protective only of perpetrators. On the other hand, services that recognise and respond appropriately to the needs of victims of crime and violence can assist in halting this cycle and help to build a culture of respect for others and for human rights. These Policy Guidelines provide direction for the empowerment of all victims of crime and violence.

1.1 Who is a victim?

In these National Policy Guidelines, a victim is any 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 the criminal law. Victim includes, where appropriate, indirect victims such as the immediate family or dependents or even neighbours or colleagues of a 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.

All victims, irrespective of race, gender, sex, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture and language are included.

Victims of crime and violence experience not only the direct negative impact of the incident (primary victimisation), but also, frequently, other negative impacts that are secondary to the incident and that occur during contact with the criminal justice and associated systems (secondary victimisation). For example a woman who has been sexually assaulted may experience a “second rape” when asked to recount what happened in public at a charge office, again when being examined by a doctor who lacks empathy and yet again when giving evidence at her trial. Secondary victimisation may be reflected in a wide range of symptoms, ranging from relatively minor discomfort to severe physical, psychological and emotional trauma which may result in social difficulties.

The impact of victimisation is not felt equally by all victims of crime and violence. There are a number of factors that account for variation, obvious examples being age and access to resources/poverty. For instance, when an older person is mugged and assaulted, the physical injury is likely to take longer to heal than when a younger person is wounded in the same way. Older people may also find it more difficult to get to services they require and to persist with what may become a long process in attaining justice. Similarly, a very young child is less likely than a young adult to know how to ask for help or to resist a sexual attack and may take much longer to recover . Victims of crime and violence who are poor, on the other hand, by definition have the fewest resources with which to withstand victimisation – and often have insufficient access to the criminal justice system. The impact of crime and violence may also be exacerbated by repeat victimisation as a result of more than one exposure to crime and violence.

1.2 What is Victim Empowerment?

Victim empowerment is an approach to facilitating access to a range of services for all people who have individually or collectively suffered harm, trauma and/or material loss through violence, crime, natural disaster, human accident and/or through socio-economic conditions. It is the process of promoting the resourcefulness of victims of crime and violence by providing opportunities to access services available to them, as well as to use and build their own capacity and support networks and to act on their own choices. Hence, empowerment may be defined as having (or taking) control, having a say, being listened to, being recognized and respected as an individual and having the choices one makes respected by others (moving from victim to survivor).

Victim empowerment aims to restore the loss or damage caused by criminal acts and their consequences through a variety of actions intended to empower the victim to deal with the consequences of the event, to leave it behind and suffer no further loss or damage. It is premised upon the belief that individuals, families, and communities have the right to privacy, safety and human dignity, and that victims should play a more central role in the criminal justice process.

Victim support is the empathic, person-centred assistance rendered by an organization or individual following an incident of victimisation. Through victim support aimed at victim empowerment, the victim is restored to a state as close as possible to that existing prior to the offence and ideally to a state where the person has been able to learn and grow.

Victims do not all have the same degrees of need for empowerment and support - there is a diversity of needs. In order to enable the disempowered victim to recover from the exposure to crime and violence, such needs must be met through a well-managed, integrated, multidisciplinary team approach. It is generally accepted that the empowerment of victims in a holistic manner reduces secondary victimisation, encourages co-operation with the criminal justice process, reinforces socially desired behaviour, and acts as a deterrent to offenders or potential offenders. Victim empowerment thus has the potential to prevent and reduce crime and violence and to enhance the effectiveness of the criminal justice system.

2. AIMS AND OBJECTIVES OF THE VICTIM EMPOWERMENT POLICY

These National Policy Guidelines are intended to achieve a society in which the rights and needs of victims of crime and violence are acknowledged and effectively addressed within a restorative justice framework.

Thus the objectives borne from this vision are to:

- give strategic direction on the development of management structures for effective co-ordination of the programme at all government levels;
- identify and clarify sector specific roles and responsibilities at all government levels of the management structures;
- guide the process of monitoring, evaluation and reporting by the implementing structures;
- serve as a framework for the development of sector specific policies and strategies;
- identify roles and responsibilities of relevant government departments;
- create a common understanding of victim empowerment amongst various State Departments, victims, perpetrators, non-profit organisations (NPOs), (including non-

governmental organisations (NGOs) and community-based organisations (CBOs)), and individual members of the community.

3. SITUATIONAL ANALYSIS

Crime and violence are complex social problems with complex social and legal consequences. Interpol data and crime statistics indicate that South Africa has unacceptably high levels of crime and violence. Levels of interpersonal violence are high, with high (though slowly declining) levels recorded in contact crimes such as murder, rape and aggravated robbery. Although this suggests that crime-combating and crime prevention strategies have resulted in a stabilisation in the occurrence of many crimes, levels of victimisation through crime remain a problem.

Levels of crime have been of concern to the South African government post-1994. Crime remained a concern for the government because there was a lack of an organised and systematic approach to addressing it during the apartheid era. The efforts of the police, the judiciary, the private sector, government and civil society were arbitrary and not prioritised. Another significant limitation in the context of crime prevention was a lack of a structured plan to manage and coordinate policy development and implementation. Again given the high levels of crime and violence and its related fear and anger many South Africans perceived the Bill of Rights as providing greater protection to criminals at the expense of victims. In response, government adopted a crime prevention approach that places the rights and needs of the victims at the centre of the crime prevention strategy. That is the National Crime Prevention Strategy (NCPS) which was developed in 1996.

The intention of the strategy was to reduce crime in South Africa through:

- establishing a comprehensive policy framework which addresses all policy areas which impact on crime;
- generating a shared understanding among South Africans of what crime prevention involves;
- integrating the policy objectives of a range of central government departments and provide guidelines for programmes to be taken up by all the spheres of government;
- providing a basis for the development of a common vision around crime prevention².

At the centre of this strategy was a paradigm shift from crime control to crime prevention; which moves from understanding crime as a security issue to appreciating it as a social matter. Most importantly this strategy also culminated in a shift in relation to criminal justice to an emphasis on the victim, that is restorative justice. Restorative justice is a theory that focuses on crime as an act against the individual or community rather than as an act against the state. Crucial in this theory is dialogue between the offender and the victim. The person who has harmed takes responsibility for their actions and the person who has been harmed may take a central role in the process. Mainly the process functions in such a way that the victim will receive an apology and reparation directly or indirectly from the person who has caused them harm. 'Restorative approaches seek a balanced approach to the needs of the victim, wrongdoer and community through processes that preserve the safety and dignity of all' (Braithwaite, 2002).

The approach of the NCPS is based on four pillars, namely:

- The Criminal Justice Process;

² National Crime Prevention Strategy, 1996.

- Community Values and Education;
- Environmental Design; and
- Transitional Crime.

The move to restorative justice has been an important facet for building the South African democracy. It has played an important role in guiding relations in the justice and associated systems from the politics of confrontation to the politics of negotiation. It is also fundamental in addressing the cyclical nature of violent crime as it was defined during apartheid.

One of the key outputs of the NCPS is the Victim Empowerment Programme. It is one of the key programmes of pillar one of the NCPS. It is based on the premise that crime is a social issue and requires multi-agency interventions. It is constituted by the core National Crime Prevention Departments. It also includes related provincial departments in its formation. This model aims to move towards maximizing available resources while minimizing duplication of efforts. At its core is the sustainability of state-managed delivery of caring, supportive and accessible services. This is done through human capital development, capacitating management and service delivery structures, developing services to address the needs of victims, conducting research, ensuring monitoring and evaluation of the services in partnership with Civil Society Organisations (CSOs).

Nonetheless, at the beginning of the second term of the democratic government in South Africa in 1999, the NCPS was replaced by the Justice Crime Prevention Strategy (JCPS). The intention of the JCPS is to improve upon and broaden the scope of the NCPS to cover issues beyond the Criminal Justice System. Its main objective is to focus government efforts and resources jointly in addressing the incidents of crime, public disorder, inefficiencies in the justice system and all those aspects of society with the most negative effects on development. Its areas of focus include the following:

- Social Crime Prevention;
- Prosecution led and intelligence driven prosecution;
- More effective border control;
- Alternative containment mechanisms and reduction of awaiting trial prison population;
- Human resource development;
- Quality service delivery; and
- Private public partnerships.

The JCPS framework further incorporates measures that seek to achieve an integrated response to victimisation especially violence against women. Nonetheless, its efforts are targeted more to the war on crime. Despite this change Victim Empowerment and Support continues to be a priority of the South African Government.

4. RATIONALE FOR THE NATIONAL POLICY GUIDELINES FOR VICTIM EMPOWERMENT

Services to counteract victimisation are currently offered by a variety of role players, both governmental and non-governmental. However, services are inadequate, and victims do not access the same services throughout the country. Services are inequitable especially in poor communities and rural areas. The disintegrated and uncoordinated approach to service delivery within and across sectors contributes to secondary victimisation.

While services to and empowerment of victims in South Africa has increased somewhat in recent years, these services have not been managed as an integrated whole within and between the various government departments, nor with other stakeholders. Many services are also not yet comprehensive, and do not comply with the principles of the Service Charter for Victims of Crime in South Africa. Role players render pockets of services without guidance from an institutional framework, thus often exposing the client to further victimisation and discontent with service delivery. The manner in which the programme currently operates has limited impact in creating a victim-friendly criminal justice and associated system and reducing the negative impact of victimisation.

These policy guidelines therefore arose out of a need to protect and support victims of violence by ensuring that victim friendly services and programmes are integrated and co-ordinated through well established government structures to prevent re-victimisation within the Criminal Justice System and to maximise the impact of services rendered.

These National Policy Guidelines provide the framework for sound inter-departmental and intesectional collaboration and for the integration of effective institutional arrangements for a multi-pronged approach in managing victim empowerment. Such an approach facilitates the establishment of partnerships in the victim empowerment sector to effectively address the diverse and sensitive needs of victims holistically. Of particular importance is the cross-cutting nature of the programme.

In addition, the Policy Guidelines serve as a guide for sector-specific victim empowerment policies, Capacity development and a greater emphasis on the implementation of victim empowerment programmes by all relevant partners.

5. LEGISLATIVE BASE FOR THE NATIONAL POLICY GUIDELINES FOR VICTIM EMPOWERMENT³

United Nations Declaration of Basic Principle of Justice for Victims of Crime and Abuse of Power

Internationally the needs and rights of victims of crime and violence are recognised and addressed primarily through the United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power. South Africa is signatory to this Declaration. The Declaration is based on the philosophy that victims should be adequately recognized and treated with respect for their dignity. Victims are entitled to access all mechanisms of justice and to prompt redress for the harm and loss suffered. They are also entitled to receive adequate specialized assistance in dealing with emotional trauma and other problems caused by the impact of victimisation.

Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)

The Convention on the Elimination of All Forms of Discrimination against Women is an international bill of rights for women. It describes what constitutes discrimination against women and sets an agenda to end all forms of discrimination against women. The Convention provides the basis for realising equality between women and men through ensuring women's equal access to equal opportunities in political and public life. All the State which are signatories agree to take all appropriate measures, including legislation and special measures to ensure that women enjoy all their human rights. South African Parliament ratified the United Nations Convention on the Elimination of All Forms of Discrimination against Women in 1995.

³ See Appendix II for a detailed listing of relevant documents.

United Nations Convention on the Rights of Children

The Convention describes the human rights of children. It indicates rights of the child to survival and protection from harmful influences. It further emphasised the right to be protected against abuse and exploitation. The Convention has four founding principles which are non-discrimination, best interest of the child, the child's right to life and respect for the views of the child.

South African Declaration on Gender and Development

The Heads of State of the Southern African Development Community (SADC) including South Africa signed a declaration committing their countries to embedding gender firmly into the agenda of their Programme of Action, repeal and reform all laws and change social practices which subject women to discrimination. The Declaration further commits to protect and promote the human rights of women and recognise, protect and promote the reproductive and sexual rights of women and the girl child as well as take measures to prevent and deal with the increasing levels of violence against women.

Constitution of the Republic of South Africa, Act 108 of 1996

Within South Africa, chapter 2 in the Bill of Rights of the Constitution (Act No. 108 of 1996) entrenches the right of every person to human dignity, equality and to freedom and security. It imposes a duty on government to take appropriate steps to ensure that the human rights of persons are respected.

Domestic Violence Act, Act 116 of 1998

The Domestic Violence Act stipulates that: "any member of the South African Police Service must, at the scene of an incident of domestic violence or as soon thereafter as is reasonably possible or when the incident of domestic violence is reported; render such assistance to the complainant as may be required in the circumstances, including assisting or making arrangements for the complainant to find a suitable shelter and to obtain medical treatment".

Children's Act, Act 38 of 2005

The Children's Act gives effect to certain rights of children as contained in the Constitution, set out principles relating to the care and protection of children, define parental responsibilities and rights, and make further provision regarding children's courts.

Criminal Law (Sexual Offences and Related Matters) Amendment Act, Act 32 of 2007

The Criminal Law (Sexual Offences and Related Matters) Amendment Act, Act No 32 of 2007 repeals the common law offence of rape and replaces it with a new expanded statutory offence of rape, applicable to all forms of sexual penetration without consent, irrespective of gender.

Older Person's Act, Act No. 13 of 2006

The Older Persons' Act is meant to deal effectively with the plight of older persons and the promotion and maintenance of their status, rights, well being, safety and security and provides for matters connected therewith.

Service Charter and Minimum Standards for Victims of Crime in South Africa

In 2004, Cabinet approved a Service Charter for Victims of Crime in South Africa (hereafter referred to as the Victims' Charter) (see Appendix III), as well as Minimum Standards on Services for Victims of Crime (hereafter referred to as the Minimum Standards), which was intended to assist in the implementation of the Victims' Charter. These documents were informed by an earlier document,

the Minimum Standards for Services to Victims of Crime, which was developed by the Department of Social Development and launched in 2002. The Victims' Charter and the Minimum Standards serve as a means of protecting and promoting the rights of victims in compliance with South Africa's obligations under various international and regional human rights instruments.

The Victims' Charter and Minimum Standards provide an important framework for the consolidation of all laws and policies in relation to the rights of and services provided to victims of crime and violence. They are intended to promote excellence in service delivery thus promoting client satisfaction with the services delivered.

Some of its key objectives are to:

- Eliminate secondary victimisation in the criminal justice process;
- Ensure that victims remain central to the criminal justice process;
- Clarify the service standards that can be expected by and are to be accorded to victims whenever they come into contact with the criminal justice and associated systems;
- Make provision for victims' recourse when standards are not met.

The Minimum Standards provide service practitioners with information on what is expected of them when rendering services to victims. They also provide clients with information on what to expect from practitioners. Proficiency, professionalism and respect for the client are uppermost in service delivery. Minimum Standards further serve as a guideline for developmental quality assurance in service delivery. The Minimum Standards include complaint mechanisms to address failure to adhere to the Minimum Standards.

6. POLICY STATEMENT FOR VICTIM EMPOWERMENT

These National Policy Guidelines provide the regulatory framework for promoting and upholding the rights of the victims of crime and violence in order to prevent re-victimisation within the criminal justice and associated systems. In addition, it provides a framework to guide and inform the provision of integrated and multi-disciplinary services aimed at addressing the diverse needs of victims of crime and violence effectively and efficiently. The Policy Guidelines are based on a system of sound inter-departmental and intersectoral collaboration, with effective institutional arrangements for a multi-pronged approach in managing the victim empowerment programme. This approach facilitates the establishment of partnerships in the victim empowerment sector to effectively address the diverse needs of victims. It also serves as a guide for sector-specific victim empowerment policies.

7. GUIDING PRINCIPLES

These Policy Guidelines are guided by seven key principles. These principles are embodied in values that determine the nature and quality of services for victims, respecting their rights and applying the principles of Ubuntu and Batho Pele. The principles are:

7.1 Empowerment

The Policy Guidelines adopt an empowerment model (see 1.2) that is responsive to the needs of all victims of crime and violence. All service providers should create an enabling environment and opportunities for victims to be able to make informed decisions, to use and build their own support networks and to act on their own choices. The resourcefulness of each person should be promoted by providing opportunities to use and build their capacity and support networks of their own choice.

7.2 Human Rights

When a crime is committed, the basic human rights of the victim, as set out in the South African Constitution, are violated. In the context of crime and violence, the Victims' Charter affirms seven specific rights for all victims. These include:

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

Victims are to be respected as unique human beings, afforded privacy and have their decisions respected without judgement.

7.3 Participation and Self-determination

Victims are to be given the opportunity to participate in activities and processes that are aimed at their empowerment. In addition, victims should be actively involved in any or all stages of the intervention process within the criminal justice and associated systems, according to individual needs or desires.

7.4 Family-centred Approach

Victim empowerment interventions must be family-centered. This means it should include the immediate family or dependents of the primary victim, (as indirect victims and potential supports for the victim), to the extent possible in the services provided, taking into account the needs and desires of the primary victim.

7.5 Accountability, Effectiveness and Efficiency

Service providers who intervene with victims and perpetrators of crime and violence should be responsible for the delivery of well integrated, appropriate, efficient and quality services.

7.6 Restorative Justice

The approach to services within Victim Empowerment should focus on restorative justice. The perpetrator should be held accountable for his/her actions and where possible should make amends to the victim. This approach is based on an understanding of crime as an act against the victim, family and the community. It advocates more active involvement in the justice process by victims and the community.

Restorative justice provides an opportunity for mediation, dialogue, negotiation and problem solving which could lead to healing, a greater sense of safety and enhanced offender reintegration into the community. Restorative theory is based on the premise that what truly empowers a victim is the acknowledgment by the offender of the harm that has been done and the recognition of the victim's needs.

7.7 Multi-disciplinary Approach

To address the diverse needs of victims, services must be rendered on a multi-disciplinary basis by relevant role players from the various sectors in a coordinated and integrated manner. The integration

and co-ordination must be based on joint strategic planning, prioritization, resource identification and allocation, as well as use of reporting mechanisms relevant to the broader monitoring process.

8. PRIORITY TARGET GROUPS FOR VICTIM EMPOWERMENT

Because crime and violence are so widespread in South Africa, there is a tendency to regard some crimes as being less likely to result in damage or harm to the victim than others. In fact, all victims of crime must be served according to their needs and on an equitable basis and not according to a grading of the seriousness or not of the incident. For example, one person may need only minimal assistance following a violent assault while another person may need substantial assistance after a robbery where violence may have been threatened but not used.

Providing services according to need means that services have to be adapted to take account of the fact that victims of different crimes have different needs. Thus, victims of sexual assault or rape will have different needs from victims of other violent crimes; victims of domestic violence will have somewhat different needs; and victims of fraud or commercial crime will have a very different set of needs. Similarly, different categories of victims must also be provided with services relevant to their particular needs. For instance, the poor, those living in rural communities, the elderly and the very young may require special assistance in accessing and being served by the criminal justice and associated systems

Because of their particular vulnerability and specialised needs, exceptional attention must be paid to the following priority categories:

8.1 Women⁴

The vulnerable status of women is widely acknowledged, as is the fact that they often encounter particular difficulties in their efforts to seek assistance and redress through the criminal justice system. International conventions have been drafted to improve the protection of this group. In particular, the Convention on the Elimination of All Forms of Discrimination against Women (see Appendix I), which SA has ratified, places direct responsibility on the government to protect women. While the government has taken significant steps to improve the response to violence against women, women in South Africa, particularly those who have been the targets of sexual or other assault, still face many obstacles in their quest for justice.

8.2 Victims of Domestic Violence

Domestic violence includes physical, sexual, psychological and economic abuse. Women are far more likely than men to be the victims of domestic violence. Studies on domestic violence demonstrate that interpersonal crimes are not about the behaviour of the victim, but about the behaviour of the offender.

8.3 Victims of Sexual Assault and Rape

Surveys indicate that rape occurs at unacceptably high levels and is one of the most feared crimes in South Africa. Though some men are also victims of sexual assault and require special assistance, the overwhelming majority are women. Sexual violence and particularly rape affects not only those who

⁴ Research often refers to violence against women as gender based violence because it evolves in part from patriarchy, which is a defining feature of much of South African as well as many other societies.

are directly victimised, but also the non-victimised population through fear and consequent restriction of life-style choices.

8.4 Abused Children

Reflecting their relatively powerless position in society, children are a common target of abuse, including sexual abuse. Children are abused by caregivers, by family members and strangers. The international convention that most directly addresses violence and other abuse against children is the Convention on the Rights of the Child (see Appendix II).

8.5 Abused Older Persons

Although violence, including the physical and sexual abuse and neglect of children and domestic violence, has received increasing attention in recent years, abuse of older persons remains relatively hidden. Research shows that abuse and neglect of older persons occurs worldwide and there is growing concern about the increasing number and severity of cases reported by the media and other sources.

8.6 Abused People with Disabilities

People with disabilities, particularly disabled women, are often victims of crime and violence and have at least the same risk for emotional, physical, and sexual abuse as individuals without physical disabilities. However, they are more likely to experience a longer duration of impact of abuse than people who do not have disabilities.

8.7 Victims of Human Trafficking

The smuggling and trafficking of human beings, especially children and women, for prostitution, slave labour and body parts, have become two of the fastest growing worldwide problems in recent years and South Africa is no exception. Special attention must therefore be paid to this highly vulnerable population.

8.8 Victims of Hate Victimisation

South Africa's past is characterised by a regime of categorisation, discrimination and prejudice. It is thus unsurprising that the production of 'otherness' and 'abnormality' became a virtually automatic and inherent practice of identity construction in this society. Traditional identity markers that have served so long as vital pillars of power: nation, race, gender, ethnicity, and sexual orientation are all powerful anchoring-points both for the establishment and perpetuation of difference. These processes contribute to individuals becoming vulnerable to hate victimisation on the basis of their actual or perceived race, ethnicity, gender, nationality, social origin, sexual orientation, disability, health status, religious convictions, and on other grounds.

Violence directed at the identity of the victim and motivated by hatred not of the individual, but of the group to which he or she belongs (i.e. 'foreign nationals'; the 'lesbian and gay community'; or 'Muslims'), distinguishes hate victimisation from other crimes. The impact extends beyond the direct victim of the crime to other members of the victim's group in that such crimes instil fear and heightened vulnerability and convey the message that they are despised, unwelcome and/or under threat.

International literature on hate crime consistently indicates higher levels of psychological distress of the victim as one of the reasons these crimes require unique services, legislative and policy responses, and

prioritisation. Other reasons include evidence of decision-makers de-prioritising hate victimisation and service providers neglecting, and sometimes even overtly discriminating against, survivors of hate crimes within the criminal justice system and health system. This has the effect of exacerbating, rather than addressing, the vulnerability of survivors of hate victimisation. Further, limited policing and barriers to accessing the legal system exacerbate vulnerability. These social dynamics are compounded by self-stigmatisation and the hesitancy, as a result of fear, of survivors of hate victimisation to approach service providers for support or redress.

8.9 Farm Workers and Dwellers

Despite a reduction in the number of permanent farm workers over the last decade, agriculture remains the largest single employer of people in the rural areas in South Africa, employing approximately 914,000 workers, and sustaining the livelihoods of five people per employee. Although, in a relatively short space of time since 1994, a plethora of new legislation has been passed which protects the labour rights of farm and rural workers and dwellers, capacity on the part of government to educate rural workers and dwellers and to enforce labour laws in the agricultural sector and in rural employment situations is limited. Farm workers' are historically one of the most disenfranchised population groups and are further marginalised by extreme poverty (associated with most of the poverty related social phenomena such as domestic violence, alcohol and substance abuse), low literacy levels, geographical isolation, and lack of adequate legal representation and security of tenure. Increased unemployment of rural workers and the casualisation of the remaining rural labour market only increase the vulnerability of farm workers, particularly the women.

8.10 Excombatants

Due to the peaceful nature of the transition from apartheid to democracy, South Africa is rarely understood as a post-conflict country. Of course hundreds of thousands of South Africans (mostly men) received intensive military training through the various armed resistance movements, conscription to the South African Defence Force, and in the Self Protection and Defence Units deployed in the civil conflicts of the 80s and 90s. Many of these people have experienced terrible hardships and exposure to conflict. Such exposure is directly linked to long term mental health consequences including post traumatic stress disorder, major depression, and substance abuse. These mental health consequences can be extremely debilitating and may play out through increased apathy and disempowerment, suicide, and increased violence especially within the domestic setting. We owe it to South Africa's ex-combatants to provide special services to facilitate healthy and productive lives.

Statutory programmes meant for the reintegration of former combatants into civilian society were poorly planned and badly executed, with less than five percent receiving any kind of psycho-social support. As such ex-combatants remain a fragile group in need of special services. Sadly, few frontline workers understand the challenges of working with ex-combatants and their families. If ex-combatants are allowed healing, rehabilitation and restoration they can become a vital resource to their communities, whereas failing to do so, would be to the detriment of the stability of South Africa.

9. IMPLEMENTATION OF THE VICTIM EMPOWERMENT PROGRAMME

9.1 Structure for the implementation of the Victim Empowerment Programme

Structures for the implementation of the Victim Empowerment Programme fall under the Justice Crime Prevention and Security (JCPS) Cluster and are accountable to the Criminal Justice System Development Committee and the Social Cluster.

9.1.1 Victim Empowerment Management Forums

Victim Empowerment Management Forums must be established at national, provincial and local levels to ensure effective coordination and communication between all relevant stakeholders. Their main function will be to provide strategic direction to the programme.

The Department of Social Development will be the lead and co-ordinating department for the VEP and will convene and co-ordinate these forums at all levels. Provincial Victim Empowerment Forums will be established and strengthened by representation from relevant provincial government departments and civil society organizations that provide services to victims of crime and violence.

9.1.2 Representation in the Victim Empowerment Management Forums

The Management Forums at all governance levels shall comprise of representatives from:

- Department of Social Development (DSD) (the lead and co-ordinating department);
- Department of Justice and Constitutional Development (DoJCD);
- Office of the South African Police Services;
- Department of Correctional Services (DCS);
- Department of Health;
- Department of Education;
- Department of Social Development Provincial VEP Co-ordinators;
- Relevant civil society organisations (CSOs) (national, provincial or local, as relevant);
- Academic and research institutions.

Representation and active participation of the JCPS government departments and the departments of Health and Education in the forums is mandatory. Provincial forums should be represented in the national forum and local networks in the provincial forums. Other government departments and stakeholders may be co-opted as the need arises.

9.1.3 Functions and responsibilities of Victim Empowerment Management Forums

The Victim Empowerment Management Forums will be responsible for:

- co-ordination and management;
- providing inter-departmental solutions to challenges;
- ensuring an effective information flow;
- monitoring of VEP processes, including the implementation of strategic plans;
- sharing of information, for example best practices;
- networking, encouragement and mutual support;
- other functions as and when appropriate.

9.1.4 Strategic objectives to guide co-ordination:

All the management forums must:

- manage the development, monitoring and evaluation of the implementation of a comprehensive, integrated legislative and policy framework related to the empowerment of victims;
- manage the development of sustainable best practice models in service delivery and ensure that the scope and quality of services for victims of crime and violence is increased;
- manage the process of developing a framework that ensures effective communication and marketing of victim empowerment-related issues to promote accessibility and accountability in service delivery;
- manage the process of developing a framework that enhances capacity building of Victim Empowerment service providers and recipients of services for quality, efficient and effective services;
- manage the development and review of intersectoral, inter departmental Strategic Plans;
- manage the process of developing an integrated framework for research, as well as guidelines for monitoring and evaluation of implementation of this Policy and related strategies.

9.2 Responsibilities of the Department of Social Development as the lead and co-ordinating Department

- Establish the forums and chair all the meetings;
- Set standards for the effective running of the forums;
- Set up meetings and provide professional support to attend to logistics of workshops, meetings, consolidating quarterly and annual reports and taking minutes;
- Report to the Justice Crime Prevention and Security (JCPS) Cluster through the criminal justice system development committee and also to the Social Cluster
- Oversee and monitor the active participation of all government departments involved in meetings;
- Facilitate the development of national integrated strategic plans in alignment with the Victims' Charter and Minimum Standards;
- Solicit donor funding for support of NPOs.

9.3 Specific functions and responsibilities of forums at each governance level

9.3.1 National Victim Empowerment Management Forum

- Formulate and review policies, protocols, minimum standards;
- Develop monitoring and evaluation criteria and tools for victim empowerment services and oversee the implementation thereof;
- Promote the co-ordination and implementation of victim friendly policies and services within provinces and government departments;
- Account to the heads of the departments;
- Develop programmes for the extension of victim-offender mediation, victim compensation and restitution, where possible;
- Initiate and commission research;
- Develop and update the resource directory of services for victims;
- Develop an annual schedule for conferences, seminars and workshops on victim empowerment and trauma support;

- Encourage accredited training of all service providers (professionals and lay counsellors);
- Encourage service managers to build capacity in their teams of professionals;
- Develop a communication strategy for the VEP management team;
- Handle communication and co-ordination problems, such as identifying crucial information that is lacking and should be communicated to the public to enable victims to make the best use of available services, both from government and non-governmental organisation;
- Develop systems for the evaluation of customer satisfaction in relation to victims' experience of government departments;
- Conduct developmental quality assurance in line with the Victims' Charter and Batho Pele principles;
- Develop a national complaints line;
- Establish contact with neighbouring countries, in order to share information and expand victim empowerment services to the entire Southern African region
- Keep abreast of the latest development in victim empowerment

9.3.2 Provincial Victim Empowerment Management Forums

- Co-ordinate victim empowerment support services in the province;
- Develop Victim Empowerment Strategic Plans;
- Initiate new programmes and amend the existing services based on the needs of victims;
- Budget for sustainable funding to strengthen victim empowerment services within the government and NPO sectors;
- Facilitate accredited training of professionals and volunteers;
- Collect data for management and research purposes;
- Hold regular inter-departmental and inter-sectoral meetings to identify and address breakdowns in co-ordination and communication and to share best practices;
- Initiate crime prevention campaigns;
- Address the delivery of integrated services to victims;
- Submit quarterly and annual progress reports to the National Victim Empowerment Management Forum and to provincial Heads of Departments;
- Consolidate a Provincial Resource Directory of Services;
- Keep abreast of the latest developments in victim empowerment.

9.3.3 Local Victim Empowerment Forums

- Ensure provision of direct trauma support and assistance to victims of crime and violence;
- Develop referral networks and procedures to ensure effective referral of victims to appropriate agencies;
- Provide training to upgrade and develop services in line with standards set by the provincial management forum
- Keep monthly statistics as indicators of service delivery;
- Provide information on crime prevention and support services available to the community.
- Individual service providers must be encouraged to network with all community groups and organizations that assist victims of crime and violence.

9.4 Core intervention strategies to guide service delivery to victims of crime and violence

These core intervention strategies apply to all sectors involved in the empowerment of victims from the time the client enters the criminal justice system (or associated systems) until discharged from the system.

Role players must develop their own victim empowerment-related internal strategies, structures, and programmes. The role players are also expected to adapt each of the core intervention strategies to the sector-specific service delivery imperatives.

The core intervention strategies are to:

- Guide the development of plans for the implementation of the following policies and legislation:
 - Service Charter for Victims of Crime in South Africa;
 - Domestic Violence Act;
 - Criminal Law (Sexual Offences and Related Matters) Amendment Act;
 - Management Protocol and legislation for the management of Victims of Human Trafficking.
- Increase the capacity of management and service delivery structures to establish and sustain effective Victim Empowerment governance and management systems within government departments at national, provincial and local levels. The Training of practitioners in relevant skills and knowledge, including on varied legislations, and on generic victim empowerment and trauma support will be part of this capacity building intervention. The purpose of the training will be to develop their competence and improve their sensitivity, understanding and efficiency in the implementation of the Victims' Charter.
- Create awareness and provide information to capacitate beneficiaries of services with knowledge. The emphasis here should be on education related to victimisation, which will enable them to make informed decision with regard to preventing re-victimisation and to have easy access to the criminal justice system and other VEP services.
- Establish programmes and services to enhance the scope and quality of services to victims of crime and violence, with specific emphasis on vulnerable groups in rural and under developed areas. This includes auditing of existing services, establishing new projects, developing guidelines for dealing with specific categories of victims and providing increased support to community based organisations.

9.5 Partnerships

Partnership between various government departments and civil society on service delivery to victims of crime and violence holds the key to the success of the integrated Victim Empowerment Programme. Guided by this Policy, each department or entity is expected to develop its own policy and strategies to address the needs of victims. Such strategies should be coordinated within the department or entity and between relevant departments to ensure a holistic approach to service delivery, thus ensuring optimal use of the limited available resources.

Service delivery should be based on the following key areas of co-ordination:

- Programmes and services: Development of practice guidelines manuals;
- Governance and management: Establishment of intradepartmental and interdepartmental forums;
- Training and human resource development to capacitate with knowledge and skills;
- Facilitating the availability of financial resources;
- Marketing and creating awareness of programmes and services as well victimisation-related issues;
- Establishing partnerships (public/private, public/public, public/NPO);
- Facilitating advocacy and mobilisation; and
- Conducting research, monitoring and evaluation on victim empowerment-related initiatives.

9.6 Sector Specific Responsibilities

The needs of victims vary considerably depending on who they are and the nature of the crime they have experienced. Consequently, numerous victims require services from a range of service providers.

Broadly speaking, these service providers are located in the following departments and other organisations working in the sector:

The South African Police Service (at the scene of the crime, in the Customer Service Centre, members of Detective Services, specialist units);

- The Local Authority (emergency services);
- The Department of Justice and Constitutional Development and the National Prosecuting Authority (NPA) (prosecutors, magistrates, translators);
- The Department of Social Development (social workers, probation officers);
- The Department of Health (health care workers, forensic specialists);
- The Department of Correctional Services (wardens, probation and parole officers); and
- Civil Society Organisations (including the Community Policing Forums) who provide voluntary support services.

Services by these service providers are rendered in different settings, at different levels of service delivery, depending on the needs of the various prioritised categories of victims or target groups. In the case of government departments, all services are to be rendered in alignment with each department's implementation plan for the Victims' Charter.

The following overview summarises some of these important aspects.

OVERVIEW OF INTERVENTION SETTINGS, LEVELS OF SERVICE DELIVERY AND TARGET GROUPS		
Setting	Levels Of Service Delivery	Prioritised Target Group
<ul style="list-style-type: none"> • Home • Schools • Hospitals and clinics • Police service stations • Courts of law • Crisis centres • One-stop centres • Correctional centres • Shelters • Places of safety • Workplace 	<ul style="list-style-type: none"> • National departments • Provincial departments • Local government • Civil Society Organisations 	Victims of: <ul style="list-style-type: none"> • domestic violence • sexual assaults and rape • child abuse • elder abuse • abuse of disabled people • human trafficking • other violent crimes, e.g. car hijacking, murder, house-breaking and assault

9.6.1 The Department of Social Development

9.6.1.1 Co-ordination and facilitation

The Department of Social Development, as the lead department, should co-ordinate the successful implementation of the Victim Empowerment Programme. It is required to assume full responsibility for the development of the policy package and identification of roles across the relevant departments. It will provide strategic leadership and play a facilitation role. It should also facilitate processes that will create and maintain integration, working partnerships, and improved communication.

It is also responsible for ensuring accountability across departments. This must be done through ensuring effective reporting and through the development of accountability structures and by way of monitoring and evaluating the impact of the programme with regard to crime prevention and meeting the needs of victims of crime and violence.

9.6.1.2 Service delivery in partnership with Civil Society Organisations

Services and supporting policies and practice guidelines which are still to be provided and developed include, but are not limited to:

- Crisis centre/trauma counselling;
- Probation services;
- Diversion of youth offenders and perpetrators of less serious offences for community sentencing or family group conferencing in partnership with relevant diversion NPOs;
- Developing a strategy for shelters for women and their children who are victims of domestic violence;
- Establishing shelters for victims of domestic violence;
- Establishing one-stop Crisis Centres within a single facility to render immediate, urgent multi-disciplinary services to victims of crime and violence and to prevent re-victimisation through inaccessible and uncoordinated services;

- Promoting social cohesion and social reintegration;
- Training victim empowerment practitioners on victim empowerment and trauma support;
- Providing support services to victims who appeared before the Truth and Reconciliation Commission (in particular, families involved in the location, exhumation and re-burial of people killed during the struggle against apartheid);
- Providing forums for engaging men and boys in the prevention of gender based violence;
- Participating in government initiatives for care and support to the following categories of victims: human trafficking and other serious crimes; child abuse; abuse of older persons; abuse of people with disabilities and victims of sexual assaults and domestic violence;
- Publishing and regularly updating the National Resource Directory of Services for Victims of Violence;
- Providing technical and financial support to NPOs; and
- Conducting campaigns to create awareness of victimisation-related issues, focusing on prevention and services available.
-

9.6.2 The Department of Health (National, provincial and local levels)

This Department must provide professional and accessible medical and psychological services to victims of crime and violence who approach health care facilities for assistance.

Services and supporting policies and practice guidelines which are still to be provided and developed include, but are not limited to:

- Emergency and ongoing medical, medico-legal services, anti-retroviral treatment, contraceptives and mental health/psychological services (if available) and referral to other relevant service providers;
- Implementation of Patients' Rights Charter;
- Provision of services to women in terms of Gender Policy Guidelines for the Public Health Sector, 2002;
- Provision of services by medical personnel to victims of sexual assault according to Sexual Assault Policy Guidelines;
- Provision of Post Exposure Prophylaxis for victims of sexual offences according to Guidelines consistent with the Criminal Law (Sexual Offences & Related Matters) Amendment Act, 2007;
- Provision of medico-legal services in terms of a Clinical Forensic Health/Medicine Policy;
- Provision of services for victims of child abuse in terms of Guidelines for the management of child abuse;
- Provision of services to older persons taking into account National Guideline on Prevention, Early Detection/Identification of and Intervention for Physical Abuse of Older Persons at Primary Level;
- Sensitivity training of frontline health sector workers (e.g. ambulance personnel) in victim empowerment; and
- Training of health professionals to provide victim empowerment and trauma support in collaboration with Department of Social Development.

9.6.3 The South African Police Service (SAPS)

The SAPS must provide a professional, accessible and sensitive service to victims of crime and violence during the reporting and investigation of crime.

Services and supporting polices and practice guidelines which are still to be provided and developed include, but are not limited to:

- Professional and sensitive treatment of victims and witnesses during statement taking and investigation of crime;
- Informing victims of their rights, taking statements in private, referral to victim support services, notification of case number;
- Feedback regarding status of their case (including outcome of bail hearings) and notification of closing of case or referral of case to court;
- Training of personnel in victim empowerment and related legislation; and
- Establishment of Victim Support rooms at all police stations for privacy.

9.6.4 The Department of Justice and Constitutional Development including the National Prosecuting Authority (NPA)

This Department is responsible for ensuring that victims of crime and violence and witnesses are treated professionally and with dignity and respect during court proceedings to facilitate optimal participation in the criminal justice process.

These various departments are still to provide and develop services and supporting polices and practice guidelines on the following issues:

The Department of Justice and Constitutional Development:

- Co-ordinated development and management of the implementation, monitoring and evaluation of the impact of the Victims' Charter;
- Establishment of specialised Family Courts;
- Reparation for victims who appeared before the Truth and Reconciliation Commission;
- Consultation with victim before court proceedings;
- Court preparation of evidence in private (in camera/intermediary/one-way glass facilities);
- Providing support to victims in court; and
- Providing separate waiting facilities for victims and alleged perpetrators.

The National Prosecuting Authority:

- Issuing policy directives and providing victim sensitivity training for prosecutors to reduce secondary victimisation in the criminal justice system;
- Establishment of specialised Sexual Offences Courts;
- Establishment of one-stop facilities linked to Sexual Offences Courts and referred to as Thuthuzela Care Centres, for victims of rape;
- Partnerships with NPOs to provide court support and court preparation services at Sexual Offences Courts;
- Development of an integrated, cross-departmental training manual on domestic violence; and
- Co-ordinating interdepartmental initiatives related to the development of a strategy for prevention of human trafficking.

9.6.5 The Department of Education (Primary, secondary and tertiary levels)

This Department is responsible for the protection of learners from crime and violence within the school environment and for the support of learners if they become victims of crime or violence, especially when it occurs within the school environment, but also if learners become victims as a result of events occurring outside the school environment.

Services and supporting policies and practice guidelines which are still to be provided and developed include, but are not limited to:

- Preventing victimisation of learners within the school environment;
- In the event of victimisation, facilitating immediate access to relevant support structures (such as the SAPS and Social Development) and acting against perpetrators, as well as protecting the learner against further victimisation /intimidation;
- Development of programmes to promote a culture of learning and teaching;
- Developing a framework for promoting health and wellness in schools;
- Development of school safety policies on substance abuse, sexual harassment and the management of sexual abuse by educators and learners in schools;
- Development of training material on managing sexual harassment and gender based violence in educational institutions at all levels;
- Training of educators and SGB members on gender based violence in schools; and
- In partnership with NPOs, piloting violence prevention and life skills programmes in schools.

9.6.6 The Department of Correctional Services

This Department is responsible for protecting the interests of victims in relation to convicted offenders, the rehabilitation of offenders and for preventing victimisation of offenders within the correctional services system.

Services and supporting policies and practice guidelines which are still to be provided and developed include, but are not limited to:

- Direct psycho-social services to inmates;
- Reduction of victimisation of inmates in correctional centres and support systems to reduce the impact when it happens;
- Effective rehabilitation and re-integration of inmates into society (with the focus on taking responsibility for crime committed and to reduce recidivism);
- Ensuring victims' participation in parole board hearings;
- Notifying victims of the impending release of inmates; and
- Developing victim-offender mediation programmes.

9.6.7 Civil Society Organisations

Civil society organisations (CSOs) form a strong component of the Victim Empowerment Programme. Their recognized role as defenders of vulnerable groups and as partners in policy development and service delivery gives them a unique vantage point and the necessary leverage to advocate for victim-focused projects.

In partnership with Government, civil society should:

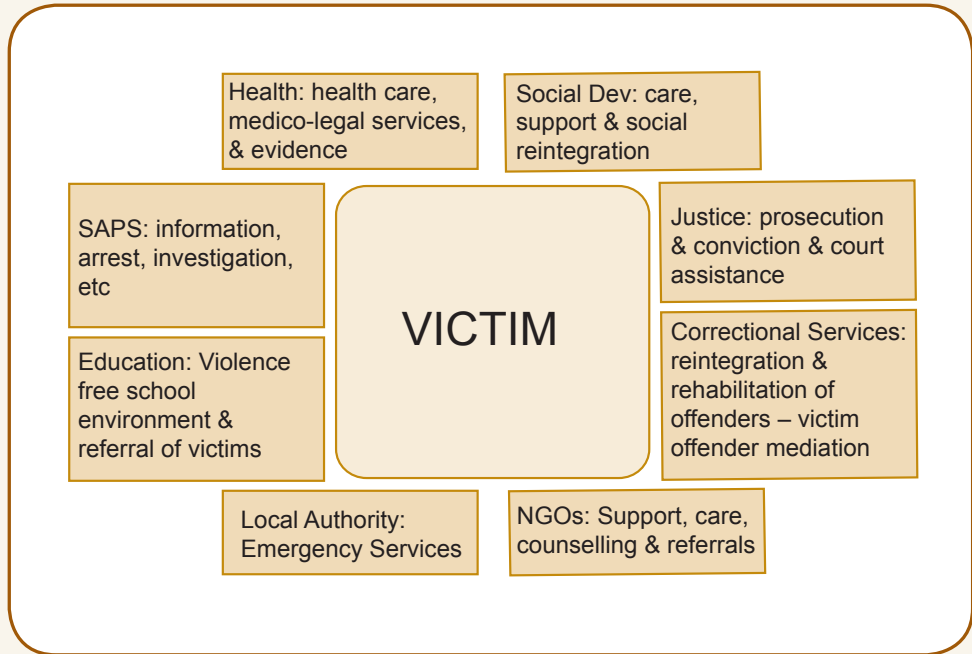
- Play a major role in advocating for victims' rights and providing services to victims;
- Expand knowledge in the field of victim empowerment, especially in the areas of crime prevention, trauma and post-traumatic stress disorder.

Representatives from institutions of higher learning must provide professional and scientific programme support for the above activities.

9.6.8 Summary

The following chart illustrates sector-specific roles in victim empowerment:

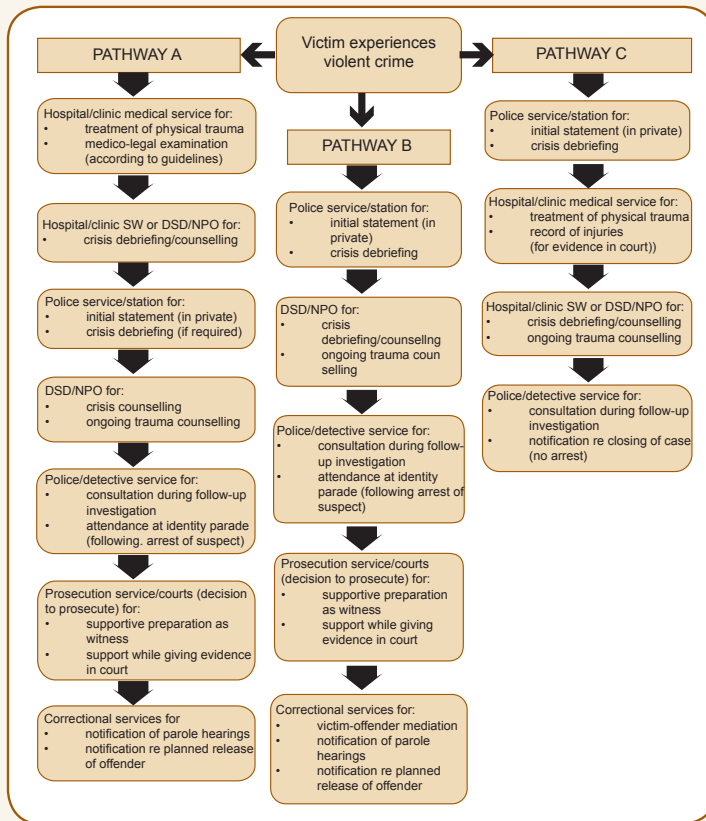
Overview Of Sector-Specific Roles In Victim Empowerment



The entry and exit points of the client and his/her path through the criminal justice and associated systems and the services s/he requires should be determined by the immediate and longer-term needs of the client. Clearly this requires an efficient referral system within and between the criminal justice and associated systems to ensure that service delivery is holistic and integrated.

Examples of typical pathways through the criminal justice and associated systems are given in the following chart. They illustrate how provision of facilities such as private interviewing rooms, together with professional, respectful and sensitive service by personnel from the various systems, and continuity of care across systems, can impact positively on the victim and contribute to his/her empowerment. It is, of course, important to emphasize that these are merely possible pathways and victims may easily access the system at different entry points and follow different routes, depending on the particular circumstances of each victim. For example, a victim who is assaulted in a school may enter the system first through counselling within the school environment, while another person may first go to a rape crisis centre run by an NPO.

Pathways Through The Criminal Justice & Associated Systems: Some Examples



10. FINANCIAL IMPLICATIONS FOR THE IMPLEMENTATION OF THE VICTIM EMPOWERMENT POLICY

The process of costing the implementation of the Policy Guidelines should be participatory and transparent. Each Government Department in conjunction with relevant civil society organisations should produce and regularly update a 3-year costed policy implementation plan.

11. MONITORING AND EVALUATION

A monitoring and evaluation plan for the implementation of these policy guidelines will be developed to ensure the achievement of the objectives of the policy.

One of the primary indicators to measure the success of the Policy Guidelines should be the positive experience of victims. They should be able to enjoy a sense of wholeness and be active participants in the criminal justice and associated systems. This could only be realised through the implementation of well co-ordinated and integrated services.

11.1 Monitoring

Monitoring involves the systematic collection and analysis of project data. It is a valuable tool which will be used to assess the available resources and capacity allocated for these policy guidelines against the implementation plan and actual needs on the ground. It will also use various quantitative and qualitative methods. Most significant is to note that the monitoring process will be an ongoing process. A co-ordinated system to monitor service provision to victims within and across departments will be developed. This system will be integrated with each department's monitoring system.

As part of monitoring a structured form will be developed as a constant data collecting tool for reporting on the following key implementation elements:

- Effectiveness;
- Efficiency; and
- Impact.

The purpose of focusing monitoring for these policy guidelines on these three elements is because of their direct link to the everyday implementation process. The success or lack of success will be impacted by how well these three factors are taken into consideration. These three factors will be significant in assisting us to come up with the relevant indicators for data collection.

The result of the monitoring process will be used to reflect on what is actually happening on the ground in relation to the implementation plan. The results of monitoring will be fed back into the planning process on a regular basis and continually utilised to improve services offered. This process will provide opportunities to learn from the actual and present options for adjustment and improved implementation.

11.2 Evaluation

Evaluation is the systematic appraisal systems used to assess the quality and impact of implementation against programme plans, strategic plans and the continued monitoring process. It will utilise diverse approaches using both qualitative and quantitative methods. It is generally accepted that evaluation processes work best when a combination of these methods are used. One of the key questions for evaluating these policy guidelines would be to know more about how the policy operates on the ground and what impact it has for purposes of improvement and continuation. The following matters will be essential to the evaluation process:

- Service use;
- Service delivery;
- Variations in service delivery;
- The organisation(function and structure) of the programme;
- Programme resources and capacity;
- Sustainability of programme;
- Participants experiences of the programme.

Evaluation should therefore be designed to provide practical input into improving the experience of victims. Where different alternatives or models of victim empowerment are being implemented, comparisons, including cost effectiveness and cost benefit analyses can be conducted to see which model is preferable. Evaluation will be planned at the beginning of implementation, so that all relevant

data is collected at the beginning of the programme. The evaluation must include an assessment of the unintended outcomes – good or bad – so that this can be factored into ongoing plans and improvements of the programme. Each stakeholder’s implementation plan should have a monitoring and evaluation plan. Other issues to be considered for monitoring and evaluation are the following:

- Management: Existence of VEP Forums and response to roles and responsibilities of the members
- Policy and legislation: availability of implementation plans for existing victim empowerment related policies
- Service delivery management and implementation structures; programmes and services available to enhance the scope of quality of services, including auditing of existing services; developing guidelines for dealing with specific categories of victims
- Marketing and communication plans available and number of beneficiaries
- Capacity building in relation to identification of skills and knowledge gaps and training conducted
- Research undertaken

11.3 Monitoring and evaluation responsibilities for the different departments:

Critical factors for the achievement of the above are as follows:

- The Department of Social Development, nationally and provincially, as the co-coordinating and lead department is responsible for the establishment and optimal functioning of interdepartmental, intersectoral victim empowerment management forums at national, provincial and local levels. Part of its responsibility of monitoring the implementation of the policy is to ensure that there is a record and minutes of all the quarterly meetings of the forums. The department will also be responsible to keep a record of attendance and to put in place control measures for none or poor attendance by the members. It will also keep a record of joint strategic plans and priorities for each year. The department should also ensure that reports presented at the meetings by role players will cover the spectrum of representation and victim empowerment initiatives within the forums.
- The Criminal Justice System (CJS) Development Committee should monitor the implementation of the victim empowerment policy by ensuring that the Department of Social Development Manager of the Victim Empowerment is accountable to the Committee for the broader policy and strategic related initiatives of the VEP forums nationally.
- The Chairman of the CJS Development Committee in turn will report on the policy and strategic related initiatives of the VEP forums nationally, to the Justice Crime Prevention and Security Cluster (JCPS) with special focus on its achievements, challenges and future plans on matters related to an integrated victim centered approach in the criminal justice system. This structure in turn will account to Cabinet on such initiatives.
- Monitoring of the implementation of the policy is further done by ensuring that:
 - Sector specific policies and strategies are in place;
 - Joint strategic planning sessions are conducted and recorded;
 - Joint utilization of resources for service delivery, building and marketing of the programme and services is done and recorded including the total number of beneficiaries;
 - There is dedicated personnel and budget for Victim Empowerment Programme at all levels of service delivery;
 - Impact analyses of client satisfaction reports are available.

- The same format of monitoring is to be followed at provincial and local levels of government.

12. POLICY REVIEW PRINCIPLES

The Policy guidelines will be reviewed every five years.

13. CONTACT DETAILS

For question on this policy you can contact:

The Director: Victim Empowerment Programme

Private Bag X 901

PRETORIA

0001

Telephone numbers: (012) 312 7883

GLOSSARY

Batho Pele: Refers to the culture of putting people first, with clients being a priority in service delivery. Batho Pele, a Sesotho phrase meaning People First, is the name of the government programme for transforming public service delivery from an inefficient bureaucracy, with a focus on rules, to a culture of customer care, in which the needs of all the citizens of South Africa are truly served, irrespective of their race, gender or creed .

Client: Refers to the complainant in the case of the SA Police Service, the patient in the case of the health worker, the witness in the case of the justice official, the client in the case of the social workers.

Community Based Organisation (CBO): A voluntary non-profit making organisation which may be rather informal in structure and operations and is primarily run by volunteers within a specific community. (See also below, Non-profit Organisation.)

Compensation: Refers to a payment that makes up for a loss that has been suffered and, in the context of victims of crime and violence, to money paid to victims of violent crimes by the state. Victim compensation does not require the apprehension and conviction of the offender.

Counselling: Refers to a one-to-one helping relationship that focuses on a person's needs with respect to psychological growth and adjustment, problem solving and decision making. It is a client-centred process that demands confidentiality. (See also below, Trauma counselling)

Crisis Centre (also known as trauma, violence referral or community care centres): A one-stop multi-disciplinary centre primarily addressing the trauma related to a specific crisis with which a person has been confronted. One-stop centres (in some cases operating on a 24-hour basis) are usually located at a hospital, clinic or a house in the community, where victims receive medico-legal/forensic-medical, counselling, legal advice and police investigative services.

Crisis centres generally offer only short-term crisis intervention. A trauma centre differs from a crisis centre in that it may provide services to address not only the immediate crisis, but also the longer-tem

after-effects, as well as other experiences of trauma, whether related to the current crisis or not.

Cycle of Violence: Refers to the act of debilitating succession of violence from which the victim finds it increasingly difficult to escape. It can lead to repeated victimisation and repeated offending and sometimes eventually spiral into fatality. It also refers to a longer-term cycle that involves more than one generation in a family in violence, where children who are exposed to violence grow up to perpetuate violence.

Domestic Violence: Refers to physical abuse; sexual abuse; emotional, verbal and psychological abuse; economic abuse; intimidation; harassment; stalking (repeatedly following, pursuing, or accosting a complainant); damage to property; entry into the complainant's residence without consent, where the parties do not share the same residence; or any other controlling or abusive behaviour towards a complainant, where such conduct harms, or may cause imminent harm to, the safety, health, or wellbeing of the complainant (Domestic Violence Act, No. 116 of 1998).

Evaluation: Refers to a time bound exercise that attempts to assess systematically and objectively the performance and outcomes of ongoing and completed programmes and projects. Evaluation commonly aims to determine relevance, efficiency, effectiveness, impact and sustainability. Evaluation is generally undertaken selectively to answer specific questions to guide decision-makers and/or programme managers and to provide information on whether underlying theories and assumptions used in programme development or as part of a strategic framework are valid, i.e. what works and what does not work and why. Evaluation should provide information that is credible and useful; to enable lessons learned to be incorporated into the decision-making process, where necessary, leading to program modification.

Monitoring: Refers to a continuing function that aims primarily to provide managers and key stakeholders with regular feedback and early indications of progress or lack thereof towards the achievement of intended results. Monitoring involves regularly collecting and analysing data on implementation processes, strategies and results, and recommending corrective measures. In the case of outcome monitoring, it uses a defined set of indicators to track and analyse the actual performance of a programme, project, partnership or policy reform process against what was planned or expected according to pre-determined standards such as effectiveness in converting inputs to outputs.

Non-Profit Organisation (NPO): Refers to:

- A trust, company or other association of persons:
- established for a public purpose.
- the income and property of which are not distributable to its members or office bearers except as reasonable compensation for services rendered.
- Alternative names for NPO:
- NGOs: Non – governmental Organisations
- CBOs: Community Based Organisations
- FBOs: Faith Based Organisations
- CSOs: Civil Society Organisations (see also definition above)
- PBOs: Public Benefit Organisations
- (Non-profit Organizations Act, No. 17 of 1997)

Offender: Refers to an individual who has broken the law.

Perpetrator: Refers to an individual responsible for committing a criminal or violent act. It is usually used in relation to the effects of the act on another person, the victim. In the case of violence in a domestic context, the term, abuser, may also be used.

Restorative Justice: A process whereby the victim and the offender are treated in an equitable manner and justice is seen and felt to be done (as opposed to retributive justice). It aims to identify needs and obligations following an offence which is assumed to violate relationships in order to rectify matters. It encourages dialogue and mutual agreement, provides central roles to both victims and offenders within the justice process, and measures success according to the extent to which responsibilities are assumed, needs are met, and healing (of individuals and relationships) is encouraged.

Shelter: Refers to a residential facility providing short-term intervention in a crisis situation (two weeks up to approximately six months as the need dictates). This intervention includes meeting basic needs (protection, food, and clothing) as well as support, counselling and skills development (including regarding victim rights and capacity building). In some communities, it is also possible for victims (usually of domestic violence) to access safe houses, generally located in privately owned homes, which provide temporary emergency accommodation, usually for one to five nights.

Trauma: Refers to a distressing, fearful, life-threatening event or to the immediate or long-term effects of such an event which restrict the victim's options. It is often associated with crime, particularly violent crime.

Trauma Counselling: Refers to more in-depth counselling to address not only an immediate crisis, but also its longer-term after-effects, as well as other experiences of trauma, whether related to the current crisis or not.

Ubuntu: Refers to the interdependence of community members, especially in recognising, respecting and upholding individual rights and responsibilities to promote healthy development and responsible citizenship and ensure a safe and supportive environment. Defined as "a person is a person because of other people", it reflects not only a philosophy, but also a way of life. (Tutu, 1999).

Victim Assistance: Is a relatively new but rapidly expanding field, which seeks to aid the victims and survivors of crime or trauma with emotional support, practical aid and advocacy. The aims of victim assistance are two fold: to reduce the psychological shock and trauma a survivor of crime or trauma can suffer by lending emotional and practical support immediately at the scene or shortly thereafter, and to help the survivor after the initial crisis with emotional support and counselling, advocacy, referral to local social agencies and information on matters such as the status of the investigation, the status of the accused, the court system and the right of victims with in it.

Victim Empowerment and Support: Victim empowerment and support refers to a philosophy of care and assistance and to a specific approach by service providers (independent of which state department or sector they represent) to delivering the service. It entails empowering victims to be survivors. Providers are not (necessarily) expected to perform additional tasks, but rather to

incorporate this philosophy into all aspects of their work with victims.

Victim support is an important part of this process. It offers emotional and practical support, a shoulder to cry on, identification of symptoms of post-traumatic stress, trauma management and referral to professional services where necessary. It includes :

- Counselling, emergency and social services
- Services that address problems in the Justice process
- Services that act on behalf of the victim in terms of rights and concerns during court procedures
- Prevention programmes to address repeat victimisation.

Victim friendly facility (Victim support room): Refers to a private, furnished room at police stations used for statement taking of traumatised and vulnerable victims. It also provides a facility for victim support volunteers from the community to provide assistance/support to victims of crime and violence referred by the local SAPS for assistance. These services include practical support, emotional support, and information re process of criminal investigation.

Victimisation: A process whereby a person suffers harm through the violation of national criminal laws or internationally recognized norms relating to human rights

Primary Victimisation: Refers to direct harm to an individual victim in a face-to-face offence, or who is threatened or who has property stolen or damaged. (See also Victimisation)

Secondary Victimisation: Refers to the victimisation that occurs, not as a direct result of the criminal act, but through the response of institutions, the community at large and individuals, to the victim, whether by blaming the victim, ignoring his/her role in the criminal justice process and/or through insensitive treatment. Secondary victimisation describes the way in which personnel of the criminal justice system, or associated systems such as the health or welfare services or the community at large may victimise victims a second time by blaming them, being insensitive to their needs and ignoring the victim's role in the criminal justice process. Secondary victimisation may be particularly likely in the case of victims who have little knowledge or experience of the criminal justice and associated systems and therefore do not expect and are ill-equipped to handle processes such as undergoing a forensic medical examination, or giving evidence and responding to cross-examination in court.

Repeat Victimisation: Refers to a process whereby a person or group of people who have been victimised, are at a later stage again victimized. The crime and the process of victimisation can be the same or different from the previous incident of victimisation.

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APPENDIX I

POLICY MANDATE AND LEGISLATION

This section lists various national and international statutory frameworks and legislation which have a direct or indirect link to Criminal Justice processes, with special reference to the empowerment of victims. It is critical that these Policy Guidelines are read and implemented in relation to the relevant sections of such legislation and international human rights instruments.

Legislation

- Constitution of the Republic of South Africa, Act No. 108 of 1996
- Promotion of Administrative Justice Act, No. 3 of 2000 (AJA)
- Promotion of Access to Information Act, No. 2 of 2000 (PAIA)
- Promotion of Equality and Prevention of Unfair discrimination Act, No. 4 of 2000 (PEPUDA)
- Criminal Procedure Act. No. 51 of 1977
- Criminal Procedure Amendment Act, No. 75 of 1995
- Criminal Procedure Second Amendment Act, No. 85 of 1997
- Criminal Law Amendment Act, No. 105 of 1997
- Criminal Law (Sexual Offences & Related Matters) Amendment Act, No. 32 of 2007
- Prevention of Organised Crime Act, No. 121 of 1998
- Witness Protection and Services Act, No. 112 of 1998
- Legal Aid Amendment Act, No. 20 of 1996
- Maintenance Act, No. 99 of 1998
- Domestic Violence Act, No. 116 of 1998
- Older Persons Act, No. 13 of 2006
- Child Care Act, No. 74 of 1983
- Child Care Amendment Act, No. 96 of 1996
- Hague Convention on the Civil Aspects of International Child Abduction Act, No. 72 of 1996
- Children's Act, No. 38 of 2005
- Children's Amendment Act, No. 41 of 2007
- Child Justice Bill, No. B49 of 2002

Statutory frameworks, policies and guidelines

- National Crime Prevention Strategy, 1996
- National Policy Guidelines for Handling of Victims/Survivors of Sexual Offences, 1997
- Service Charter for Victims of Crime in SA, 2004
- Minimum Standards on Services for Victims of Crime, 2004

International and regional instruments

- Hague Convention on the Civil Aspects of International Child Abduction 1980
- The United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, 1985
- Convention on the Elimination of All Forms of Discrimination against Women, 1979
- Beijing Declaration and Platform for Action, 1995
- SADC Draft Declaration on Gender and Development (Addendum on Prevention and Eradication of Violence against women and children), 2008

APPENDIX II

SERVICE CHARTER FOR VICTIMS OF CRIME

PREAMBLE

The Government of South Africa generally and agencies involved in the criminal justice system specifically:

Affirming

Government's commitment to implement measures aimed at continuous reform of the criminal justice system to protect and promote the rights of victims in compliance with international obligations under international human rights instruments, such as the UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (1985) and the Prevention and Eradication of Violence Against Women and Children Addendum to the 1997 SADC Declaration on Gender and Development.

Believing

That it is part of the responsibility of the state to promote the equal enjoyment of all the rights and freedoms that are guaranteed in the Constitution by all and that an equitable criminal justice system can only be achieved if the rights of both victims and accused persons are recognised, protected and balanced.

Recognising

The serious impact of crime on victims, and its potential for undermining a victim's human rights.

Noting

The significant progress made since the onset of democracy, with regard to transforming the criminal justice system to ensure access to justice and responsiveness of processes to all, regardless of race, gender, culture and class. That various measures have been implemented as part of transforming the justice system, with a view to ensuring the centrality of victims, balancing their rights with those of accused persons and minimising secondary victimisation in the various stages of the criminal justice process.

Hereby adopt this Victim's Charter

To provide for the consolidation of the present legal framework in South Africa relating to the rights of and services provided to victims of crime and to:

- Eliminate secondary victimisation in the criminal justice process;

- Ensure that victims remain central to the criminal justice process;
- Clarify the service standards that can be expected by and are to be accorded to victims whenever they come into contact with the criminal justice system; and
- Make provision for victims' recourse when standards are not met.

Your rights as a victim of crime

If you have been a victim of crime, the following rights, as contained in the Constitution and relevant legislation, will be upheld during your interaction with the criminal justice system:

1. The right to be treated with fairness and with respect for dignity and privacy:

- You have the right to be attended to promptly and courteously, treated with respect for dignity and privacy by all members of any department, institution, agency or organisation dealing with or providing a service to you
- The police (during the investigations), the prosecutors and court officials (during preparation for and during the trial proceedings), and all other service providers will take measures to minimise any inconvenience to you by, among others, conducting interviews with you in your language of choice and in private, if necessary.
- These measures will prevent that you are being subjected to secondary victimisation.

2. The right to offer information:

- You have the right to offer information during the criminal investigation and trial.
- The police, prosecutor and correctional services official will take measures to ensure that any contribution that you wish to make to the investigation, prosecution and parole hearing is heard and considered when deciding on whether to proceed with the investigation, or in the course of the prosecution or Parole Board hearing.
- This right means that you can participate (if necessary and where possible) in criminal justice proceedings, by attending the bail hearing, the trial, sentencing proceedings and/or Parole Board hearing.
- It means that you will have the opportunity to make a further statement to the police if you realise that your first statement is incomplete. You may also, where appropriate, make a statement to the court or give evidence during the sentencing proceedings to bring the impact of the crime to the court's attention.
- Furthermore, you may make a written application to the Chairperson of the Parole Board to attend the parole hearing and submit a written input.

3. The right to receive information:

- You have the right to be informed of your rights and how to exercise them.
- You can, as part of this right, ask for explanations in your own language of anything you do not understand.
- You have the right to receive information and to be informed of all relevant services available to you by service providers. You will be informed of your role in the case and of the approximate duration of the case. You can request information regarding court dates, witness fees and the witness protection programme.
- You can request to be informed of the status of the case, whether or not the offender has been arrested, charged, granted bail, indicted, convicted or sentenced.

- You may request reasons for a decision that has been taken in your case on whether to prosecute or not.
- You are entitled to receive documents that the law entitles you to have access to. You can request to receive notification of proceedings which you may want to attend.
- The prosecutor to notify your employer of any proceedings that necessitate your absence from work.

4. The right to protection:

- You have the right to be free from intimidation, harassment, fear, tampering, bribery, corruption and abuse. If you are a witness, you must report any such threats to the police or senior state prosecutor.
- The police will, if you comply with certain requirements, apply for you to be placed in a witness protection programme.
- If such application is successful, you will be placed in a witness protection programme, where you will be protected, as far as possible, from all forms of undue influence, harassment or intimidation.
- This will ensure your safety as a witness and the availability of your testimony, and prevent you from withdrawing from giving evidence as a result of undue influence.
- This right includes that, in certain circumstances, the court may prohibit the publication of any information (including your identity), or it may order that the trial be held behind closed doors (in camera).
- You can request Correctional Services to inform you if the offender has escaped or has been transferred

5. The right to assistance:

- You have the right to request assistance and, where relevant, have access to available social, health and counselling services, as well as legal assistance.
- The police will assist you by explaining police procedures, informing you of your rights and making the appropriate referral to other relevant service providers.
- The office manager or head of office at the court will provide for the services of an interpreter.
- The prosecutor will ensure that special measures are taken in the case of sexual offences, domestic violence and child support or maintenance matters and that, where available, such cases are heard in specialised courts.
- If you have special needs, all service providers will, within the scope of their functions, take all reasonable steps to accommodate you and ensure that you are treated in a sensitive manner.
-

6. The right to compensation :

- You have the right to compensation for loss of or damage to property suffered as a result of a crime being committed against you.
- You can request to be present at court on the date of sentencing of the accused and request the prosecutor to apply to court for a compensation order in terms of section 297 and 300 of the Criminal Procedure Act, 1977 (Act 51 of 1977).
- “Compensation” refers to an amount of money that a criminal court awards the victim who

has 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 prosecutor will inform you if a compensation order has been granted, explain its contents and how to enforce it. You can institute a civil action against the accused where the criminal court did not grant a compensation order. This will usually happen where the damages are not easily quantifiable in financial terms, for example, in the case of psychological damages or pain and suffering.
- The clerk of the court will assist you with the enforcement of a compensation order granted by the court.

7. The right to restitution:

- You have the right to restitution in cases where you have been unlawfully dispossessed of goods or property, or where your goods or property have been damaged unlawfully.
- “Restitution” refers to cases where the court, after conviction, orders the accused to return your property or goods that have been taken from you unlawfully, or to repair the property or goods that have been unlawfully
- damaged, in order to restore the position you were in prior to the commission of the offence.
- The prosecutor will inform you what restitution involves and the clerk of the court will assist you in enforcing this right.

Complaints

Keeping in mind that you have the right to complain, you can contact the particular government department or service provider if you have any complaints with regard to the service you are receiving, or if your rights are not being observed. If you are not satisfied with the way in which your complaint is handled, you can also contact the following organizations.

- a. The Office of the Public Protector
- b. The South African Human Rights Commission
- c. The Commission on Gender Equality
- d. The Independent Complaints Directorate
- e. Metropolitan Police Offices
- f. The Health Professions Council of South Africa
- g. A lawyer of your own choice and at your own expense

For more detailed information relating to any aspect of the Victims’ Charter, please refer to the Minimum Standards on Services for Victims of Crime. This document is available at the offices of role-playing government departments.

The role-players in the criminal justice system will ensure that copies of the Victims’ Charter are available at the following offices:

- Courts
- Offices of the Department of Correctional Services
- Offices of Directors of Public Prosecutions
- Prisons
- Police Stations and Investigation Units

- Offices of Social Services or agencies
- Offices of the Metropolitan Police Service
- Public Health Facilities

If you require further information on any issue contained in this document, you can contact the Chief Directorate: Families and Social Crime Prevention and Victim

Empowerment Programme Directorate of the Department of Social Development at the following numbers:

Tel: (012) 312 7568

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