

# SERVICE CHARTER FOR VICTIMS OF CRIME IN SOUTH AFRICA

THE CONSOLIDATION OF THE  
PRESENT LEGAL FRAMEWORK  
RELATING TO THE RIGHTS OF  
AND SERVICES PROVIDED  
TO VICTIMS OF CRIME



**the doj&cd**

Department:  
Justice and Constitutional Development  
REPUBLIC OF SOUTH AFRICA



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## INTRODUCTION

The Service Charter for Victims of Crime in South Africa (also referred to as the Victims' Charter) is an important instrument for promoting justice for victims of crime in South Africa. The Victims' Charter is compliant with the spirit of the South African Constitution, 1996 (Act 108 of 1996) and the United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, 1985 (GA/RES/40/34).

The Victims Charter can be traced back to the National Crime Prevention Strategy, 1996 as well as the National Victim Empowerment Programme, 1998. Both the strategy and the programme focused on the important role victims should play within the criminal justice system. The Victims Charter presents a rights framework for services provided under the Victim Empowerment Programme (VEP).

Since 1994, and in an effort to cultivate human rights culture, the focus has gradually shifted from an adversarial and retributive Criminal Justice System to a more restorative approach to justice. Central to the concept of Restorative Justice is the recognition of crime as more than an offence against the state, but also as an injury or wrong done to another person.

In order to define what services victims are entitled in terms of seven rights listed in the Victims Charter, a Minimum Service Standard for Victims of Crime, 2004 was also developed. The Service Standards sets out responsibilities that each government department such as South African Police Services, National Prosecuting Authority, Departments of Health, Justice and Constitutional Development, Social Development and Correctional Services, should provide when victims present themselves at public institutions (courts, police stations and hospitals etc.).

The Victims Charter and Minimum Service Standards are important documents that victims can use to claim their rights and to act with responsibility in ensuring the realization of justice. Various individuals within government and civil society were instrumental in developing the Victims Charter. Some of champions for victims rights include former Minister of Justice and Constitutional Development, Mrs Bridgette Mabandla and former President Thabo Mbeki. Through their work, the legacy of advocating for victims rights is enshrined in the Victims Charter.



## **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 the transformation of 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 Victims' 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 your dignity and privacy by all members of any department, institution, agency or organisation dealing with or providing a service to you (hereafter referred to as a service provider).
- 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.
- You can request 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 you are placed in a witness protection programme, 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 coun-selling 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 organisations:

- 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



## ***FURTHER INFORMATION***

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

**Chief Directorate:** Promotion of Rights of Vulnerable Groups

**Directorate:** Victim Support and Specialized Court Services

**Tel:** (012) 315 1998

**Fax:** (012) 315 1851

**E-mail:** [victimcharter@justice.gov.za](mailto:victimcharter@justice.gov.za)

**Website:** [www.justice.gov.za](http://www.justice.gov.za)



**CONTACT DETAILS FOR REGIONAL OFFICES**

<b>Regional Office</b>	<b>Tel</b>	<b>Fax</b>
KwaZulu-Natal	(031) 301 3000	(031) 301 5341
Eastern Cape	(043) 702 7000	(043) 721 1463
Western Cape	(021) 462 5471	(021) 462 3135
Northern Cape	(053) 839 0000	(053) 832 7428
Gauteng	(011) 223 7600	(011) 331 1082
Limpopo	(015) 287 2000	(015) 297 5567
North West	(018) 397 7000	(018) 384 2406
Mpumalanga	(013) 752 8393	(013) 752 2666
Free State	(051) 407 1800	(051) 448 4753



## **ACKNOWLEDGEMENTS**

The Service Charter for Victims of Crime in South Africa, 2004 and the Minimum Service Standards for Victims of Crime, 2004, were developed by the Gender Directorate in the Department of Justice and Constitutional Development in conjunction with the Departments of Social Development, Correctional Services, Education, and Health, as well as with the National Prosecuting Authority, the South African Police Service, the South African Law Reform Commission, the South African Human Rights Commission, the Office of the Public Protector, the Independent Complaints Directorate, members of the Magistrates' and Judicial Service Commissions and members of Tshwane Metro Police.

The Department of Justice and Constitutional Development also acknowledges the leadership provided by former Ministers of Justice and Constitutional Development; Mrs Bridgette Mabandla and Mr Enver Surety for their support in ensuring implementation of projects on the Victims Charter.

The Department of Justice and Constitutional Development also appreciates the contributions made by the various non-governmental organisations and academic institutions in the development of the Victims' Charter.









**For more information go to [www.justice.gov.za](http://www.justice.gov.za) or  
e-mail [victimcharter@justice.gov.za](mailto:victimcharter@justice.gov.za)**

<b>SAPS</b>	<b>10111</b>
<b>CHILDLINE</b>	<b>0800 055 555</b>
<b>WOMEN ABUSE HELPLINE</b>	<b>0800 150 150</b>
<b>HUMAN TRAFFICKING HOTLINE</b>	<b>0800 555 999</b>
<b>AIDS HELPLINE</b>	<b>0800 012 322</b>

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