

ADVOCACY MANUAL

A Guide for Survivor Advocates

**COMMISSIONED BY THE
NELSON MANDELA CHILDREN'S FUND**

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DEDICATION

This manual is dedicated to the women and men who fearlessly defend the rights of those more vulnerable than themselves. This includes not just those of us from Civil Society, but also our partners in the SAPS, the Criminal Justice System, and the Departments of Health, Social Development and Correctional Services, the majority of whom are committed, dedicated individuals as determined as we are to end the violence and ensure that justice is served. We salute you all!

ACKNOWLEDGEMENTS

This manual was initiated by the Thohoyandou Victim Empowerment Program (TVEP) with funding from the Nelson Mandela Children's Fund. It draws extensively on existing literature in the fields of human rights, victim empowerment and advocacy.

The manual was compiled by Jenna Praschma but draws extensively on existing literature in the fields of human rights, victim empowerment and advocacy.

We would like to thank the following individuals and organisations for their contribution to this manual:

The Thohoyandou Victim Empowerment Programme, the Nelson Mandela Children's Fund, Alice Clarfeld and the Treatment Action Campaign, the Women's Legal Centre, the Department of Justice and Constitutional Development, and the Vhembe Civil Society Network.

We hope this guide will be a resource to all those working to uphold and enforce the rights of survivors of sexual and gender-based violence in South Africa



Thohoyandou Victim Empowerment Programme



Nelson Mandela
CHILDREN'S FUND



CHANGING THE WAY SOCIETY TREATS ITS CHILDREN AND YOUTH

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Introduction and Aims of the Manual

The South African Constitution and other laws lay very clear obligations on government in terms of what services to provide to survivors of sexual and gender based violence (SGBV) and what standards of care to maintain. While good quality service from these providers can facilitate healing, access to justice and victim empowerment, failures in service delivery and standards of care can result in secondary trauma, loss of faith in the criminal justice system, and a breakdown in community safety and security.

Where the system fails survivors of SGBV, it often falls on civil society - and particularly those organisations and individuals who act as 'survivor advocates' - to assist survivors to enforce their human rights, access the necessary services, and to demand more appropriate responses where the current system proves inadequate.

Knowledge of rights is the first step towards the realisation of rights. This manual recognises that there are already many guides available that detail the health, psycho-social and legal services available to survivors of SGBV, and as such, does not seek to reproduce these in their scope or detail. It is also not tailored towards survivors themselves, who - it is acknowledged - should as far as possible serve as their own advocates and be empowered to access their rights themselves.

Instead, this guide is intended to serve as a resource to assist members of civil society in settings where they advocate on behalf of others: where essential services are not delivered, where survivors' rights are not upheld and service providers' responsibilities are not met. In doing so, this manual intends to provide survivor advocates with the basic information necessary to hold service providers accountable to those services and standards of care as mandated by law, and to advocate for changes and improvements in the system where necessary.

In recognising that South Africa's citizens are the holders of their own agency, this manual also aims to provide some basic information for survivor advocates on community advocacy methods and activism, in order to inform, empower and mobilise those they represent to become advocates for their own human rights.

It is important to remember that ensuring the best interests of survivors are served sometimes requires immediate action in demanding the enforcement of a right, sometimes medium-term coordination to facilitate the desired response, and sometimes long-term planning and advocacy to change the legislation, systems or attitudes inhibiting victim empowerment.

Which ever strategy you use, remember that in advocating for others, you must inform the survivor of the options available to them and support them in their decision-making process, but you must not put any pressure on them to make a particular decision or when to make it by. It must be up to the survivor to decide how to take their case forward, as this can be a very empowering process.

As service providers yourselves, always remember to adhere to the same principles and standards of care demanded of others: treat survivors with respect, dignity, equality and freedom from discrimination of any form; keep them informed at all times; and make sure they are active participants and leaders in their own advocacy processes.

The layout of this manual is as follows:

Section 1: An introduction to Rights outlines the services and standards of care available to survivors of SGBV from each of the five main service providers within the criminal justice system, namely the Department of Police (South African Police Service); the Department of Health; the Department of Justice (and the National Prosecuting Authority); the Department of Correctional Services; and the Department of Social Development.

Section 2: Vulnerable Groups further elaborates on the particular rights of children, the elderly and the disabled in relation to the particular care they should be afforded by service providers and the legislation providing them particular protection.

Section 3: Responsibilities and Accountability. Part A outlines some of the broader human rights laws in South Africa and what responsibilities these place on service providers, as well as the accountability mechanisms contained within certain pieces of legislation. **Part B** lists the complaints procedures specific to each of the five main service providers, while **Part C** lays out some alternatives to enforcing accountability.

Section 4: Advocacy covers some of the basic concepts and methods of community activism. It is critical that survivors, their family members and community partake in advocacy activities to demand that they enjoy their constitutional rights.

Section 5: Case Studies illustrates some of the challenges with and gaps in the current service-delivery system which leave survivors vulnerable to secondary trauma. These are illustrated particularly from the viewpoint of NGO's offering front-line services to survivors.

Sections 6 and 7 outline some of the reference materials used, which may be of use to those wanting to read further, as well as important contact details necessary to assist survivors.

For any further information, please feel free to contact TVEP on info@tvep.org.za or (015) 963 1222 during normal office hours.

SECTION 1

An Introduction to Rights

This section outlines the services and standards of care available to survivors of sexual and gender-based violence from each of the five main service providers within the criminal justice system, namely:

1. **The Department of Police** (The South African Police Service (SAPS))
2. **The Department of Health** (doctors and nurses who provide medico-legal examination in cases of injuries)
3. **The Department of Justice and Constitutional Development** (the courts) including the National Prosecuting Authority (prosecutors)
4. **The Department of Correctional Services** (correctional centres and remand detention facilities)
5. **The Department of Social Development** (social workers who provide counselling and referrals to places for counselling or shelters)

Special mention is made of the rights of survivors of sexual assault, domestic violence, child abuse and HIV stigmatization, where appropriate.

This information is taken from “*The Service Charter For Victims Of Crime In South Africa (‘Victims’ Charter)’*”, the accompanying “*Minimum Standards On Services For Victims Of Crime (‘Minimum Standards’)*” and the “*National Policy Guidelines for Victims of Sexual Offences*” produced by the Department of Justice and Constitutional Development.

The *Victims’ Charter* and the *Minimum Standards* serve to promote the rights of survivors in compliance with South Africa’s obligations under various international and regional human rights instruments.

The *Victims Charter* combines the current legal framework on the rights of victims of crime with the commensurate services to be provided to them by government and civil society, and outlines seven key rights. According to the *Victims Charter*, victims can expect:

- That all role-players in the criminal justice system will treat them fairly, with respect for their dignity and privacy, and in a sensitive manner;

- The right to offer information during the police investigation and court trial, in their own language;
- The right to be informed of their rights and how to exercise them;
- The right to be free from intimidation, harassment, fear, tampering, bribery, corruption and abuse;
- The right to request assistance and have access to available social, health and counselling services as well as legal services that are responsive to their needs;
- The right to compensation for loss or damage of property suffered as a result of a crime committed against them; and
- The right to restitution in cases where they have been unlawfully dispossessed of goods or property or where their goods or property have been damaged unlawfully.

These seven rights and their application in respect of service delivery are further detailed in the supplementary '*Minimum Standards*', where they are broken down according to the five main service providers.

While these two documents are useful in collating the services available to survivors, the Victim's Charter has not been passed as legislation in Parliament and the Minimum Standards, while still enforceable, lacks the strength of a Regulation in enforcing government accountability. The rights they lay out are still enforceable, however, and advocates should follow the relevant procedures laid out in **Section 3**.

1. The Department of Police (The South African Police Service – SAPS)

SAPS SERVICES TO ALL SURVIVORS

- A police official will complete the forms necessary to register the crime. Opening a case is a choice for anyone over the age of 16 or with full mental capacity;
- The crime will be investigated, as quickly as possible;
- Measures will be taken to minimise any inconvenience to the survivor;
- S/he will be referred for medical attention or counselling if required;
- S/he will be interviewed in a language that s/he understands and may ask for an interpreter if necessary;
- S/he may ask to be interviewed by a member of the police who is of the same sex as him/herself; and

- A responsible official will at all times ensure that any property belonging to the survivor and which is being held for evidentiary purposes, is maintained in good condition and returned as soon as it is no longer needed.

Statements

NB: The survivor's need for medical care and securing of forensic evidence is of paramount importance, especially in sexual assault cases reported within 72 hours of the attack, because of the PEP1 and forensic evidence² time frames. The medical examination therefore takes precedent over statement taking or visiting the scene of the crime.

- The first statement taken is called an A1 Statement. Every survivor has the right to have their statement taken in a private room, sometimes called a 'Victim Empowerment Room'.
- A police officer will take the survivor's statement and ask him/her to read and confirm its contents by signing it;
- If the survivor cannot read, s/he should inform the police, in which case the police officer will read the statement to them and require them to confirm its contents by signing it or by placing their thumbprint on it;
- If an interpreter is available and the survivor wishes her/his statement to be read to him/her in a language that s/he understands before confirming it by signature or thumbprint, an interpreter will be engaged for this purpose;
- If s/he realises that her/his statement is incomplete or incorrect, s/he will be allowed to add to or amend her/his initial statement or to make a further statement;
- The survivor will be given the chance to explain in her/his statement how the crime has affected him/her and, where relevant, her/his interests will be taken into account;
- The survivor will be informed that s/he may request a copy of her/his statement; and
- The initial statement and examination of the victim need to be followed up with an in-depth statement. This statement must be taken as soon as the survivor has recuperated sufficiently (depending on circumstances, ideally between 24 and 36 hours).

Information provided to the police

- The police will ask the survivor for details of any loss, damage or injury and this will be recorded;

- The survivor will be required to keep the investigating officer informed of her/his address, contact particulars and whereabouts until the investigation and the trial have been finalised; and
- S/he will be required to inform the investigating officer if the accused interferes or tries to interfere with the investigation of the case or if s/he is threatened by the accused.

The police will provide the following information

- The name and telephone number of the investigating officer assigned to the case and the police case number (CAS or Crime Administrative System Number);
- Of the possibility of instituting a private prosecution at the survivor's expense if the Director of Public Prosecutions declines to prosecute in the case; and
- Of the details relating to the following:
 - The arrest of a suspect;
 - Whether the survivor must attend an identification parade and the date of the parade;
 - The court case number;
 - The dates and outcomes of bail hearings;
 - The progress of the investigation and prosecution of the case;
 - Any decision to withdraw or substantially alter the charges;
 - Whether s/he will have to attend the court proceedings, and the date or dates of those proceedings;
 - The trial date and the final result;
 - The date of sentencing and the outcome;
 - Whether the accused has appealed against conviction or sentence and the outcome of the appeal;
 - How and when confiscated property can be reclaimed;
 - What services are available to deal with her/his particular needs and how to make use of these services.

¹Post-exposure prophylactics, which help to prevent the transfer of HIV from rapist to victim; it must be administered urgently, and after 72 hours it is no longer effective.

²As with PEP, the forensic examination must take place as soon as possible before the evidence can degrade. The deadline is 72 hours.

If the survivor is a witness or a member of her/his family is being threatened or her/his life is in danger

- S/he must immediately report the matter to the police or to the senior public prosecutor at the court and apply for witness protection.

Court preparation

- It is the officer's duty to put the survivor at ease by explaining court procedures, including the following:
 - Take the survivor to the court where the case will be heard prior to the day of the trial. The officer must arrange a suitable time with the prosecutor, as a pre-trial consultation with the prosecutor is imperative;
 - Explain the meaning of 'in camera', as the prosecutor may ask the magistrate to hear the survivor's evidence *in camera*;
 - Give the survivor his or her statement to read once again;
 - Reassure the survivor that her/his particulars will not be published unless authorised by the magistrate.
- It is the duty of the police to inform the survivor about the **possibility of delays in the court proceedings, and to encourage him or her to persist with the case.

Pre-trial impact statement

- A further statement from the survivor must be obtained before s/he gives evidence. It must describe, for example, any nightmares, personality and/or physical changes.

Referrals

- A list of all organisations in the area offering counselling must be kept in every charge office and the survivor must be informed that counselling services are available;
- The police should make referrals to other service providers for the necessary support and on-site crisis intervention, for example, medical first aid.

SAPS SERVICES SPECIFIC TO CASES OF DOMESTIC VIOLENCE

- Many police stations have detectives specially trained in sexual offences and family violence, which form part of the Family Violence, Child Protection and Sexual Offences Unit (FCS Unit). The survivor should be seen by one the FCS officers;

- Remember if the survivor is the complainant in a domestic violence case, and has applied for a Protection Order and the Order has been breached –
 - When the Protection Order was granted, s/he would have been given a copy of that Order together with a Warrant of Arrest. If and when the Order is breached, s/he must immediately submit an affidavit together with the warrant of arrest to the nearest Station or Satellite, outlining the circumstances of the breach by the respondent; and
 - The police officer will immediately arrest the respondent for contravention of a prohibition imposed by the court under Section 7 of the Domestic Violence Act, Act 116 of 1998.

SAPS SERVICES SPECIFIC TO CASES OF SEXUAL ASSAULT

- If s/he is a survivor in a case of sexual violence, s/he will be interviewed in private by a member of the police, and may request to be interviewed by someone of the same sex;
- Sexual offence cases must be given immediate attention; and
- A charge can be laid at any time. There are no time restrictions in this regard but victims should be encouraged to disclose and open cases immediately, otherwise the perpetrator is likely to hurt more women. The victim's statement can also establish the "modus operandi", which will help the police to identify other assaults that may have been committed by the same person.

Sexual offence reported in person

- If a victim presents herself/himself at a police station outside of the jurisdiction of either their home or where the alleged sexual offence occurred, the case must be dealt with by the station where the offence is being reported and must be treated as if the offence happened in that area. The docket must then be sent to the survivor's home station once the necessary actions have been taken;
- As forensic evidence is crucial in securing a conviction, the medical examination should take priority over the taking of the statement;
- The police will take a preliminary statement, called the "A1" as soon as possible so that the scene of the crime can be secured before forensic evidence is destroyed, and the investigation can commence without delay.
- A follow-up, more detailed statement should be taken only by the investigating officer, once the victim has recuperated sufficiently.

Sexual offence reported by telephone

- A patrol vehicle must be sent to the survivor's address immediately to secure the crime scene and assist him/her; and
- If an ambulance is required, request one to be sent immediately to her/his address.

The medical examination

- The police officer should inform the survivor that if he/she wishes to continue with the case, a medical examination will be necessary, though not essential. (It is very difficult to prove sexual offences without the proper medical examination, and while the survivor may not want to open a case immediately, s/he may change her/his mind in future and having the examination done will enable this as the evidence will be preserved. It is therefore crucial that the survivor be examined by the doctor.

Evidence collection

- If the survivor has been indecently assaulted in his or her mouth, liquid must not be offered to him/her, as evidence may be lost by this. An oral swab can be taken only within 6 hours after the incident;
- If s/he needs to urinate, s/he must be advised to retain any sanitary material used – i.e. the toilet tissue;
- It should be emphasised to the survivor not to change her/his clothing nor wash herself/himself as evidence could be lost. Even if the survivor has washed, there is still a possibility that evidence could be obtained;
- If sexual assault was not reported timeously (within 72 hours), the police officer should still take the victim to a health centre for medical assessment (preferably to a Trauma Centre), as the assessment does not only look at physical evidence of rape, but also the psychological impact it may have had on the victim; and
- If circumstances permit, the investigating officer may take the survivor to the health care centre of his or her choice.

(Adapted from 'South African Police Service (SAPS) Support To Victims Of Sexual Offences', http://www.justice.gov.za/policy/guide_sexoff/sex-guide01.html, as at 1 January 2013)

2. The Department of Health (DoH)

DOH SERVICES TO ALL SURVIVORS

Once the survivor has presented to a Health Care Facility:

- A complete assessment will be made of the survivor's physical, emotional and psychological state;
- S/he will be consulted in an environment conducive to confidentiality, privacy and dignity and the consultation will be conducted in a language that s/he understands. If the practitioner is not proficient in this language, a translator should be made available;
- S/he will be requested to consent to a medical examination or treatment, but will be informed that s/he may refuse any medical attention or psychological support, the consequences of which will be explained;
- S/he will be treated as soon as possible. If the assault happened within 72 hours of presenting at the Health Care Centre, the examination must take place within two hours.
- S/he will be informed of available community support services and relevant helplines;
- Where appropriate, a medical certificate for absence from school or work be issued to him/her;
- On request, s/he will be given a copy of her/his medical records. It is strongly recommended that this request be made, in case the docket goes missing at a later stage;
- In accordance with the DoH Guidelines on the Management of Sexual Assault, rape victims should all be given the "morning after" pill to avoid pregnancy. Also, if they are prescribed PEP, they must be given a supply anti-emetics at the same time, to take at home in case the meds make them nauseous. The victim should NOT be forced to return to the hospital for anti-emetics, as s/he is more likely to simply stop taking the PEP if feeling nauseous.
- Where a crime against a minor or mentally challenged person is suspected, this must be reported to the police and Social Development. This is a legal obligation that applies to anyone who suspects such abuse; failure to report can result in criminal charges against the person who suspected or knew about the abuse.

- If an adult survivor arrives without referral by the SAPS but later indicates that s/he wishes to lay charges, the police should immediately be called to the health centre; and
- If the survivor applies to the court to be compensated for medical expenses in respect of physical injuries sustained as a result of criminal activity, the health care worker who examined him/her will be able to support the application by giving evidence in court and providing relevant medical information to the court.

DOH SERVICES SPECIFIC TO CASES OF SEXUAL ASSAULT

- Since the advent of AIDS, rape is considered a medical emergency. If there is no one-stop or Thuthuzela Care Centre at the health facility, s/he is entitled to preferential treatment in Casualty, and should be moved to the front of the queue whilst still maintaining confidentiality. For forensic reasons, medical evidence needs to be captured as quickly as possible, and to avoid HIV transmission, the victim must take PEP as a matter of extreme urgency.

Medical examination –

- The DOH Guidelines mandate that the health care practitioner avails her/himself to conduct the examination as soon as possible after the victim presents, with minimal delay. The victim should not be examined more than two hours after arrival in a health facility.
- The consultation should be conducted in an environment conducive to confidentiality, privacy and dignity;
- It must be explained that:
- The purpose of the examination is to collect medico-legal evidence for court. The form they capture this on is called a J88, and the victim is entitled to a copy if s/he so wishes;
- a full body medical examination will be necessary, including of the genital and anal areas;
- samples and tests will possibly be needed; and
- detailed medical information will need to be recorded.
- It must be explained that bathing, showering or washing before the medical examination will destroy any evidence that may be collected and for this reason the survivor must wait until the end of the medical examination. Once the examination has been completed, s/he will be allowed to bath;

- Informed consent must be obtained for the examination, and for the medical evidence to be collected and disclosed in court. If the victim is a minor or mentally challenged person, and the legal guardian refuses to allow the examination to proceed, the Children’s Court must be approached urgently. As this will take time, the medical practitioner should be asked to prescribe a “starter pack” of PEP, which will allow the Survivor Advocate 3 days to get a directive from the Children’s Court.
- If the legal guardian cannot be reached and is not available to give consent, the Superintendent or Clinical Manager of the Hospital, or a Magistrate, can act as proxy. In the case of a sexual offence, if requested and possible, a medical practitioner of the same sex will perform the medical examination or treatment;
- The health worker should report any information which occurs in the consultation which could be useful to the case. This should include information on the physical condition and emotional and psychological state of the victim, the state of their clothes, evidence of rape as well as information provided verbally (and agreed by the victim to be used as evidence).

STI/HIV testing and treatment

- Prophylactic treatment against sexually transmitted diseases (PHC) should be given, where indicated, with the consent of the survivor, or the guardian, in the case of minors under 12, or mentally challenged people.
- Survivors should be counselled regarding the possibilities of HIV infection and referred for HIV counselling and testing. If HIV positive, the survivor cannot be given PEP but should be referred to an HIV clinic. If HIV negative, s/he will need PEP within 72 hours of the rape, otherwise it will not work. Within 6 hours is best, so DON’T DELAY;
- Survivors can ask for a copy of the HIV consent form and results.
- All rape survivors should also have a blood test for Hepatitis B, which can be prevented by a vaccination within 3 weeks of the rape.

Pregnancy testing

- Female rape survivors who are at a risk of falling pregnant will be asked to give a urine sample to test for pregnancy – the results will be available immediately and treatment will be made available in the form of the “morning after” pill which will prevent her from falling pregnant by the rapist. Emergency c ontraception should be given within 120 hours;

Referrals and information

- Referral to an appropriate counselling service should be given to the survivor, as well as information on follow-up services available;
- Medical certificates for school or work should be provided;
- The survivor should be supplied with information (preferably in writing) containing the date and time of the treatment and the name, address and telephone number of the person who is assisting her through the process, such as the Survivor/Victim Advocate.

(Adapted from 'Department Of Health Uniform National Health Guidelines For Dealing With Survivors Of Rape And Other Sexual Offences', http://www.justice.gov.za/policy/guide_sexoff/sex-guide02.html#1, accessed 1 Jan 2013 and 'Guidelines for the Management of Child Abuse' <http://www.westerncape.gov.za/eng/directories/services/11495/6420>, accessed 1 January 2013)

3. The Department of Justice (and the National Prosecuting Authority) (DoJ & NPA)

DOJ & NPA SERVICES TO ALL SURVIVORS

The presiding officer will

- Ensure that the trial proceedings are conducted in a manner that does not violate the survivor's right to fair treatment and respect for her/his dignity and privacy.

The prosecutor will

- Call the survivor to give evidence as soon as possible, and if there is any delay, will inform him/her as to why there is a delay and how long s/he is likely to wait;
- Give him/her the chance to refresh her/his memory, read their statement and, where necessary, will consult with him/her;
- Among other factors, take her/his interests into account when considering whether or not to prosecute;
- Ask him/her to disclose any information relevant to a decision in connection with the release of the accused on bail; bail is not an automatic right in rape cases. The magistrate should therefore be cautious in his/her considerations, and the prosecutor should be very well informed on the case so as to be able to present a good argument against bail being granted.

- Consult with him/her prior to acceptance of a lesser plea and ask him/her to explain how the crime has affected their family. At this consultation, the survivor will have the chance to disclose details of any loss or harm that s/he has suffered as a result of the crime. The effect that the crime has had on the survivor or her/his family will be disclosed to the court or a report prepared by an expert will be submitted to the court during the sentencing stage;
- At the consultation, ask the survivor to disclose any additional facts that have not yet been included in her/his statement. If relevant, the prosecutor will disclose these facts to the defence prior to trial;
- Inform the survivor under certain circumstances the court may prohibit the publication of any information (including the identity of the complainant or a witness) relating to the trial or any part of it which is held "in camera", i.e. behind closed doors;
- Inform him/her that s/he may, in appropriate cases, request the offender to make fair restitution to him/her, her/his family or dependents.

The court staff will

- Designate, where available, staff and trained volunteers from Victim Support Services to assist the survivor and her/his family at the court before, during and after the trial;
- If possible, allow the survivor to see a courtroom before the case starts to familiarise her/himself with the court facilities, so that s/he knows what to expect when testifying;
- Allow a support person (a relative or friend) to accompany the survivor to court;
- Allow him/her, on request and if facilities are available, to wait separately from the accused or his or her witnesses in the case.
- Ensure that clear signs and directions are provided in the court grounds and will give you directions to the courtroom. Where available the Help/Information/Advice Desk will inform you in which courtroom you will be required to give evidence.
- Assist the survivor upon request to have the necessary documents to notify her/his employer of any proceedings that will necessitate her/his absence from work;
- Inform the survivor if the Director of Public Prosecutions has decided not to prosecute in the case, that s/he may institute a private prosecution and of the procedure to follow in this regard;

- Inform him/her of the outcome of bail proceedings, of any special bail conditions imposed, and explain the implications of such bail conditions;
- Protect him/her from unduly aggressive, harmful and degrading cross-examination;
- Inform him/her of the outcome of the case and advise if there is a chance of an appeal against the conviction or sentence if justified;
- In appropriate cases, inform the survivor that s/he may be present at court on the date of sentencing and that s/he may ask the prosecutor to apply to the court for a compensation or restitution order;
- A member of the court staff will inform him/her that s/he is entitled to be paid travelling and certain other expenses for the time s/he spent at court to give evidence, and will also assist him/her in claiming these expenses;

DOJ & NPA SERVICES SPECIFIC TO SEXUAL ASSAULT CASES

- Cases involving sexual offences will be heard in specialised Sexual Offences (SOCA) courts where such courts are available.
- Survivors should not be exposed to the accused, his family or his friends outside the court room. An office or waiting room must be made available to them to ensure their privacy.
- The prosecutor will take steps, especially in cases of sexual offences and domestic violence, to ensure that wherever possible, the case is handled by only one prosecutor throughout the proceedings (ideally a specialist prosecutor trained in dealing with such cases);
- The prosecutor will inform the survivor of the role, scope and duration of the case as well as other relevant information. If decisions are made about the handling of the case (eg., to withdraw a charge) the victim must be informed about this in a manner which assists them to understand the reasoning.

Witnesses

- All witnesses in sexual offence cases should be assisted without undue delay. Where there is a delay, witnesses must be informed timeously so that a new date and time can be arranged. These cases should be finalised as soon as possible. The prosecutor must make every effort to assist with witness fees and, upon request by the victim/witness, to assist in notifying the employer (or relevant authority) when the prosecution of the crime causes her/his absence from work.

- The prosecutors must try to minimise inconvenience to the victims and witnesses, protect their privacy, or take steps to ensure their safety (and their families) from intimidation or harassment if necessary, e.g. by arranging witness protection.

Proceedings in court

- The prosecutor must oppose any unnecessary delaying tactics or adjournments at the request of the defence. It is advisable for the Victim/Survivor Advocate to note the number of, and reasons for, remands, and lobby the prosecutor on behalf of the survivor if warranted. It is a common strategy of defence attorneys to discourage victims from continuing with their cases.
- The prosecutor must object to unnecessary aggressive and badgering cross-examination of the survivor and/or witnesses; and
- As per Section 227(2) of the Criminal Procedure Act, evidence of the previous sexual experience of the survivor is only to be admitted with the leave of the court if it is satisfied that such questioning is relevant.

Proceedings in camera

- The survivor may choose to give evidence *in camera* (as per section 153 of the Criminal Procedure Act (No 51 of 1977)); and
- If s/he wishes to have a friend or a member of their family in the court to assist them, the prosecutor must argue this aspect so that the complainant can have the necessary support. The support person should not be someone who could become a witness in the trial.

Bail

- All applications for bail under Schedule 5 and 6 should be opposed; this includes cases of sexual assault. If bail is granted, the prosecutor must request special conditions, eg., if the survivor is related to the offender with the survivor, the prosecutor must insist on a condition that the offender resides at some other place. Prosecutors may invoke section 50(6) the Criminal Procedure Act and request a postponement of the bail application; and
- It is vital to inform the victim of the result of any bail application. This is the responsibility of the Investigating Officer, but the Survivor Advocate should make sure it happens.

Sentencing

- Prosecutors should place before the court evidence of the impact (physical,

emotional or financial) the crime has had on the victim – this is called the Victim Impact Statement, and should have been prepared by a Social Worker;

- Should the prosecutor be of the opinion that the sentence imposed is not appropriate, s/he must immediately contact the office of the Attorney-General to consider a possible appeal against the sentence in terms of section 310A of the Criminal Procedure Act.

DOJ & NPA SERVICES SPECIFIC TO DOMESTIC VIOLENCE CASES

- Survivors of domestic violence or harassment, including children or the elderly, may apply to the Magistrate's Court for a protection order to be issued;
- A protection order may order the abuser:
 - Not to commit specified acts of domestic violence against the survivor;
 - Not to ask others to commit acts of abuse on their behalf;
 - Not to enter the house or particular parts of the house;
 - Not to enter, or stop the survivor from entering or leaving, the family home or workplace, even if the abuser is the one who is paying for that home;
 - To provide compensation for the survivor's financial losses as a result of domestic violence;
 - To have no contact or only specified contact with the survivor's children.
- A protection order can also tell the police to:
 - Assist the survivor to find shelter and medical treatment;
 - Provide an escort to fetch her/his belongings, and
 - Take away the abuser's gun or other dangerous weapons. This should always be requested when physical violence has been threatened.
- When a Protection Order is granted, a Warrant of Arrest is issued at the same time, and copies of both are given to the complainant (victim). These must be retained safely in case the Protection Order is ever breached. In such case, the complainant must take both to her/his nearest Police Station or Satellite so that the perpetrator (respondent) can immediately be arrested.

(Adapted from 'Department Of Justice 'National Guidelines For Prosecutors In Sexual Offence Cases'; http://www.justice.gov.za/policy/guide_sexoff/sex-guide04.html#1, accessed 1 Jan 2013, and 'How to respond to rape and other gender-based violence: A guide for survivors and activists' written by Alice Clarfelt and published by the Treatment Action Campaign, 2011.)

4. The Department of Correctional Services (DCS)

DCS SERVICES SPECIFIC TO CASES OF SEXUAL ASSAULT

The conditions in prisons should be such that they enable the victims of sexual assault to report immediately in the prescribed manner. The institution must therefore have clear guidelines to be followed. Once the detainee has reported to the prison official, she/he must be rushed to the Health Centre for medical attention the same as any other victim, and is at liberty to open a case against the culprit.

Parole hearings

- If the survivor has requested to be kept informed of the serving of the sentence by the accused, Correctional Services will inform him/her if the accused has escaped from custody and of any transfer of the accused and the particulars thereof;
- If the offender has been sentenced to imprisonment, the Department of Correctional Services will, on request, inform the survivor when the offender is to be considered for release on parole;
- Efforts should be made to inform the survivor when the offender is eligible for parole. S/he may make a written application to the Chairperson of the Parole Board to attend the parole hearing and the Chairperson will inform her/him of the time, date and venue of the hearing. The survivor should be informed in writing of any changes to hearing dates or postponements, of the outcome of the Parole Board hearing and of all conditions imposed;
- If the survivor asked to be present at a parole hearing, the Chairperson of the Parole Board will, prior to the hearing, inform him/her in a language s/he understands, of the procedures during the hearing and what is expected of him/her;
- At the hearing, s/he will be allowed to give input either verbally at the hearing or in writing. If necessary, provision will be made for an interpreter during the Parole Board hearing;
- If s/he attends the Parole Board hearing and has to give input, s/he may request any person of her/his choice to accompany him/her to the hearing for support;
- Correctional services will, on request, facilitate mediation between the survivor and the accused if and when the need arises;

- Every effort will be made to protect the survivor from being victimised or traumatised again during the hearing;
- On request or if necessary, s/he will be informed during the Parole Board hearing of available support and counselling services;
- A survivor who indicates that he/she wishes to know when the prisoner will be placed on parole or released, must give the investigating officer permission to write her/his name, address and ID number on form SAP 62. It will remain the victim's responsibility to keep the Commissioner, Department of Correctional Services, informed of her/his latest address.

DCS PAROLE IN SEXUAL ASSAULT CASES

- In rape and sexual abuse cases in particular, the Parole Board may include provisions in the accused's parole conditions if it appears to be necessary to prevent him or her from making unwanted contact with the survivor.

(Adapted from 'Department Of Correctional Services National Guidelines Correctional Services', http://www.justice.gov.za/policy/guide_sexoff/sex-guide05.html#1, accessed 1 January 2013)

5. The Department of Social Development (DSD)

Social service providers will

- If the survivor chooses to approach the DSD for assistance, s/he will be interviewed in private, in a language that s/he understands, and the conversation will be treated as confidential;
- Not leave the survivor to deal with the case on her/his own. If s/he has not yet reported the case to the police, the social service provider will help him/her to report the case;
- If necessary, interview him/her and, if obtaining medical evidence is relevant to the case, make arrangements for a medical examination;
- As far as possible, maintain continuity by ensuring that the same social service provider or volunteer works with the survivor from the time of reporting the crime to the finalisation of the case;
- Explain her/his rights and the procedures that are to follow;
- On request, assist him/her to track the case through the system;
- If possible, accompany the survivor to court prior to the trial to familiarise him/her with the courtroom and its surroundings;

- Offer support and counselling or refer him/her to professional counselling and support services;
- Take steps to ensure that s/he or her/his family are not at risk or in danger;
- Provide help in contacting family or friends, and help in communicating with the SA Police Service and the prosecutor; and
- Should the survivor reside in another town or province, then the file must be forwarded to that specific welfare office for follow-up. The office which first handled the case must keep in contact with the other agency to which the file has been forwarded, until the case has been dealt with satisfactorily.

DSD SERVICES IN CASES OF SEXUAL ASSAULT

- In sexual assault cases, where the police may have taken the survivor's clothing as evidence, s/he may ask the social service provider to assist him/her in obtaining alternative clothing;
- The social services provider should accompany the victim to court prior to the trial, to familiarise the victim with the court environment;
- The provider must continue to counsel the victim as appropriate; and
- If requested, the provider will visit the family of the victim to assist them to come to terms with the assault.

(Adapted from 'Department Of Welfare Procedural Guidelines To Social Welfare Agencies And Appropriate NGOs In Assisting Victims Of Rape And Sexual Offences', http://www.justice.gov.za/policy/guide_sexoff/sex-guide03.html#1, accessed 1 January 2013)

SECTION 2

Vulnerable Groups

This section further elaborates on the particular rights of children, the elderly and the disabled in relation to the particular care they should be afforded by service providers and the legislation providing them particular protection.

Children and the Mentally Impaired

All service providers, including survivor advocates, working with children and vulnerable groups should bear the following five points in mind when undertaking their duties:

6. Always prioritise the physical and emotional security of the child, and put their best interests first;
7. Provide comfort and support – empathy not sympathy;
8. Ensure confidentiality as far as possible;
9. Do not discriminate on any grounds; and
10. Involve the child in the decision-making process where these decisions will impact their lives, commensurate with their age and maturity. Children should feel empowered and supported in expressing their views and making decisions, as much as possible so as not to infringe the caregivers' responsibilities or those decisions which service providers are mandated to make by law.

The remaining points will be applicable to different service providers and different situations, and are in addition to the rights pertaining to all survivors as outlined in the **Section 1**.

Mandatory reporting

Please note that all requirements pertaining to children apply equally to mentally impaired people. Also bear in mind that mandatory reporting procedures should be communicated to children and mentally impaired people and their caregivers at the beginning of every service session. Confidentiality should be a priority, but in situations

where a child's health or safety is at risk, limits to confidentiality exist in order to protect the child, and such cases must be reported.

- Section 15 of the Child Care Amendment Act, 1996 (and Section 4 the Prevention of Family Violence Act, 1993) states that any person who cares for or works with children - for example teachers, social workers, and doctors - and who suspects that a child has been abused or neglected, must report this to a social worker or police officer. **Failure to do so is an offence;** however, if the charge is proven to be false, the law also protects the accuser from litigation.
- Section 110(1) and Section 110(2) of the Children's Act, 1995 also states that certain people in positions of authority or responsibility must report any reasonable suspicions of child abuse or neglect to a police official or social worker or child protection organization;
- Section 54 of the Sexual Offences Act, 2007 also imposes an obligation on anyone with knowledge of any sexual crimes committed against a child or mentally disabled person to report this to the police. **Failure to do so is an offence;**
- Children under the age of 12 and mentally disabled individuals (in terms of the Sexual Offences Act, 2007) cannot give consent to involvement in any sexual act, thus any sexual act involving them is automatically a crime.
- Sex between an adult and a minor below the age of 16 is a crime (statutory rape) regardless of consent.
- Consensual sex between minors aged 12 to 16 was a crime for which both parties could be charged. However, the High Court has repealed this clause, which is now awaiting confirmation by the Constitutional Court.

At the scene of a crime

- SAPS members must ensure that the safety of the child is secured by either arresting the perpetrator or placing the child in a place of safety;

At the police station

- The child may be accompanied by parents or guardians throughout the process at the police station; however, if the guardian is the alleged offender, an alternative guardian must be recommended by the Social Worker.
- An accountable adult person should accompany mentally handicapped survivors and be present when the statement is taken.

- Reporting to police should not be a prerequisite for obtaining medical care. **However**, as child abuse is a criminal offence, the medical practitioners and service providers attending to the child are obliged by law to report the matter to the SAPS and/or the DSD.

Medical examinations

- The health and welfare of the child (such as the treatment of any injuries, assessment and management of pregnancy, HIV and other sexually transmitted infections, etc) should always take precedence over collection of evidence. The welfare of the child includes ensuring that the child is able to maintain their dignity after the assault, rather than feeling coerced or further traumatised³;
- If the alleged suspect is the parent or guardian of the child, permission for the examination should be obtained from the other parent or guardian. If both are allegedly involved, permission must be obtained from the Children’s Court magistrate, as explained above. However, if the parent or guardian cannot be reached, then the hospital superintendent or clinical manager may grant permission for the medical examination and the HIV test;
- In the case of survivors with mental incapacity, their next of kin, guardian, medical superintendent or Magistrate can consent on their behalf. However, if the guardian is the alleged abuser, or refuses to give consent, the hospital superintendent or clinical manager can and should grant permission.

STI/HIV management

- In the case of suspected child abuse, as the child may have been exposed to sexually transmitted infections (STI’s) and HIV/AIDS, parents or caregivers should be counselled about the potential risk of the child having been infected with HIV and the caregiver will be asked for her/his consent for an HIV test to be done on the child;
- If the child is brought to the health facility within 72 hours of being sexually abused, and if s/he has tested negative for HIV, then PEP will be prescribed. The protocol for prescribing PEP differs between health facilities, depending on the turn-around time for obtaining the HIV results. If the results cannot be obtained within a few hours, a 3 day or one-week supply of PEP will be given to the child, after which a follow-up visit is required to obtain any test results, before being given the remaining supply if indicated;

³World Health Organization. 2003,“Guidelines for medico-legal care for victims of sexual violence.” (Geneva: World Health Organization) (Last accessed 1 January 2013)

- Treatment for STIs is usually only given when test results show that the child has an infection;
- As with adults, children who are HIV positive should not get PEP, but be counselled and referred to an appropriate health facility for long-term management of their HIV status;
- Teenage girls who have started menstruating and who have been raped should get a pregnancy test to exclude existing pregnancy prior to the rape. If they come to the health facility within 72 hours of being raped they will be counselled and offered emergency contraception.

Testifying in court

- The prosecutor should generally apply to the court for permission to make use of the closed circuit camera (CCTV) system to protect the child from direct confrontation. The decision is, however, one for the child to make, but the prosecutor first ensure that the child is well informed of what could happen in court if s/he has to directly confront the Defence Attorney.
- If a CCTV link is to be used during the court proceedings, the prosecutor will explain how the equipment works or where possible allow the child and her/his parents or guardian to see a demonstration of the equipment before the trial;
- In terms of section 170A of the Criminal Procedure Act evidence through intermediaries may be accepted for children under 18 years;
- If testifying at the trial would cause the child undue mental stress, the prosecutor may apply to the court to appoint an intermediary to enable the child to give evidence;
- The presiding officer may, if an intermediary has been appointed, direct that the child give evidence at any place which is informally arranged so as to put her/him at ease;
- Cases involving vulnerable victims must be expedited as far as possible. The NPA stipulate 9 months as being the maximum turn-around period acceptable;
- In terms of section 154(3) of the Criminal Procedure Act, no information which may reveal the identity of a witness who is under 18 years of age, may be published. Where a witness does not fall within the ambit of that subsection, the prosecutor ought to request the court to issue an appropriate direction in terms of section 154(1) of the Act where the provisions of that subsection are applicable;

- For persons with disabilities, provision will be made for interpreters, and information will be made accessible to them, as well as any other support necessary.

Department of Social Development

- Depending on the circumstances, a Social Worker should interview the child first, then the parents in turn. However, it may not be necessary to interview the child if s/he has already been debriefed/counselled by another professional, as care must be taken not to re-traumatise the child by requiring her to relate her/his ordeal to different people;
- Note that in terms of DSD protocols, a Social Worker is required to visit the victim within 48 hours of the matter being reported to them.
- A family member not involved directly or indirectly in the abuse, or alternatively an accountable adult, should accompany the child;
- Should the perpetrator be the father and the mother is likely to protect the child, or vice versa, assist the non-abusing parent to protect the child from further abuse;
- Ensure that other children in the home are not at risk;
- Where possible, work with the parents and re-establish the parent-child relationship;
- Under all circumstances the best interests of the child should be served. Removal and placement of a child should be a last resort if there is no other way to protect the child.

2. The Elderly

TYPES OF ABUSE

In terms of Section 30 of the Older Persons Act 2006, the following amounts to abuse:

- Any conduct or lack of appropriate action, occurring within any relationship where there is an expectation of trust, which causes harm or distress or is likely to cause harm or distress to an older person constitutes abuse of an older person, and includes physical, sexual, psychological and economic abuse:
 - “Physical abuse” means any act or threat of physical violence towards an older person;
 - “Sexual abuse” means any conduct that violates the sexual integrity of an older person;

- “Psychological abuse” means any pattern of degrading or humiliating conduct towards an older person, including:
 - (i) repeated insults, ridicule or name calling;
 - (ii) repeated threats to cause emotional pain; and
 - (iii) repeated invasion of an older person’s privacy, liberty, integrity or security;
- “Economic abuse” means the deprivation of economic and financial resources to which an older person is entitled under any law; the unreasonable deprivation of economic and financial resources which the older person requires out of necessity; or the disposal of household effects or other property that belongs to the older person without the older person’s consent. A common type of economic abuse of the elderly is when the family withholds the pension and uses it to their own advantage instead of ensuring that the elderly person’s needs are being met.

MANDATORY REPORTING

- Section 26 of the Older Persons Act 2006 imposes a responsibility on any person to report any suspected abuse of an older person (over 60 years old) to the police or a social worker. Failure to do so is an offence. However, if the charge is proven to be false, the accuser is protected against litigation by law;
- Any police officer who receives a report of such abuse or who is satisfied that it would be in the best interest of the older person to have the alleged offender removed from the home, must issue a written notice to the offender, demanding that s/he leave the home where the elder person resides, and demanding they appear before the magistrates court to put forward reasons why s/he should not be permanently prohibited from entering the home;
- In response to an application, a magistrate may issue an order prohibiting the alleged offender from entering the home or visiting the elder person. Depending on the seriousness of the case, the Survivor Advocate should ensure that this is expedited.
- Under Section 28 of the Older Persons Act 2006, a social worker or health care provider may also make a written statement under oath regarding any case of alleged abuse of an older person, following which the public prosecutor may request the court to issue summons on the alleged abuser to appear before the magistrates court;
- A magistrate may also issue a warrant authorising the social worker or health care practitioner to be accompanied by a police officer to investigate the reported abuse, if they are concerned for their safety.

SECTION 3

Responsibilities and Accountability

In a democracy, all Rights carry Responsibilities, both for the State *and* for every citizen of our Country.

The rights bestowed upon citizens in general, or survivors of crime in particular, necessitate certain responsibilities being placed upon individuals or groups to deliver on those rights in order for them to be realised, whether it be through systems or services or standards of care. This manual looks particularly at the responsibilities placed on organs of State – that is, groups performing the functions of government, including parastatals – to deliver essential services in order to uphold survivors' rights. We call these groups 'service providers'. However, it remains the responsibility of every citizen to hold those service providers accountable to the Constitution, and their respective departmental mandates, so as to ensure delivery at an acceptable standard.

While there are many ways to hold service providers accountable to their responsibilities, this section focuses on formal complaints mechanisms, whether internally through the responsible government Department, externally through oversight bodies, or by redress through the courts. Where complaints mechanisms fail, it is important to continue to advocate with and on behalf of survivors for the realisation of their rights. Please refer to **Section 4: Advocacy** for more information on how to do this.

While there is no single comprehensive piece of legislation that enshrines all the rights of and responsibilities towards all survivors of crime in South Africa, there are several laws that provide rights to survivors under different categories of crime and others that mandate the commensurate responsibilities of service providers to deliver these.

The highest law in South Africa is the Constitution, which bestows rights on every individual within its borders. In relation to survivors of crime, the Constitution enshrines the following five important rights:

- The right not to be unfairly discriminated against (Section 9)
- The right to be treated with dignity (Section 10)
- The right to privacy (Section 14)
- The right to information on matters that concern us (Section 32)
- The right to fair treatment by government (Section 33)

These rights are realised through the following pieces of legislation:

- The Promotion of Administrative Justice Act (PAJA)
- The Promotion of Access to Information Act (PAIA)
- The Promotion of Equality and Prevention of Discrimination Act (PEPUDA)

Accountability mechanisms for these Acts and the rights they enshrine are contained within the legislations and are laid out in **Part A**.

The Constitution also gives the following rights:

- The right to freedom and security, and to control over our own body, including decisions on reproduction (Section 12)
- The right not to be refused emergency medical treatment and the right to have access to health care services and social assistance (Section 27)
- The right to have access to courts (Section 34)
- Children have special rights, including the right to basic nutrition, shelter, basic health care and social services; the right not to be abused; and the right to have their best interests put first (Section 28)

These remaining rights are realised primarily through the following pieces of legislation, which are applicable to different types of persons or for different types of crime:

- The Domestic Violence Act No. 116 of 1998
- The Witness Protection Act No. 112 of 1998
- The Probation Services Act No. 116 of 1991 and Amendment No. 35 of 2002
- The Judicial Matters Second Amendment Act No. 55 of 2003
- The Children's Act no. 38 of 2005 and the Children's Amendment Act No. 41 of 2005
- The Child Justice Act No. 75 of 2008
- The Child Care Act No. 74 of 1983 and Childcare Amendment Act No. 96 of 1996
- Criminal Law (Sexual Offences and Related Matters) Amendment Act No. 32 of 2007
- Maintenance Act No. 99 of 1998
- Older Persons Act No.13 of 2006

For these remaining Acts, accountability mechanisms are specific to the following five service providers that provide the relevant essential services, namely:

11. **The Department of Police** (The South African Police Service (SAPS))
12. **The Department of Health** (doctors and nurses who provide medico-legal examination in cases of injuries)
13. **The Department of Justice and Constitutional Development** (the courts) including the The National Prosecuting Authority (prosecutors)
14. **The Department of Correctional Services** (correctional centres and remand detention facilities)
15. **The Department of Social Development** (social workers who provide counselling and referrals to places for counselling or shelters)

The responsibilities of these service providers and the commensurate accountability mechanisms are laid out in **Part B**.

PART A: Legislated Accountability

Accountability within the first three of these pieces of legislation works as follows:

1. THE PROMOTION OF ADMINISTRATIVE JUSTICE ACT (PAJA)

This legislation protects individuals from administrative action which is procedurally unfair and which materially and adversely affects their rights or legitimate expectations. Administrative action includes any decision taken, or any failure to take a decision, by a person or organ of state, when exercising a public power or performing a public function.

RIGHTS	REALISATION OF RIGHTS
<p>Individuals can expect:</p> <ul style="list-style-type: none"> • Adequate notice of the nature and purpose of the proposed administrative action (decision); • A reasonable opportunity to make representations; • A clear statement of the administrative action (reasons, in writing, for the decision); • Adequate notice of any right of review or internal appeal; • Adequate notice of the right to request reasons for the administrative action (decision) <p>In addition, individuals may be allowed to:</p> <ul style="list-style-type: none"> • Obtain assistance or legal representation; • Present and dispute information and arguments; <p>and</p> <ul style="list-style-type: none"> • Appear in person. 	<p>Any person whose rights have been affected by administrative action and who has not been given reasons for this may request furnished written reasons from the <i>Administrator</i> within 90 days of becoming aware of the action. The Administrator has 90 days to respond. You must then pursue any internal remedies stipulated for that institution. These are often detailed in their PAIA Manual (please see below on PAIA.)</p> <p>Following this, you can institute proceedings in a court or a tribunal for the judicial review of the administrative action, within 180 days of completing any internal remedies.</p> <p>Failing this, write to the <i>Minister of Justice</i>. (The Act makes allowance for the establishment of an <i>Advisory Council</i> to monitor the implementation of this act, not established at the time of going to print.)</p>

For more information on PAJA, refer to <http://www.justice.gov.za/paja/docs.htm> and http://www.justice.gov.za/paja/docs/unit/PAJA_Code_draft_v2_2006.pdf.

2. THE PROMOTION OF ACCESS TO INFORMATION ACT (PAIA)

This legislation is a freedom of information law, allowing access to any information held by the State and private bodies, regarding an individual, that is required for the exercise and protection of any rights.

RIGHTS	REALISATION OF RIGHTS
<p>Individuals can expect:</p> <ul style="list-style-type: none"> • Organs of state, excluding courts, to make available any information that they have on them; and • Private companies to make information available, if it will help the individual to exercise one of their Constitutional rights. 	<p>Some records are automatically available, whilst others need to be applied for. These records should all be listed in the public or private body's PAIA Manuals, available at their offices and with the South African Human Rights Commission. <i>(Note: the deadline for private bodies to compile these Manuals is 31 Dec 2015, so not all of them may be available now.)</i> Submit Form A (for records of a public body) or Form C (for record of private body) to the <i>Information Officer</i> at the public/private body (named in their Manual). <i>(Note: Fees may apply for accessing information.)</i> If this request is not complied with, report to the <i>South African Human Rights Commission (SAHRC)</i>.</p>

For more information on PAIA, refer to <http://www.info.gov.za/view/DownloadFileAction?id=68186> and <http://www.sahrc.org.za/home/index.php?ipkContentID=28&ipkMenuID=48>.

Access the PAIA application forms here: http://www.justice.gov.za/forms/form_paia.htm.

3. THE PROMOTION OF EQUALITY AND PREVENTION OF UNFAIR DISCRIMINATION ACT (PEPUDA)

This legislation prohibits unfair discrimination and harassment. It establishes Equality Courts, which are free to access and for which you do not need legal representation.

RIGHTS	REALISATION OF RIGHTS
<p>This Act makes it unconstitutional for any public or private body, or individual, to unfairly discriminate against anyone on the grounds of race, ethnicity, gender, religion, disability, pregnancy, sexual orientation, marital status, age, conscience, belief, culture, language and birth.</p> <p>PEPUDA also makes special consideration for systemic disadvantage and discrimination on the grounds of HIV/AIDS status, socio-economic status, nationality, family responsibility and family status.</p>	<p>Go to your nearest Magistrates' Court (which serve as equality courts) and speak to the Equality Court Clerk, who will assist you in completing the required forms. You will need the name, and preferably the address, of the person you are laying a complaint against. If you cannot get help on an equality matter at your Magistrates' Court then you should phone the <i>Equality Co-ordinator</i> for your province.</p> <p>In the event of discrimination in the work place, you may report the incident to your labour union or the <i>Department of Labour</i>. Failing this, report your case to <i>South African Human Rights Commission (SAHRC)</i>.</p>

A survivor can also institute a claim against the perpetrator in the Equality Court for the violation of her/his rights. In instituting such a claim, the survivor must be able to prove that the offence amounted to unfair discrimination on the basis of gender, sex, sexual orientation, or on another ground covered in the Equality Act 4 of 2000. Accordingly, this sort of claim is not suitable in all cases of rape.

For more information on **PEPUDA** and the procedure at the Equality Court, see http://www.justice.gov.za/EQCact/eqc_main.html and <http://www.justice.gov.za/EQCact/docs/2011eqc-a5-booklet.pdf>.

PART B: Service Provider Accountability

Remember that all organs of the state need to adhere to the human rights enshrined in the Constitution and the related legislation outlined in **Part A**. In addition, you can pursue complaints and accountability through the individual service providers themselves. However, it is imperative at all times to keep a record of all action taken, including phone calls, and copies of all correspondence, as this will facilitate successful action. It is also advisable to follow the “chain of command”, as by going straight to

the top you are likely to be referred back to the first person to whom you should have directed your complaint.

1. THE DEPARTMENT OF POLICE (SAPS)

Complaints procedure

- You can file a complaint about a **police officer**, a police service **policy, practice** or **procedure** by speaking directly to or writing to the *Station Commissioner* of the police station concerned;
- If your complaint is about your **property** having been lost or damaged while in police possession, you may be entitled to compensation. Again, address any enquiries to the *Station Commissioner*;
- You can also approach the *Area Commissioner* of the police station concerned with details of your claim or complaint;
- If your complaint still has not been addressed to your satisfaction, you can lodge a Form 2 formal complaint with the *Independent Police Investigative Directorate* (IPID);
- If the complaint is still not addressed to your satisfaction, you can approach the *Office of the Public Protector*;
- Following this, complain directly to the *Minister of Police*, who oversees the IPID and SAPS.

Further information

The **IPID** has a mandate to independently and impartially investigate the following criminal acts when committed by the South African Police Service (SAPS) or Municipal Police Service (MPS):

- Any deaths in police custody or deaths as a result of police action;
- Any complaint relating to the discharge of an official firearm by a police officer;
- Rape by a police officer, whether while on duty or off duty;
- Rape of any person while that person is in police custody;
- Any complaint of torture or assault by a police officer in the execution of her/his duties; and
- Corruption within the police.

2. THE DEPARTMENT OF HEALTH

Complaints procedure

- If you are not satisfied with the service rendered by a **health care worker** in the public health sector, you should first complain to the person who attended to you. However, if your complaint is not resolved to your satisfaction, you should refer your complaint immediately to the head or *Clinical Manager* of the public health facility where you have been examined or treated.
- If you receive no response or are dissatisfied with the way in which your complaint has been attended to by the head or Clinical Manager of the public health facility, you should refer your complaint to the relevant *Provincial Health Department*.
- Following this, if your complaint is against a **doctor**, you should lay a complaint with the *Health Professions Council of Southern Africa (HPCSA)*. If your complaint is about a **nurse**, you should lay a complaint with the *South African Nursing Council (SANC)*.
- If your complaint is regarding the **health facility** itself, lay a complaint first with the head or Clinical Manager of the health facility. Following this, if your complaint is regarding a **public health facility**, refer it to the relevant *Provincial Health Department*, or if it is about a **private health facility**, it should be reported to the *Hospital Association of South Africa*.
- If you are not satisfied with the response from any of these routes, write a complaint to the *Minister of Health*.

Further information

The *HPCSA's* mandate, under the Health Professions Act 56 of 1974, is to regulate the registration, education and training, professional conduct and ethical behaviour of health practitioners. They must investigate and respond fully to complaints of any violation of one's right to health or ethical standards of service delivery within the healthcare profession, including:

- Unauthorised advertising.
- Incompetence in treating patients.
- Over-servicing patients.
- Charging excessive fees.
- Criminal convictions.
- Insufficient care towards patients.
- Improper relationships.

- Racial discrimination.
- Improper conduct.
- Rude behaviour towards patients.
- Performing surgical procedures without the patient's informed consent.
- Prescription of specific medicine to maintain the dependency of a patient.
- Disclosing information regarding the patient without her/his permission.

The *SANC's* mandate, under the Nursing Act 2005, is the monitoring of nursing standards by:

- Registering nurse practitioners, therefore permitting them to practice as nurses;
- Accrediting new nursing education institutions and nursing education programmes;
- Inspecting nursing education institutions and clinical facilities;
- Constantly reviewing nursing education and training to be in line with the needs of the Republic of South Africa;
- Providing counselling and guidance to the nursing profession regarding the implementation of the nursing education and training policies; and
- Promoting the health standards of the inhabitants of the Republic of South Africa.

The *Hospital Association of South Africa* has a responsibility to investigate complaints and mediate patient or member disputes. They require individuals to have followed the following complaints procedure before approaching them:

- First to lodge your grievance with the hospital, preferably at the time of the incident, to either the sister in charge of the ward if the complaint is related to nursing care, or the ward secretary if it is about food or furnishings.
- Following this, ask to speak to the Head of Customer Relations or Public Relations Officer. Clearly outline your complaint (best in writing) and state what action you expect the hospital to take. Following this, speak with the Hospital Manager if you're still unhappy with your complaint.
- Only following this procedure can the Hospital Association of South Africa assist.

3. THE DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

Complaints procedure

Prosecutors:

- The court where the case has been dealt with can solve most complaints. If you have a complaint, you can write to or make an appointment with the *Senior Public Prosecutor* at the court that dealt with the case.
- However, if the local Prosecutor's Office does not respond to your complaint to your satisfaction, you may complain to the *Chief Prosecutor* in the area.
- If your complaint still has not been addressed satisfactorily, you can approach the *Deputy Director of Public Prosecutions* at the prosecution authority closest to where you are located, or write them a formal complaint letter, followed by a letter to the *National Director of Public Prosecutions*.
- If your complaint still has not been addressed to your satisfaction, you can approach the *Office of the Public Protector*.

The Courts:

- If your complaint concerns the conduct of a presiding officer, you can write to or make an appointment to see the *Judicial Head* of the Court wherein the magistrate concerned presides. If you are dissatisfied with the response from the District Head, you may write to or make an appointment with the *Judicial Cluster Head of the particular region*.
- If your complaint concerns a regional court, you can write to or make an appointment to see the *Regional Court President* of the area concerned. You can obtain the address and telephone particulars from the local magistrate's court.
- If your complaint concerns a high court judge, you can write to or make an appointment with the *Judge President* of the Division concerned. You can obtain the address and telephone particulars from your local magistrate's court or high court.
- If you are not satisfied with the response, you can write to the *Magistrates Commission* if your complaint concerns a magistrate's court, or the *Judicial Service Commission* if the complaint concerns a high court.
- If the complaint still has not been addressed to your satisfaction, you can approach the *Office of the Public Protector*.
- If your complaint concerns court personnel, for example clerks or interpreters,

you can write to or make an appointment to see the *court manager*. If you are dissatisfied with the response of the court manager, you can write to the *Deputy Director-General of Court Services, the Minister or Director-General: Department of Justice and Constitutional Development*.

Further information

The *Office of the National Director of Public Prosecutions* has the power to:

- Institute and conduct criminal proceedings on behalf of the State.
- Carry out any necessary functions incidental to instituting and conducting such criminal proceedings (this includes investigation).
- Discontinue criminal proceedings.

The *Office of the Public Protector* is mandated to strengthen constitutional democracy by:

- Investigating and redressing improper and prejudicial conduct, maladministration and abuse of power in state affairs;
- Resolving administrative disputes or rectifying any act or omission in administrative conduct through mediation, conciliation or negotiation;
- Advising on appropriate remedies or employing any other expedient means;
- Reporting and recommending, advising and investigating violations of the Executive Members Ethics Act of 1994;
- Resolving disputes relating to the operation of the Promotion of Access to Information Act of 2000 (and other duties mandated by law).

Please note that this Office can only be approached with complaints relating to administrative action. The Office of the Public Protector may not, by law, investigate decisions of the court.

The *Magistrates Commission*, under the Magistrates Act 1993, is mandated amongst other things to carry out investigations and make recommendations to the Minister regarding the suspension and removal from office of magistrates.

4. THE DEPARTMENT OF CORRECTIONAL SERVICES

Complaints procedure

- If your complaint concerns a correctional services official, you can put it in writing to the *National Commissioner of Correctional Services* or the

Inspecting Judge. On receiving your written complaint, the Commissioner will delegate it to the relevant office for attention.

- Following this, if you do not receive a satisfactory response, write to the *Minister of Justice.*

5. THE DEPARTMENT OF SOCIAL DEVELOPMENT

Complaints procedure

- If your complaint concerns an officer of the Department of Social Development, you can write to the *head of the office concerned.* If you are not satisfied with the response, you can contact the *Head of the Regional or Provincial Office,* as well as the *National Office.*
- If you are still not satisfied with the response you have received from a government official, you can also contact the *Council for Social Service Professions* or the *Office of the Public Protector.*
- Finally, write directly to the *Minister of Social Development* if you are still dissatisfied.

Further information

The *Council for Social Service Professions* is responsible for maintaining the education, training and practice standards of social service professionals, ensuring (amongst others):

- The promotion and maintenance of a high standard of professional ethics;
- The promotion of efficient, economic and effective use of resources;
- Providing services impartially, fairly, equitable and without bias;
- Responding to people's needs and by encouraging participation in its policy making;
- Being accountable; and
- Fostering transparency by providing the public with timely, accessible and accurate information.

(Information for this section is based on the Department of Justice and Constitutional Development's Gender Directorate, "Minimum Standards On Services For Victims Of Crime" pg. 18 - 20)

PART C: Alternative Accountability

In addition to accountability pursued through the criminal justice system, survivors can also consider the following:

CIVIL LITIGATION AGAINST THE PERPETRATOR

Besides using the criminal justice system, survivors can also pursue a civil claim for damages against the abuser, providing the abuser has the money to compensate the survivor. Compensation can be claimed for:

- Monetary losses (including hospital and medical expenses, loss of income or earnings, future hospital and medical expenses); and
- Pain and suffering (including psychological trauma and stress).

CIVIL LITIGATION AGAINST THE STATE

As well as laying a formal complaint against the state or service providers, you can sue them for damages for their failure to uphold and protect your rights. This is called state liability.

LEGAL SUPPORT

For all civil litigation, survivors should seek out legal advice from Legal Aid Boards or public interest and non-profit organisations.

There is a Legal Aid Board in most towns. If there isn't a Legal Aid Board in your town, go to your nearest magistrate's court and ask to see the Legal Aid Officer. He or she will help you fill out the correct forms.

Most cities have advice offices staffed by paralegals. Although they are not lawyers, paralegals know a lot about the law. They can give advice and help you with letters or forms.

REDRESS THROUGH CHAPTER 9 INSTITUTIONS

If survivors remain unsatisfied by the results of the formal complaints mechanisms mentioned above, they may still have recourse to the following organisations:

The Office of the Public Protector

The Public Protector is mandated to strengthen constitutional democracy by:

- Investigating and redressing improper and prejudicial conduct, maladministration and abuse of power in state affairs;

- Resolving administrative disputes or rectifying any act or omission in administrative conduct through mediation, conciliation or negotiation;
- Advising on appropriate remedies or employing any other expedient means;
- Reporting and recommending, advising and investigating violations of the Executive Members Ethics Act of 1994;
- Resolving disputes relating to the operation of the Promotion of Access to Information Act of 2000 (and other duties mandated by law).

Contact details are provided in Section 6.

The South African Human Rights Commission

The SAHRC is mandated to:

- Promote respect for human rights and a culture of human rights;
- Promote the protection, development and attainment of human rights; and
- Monitor and assess the observance of human rights in the Republic.

In doing so, it may:

- Conduct or cause to be conducted any investigation into any alleged violation of a fundamental right or threat to a fundamental right and report on this;
- Take steps and secure appropriate redress where human rights have been violated;
- Carry out research; and
- Educate.

Their Legal Services Programme provides legal advice and assistance and seeks appropriate redress through litigation, including in the Equality Courts.

The Commission on Gender Equality (CGE)

The CGE's functions include:

- Monitoring and evaluating the policies and practices of government, the private sector and other organisations to ensure that they promote and protect gender equality;
- Public education and information
- Reviewing existing and upcoming legislation from a gender perspective
- Investigating inequality;

- Commissioning research and making recommendations to parliament or other authorities;
- Investigating complaints on any gender related issue; and
- Monitoring/ reporting on compliance with international conventions.

proof 1

SECTION 4

Advocacy

Responding to SGBV

HOW CAN I RESPOND TO SGBV AS A SURVIVOR ADVOCATE?

There is a big need for community activism around SGBV to make our health, police and court systems work for survivors. It is time for us to stand up and say, 'No' to violence against women and children, 'No' to bad services delivery, and to challenge the attitudes that make this violence and disrespect acceptable in our communities.

In this Section we:

- Provide some basic information about community mobilisation around SGBV, which includes advocating for better services in response to SGBV at district, provincial and national level; and
- Look at how you can educate and mobilise your community about their rights, and then start to organise public forms of advocacy such as campaigns and protest marches.

Remember, we are challenging attitudes that allow abuse of human rights to be tolerated. These exist in our local service provision system, but also in our communities.

ADVOCATE FOR BETTER SERVICES FOR SGBV SURVIVORS

Survivors of SGBV may seek help from the police, health and counselling services and the courts. Ensuring that survivors receive good quality services from these institutions is important, because they help remedy the injustice of the offence, as well as support survivors to carry on with their lives, without being overwhelmed or permanently damaged by what has been done to them.

Unfortunately, many of these services leave much to be desired. Although most police officers and officials of the criminal justice system are dedicated professionals, there are still many who repeatedly fail victims of violence and bring their professions into

disrepute. There are also gaps in the health service provision to survivors, whereby survivors may encounter a lack of privacy, feel unsafe and re-traumatised in a health facility. As a community activist, you can advocate for improving access to services for survivors of GBV. Always remember that a lack of facilities is never an excuse for poor service delivery; it is *people* who provide services, not *buildings*. So even in the absence of a one-stop trauma centre, the Survivor Advocate can ensure that victims receive the range and quality of care to which they are entitled.

Here we will re-visit legal and human rights around SGBV, and consider different forms of advocacy you can use to access these rights.

Building a campaign

A campaign is an effort, usually by a group of individuals united by a common purpose, to bring about a desired change. In this section, we consider practical steps for building campaigns in your own communities against the high rates of GBV or the inadequacies of the health and criminal justice systems in responding to GBV.

If you are a community activist thinking of building a campaign in your community, there are a few key issues you should consider before you get started.

WHAT EXACTLY IS THE PROBLEM?

Successful campaigns are informed by evidence, and based on compassionate understanding of community issues. Critical questions community activists should ask in research are: 'Who are most affected?' and, 'How are they affected most?'

WHAT EXACTLY DO WE WANT?

The long-term and short-term demands of the campaign must be clearly understood and easy to explain. For example, some long-term demands might be:

WHO ARE THE PEOPLE AND INSTITUTIONS THAT HAVE THE FORMAL CAPACITY AND AUTHORITY TO DELIVER WHAT WE WANT? WHO MUST HEAR OUR MESSAGE?

For instance, the South African Police Services, the National Prosecution Authority and the Department of Health are responsible for providing services and care to survivors of SGBV.

At a national level you can direct your message at the Minister of Health, the Minister of Police or the Minister of Justice. At a provincial level you can direct your message at your provincial MEC for Health and MEC for Community Safety (sometimes called the MEC for Safety and Security).

You can also direct your message to your local elected and traditional leaders, calling on them to join the campaign or take action to remedy the problems you have identified.

WHAT DO THEY NEED TO HEAR?

You need to build structured, persuasive messages to meet your audiences. Campaign demands can remain the same but the message and the way you communicate it can be adapted for different audiences – that is, government or communities. A campaign message should appeal to the interests of those hearing the message. It should also appeal to a sense of what is moral and right. This way, campaign demands become relevant to those who hear them.

A campaign message could be ‘Maximum sentence for sex offenders’, ‘A strong man never abuses a woman’ or ‘Demand better services for survivors’ – these campaign slogans or messages should grow organically from your community meetings and workshops.

WHO DO THEY NEED TO HEAR THE MESSAGE FROM?

A message can have a very different impact depending on who communicates it. This is one reason why alliances with diverse individuals and organisations are important. Who are the most credible and influential messengers for different audiences? What must be done to prepare these messengers to deliver the message?

In the case of SGBV, survivors are well-situated to communicate powerful messages. Friends and families of survivors are also in a good position. Service delivery providers can also campaign for changes, appealing to those higher up in government. Think about your position in the community or the service provision system, and how you can use it for optimum effect.

HOW CAN WE GET THEM TO HEAR THE MESSAGE?

Organising people to create public pressure is an important part of the democratic process. When planning your campaign, think about the best ways to communicate your message and put pressure on government for change. Some successful strategies used in advocacy have included: education, pickets, demonstrations, lobbying, petitions and legal action.

Remember, for a successful campaign, you must:

- develop a plan of action for proposed activities and clearly define roles and responsibilities for carrying out activities
- develop budgets and time frames for campaign activities
- carry out ongoing monitoring and evaluation to assess the impact of your

campaign, whether you are meeting targets and how your campaign can be strengthened.

- Aim activities at decision-makers to achieve policy change. Activities aimed at decision-makers can include anything, from writing letters to government to mass demonstrations.

1. Lobbying government

Start by identifying your target or targets. Your target may be the official that is overseeing a department or facility that is failing to provide adequate care or services for GBV. Alternatively, it may be someone who has the influence to bring about the change that you are campaigning for.

Take the time to think about the best way to access these individuals and demand the change that you are lobbying for. Also think about what actions will be most powerful in lobbying support or demanding action by your target.

Some ideas of ways to lobby your identified targets:

- Send them letters explaining what the problem is and what you are lobbying for. You may want to set a date by which they must respond, warning that you may take public action, such as a picket or a sit-in, if they do not respond.
- Request a face-to-face meeting to explain the problem and what you are campaigning for.
- If you are running a project to combat SGBV, then invite your targets to visit the project. This will give them the opportunity to see the problem first-hand which may give them a sense of ownership in responding to the issue. Invite them to work together with you in responding to the issue.
- If your attempts to communicate with the target are all ignored, then carry out a sit-in by organising a group of people to sit outside her/his office until (s) he agrees to meet with you.
- Participate in public imbizos and consultations organised by government and community groups and use this space to discuss issues of SGBV.
- Brainstorm amongst yourselves to think of new and different ways to attract attention.
- Keep a record of all of your interactions with government, and any commitments that are made, verbal or written. This will be useful to you later on in the campaign.
- Avoid doing anything illegal, and never resort to violence as this will undermine your integrity and harm the campaign.

2. Pickets and marches

A picket is a non-violent, public gathering at a set venue and a march is a non-violent, public gathering along a planned route. When organising a picket or a march, remember to inform and prepare communities. You will need to obtain police permission and a permit to carry out the picket or march (S38 Gatherings Act).

A picket or march often concludes with handing over a memorandum that lays out your campaign demands to a targeted recipient (often a public official). Prior to the demonstration you will need to inform the people that you are protesting against that a memorandum will be delivered - retain proof that you have informed them. Additionally, you must ask the recipient to sign the memorandum and you must retain a copy of the signed memorandum as proof that it has been handed over.

You will need to assign marshals for the event to ensure that protesters remain non-violent and in the designated area. You may need to assist in organising transport and food, and should always have a first aid kit available. Additionally, you may need to organise toilets for protesters.

Prepare material for participants, passers-by and media as well as ensure that you prepare for the sound needs – such as speakers or loudspeakers to ensure that your messages and speeches can be heard.

Lastly, make sure that all participants in the protest action are united in their demands; if they are interviewed by the media, and cannot explain the purpose of the action, your efforts will be undermined.

3. Door-to-door campaigns

A door-to-door campaign is when activists take their message from home to home in a community. This kind of campaign gives activists the chance to explain the issues behind the campaign in person to community members. Remember that you will have also have identified and developed your campaign aims and objectives through your community forums and through participatory ways of identifying challenges and ways to address these.

Before setting out on a door-to-door campaign, you should be familiar with the area activists are working in and a route should be planned in advance. Additionally, for safety, door-to-door campaigns should always be carried out by at least two people.

Before you set out, know the facts about the campaign issues and prepare information packages for the community, explaining what the campaign is about. Listen attentively to community members and write down feedback, stories and other information.

During the door-to-door campaign you can recruit others to join your campaign and inform them of how they can become involved. Additionally, you should follow up on

any serious situations discovered during the door-to-door campaign with additional visits and support, or by referral to relevant available resources.

4. Petitions

An important aspect of working to achieve change is being able to show that a lot of people agree with you. Gathering signatures on a petition about your issue is a great way to educate and activate people. Petitions help to build a movement and provide an easy way for people to participate in your campaign.

A petition can be designed to build an activist movement for an issue, such as victim-friendly services at police stations and health facilities, or increased convictions of perpetrators of GBV. A petition usually includes a position statement on the issue, followed by space for signatures and contact information. When people sign the petition, they are agreeing to the positions spelled out in the petition.

5. Legal action

Activism takes place within the framework of the law and the Constitution of South Africa. It is important for all activists to have basic 'legal literacy'. This understanding will help us collect evidence for our own campaigns. Legal action is usually viewed as a last resort in a campaign, after other forms of advocacy have been attempted and exhausted.

CAMPAIGN MESSAGING

You will need to develop messaging for your campaign to explain what the issue is, as well as your campaign demands. Messaging can be conveyed through written material, such as flyers, pamphlets, statements and editorials. Messaging can also be conveyed graphically, using posters, street art and other methods. Additionally messages can be conveyed through story telling or performing arts.

In developing your messaging and materials, think about what type of messaging is most appropriate for the audience you want to reach and how you will reach them.

USING THE MEDIA

Utilise the media to spread information about your campaign as widely as possible. Develop and maintain a list of media contacts in the area that would be able to cover your campaign.

Be sure to inform the media of all the actions that you are taking. You can pitch stories to the media by calling them directly or sending them press statements. Another option to get media coverage of your campaign is to organise a press conference and invite all

of the relevant news outlets and members of the media to attend. Also, try contacting local radio stations, to see whether you can get a spot speaking about your campaign.

Remember that when you are pitching your story to the media, you are competing with other stories and groups pitching their events, so think of ways to raise the media's interest in your campaign.

Some ideas to raise the media's interests in your story are to: ask people directly affected by SGBV to tell their personal stories; link your story to important dates, such as National Women's Day; provide details of members of government that you are targeting and how they failing to uphold the rights of GBV survivors; or link your press conferences and statements to a public event, such as a picket.

BE CREATIVE IN YOUR CAMPAIGNS

In this guide, we have discussed how to take action against GBV as a community and as individual. We have suggested ways to change social attitudes that fail to challenge violence against women by generating debate and critical dialogue in your community, providing information about GBV and rights, and encouraging people to break the silence, speak out and take action. Using participatory learning and action methods as interactive tools, you can create processes where communities and organisations learn together about GBV, develop a plan, act on it and evaluate and reflect on how it went.

Once you have a group of people with a common purpose, you can build a campaign advocating for access to rights and services around GBV. This guide has provided some key steps that you can follow to build your own campaign, including public marches, door-to-door campaigns, writing petitions and lobbying government. The activities outlined here are by no means exhaustive, and we encourage you to be creative in your campaigns to bring about change.

Advocacy can grow from small beginnings. As a member of your community and an individual committed to taking action against GBV, you have the power to make an impact. With determination, planning, creativity and the ability to build strong networks you will achieve your goal and bring about change.

(The information for this section was taken from 'How to respond to rape and other gender-based violence: A guide for survivors and activists' written by Alice Clarfelt and published by the Treatment Action Campaign.)

SECTION 5

Case studies

A very public case

BACKGROUND

Around the end of July 2011, a video of a teenage girl being ruthlessly beaten with a hammer circulated the Limpopo town of Thohoyandou via cell phone. The focus of the video was the girl's buttocks and vagina, filmed in close-up, then moving to her broken teeth and bleeding mouth. It has been said that anyone in the area with the requisite technology had access to the footage. "The videos were passed around at bus stops, at schools, on the internet." Lots of people filmed it with their phones.

A boy aged 17 caught a girl, Maanda⁴, 15, while she was stealing clothes from his home. He phoned his father who told him to tie her up and wait for him at the house. The boy stripped Maanda of her clothes, tied her up by her wrists and ankles and began to beat her. When the father arrived, he assaulted Maanda with a hammer and pliers. The ordeal lasted for over six hours. Multiple video clips of this horrific torture were filmed by witnesses on their cell phones – including one that was 18 minutes long. There were a number of witnesses to the attack, including a child.

These community members looked on without intervening. When it comes to theft, community practice is to deal with thieves themselves. "If you shout '*Mbavi (thief)*', in the community, people will come and help you catch the thief," relates Jenna Prashma, legal officer at TVEP.

During the attack, the boy perpetrator took one of Maanda's cell phones (she had two) and called her mother to inform her of what they were doing to her thief daughter. Although she pleaded for Maanda's release, she was not very far away and did not even see Maanda until the following day, let alone rush to the scene.

The police arrived on the scene in response to the allegation of theft against Maanda. They arrested her on a charge of housebreaking, took her to the police station where she spent the night in one of the cells.

⁴Not her real name

Her case was not attended to because she arrived when the officers on duty were changing shifts.

Maanda had committed similar housebreaking offences in the past, which escalated after she suffered traumatic sexual abuse at the hands of her stepfather. Her probation officer was contacted only the next morning, and he recommended that the teen be taken immediately to hospital and subsequently released not to her mother and the dangers of the community, but instead to Mabambe Correctional Facility, where she would have access to social workers, counsellors and nurses.

(The police told Maanda’s probation officer that, because she was assaulted by a mob, he could not open a case of child abuse. This was not true, as the video clearly shows that she was not assaulted by a mob.

Maanda was taken to hospital, discharged, and then taken to Mabambe Child Detention Facility. Due to a misunderstanding between all parties, Maanda’s probation officer did not inform the facility that Maanda was in need of psychological intervention, that she had recently undergone serious trauma. As a result, she received no counselling at all at the facility.

She and her mother opened a case against the perpetrators during Maanda’s week at the detention centre. Charges of common assault were laid against both father and son, who were arrested within three days. After Maanda had been housed in the detention facility for one week, she was released her into her mother’s custody. Her probation officer, who had recommended against this, was not contacted as per protocol. As a result, she continued to receive no counselling, was not visited by a social worker, and was not taken to the hospital for follow-up appointments.

Three weeks passed since the arrest of the perpetrators before the police returned to the village to confiscate the accused’s’ cell phones, and then, only at the insistence of TVEP. By this time, the video had gone viral in the community.

IDENTIFYING THE PROBLEMS

Service Providers

The police, correctional services and the community share an attitude of tolerance towards vigilante justice, whether it is done with violence or otherwise, and this attitude is especially marked when it comes to theft.

Also, in a climate of police apathy and incompetence, people may understandably decide to take justice into their own hands.

The education system in Limpopo is notorious for its inefficiency, obviously contributing to the unemployment problem of those who had (or had not) matriculated from secondary education, including Maanda’s parents. In the recent budget crisis of the

province (see introduction), it was discovered that the department had accumulated unauthorised expenditure amounted to R2.2-billion, yet some schools received no funds last year, contravening national norms and standards and impeding the schools' day-to-day running. The province also had an excess of 2400 teachers, or teachers in schools that went beyond the department's allocations for staff. The investigation also uncovered 200 "ghost teachers" who could not be traced in the department's systems but received salaries.⁵

Many Limpopo schools not only fail their students on an academic level, but they frequently do not provide extra-curricular activities, leaving kids bored and idle in the afternoons. For very poor families, this leaves children with very few options to spend their free time in productive and safe activities.

According to Jenna Prashma, Access to Justice Manager at TVEP, police and the justice system are failing young offenders at a number of levels. Police are often afraid to arrest minors, not thinking that they are in fact allowed to do so. Courts often drop charges against minors – even for those who are repeat offenders – because there are no diversion programmes to which the youngsters can be sent, because they do not deem the cases 'serious' enough, or simply because they don't want the 'extra' work of having to contact a probation officer and hold a preliminary hearing within 48 hours of the arrest. This leaves minors who have social, emotional, economic or other problems without any kind of social assistance, rehabilitation or counselling, thus motivating them to commit crime,

Unemployment and Poverty

Both Maanda's parents are unemployed. They are divorced, and Maanda lives with her father although her mother is the official receiver of the child grant. More than once TVEP has been compelled to intervene to ensure that Maanda's father receives the child grant – her mother usually keeps the money. Maanda did not have an adequate school uniform, among other necessities. The bleakness of this situation is mirrored by Limpopo province's unemployment rate, estimated to be 26,8% by the National Development Agency but generally believed to be considerably higher.

TVEP INVOLVEMENT

Maanda's case is a particularly interesting one that speaks to the vast range of services, the hard work and competence of TVEP's staff. Usually, cases come to the organisation through their trauma centres or the outreach they undertake themselves, and the community knows that they 'specialize' in domestic and sexual violence.

However Maanda's case, which ended up in charges of attempted murder, among others, was brought to TVEP on 16 August, 2011, almost a month after the attack, by a

⁵Mail & Guardian, 2012

woman who found her son, a minor, watching Maanda’s torture on his cell phone. She was shocked that her young son had access to the footage, and shocked that the video was circulated as entertainment.

SAPS AND TVEP

At the scene of the crime, the police arrested not the perpetrators of a brutal attack but instead a battered teenage girl who had stolen some clothes.

They then did not take her to the hospital, but to the police station, where she spent the night.

TVEP initiated communication with Thohoyandou SAPS, requesting detailed information about the way they handled Maanda’s arrest, and whether they took note of the fact that she might have needed medical attention. They received only a cursory and incomplete response, essentially saying that they had answered all twenty-three questions to Maanda’s mother.

Some time later, the local police had been interviewed and reported as saying that they arrested the perpetrators immediately, when in fact they arrested the victim. The spokesperson for the police also told the media that Maanda was taken immediately to hospital, discharged and then handed over to the care of TVEP. Neither statement is true, and is proved by the hospital records and TVEP’s own records.

TVEP informed the Head of Safety and Security of Polokwane of these errors made by the SAPS spokesperson.

However, a number of discrepancies between the narrative accounts of Maanda and of the police remain unaddressed. This is to ensure that, should the police be lying – about taking Maanda immediately to hospital, etc. – they will be found to be doing so in a court of law.

THE LEGAL SYSTEM AND TVEP

By the time TVEP had been informed of the case, Maanda and her mother had pressed charges of assault against the perpetrators.

TVEP added charges of attempted murder; *crimen injuria* (“unlawfully, intentionally and seriously impairing the dignity of another”); kidnapping; theft (the perpetrators stole Maanda’s cellphone); accessory to attempted murder; and production, possession and distribution of child pornography.

In addition, TVEP urged that the case be heard not by the magistrate’s court but the High Court. The High court has increased sentencing rights, and the representation available is often much better at the High Court. As she is still a minor, Maanda’s case will still be heard in a regular children’s court – a closed court but with the legal representation and judge of the High Court.

The film documenting a segment of Maanda's ordeal was not only circulated informally, via cell phone, but also allegedly made into a DVD that was hawked by at least vendor, known by the alias of 'Rasta'. TVEP has urged the police to identify and charge this man under the Films and Publications Act for possession of child pornography and failing to report it; under the Sexual Offences Act, for distribution (exposure, display) of child pornography; under the Criminal Procedure Act, for publishing information revealing the identity of an under 18 witness; and under the Children's Act, for failing to report child abuse. The police have reported giving up the search after they could not identify or locate 'Rasta' after one month.

However, 'Rasta' (who is not of the Rastafari religion) is said to have a local film business through which he films weddings and such events. As such, it is reasonable to expect him to be found.

While TVEP is not itself an investigatory body nor offers legal representation, it acts as a watchdog, resource and mobiliser. After hearing of the incident and the case opened by Maanda and her mother, TVEP insisted to the police that they confiscate the cell phones of the accused as evidence. This had not been done although it had been two weeks since the case was opened.

Maanda and her mother laid charges of assault against Maanda's attackers. TVEP's legal officers worked to add charges of attempted murder; *crimen injuria* ("unlawfully, intentionally and seriously impairing the dignity of another"); kidnapping; theft (the perpetrators stole Maanda's cellphone); accessory to attempted murder; and production, possession and distribution of child pornography.

In addition, TVEP's request that the case be heard by the High Court was granted, and TVEP secured an advocate from the office of the Director of Public Prosecutors to prosecute for the state.

THE VICTIM AND TVEP

After quick work done in identifying and locating Maanda, TVEP's trauma counsellor visited her offering counselling services. She became Maanda's 'buddy', accompanying her to over 20 appointments including hospital, dentist and court visits, in addition to the counselling sessions they shared.

A kind member of the public read about Maanda's case in the South African newspaper, *The Mail & Guardian*, and contacted TVEP offering to assist in whatever way he was able. TVEP and he had extensive communication, resulting in the individual footing the bill for Maanda's dental work – the rebuilding of three teeth at the front of her mouth. The blows of the hammer had crushed two and a third fell out some weeks following the incident. Maanda had five visits to a dentist in Makhado, accompanied always by her TVEP trauma counsellor 'buddy'. Her benefactor also donated money for TVEP to buy her a Christmas present, a skirt, and a school uniform.



WAY FORWARD

Since TVEP's core mandate is to assist survivors of sexual and domestic violence, it is testament to their standing in the community that they were appealed to address the situation. Without TVEP's intervention, Maanda wouldn't have accessed critical care – healthcare and hospital check ups, psychological care, and the battery of other charges wouldn't have been laid, lessening the likelihood that the case would have received the legal attention that it deserves. In addition, it is unlikely that the actions of the police and other service providers would have been so closely scrutinized.

"The victim is currently not centre of the criminal justice system's service delivery," says Jenna Prashma. When victims are not satisfied with the services they receive, they are usually instructed to write a letter to the public protector. But how can a traumatised 15 year old and her illiterate mother be expected to take this kind of initiative, and express themselves and their requirements powerfully? In addition, the office of the public protector in Limpopo has a history of not responding to challenges raised by TVEP, an organisation employing knowledgeable, articulate staff that make requests on behalf of clients concisely and clearly. How can we assume that that office will adequately address the concerns of those who occupy a far more disempowered place in the community?

The case is set to come to trial by mid-2012. This is the reason for the few contradictions that persist between Maanda's and the police's testimony. As a strategic decision, TVEP is not challenging SAPS in regard to their statements that they did in fact follow protocol and act with respect and care to Maanda, both accused and victim. TVEP is confident that in court, the truth will emerge.

The Doctor, the Rapist

BACKGROUND

Dr. Justice Mulaudzi works as a medical practitioner and clinical manager of Hayani Mental Hospital in Sibasa, Limpopo. This is despite the fact that he has been suspended by the Department of Health, and that he seems to be disobeying the law by working also at Khomunala Surgery.

He continues to see patients and hold his position as clinical manager of a mental hospital while on bail for three counts of rape (including the Malumelele one). His bail conditions do not require him to cease practicing as a doctor, only that he not attempt to interfere with the complainants, their cases, that he not leave the country, and that he show up for his court dates. He also has three other similar allegations and two similar charges against him.

TVEP INVOLVEMENT

On 28 September 2011, a 21 year old woman reported to the police that Dr. Mulaudzi had raped her at Dr. Khomunala's private practice. She was brought to Tshilidzini Trauma Centre for counselling and a medical examination.

Sexual Abuse: a Modus Operandi

A TVEP legal officer met with the clinical manager at Khomunala Surgery, who produced a list of four names – of other women who had brought allegations against the doctor. The clinical manager said that he had asked Dr. Mulaudzi about the allegations but he had denied them all, so nothing was done to remedy the situation.

TVEP's legal officer contacted three of the women offering health, legal and psychosocial services; the fourth had moved from the area and could not be contacted.

It came to light that one of the women had been seven months pregnant when Dr. Mulaudzi raped her, only two hours before he raped the 21 year old. The expecting mother had also pressed charges. Dr. Mulaudzi raped the other two victims in 2009, but neither had decided to press charges.

When Dr. Mulaudzi appeared before the Magistrates Court of Thohoyandou on 10 October 2011, in a preliminary hearing for his rape of the 21 year old, TVEP brought to the prosecutor's attention that another woman had pressed charges for having been raped by the doctor that very same morning. In addition, the court expressed concern over another case of sexual assault against Dr. Mulaudzi that occurred in Malamulele a number of years previously – a sixth allegation and third charge. The prosecutor requested that TVEP find out the result of the case. It is currently still *sub judica*.

TVEP then filed to oppose bail, in advance of the bail hearing the following week.

THE BAIL HEARING

In spite of TVEP's submission opposing bail, bail of R30 000 (approx. US\$ 4 000) was granted to Dr. Mulaudzi for the following reasons:

- Results of the forensic evidence were at the time still pending;
- It appeared that the police had not correctly informed Dr. Mulaudzi of his rights while in custody;
- Other concerns over correct police procedure;
- The case docket from the case in Malamulele was missing.

As noted earlier, the conditions of bail did not conditions of bail prohibit Mulaudzi from practicing as a doctor while on bail.

TVEP AND THE HPCSA

The Health Professions Council of South Africa is a statutory body, established in terms of the **Health Professions Act No. 56**. The council is established to serve and protect the public and provide guidance to registered healthcare practitioners.

The council is responsible for regulating the health professions in the South Africa in aspects pertaining to registration, education and training, professional conduct and ethical behaviour, ensuring continuing professional development, and fostering compliance with healthcare standards.

A number of times, via telephonic communication, the HPCSA denied that Mulaudzi was registered with them, as reported in a prominent newspaper article published soon after the incident with the 21 year old.⁶ However, after persistent pressure from TVEP, and a plea in writing to ascertain the status of Dr. Mulaudzi's registration with the council, they finally received an affidavit confirming his registration. With this late revelation, coming two and a half months after the charge was laid, the HPCSA is identified as the obvious body that should take action against Dr. Mulaudzi and hold him accountable to their standards of professional and ethical conduct. Since this disclosure, TVEP frequently attempted to get the HPCSA to take action. However, their only response to this plea was to brusquely note that investigations of this sort can take a long time – up to six months. And that was that.

⁶(Sosibo, 2011)

WAY FORWARD

TVEP has a close and fruitful relationship with Hobyane, head of FCS in the area. He managed to track down the 'missing docket' from the Malamulele case. This should have a bearing on the trial, set for April 13, 2012.

It is highly problematic that the accused continues to work in a public hospital despite his suspension from the Department of Health, and more troubling is that his charges are patients in a mental hospital, particularly vulnerable to sexual abuse, and in some cases unable to report it.

TVEP will continue to put pressure on the HPCSA to take internal disciplinary action against Mulaudzi, will continue to support the survivors of Mulaudzi's sexual attacks, and will monitor the hearings in court.

Proof 1

SECTION 6

Useful Contacts

National helplines

Child Victims of Sexual, Emotional and Physical Abuse Tel: 0800 035 553	Childline Tel: 0800 055 555
Lifeline Southern Africa Tel: 0861 322 322	People Opposing Women Abuse (POWA) Tel: 083 765 1235
South African Police Services Tel: 086 001 0111	SAPS Emergency Number Tel: 10111
Stop Gender Violence Helpline Tel: 0800 150 150	Suicide Helpline Tel: 0800 567 567
Trafficking Helpline Tel: 0800 555 999	

Thuthuzela Care Centres (TCCs)

TCCs are opening up all over the country. Find the one nearest to you and enter the contact details on last page of this manual, i.e. “My personal contacts”.

GAUTENG	
Thuthuzela Care Centre – Kopanong Tel: (016) 428-5959	Thuthuzela Care Centre – Mamelodi Tel: (012) 801-4504
Thuthuzela Care Centre – Masakhane Tel: (011) 923-2106	Thuthuzela Care Centre – Nthabiseng Tel: (011) 933-1206
Thuthuzela Care Centre – Sinakekelwe Tel: (011) 389-0675	
EASTERN CAPE	
Thuthuzela Care Centre - Libode Tel: (047) 5686247	Thuthuzela Care Centre – Mdantsane Tel: (043) 761-2023

FREE STATE	
Thuthuzela Care Centre – Tshepong Tel: (015) 403 9639	
KWAZULU-NATAL	
Thuthuzela Care Centre - Phoenix Tel: (031) 502- 2338	Thuthuzela Care Centre - Umlazi Tel: (031) 907- 8496
LIMPOPO	
Thuthuzela Care Centre – Mangkweng Tel: (015) 286-1261	TVEP Trauma Centre Tshilidzini Tel: (015) 964 2310
MPUMALANGA	
Thuthuzela Care Centre – Kanyemazane Tel: (013) 796-9412	
NORTHERN CAPE	
Thuthuzela Care Centre – Galeshewe Tel: (053) 830-8900	Thuthuzela Care Centre - Kakamas Tel: (054) 431-0057
NORTH WEST	
Thuthuzela Care Centre – Mafikeng Tel: (018) 383 7000	
WESTERN CAPE	
Thuthuzela Care Centre - Belville Tel: (021) 918 1321	Thuthuzela Care Centre – Manenberg Tel: (021) 691-6194
Simelela Care Centre – Khayelitsha Tel: (021) 361-0543	

NGO’s offering referrals and counselling

There are so many NPO’s offering referrals and counselling in South Africa that it is not feasible to list them all here. Instead, it is suggested that you write the details of your local service providers on “My Personal Contacts” at the end of this manual. If you are unsure of who does provide services to your area, you are advised to access the DSD Database.

LGBTI and related services

Find the your nearest service provider/s and enter the contact details on your personal contacts page.

GAUTENG	
<p>Forum for the Empowerment of Women Tel: 011 339 1867 info@few.org.za / www.few.org.za</p>	<p>Behind the mask Tel: 011 403 5566 info@mask.org.za www.mask.org.za</p>
<p>Gay And Lesbian Memory in Action (GALA) Tel: 011 717 4239 / 1963 gala@library.wits.ac.za www.gala.wits.ac.za</p>	<p>The Lesbian and Gay Equality Project Tel: 011 487 3810/1/2 info@equality.org.za www.equality.org.za</p>
<p>OUT-LGBT Well-being (OUT) Tel: 012 430 3272 info@out.org.za / www.out.org.za</p>	
LIMPOPO	
<p>Thohoyandou Victim Empowerment Programme Tel: 015 963 1222 ask for Thandi or Fiona info@tvpe.org.za www.tvpe.org.za</p>	
KWAZULU-NATAL	
<p>Durban Lesbian and Gay community Health Centre 031 301 2145 / info@mweb.co.za www.gaycentre.org.za</p>	<p>PMB Gay & Lesbian Network 033 342 6165 info@gaylesbiankzn.org</p>
WESTERN CAPE	
<p>Gender Dynamix Tel: 021 633 5287 info@genderdynamix.org.za www.genderdynamix.org.za</p>	<p>Good Hope Metropolitan Community Church Tel: 021 447 4464 welcome@goodhopemcc.org www.goodhopemcc.org</p>

Health 4 Men Tel: 021 425 6463 glenn@health4men.co.za www.health4men.co.za	Inclusive and Affirming Ministries (IAM) Tel: 021 975 8142 retha@iam.org.za www.iam.org.za
Intersex Society of South Africa Tel: 021 447 3803 www.intersex.org.za	Out In Africa Tel: 021 461 4027 info@oia.co.za, www.oia.co.za
Triangle Project Tel: 021 448 3812 info@triangle.org.za www.triangle.org.za	The Inner Circle Tel: 021 761 0037 ayesha@theinnercircle.org.za www.theinnercircle.org.za
The Women's Legal Centre Tel: 021 424 5660 info@wlce.co.za www.wlce.co.za	

Legal assistance

Organisations providing legal advice include *but are not limited to the following*. You are advised to phone national agencies, find out if they have a branch in your area, and if so include the details on your personal contacts page.

GAUTENG	
Legal AID Advice Line Tel: 0800 110 110 or call (011) 8772000 and ask for the number of your nearest branch.	Lawyers for Human Rights Tel: (012) 320 2943/8 Fax: (012) 320 2949 http://www.lhr.org.za
Lawyers Against Abuse, Gauteng Tel: (011) 717-8622	Legal Resources Centre, Gauteng Tel: (011) 836-9831
SECTION27, Gauteng Tel: (011) 356-4100	Tshwaranang Legal Advocacy Centre Tel: (011) 403-4267
LIMPOPO	
Thohoyandou Victim Empowerment Programme, Limpopo Tel: (015) 963-1222	
WESTERN CAPE	
Women's Legal Centre Tel: (021) 424-5660	

Government Departments

THE DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

The Director-General
Department of Justice and Constitutional Development
Private Bag X 81, Pretoria, 0001
Tel: (012) 315 1111
Fax: (012) 326 0991
Url: <http://www.doj.gov.za>

THE NATIONAL PROSECUTING AUTHORITY (NPA)

Private Bag X 752, Silverton, Pretoria, 0001
Tel: (012) 845 6000
Fax: (012) 845 7311
Url: <http://www.npa.gov.za>

National Director of the Witness Protection Programme

Private Bag X 655, Pretoria, 0001
www.npa.gov.za

National Office Tel: (012) 293-1000	Eastern Cape Tel: (040) 608-8413
Free State Tel: (051) 507-6561	Gauteng: Tel: (011) 274-7859
KwaZulu-Natal Tel: (031) 325-4825	Northwest Province Tel: (018) 299-7001
Limpopo Tel: (015) 290-6227	Mpumalanga Tel: (013) 762-4838
Northern Cape Tel: (053) 839-2840	Western Cape Tel: (012) 417-7100

Further contact details for officers responsible for overseeing court structures and efficiency are available at:

http://www.justice.gov.za/branches/organo/organo_COS.htm

PAIA manual available at: <http://www.justice.gov.za/legislation/notices/2012/20120705-gg35497-paia-doj-manual.pdf>

DEPARTMENT OF HEALTH

The Director-General
Department of Health, Private Bag X 828, Pretoria, 0001
Tel: (012) 312 0000
Fax: (012) 325 5706
Url: <http://www.doh.gov.za>

PROVINCIAL DEPARTMENTS OF HEALTH	
Eastern Cape Tel: 0800 032 364	Free State Tel: 0800 535 554
Gauteng Tel: 0800 203 886	KwaZulu Natal Tel: 033 395 2009
Limpopo Tel: 0800 919 191	Mpumalanga Tel: 0800 204 098
Northern Cape Tel: 018 387 5778	Western Cape Tel: 021 483 5624

PAIA Manual available at:
http://www.health.fs.gov.za/?page_id=1802

DEPARTMENT OF POLICE (SAPS)

The National Commissioner
The South African Police Service, Private Bag X 94, Pretoria, 0001
Tel: (012) 339 1000 Fax: (012) 339 1530 <http://www.saps.org.za>

PAIA Manual available at:
http://www.wierdapark.co.za/NP/Com/CPF/SAPS_Section_14_Manual_Part_1b.pdf

DEPARTMENT OF SOCIAL SERVICES

The Director-General
Department of Social Development, Private Bag X 901, Pretoria 0001
Tel: (012) 312 7601 <http://www.welfare.gov.za>

DEPARTMENT OF CORRECTIONAL SERVICES

The Commissioner

Department of Correctional Services, Private Bag X 136, Pretoria, 0001

Tel: (012) 307 2000 <http://www.dcs.gov.za>

Oversight Committees and Chapter 9's

THE INDEPENDENT POLICE INVESTIGATORY DIRECTORATE (IPID)

Eastern Cape Tel: (043) 706-6500	Free State Tel: (051) 406-6800
Gauteng Tel: (011) 220-1500	KwaZulu-Natal Tel: (031) 310-1300
Limpopo Tel: (015) 291-9800	Mpumalanga Tel: (013) 754-1000
Northern Cape Tel: (053) 807-5100	Northwest Province Tel: (018) 397-2500
Western Cape Tel: (021) 941-4800	

HEALTH PROFESSIONS COUNCIL OF SOUTH AFRICA (HPCSA)

PO Box 205, Pretoria 0001

Tel: (012) 338 9300/01

Fax: (012) 328 5120

Complaints

You can download the complaint form to lay a complaint against a doctor from the Health Professions Council's website <http://www.hpcsa.co.za> For more information on their complaints procedure, please see: http://www.hpcsa.co.za/conduct_complaint.php.

SOUTH AFRICAN NURSING COUNCIL (SANC)

Tel: (012) 420-1000

Complaints

Complaints can be submitted to P O Box 1123, Pretoria, 0001

For more information, see <http://www.sanc.co.za/complain.htm>

HOSPITAL ASSOCIATION OF SOUTH AFRICA (HASA)

Tel: (011) 784 6828

Complaints

Complaints can be emailed to contact@hasanet.co.za, faxed to 011 478 0410 or posted to PostNet Suite 635, Private Bag X9, BENMORE, 2010.

View more information at: <http://www.hasa.co.za/complaints/complaints/>

SOUTH AFRICAN HUMAN RIGHTS COMMISSION (SAHRC)

Private Bag X 2700, Houghton, 2047

Tel: (011) 484 8300

Fax: (011) 484 1360

Url: <http://www.sahrc.org.za>

Complaints

Complaint form can be downloaded from:

<http://www.sahrc.org.za/home/index.php?ipkContentID=23>

Complaints may be laid by anyone at their nearest Provincial office.

Complaints procedure can be viewed here: <http://www.sahrc.org.za/home/21/files/Revised%20Complaints%20Handling%20Procedures%20of%20the%20SAHRC%20240212.pdf>

THE OFFICE OF THE PUBLIC PROTECTOR

Private Bag X 677, Pretoria 0001

Tel: (012) 322 2916

Fax: (012) 322 5093 <http://www.polity.org.za/govt>

Call their national office to get the number of your local branch

Complaints

For information on the complaints procedure, see http://www.pprotect.org/lodge_complaint/process_overview.asp

THE MAGISTRATES COMMISSION

PO Box 9096, Pretoria 0001

Tel: (012) 325 3951 Fax: (012) 325 3957

Complaints

Complaints procedure can be viewed here:

http://www.justice.gov.za/contact/cnt_mcomm.html

Complaints can be sent to: P O Box 9096, PRETORIA, 0001

THE JUDICIAL SERVICE COMMISSION (JSC)

Tel: +27 +11 838 2010

Fax: 086 619 0944

Complaints

Complaints can be sent to:

Private Bag X 1, Constitution Hill, Braamfontein, Johannesburg, 2017

THE COUNCIL FOR SOCIAL SERVICE PROFESSIONS

The Registrar, Private Bag X 2 Hatfield 0028

Tel: (012) 342 5437 Fax: (012) 342 3025

Complaints

Complaints procedures can be accessed here: <http://www.sacssp.co.za/website/wp-content/uploads/2012/07/Complaint-Procedures-July2012.pdf>

Complaint forms can be accessed here: http://www.sacssp.co.za/website/?page_id=876

THE COMMISSION ON GENDER EQUALITY (CGE)

PO Box 32175, Braamfontein, 2017

Tel: (011) 403 7182 <http://www.cge.org.za>

Call their national office to get the number of your local branch

Many thanks to the following for their contributions to the Section:

The Women's Legal Centre and Triangle, 'Know Your Rights: A Simplified Guide to LGBTI Rights Against Unfair Discrimination' (2011) (Written by Cherith Sanger)

The Treatment Action Campaign, 'How to respond to rape and other gender-based violence: A guide for survivors and activists' (2011) (Written by Alice Clarfelt)

The Department of Justice and Constitutional Development's Gender Directorate, 'Minimum Standards On Services For Victims Of Crime' (2010)

SECTION 7

References

The Treatment Action Campaign, 'How to respond to rape and other gender-based violence: A guide for survivors and activists' (2011) (Written by Alice Clarfelt).

The Women's Legal Centre and Triangle, 'Know Your Rights: A Simplified Guide to LGBTI Rights Against Unfair Discrimination' (2011) (Written by Cherith Sanger).

The Department of Justice and Constitutional Development's Gender Directorate, 'Minimum Standards On Services For Victims Of Crime' (2010).

'Department Of Welfare Procedural Guidelines To Social Welfare Agencies And Appropriate Ngos In Assisting Victims Of Rape And Sexual Offences', http://www.justice.gov.za/policy/guide_sexoff/sex-guide03.html#1. (Accessed 1 January 2013)

'Department Of Correctional Services National Guidelines Correctional Services', http://www.justice.gov.za/policy/guide_sexoff/sex-guide05.html#1 (Accessed 1 January 2013)

'Department Of Justice 'National Guidelines For Prosecutors In Sexual Offence Cases', http://www.justice.gov.za/policy/guide_sexoff/sex-guide04.html#1 (Accessed 1 Jan 2013)

'Department Of Health Uniform National Health Guidelines For Dealing With Survivors Of Rape And Other Sexual Offences', http://www.justice.gov.za/policy/guide_sexoff/sex-guide02.html#1. (Accessed 1 Jan 2013)

'Guidelines for the Management of Child Abuse'
<http://www.westerncape.gov.za/eng/directories/services/11495/6420>
(Accessed 1 January 2013)

'South African Police Service (Saps) Support To Victims Of Sexual Offences', <http://www.>

justice.gov.za/policy/guide_sexoff/sex-guide01.html
(Accessed 1 January 2013)

'SAPS National Policy Guidelines for Victims of Sexual Assault'
http://www.justice.gov.za/policy/guide_sexoff/sex-guide01.html
(Accessed 1 January 2013)

World Health Organization, "Guidelines for medico-legal care for victims of sexual violence." Geneva: World Health Organization (2003) <http://whqlibdoc.who.int/publications/2004/924154628X.pdf>, (Accessed 1 January 2013)

LEGISLATION

- Constitution of the Republic of South Africa, Act 108 of 1996
- Criminal Law (Sexual Offences and Related Matters) Amendment Act, Act 32 of 2007
- Domestic Violence Act, Act 116 of 1998
- Children's Act, Act 38 of 2005
- Child Care Amendment Act, No. 96 of 1996
- Promotion of Equality and Prevention of Unfair discrimination Act, No. 4 of 2000
- Older Person's Act, Act No. 13 of 2006
- Promotion of Administrative Justice Act, No. 3 of 2000
- Promotion of Access to Information Act, No. 2 of 2000
- Maintenance Act, Act No. 99 of 1998

MY PERSONAL CONTACTS

SAPS: _____

CHILD PROTECTION: _____

SOCIAL WORKER: _____

COUNSELLING SERVICES: _____

MAGISTRATES COURT: _____

PROSECUTOR: _____

IPID: _____

LEGAL SERVICES: _____

CGE: _____

SAHRC: _____

PUBLIC PROTECTOR: _____

LGBTI SERVICES: _____

OTHER CONTACTS: _____

Proof 1