



INFORMATION SESSION VICTIMS RIGHTS

*Presentation to the Department of Justice &
Constitutional Development: 22 – 26 October 2007*



Aims of presentation

- **Provide an understanding of the Government's approach to victims rights**
 - **Service of Charter for Victims of Crime (the Victims Charter)**
 - **Minimum Standards on Services for Victims of Crime**
- **Provide information on victims rights within criminal justice system**



Government's approach to victims rights

- **Pre-1994, the Criminal Justice system was not responsive to needs and rights of victims**
- **Government's approach must be understood in relation to Crime prevention and reduction**
- **Three instruments to address needs and rights of victims:**
 - **Constitutional and Legal framework**
 - **Social services, and**
 - **Victim Empowerment programme, Integrated Victim Empowerment Policy and the Victims Charter**
- **Government has included a variety of initiatives to address specific victims of crime: abused women and children, through**
 - **Health Charter**
 - **National Guidelines for Victims of Sexual Assault**
 - **NPA Uniform Protocol for Management of Victims of Crime**
 - **NPA Customer Service Charter**
 - **Anti-Rape Strategy**
 - **16 and 365 Days Campaign**



Background to Victim empowerment: the NCPS

- **National Crime Prevention Strategy (NCPS)**
- **Released in May 1996 and promotes a victim-centred approach to crime prevention**
- **A National Programme on Victim empowerment, 1998 was included in the activities of the NCPS, and seeks among other things to:**
 - **Enhance the effectiveness of victim support services as a source of relief**
 - **Improve the access of disempowerment groups, including women, children and victims in general to the criminal justice system**
 - **Redesign the criminal justice system to empower victims**
 - **Provide a greater and more meaningful role for victims in the criminal justice system**
 - **Improve the service that the criminal justice process delivers to victims of crime**
 - **Deal with the damage caused by criminal acts by providing remedial interventions for victims**



Background to Victim empowerment: the NCPS

- **Implementation of the NCPS is achieved through the JCPS Cluster**
- **The JCPS Cluster established a National Development Committee in 2003 to achieve efficiency and effectiveness of the criminal justice system**
- **The Department of Justice is the lead for the Victims Charter**
 - The Department of Social Development is the lead for Victim empowerment programme – shelters / counselling etc
- **The National Development Committee has set up various Task teams to deal with Programme of Action**
 - Victims Charter is listed as one of 20 priorities of the POA



What is the Victims Charter?

- **The Victims Charter was approved by Cabinet on 1 December 2004**
- **The Victims Charter is in line with**
 - **Constitution 1996 which gives Parliament the right to adopt Charters (section 234).**
 - **the United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Powers, 1985**
- **The Victims Charter is a consolidation of various rights contained in legislation**
 - **The Constitution 1996, section 10 : the right to dignity**
 - **The Promotion of Access to Information Act 2000 : the right to information**
 - **The Criminal Procedure Act 1977, section 297 and 300: the right to compensation**
 - **The Domestic Violence Act 1998: the right to protection**



The Victims Charter

- **The Victims Charter contains SEVEN rights:**
 - The right to be treated with fairness and with respect for your dignity and privacy
 - The right to offer information
 - The right to receive information
 - The right to protection
 - The right to assistance
 - The right to compensation
 - The right to restitution
- **The Minimum Standards on Services for Victims of Crime were developed in order to strengthen the rights of victims contained in the Charter**



Definitions: 'Victim' and 'Crime'

- A victim of crime is a person who has suffered harm, including physical or mental injury, emotional suffering; economic loss; or substantial impairment of his or her fundamental rights, through acts or omissions that are in violation of **our criminal law**.
- Victim also includes, where appropriate, the immediate family or dependent of the direct victim.
- A person may be considered a victim regardless of whether the perpetrator is **identified, apprehended, prosecuted or convicted** and regardless of the familial relationship between perpetrator and the victim.
- Victim are **inclusive of all** without prejudice of any kind on the grounds of race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth.



Crime

- **A crime is any conduct which is defined by law to be a crime and for which punishment is prescribed.**
- **Crime is an infringement of the State or someone else's right.**
- **Types of crime: assault, fraud, robbery, theft, rape, domestic violence**



Minimum Service Standards

The Minimum Standards is divided into four parts:

- Your rights as a victim of crime
- The processes and responsibilities of the relevant departmental role – players within the criminal justice system
- Minimum Standards on Services for victims of crime
- Complaints Mechanism
- **RESPONSIBILITIES FOR JUSTICE: COURTS**
 - Provide assistance to victims before, during and after trial
 - Provide support for victims with disabilities
 - Allow viewing of courtroom before the case starts
 - Allow victim to wait in separate room from accused
 - Ensure that signs and directions are provided in court
 - Assist with claims for witness fees



Victim in the CJS

- **9 Stages in Criminal Justice System:**
 - **Reporting** → **Police** → **Health**
 - **Investigation**
 - **Prosecutorial Decision: Prosecute / Send for more investigation / Withdraw**
 - **Bail**
 - **Trial: Evidence** → **Beyond reasonable doubt**
 - **Conviction / Not Convicted**
 - **Sentence**
 - **Appeal**
 - **Sentence served**
 - **Release** → **Parole Hearing**



Victims rights in CJS: Role players

- **Police**
 - Investigating officer
- **Doctor / Nurse**
 - Conducting medical examination for evidence (J88 Form)
- **Prosecutor**
- **Magistrate**
- **Court clerk**
- **Interpreter**
- **Social worker**
- **Probation officer**
- **NGO / CBO**



Victims rights in CJS

- **Statement given to police**
 - Read it and sign it
 - Include information on effects of crime – loss of earnings etc
 - Request copy of statement
 - Allow to add to your statement – after given to police and when consulting with prosecutor
- **Request information about Investigating officer assigned to case**
 - Get police case number (CAS)
 - Inform police if you are being threatened or intimidated by accused
- **Request prosecutor to send a letter to your employer for leave if you are required to attend the trial**
- **Apply for witness protection through senior public prosecutor**
- **Apply for witness fees**
- **Give victim impact statement to prosecutor and probation officer**
- **Apply for compensation**
- **Give written or oral testimony to Parole board**