



Commission for Gender Equality
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STRUGGLING TO MEET THE ENDS OF JUSTICE:

Assessing Departmental Responses to CGE findings on the Victims Charter

(Department of Justice, NPA & SAPS)

2016



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FOREWORD AND ACKNOWLEDGEMENTS

When the government introduced the notion of restorative justice, and sought to place the victims, rather than the perpetrators of crime, at the centre of the country's justice system, the institutional and service delivery implications for relevant government entities appeared daunting on paper. This has turned out to be so in practice. Guaranteeing delivery of restorative justice and placing the victims of crime at the centre of a system that had, hitherto, focused its resources and energies on the capturing, prosecution and incarceration of the perpetrators of crime was always going to be an enormous challenge.

Firstly, this implied the introduction of relevant reforms at a policy level, and to state and clarify the rights of the victims of crime in line with the doctrine of restorative justice. The Victims Charter, and its minimum standards of services guaranteed to the victims of crime, was an important policy reform measure in this regard.

Secondly, a set of institutional reforms followed, meaning a range of government institutions identified to be responsible for and driving the programme of turning the notion of restorative justice into reality. The six departments (i.e. Departments of Justice, Health, Social Development, the South African Police Service and the National Prosecuting Authority) that comprise the government's Justice, Crime Prevention and Security Cluster (JCPSC) became the central components of the institutional reform initiative to underpin the notion of restorative justice, responsible for placing the rights of the victims of crime at the centre of the justice system.

Thirdly, the service delivery programme of action that sought to bring restorative justice to the victims of crime in the form of specific sectoral programmes and activities was concretised in through programmes such as the Victim Empowerment Programme (VEP), the 365 Days of Action to Eliminate Violence Against Women and Children (with its National Implementation Plan) and others.

The challenge, however, was not so much to put all these policy reforms and related structural changes into practice. The central challenge was two-fold. Firstly, it was critical that the country make the necessary resources available to drive the reforms and turn the notion of restorative justice into reality. Without adequate resources (both financial

and human capital resources), good ideas will not become reality. Secondly, availability of resources has to be accompanied by effective planning and management of the use of available financial and human capital resources, including effective coordination of the work of the different institutions responsible for implementing the Victims Charter.

The work that the CGE has conducted over the past six years, reviewing and evaluating the work of various government entities responsible for delivering Victims Charter-related services to the victims of crime has revealed that the key challenges facing the implementation of such services are lack of adequate funding and lack of institutional capacity for effective national coordination of the work of various institutions implementing the Victims Charter. Our reports contain findings that go into detail regarding these challenges, and recommendations on how to address these issues.

This report sought to assess what steps if any the various departments responsible for implementing the Victims Charter have taken to respond to the findings and recommendations emanating from the CGE's studies. We are convinced that the report throws some light onto some of the efforts and steps taken by the various departments. While acknowledging the work done in this regard, the report does identify the intractable challenges that continue to face this task. We trust that this report will therefore serve as a valuable source of insights and ideas for the reader on whether or not government has been able to realise its goal of restorative justice, and meet the objective of placing the victims of crime at the centre of the justice system.

Finally, we thank all the government entities and officials that provided valuable information, contributed their time, and availed themselves to meet with the CGE research team during the time the study was being carried out. We also appreciate the work of the research team (i.e. Naledi Selebano, Masefako Segooa, Thubelihle Zitha, Seladi Mutheiwana and Lieketseng Mohlakoana-Motopi) for undertaking this work and compiling this report, and Thabo Rapoo for editing and completing the report.

ABBREVIATIONS AND ACRONYMS

CAS: Crime Administration System

CCTV: Closed-Circuit Television

CGE: Commission for Gender Equality

CSC: Community Service Centre

CSO: Civil Society Organisations

DCS: Department of Correctional Services

DoJ & CD: Department of Justice and Constitutional Development

DoH: Department of Health

DSD: Department of Social Development

FAMSA: Family and Marriage Society of South Africa

FCS: Family Violence, Child Protection and Sexual Offences

FPD: Foundation for Professional Development

GBV: Gender Based Violence

JCPSC: Justice Crime Prevention and Security Cluster

NACOSA: Networking HIV/AIDS Community of South Africa

NGO: Non-Governmental Organisation

NICRO: Crime Prevention and Reintegration of Offenders

NIP: National Implementation Plan Service Charter for Victims of Crime 2007-2011

NOC: National Operation Centre

NPA: National Prosecution Authority

NRSO: National Register for Sex Offenders

NYDA:	National Youth Development Agency
OPD:	Out-Patient Department
POWA:	People Opposing Women Abuse
RTI:	Research Triangle Institute
SAPS:	South African Police Services
SOCA:	Sexual Offences and Community Affairs Unit
TCC:	Thuthuzela Care Centre
USAID:	United States Agency for International Development
VEP:	Victim Empowerment Programme
VFR:	Victim Friendly Room
VISPOL:	Visible Policing
VAO:	Victims Assistant Officer
TVEP:	Thohoyandou Victim Empowerment Programme

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1: INTRODUCTION

This report documents the struggles facing the government's Victims Charter programme, the key goal of which is to meet the ends of justice for the victims of crime, particularly gender-based violence, by placing them at the centre of the justice system in South Africa. The study was carried out in the 2016/17 financial year to assess and determine the extent to which the selected departments have taken on board some of the findings and recommendations contained in reports compiled by the CGE on the implementation of the Victims Charter, and progress achieved.

The CGE's Research Department conducted the original series of assessment studies between 2009 and 2012 to assess the implementation of the Victims Charter by the six Justice Crime Prevention and Security Cluster (JCPSC) departments. These were the Departments of Social Development (DSD), Health (DoH), Correctional Services (DCS), Justice and Constitutional Development (DoJ & CD), the South African Police Services (SAPS) and National Prosecuting Authority (NPA).

The objective was to assess progress in terms of realising the seven rights of victims of crime as outlined in the Victims Charter and the aspirations set out in the five-year (2007-2011) National Implementation Plan (NIP), which assigned responsibilities to the six departments identified here. Based on the assessments conducted by the CGE, a number of reports¹ were compiled and published containing findings and recommendations relating to progress made. The findings and recommendations were subsequently disseminated widely, through a series of high level Policy Dialogues convened between the CGE and senior officials from these departments between 2012 and 2013.

The current review is the second and final of the two-year programme of the CGE. While the first assessment carried out in the 2015/16 financial year focused on the DSD, DoH and DCS, the current assessment focuses attention on the progress made by the DoJ & CD, NPA and SAPS in taking on board the recommendations contained in previous reports.

¹CGE, Research Report on the Victims Charter (DOJ&CD and SAPS) (2009)

CGE, Victims Charter Report: The Assessment of the Effectiveness of Implementation of the Victims Charter by the Departments of Social Development and National Prosecuting Authority (2011)

CGE, Victims Charter Report: The Assessment of the Effectiveness of Implementation of the Victims Charter by the Departments of Health and Correctional Services, (2012).

1.1. OBJECTIVES OF THE STUDY

As already indicated, the aim of this study was to assess progress achieved by the three departments (i.e. DoJ & CD, SAPS and NPA) in taking on board and responding to the findings and recommendations contained in previous CGE assessment reports on the implementation of the Victims Charter published in 2009 and 2011. The objectives of the study are:

- To assess officials' knowledge and understanding of the Victims Charter in relation to their departments and their roles within the departments.
- To assess the relationship among departments responsible for the implementation of the Victims Charter.
- To observe the state of facilities and resources available to render services to victims of gender- based violence by the departments.
- To assess the types of services provided by the different departments to victims of crime in line with the minimum standards of the Victims Charter.
- To review the funding and resources available for Victims Charter-related programmes and services.
- To assess effectiveness of monitoring and evaluation systems used for the Victims Charter programme.
- To assess skills development and training programmes provided to officials implementing the departmental Victims Charter-related programmes and activities.

1.2. METHODOLOGY AND PROJECT APPROACH

The purpose of this study was to assess the progress made by three of the six JCPS Cluster departments on the implementation of the Victims Charter. As mentioned in the introduction section, DSD, DOH, and DCS were assessed in the previous financial year to determine progress made by the departments on implementing the recommendations raised by the 2011 and 2012 CGE studies on the implementation of the Victims Charter by the same departments. The current assessment thus focuses attention on reviewing the work of DoJ & CD, SAPS, and NPA, to determine the extent to which the departments have taken on board some of the findings and recommendations made by the 2009 and 2011 CGE reports on the implementation of the Victims Charter.

Given that this is a qualitative research study, it involved fieldwork, which means the researchers had to go to the implementation sites to gain insights from the officials at facility level through interviews and observations to determine if services rendered at facilities, as well as the resources and physical structures of the facilities, are in line with the minimum standards of the Victims Charter. Several facilities were selected for site visits and observations by the CGE research team members, with emphasis placed on selecting those facilities that were included in the previous 2009-2011 CGE assessments of the implementation of the Charter. These include courts, Thuthuzela Care Centres (TCCs) and police stations. Two facilities were identified for each selected department as indicated in the Table 1. However, Limpopo was the only exception, with three courts visited as part of the assessment.

Table 1 - The provinces and facilities selected for each department for site visits.

Department	Provinces	Facilities
• SAPS	KwaZulu-Natal	• Ndwedwe Police Station
		• Durban Central Police Station
	Western Cape	• Lingelethu West Police Station
		• Strand Police Station
	Northern Cape	• Kimberly Police Station
		• Warrenton Police Station
• DOJ & CD	KwaZulu-Natal	• Durban Regional Magistrate Court
		• Umlazi Regional Magistrate Court
	Gauteng	• Mamelodi West District Magistrate Court
		• Vereeniging Regional Magistrate Court
	Limpopo	• Mankweng Regional Magistrate Court
		• Sibasa Regional Magistrate Court
		• Thohoyandou District Magistrate Court
• NPA	Eastern Cape	• Libode TCC
		• Mdantsane TCC
	Free State	• Bongani TCC
		• Tshepong TCC
	Gauteng	• Nthabiseng TCC
		• Sinakekelwe TCC

Site observations, focus groups and in-depth interviews were conducted with officials who agreed to be part of the study. Interviews were also conducted with some of the senior officials in the national and provincial levels of the departments. This gave us an opportunity to see the unfolding experience of policy reform through engaging in a reflective inquiry with those who are managing and implementing the charter. All interviews were conducted in English and later transcribed and analysed. It is important to state that during the visits researchers had observation check-lists for each of the facilities visited during onsite observation trips.

To ensure that researchers had access to all facilities that were visited as part of the assessment, approval was received from the departments in the form of official letters. The ethical requirements as outlined in the CGE Research Standard Operating Procedure were adhered to, to ensure that the rights, privacy, and confidentiality of respondents were protected and respected. It is also important to note that some respondents did not want their voices to be recorded, possibly due to fear of possible repercussions. Nonetheless their fears were taken on board and respected. It is important to state that, prior to every interview, each respondent was briefed about the purpose of the study and was informed that his or her participation was entirely voluntary.

In addition to interviews, focus group discussions and observations, supporting documents were obtained, such as departmental annual reports, annual plans, policy documents, annual performance plans, training manuals and budget information. Some of the documents were sourced independently by the research team through desktop research.

The assessment focused on various themes that emerged as challenges in the previous CGE studies (2009 and 2011), as well as those that are critical towards the successful implementation of the Victims Charter. The themes are addressed as topics/sub-sections of various parts of the report and they are:

- The role/responsibilities of the department implementing the Victims Charter.
- State of facilities and services rendered to victims of GBV.
- Budget/funding and allocation of resources.
- Victims' Charter-related skills, training and capacity building for officials.
- Monitoring and evaluation systems.

1.3. CONSTRAINTS FOR THE STUDY

This study faced several limitations with potentially important implications for the robustness of some of the findings presented in the report, which is usually unavoidable when studies of this nature, that rely on information and cooperation from the subjects of the study, are being carried out.

The DoJ & CD is the lead department for the Victims Charter, tasked with coordinating its implementation. Officials from the department at the national level, where decisions on policies, programmes and practices are made did not respond to requests to take part in this study, and no reasons were given for their unwillingness to participate. This was disappointing considering the findings contained in the previous CGE report² which indicated that the DoJ& CD had relinquished its leading role in the implementation of the Charter. This meant that the study could not obtain the inputs and insights of the DoJ & CD in terms of the achievements and challenges facing the department in its putative role of coordinating its implementation of the Victims Charter.

Another important limitation was the reluctance of some officials, especially at national and provincial levels, who were reluctant to be interviewed and to provide relevant information as requested for the purposes of the study. Those who finally consented to being interviewed were often reluctant to provide vital information, mainly due to uncertainty or lack of knowledge as to whether or not they were allowed to share such information with the CGE.

Finally, this study relies heavily on the cooperation, experience and knowledge in articulating and substantiating progress achieved and the challenges faced in terms of their departments' Victims Charter- related programmes and activities. The quality of the information provided is therefore critical for the assessment carried out and the findings contained in this report.

2 : BRIEF BACKGROUND ON THE VICTIMS CHARTER PROGRAMME

The National Cabinet approved the Service Charter for Victims (Victims Charter) in 2004, which was developed in line with the 1996 National Crime Prevention Strategy's vision for a victim-centred criminal justice system. Before 1996, it was widely acknowledged that the criminal justice system was centred on perpetrators of crime and had limited focus on the

² CGE, *Ship Without a Captain: Assessing Departmental Responses to CGE findings on the Victims Charter* (DSD, DoH and DCS) (2015), 14.

rights and welfare of the victims. The Victims Charter and the accompanying minimum standards therefore serve as a means to protect and promote the seven rights of victims in compliance with South Africa's obligations under various international and regional human rights instruments.³

The Charter has its roots in the 1996 National Crime Prevention Strategy (NCPS)) and can also be traced back to the 1998 National Victim Empowerment Programme (VEP). It is widely acknowledged that prior to the NCPS, the predominant culture of violence associated with the political instabilities of the apartheid system, as well as the poor socio-economic status of the majority, had resulted in a high rate of crime and victimisation. At the time the country's criminal justice system was placing more emphasis on the tracking down, arresting, prosecution and incarceration of perpetrators, with limited focus on the needs and welfare of the victims. The NCPS was thus one of the country's first initiatives that sought to redress the retributive nature of South Africa's criminal justice systems by prioritising the needs and welfare of victims of crime and centralising them as part of processes involved in the criminal justice system. Following the establishment of the NCPS, the VEP came into play in 1998 as one of the key programmes of the NCPS and has also been updated to include the JCPSC framework which further incorporates measures that seek to achieve an integrated response that prioritises violence against women. It was through the VEP and JCPSC framework that the integration of inter-departmental/inter-sectoral programmes for the support, protection and empowerment of victims of crime and violence was first initiated.⁴

The Victims Charter, on the other hand, was approved by National Cabinet in 2004. The DoJ & CD was earmarked as a lead department for its implementation and its minimum standards. The Victims Charter and minimum standards provide an important framework for the consolidation of all laws and policies in relation to the rights of, and services provided to, victims of crime and violence. They are also intended to promote excellence in service delivery, thus promoting client satisfaction with the services delivered. The key objectives of the Victims Charter are:

- To eliminate secondary victimisation in the criminal justice process
- To ensure that victims remain central to the criminal justice process
- To clarify the service standards that can be expected by, and are to be accorded to, victims whenever they come into contact with the criminal justice and associated systems

³ Department of Justice and Constitutional Development, *Service Charter for Victims of Crime in South Africa*, (2004), 6-9.

⁴ Department of Social Development, *National Policy Guideline for Victim Empowerment*, (2007), 3.

- To make provision for victims' recourse when standards are not met.

The Victims Charter comprises a set of seven rights of victims and minimum standards for service providers to observe when rendering services to victims of crime. The seven rights of victims are:

- The right to be treated with fairness and with respect for 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.⁵

The six JCPSC departments (i.e. DoJ & CD, DSD, NPA, DCS, DOH and SAPS) were identified as the key implementers of the Charter, and their roles and responsibilities were assigned to them through the minimum standards and the NIP for the implementation of the Victims Charter (2007-2011). The DoJ & CD was entrusted with ensuring that the NIP goes under review to monitor and evaluate the work done by the six implementing departments and to pave the way for new plans and systems. Our interactions with senior officials from some of the implementing departments in the current assessment, have revealed that an evaluation process of the implementation of the Victims Charter had been undertaken by the DoJ & CD, and that there were also a series of high-level meetings in 2011 to develop a new NIP for the period 2012-2016. It remains unclear, however, whether the DoJ & CD, together with the other five JCPSC departments, have ever endorsed a new NIP, particularly because departments seemed to have no knowledge about the existence of the plan.

Background on the CGE studies on the Victims Charter

The following are brief summaries of some of the key issues raised in previous CGE reports (2009 and 2011) on the three departments selected for this current assessment.

The 2009 CGE study on assessing the implementation of the Victims Charter by the SAPS had found that:

1. There was no uniformity in terms of training provided to SAPS personnel on implementing Victims Charter-related programmes across the country.
2. While police officers often accompanied victims to places of safety, some police

⁵ Department of Justice and Constitutional Development, Victims Charter, (2007)

stations lacked transport resources, while other areas did not have places of safety at all. The study also found that police officers faced challenges when places of safety were full, with inadequate space to accommodate more new victims. Another challenge with places of safety was that most of them had age and gender restrictions that ended up excluding certain categories of victims.

3. The low supply and shortages of the sexual offences evidence kits were a great concern for police stations across the facilities that the CGE had visited. Because of these shortages in the supply of kits, forensic evidence was sometimes not available to be presented for sexual offences court cases.

The findings of the 2009 study on assessing the implementation of the Victims Charter by DoJ & CD indicated that:

1. There was limited knowledge about the Victims Charter among the magistrates interviewed at the regional sexual offences courts.
2. The DoJ & CD had not provided any form of training related to the Charter to its personnel. It was also found that the Justice College had not included Charter-related modules in any of the prosecutors' training courses.
3. There were inconsistencies in terms of resource allocation across the different courts as officials interviewed in some provinces felt that the courts were adequately capacitated while others expressed a need for more resources. Staff shortages, lack of special rooms for victims of sexual offences and domestic violence, and poor administrative resources were identified as key challenges.

The 2011 study focusing on assessing the implementation of the Victims Charter by the NPA had found that:

1. The NPA, through the TCCs, had developed vigorous systems, policies and programmes that were clearly cascaded from the national to the provincial and facility levels to address the needs of the victims of sexual violence.
2. The funding policy for TCCs was obscure as respondents had no accurate knowledge of the budget allocated to TCCs.
3. While some site coordinators had received training on various aspects of the Victims Charter, there were those who had indicated that they had never received training.
4. There was a lack of uniformity among TCCs in terms of complaints mechanisms as well as monitoring and evaluation systems.

3: FINDINGS OF THE ASSESSMENT

3.1. THE DoJ & CD – NATIONAL FINDINGS

This subsection presents the findings relating to the work of the national office of the DoJ & CD. Much of the information on which the findings are based was drawn from analysis of information obtained from secondary sources. As indicated in the subsection on constraints, the CGE could not secure the cooperation to conduct interviews with relevant officials from the DoJ & CD responsible for the Victims Charter programme within the department.

3.1.1. Role and responsibilities of the department in implementing the Victims Charter

The DoJ & CD was identified as the lead agency for the implementation of the Victims Charter. The department was thus given the responsibilities to prioritise its implementation by developing legislative and policy frameworks, as well as to coordinate the implementation of the programme by other JCPS cluster departments and Civil Society Organisations (CSOs). In terms of developing policy and legislative frameworks, DoJ & CD has enacted the Criminal Law (Sexual Offences and Related Matters) Amendment Act No 32 of 2007 to respond to the concerns of victims of sexual violence and their secondary victimisation by the criminal justice system.⁶ In addition, the Act “comprehensively and extensively reviews and amends all aspects of the laws and implementation of the laws relating to sexual offences, and to deal with all legal aspects of or relating to sexual offences.”⁷

The department was also expected to give strategic direction to the provision of services to victims of crime, and in line with this DoJ & CD developed the minimum standards on services for victims of crime to complement the existing legislative framework, policies and programmes for all service providers. In addition, the department consolidated departmental plans into the 2007-2011 National Implementation Plan Service Charter for Victims of Crime 2007-2011 (NIP) to fast-track implementation and established the task team for Victims Charter.⁸ Our findings, however, reveal that the department did not sustain focus on the implementation of the 2007-2011 NIP, thereby failing to monitor

⁶Department of Justice and Constitutional Development, Vote 21 Annual Report (2015/16), 62.

⁷ Criminal Law (Sexual Offences and Related Matters) Amendment Act No 32 of 2007.

⁸ Department of Justice and Constitutional Development, National Implementation Plan Service Charter for Victims of Crime (2007-2011).

progress on the NIP and providing overall strategic leadership for the programme as implemented through the different government departments and related entities. In fact, the research team's interactions with some of the JCPSC departments left no doubt that the DoJ & CD had abandoned its role of coordinating the implementation of the Victims Charter.

When our initial assessment of the DoJ & CD was conducted in 2009, the department had managed to align the VEP and Victims Charter to ensure that all departments had a clear understanding of this in line with services outlined in both 2007-2011 NIP and VEP Strategic Plans.⁹ Our recent review of the DSD's implementation of the Victims Charter¹⁰ however, indicated that VEP and the Charter were not consolidated into one coherent programme but were rather said to be implemented separately by the DSD. By contrast, the assessment of progress by the SAPS on implementing the Charter has shown, as will be discussed further in the relevant subsections of this report, that the VEP and the Charter have been duly aligned, and that the minimum standards of the Victims Charter were included in the SAPS' implementation of the VEP programme. These inconsistencies in the work of departments reiterate our finding that Victims Charter programme seems to be running without a coordinating structure, and that DoJ & CD has distanced itself from ensuring that there is coherence and clear understanding of programme priorities and practices.

In terms of creating a common understanding of victim empowerment among NGOs, community-based organisations and individual members of the society in 2011, the DoJ & CD seems to be on the right track for it has developed a training manual and conducted workshops specifically for Non-governmental Organisations (NGOs) and community-based organisations to enhance knowledge about the Victims Charter and its minimum standards for participants to understand their roles and responsibilities within the criminal justice system as well as the responsibilities of other role players.¹¹

In addition to the coordination of the JCPSC's implementation of the Charter, DoJ & CD at national level also has the responsibility to develop internal policies, standards and programmes, as well as to provide oversight of the implementation of the Victims Charter by the regions.

⁹ Ibid

¹⁰ CGE, *Ship without a Captain: Assessing Departmental Responses to CGE findings on the Victims Charter* (Departments: Social Development, Health & Correctional Services), 2015.

¹¹ Department of Justice and Constitutional Development, *NGO Volunteer Capacity Building Programme Manual: Victims Charter*, 2011.

Our study found that the DoJ & CD had upgraded 14 regional courts into sexual offences courtrooms in accordance with the newly developed sexual offences courts model, bringing the total number of these courts to 47 in total.¹² The new model of sexual offences courts is systematically aligned with the prescripts of the minimum standards in terms of facilities and the personnel required to render services to victims of sexual offences.¹³ It was also noted in the president's speech¹⁴ that the regional courts' links to TCCs had resulted in a good conviction rate of 68 percent for sexual offences cases in the 2014/15 financial year; however, the source did not state the figures prior to 2014/15 to allow for comparisons.

The criminal case backlog reduction initiative was introduced in 2010 to reduce cases to balance the flow of new cases. The norms and standards of this initiative strive to ensure that the date of first appearance to plea does not exceed three months and that the period from plea to finalisation of criminal case does not exceed six months.¹⁵

In terms of the right to dignity and privacy as contained in the Victims Charter, our findings reveal that the department is ensuring that the newly built courts have specialised facilities for women, children, the elderly and persons with disabilities. A total of 377 magistrates courts countrywide were transformed to meet this requirement.¹⁶ In line with the victims' right to receive information, the information obtained from the department states that it participates in a community radio broadcast show called "*Let's Talk Justice*" aired in all nine provinces on various issues, including the victims' rights when interacting with the criminal justice system, particularly the courts.¹⁷ In addition, information obtained during interviews¹⁸ indicates that the national department provides promotional materials such as posters, pamphlets and brochures containing various types of information, including on the Victims Charter for officials at implementation level, to educate communities about court services and their rights when accessing those services. The department also develops material for people with special needs such as audio-visual materials for video cassettes, with sign language interpreters, and Braille documents. Our observations at the seven courts, however, revealed that there were few posters in some courts while others did not have adequate posters and pamphlets. Furthermore, the

¹² Department of Justice and Constitutional Development, Vote 21 Annual Report (2015/16), 49.

¹³ Department of Justice and Constitutional Development, Report on the Re-Establishment of Sexual Offences Courts (2013), 75 – 79.

¹⁴ Department of Justice and Constitutional Development, Justice Today: A Magazine of Department of Justice and Constitutional Development, January 2016.

¹⁵ Department of Justice and Constitutional Development, Vote 21 Annual Report (2015/16), 60.

¹⁶ Department of Justice and Constitutional Development, Vote 21 Annual Report (2015/16), 11.

¹⁷ Department of Justice and Constitutional Development, Justice Today: A Magazine of Department of Justice and Constitutional Development, January 2016.

¹⁸ Interview held with DOJ&CD Regional (LP, GP & KZN) officials, Polokwane, Pretoria & Durban, August and September. 2016.

department's Victims Charter website is still in existence; nonetheless the information loaded indicated that it was last updated in 2012 and this makes it difficult for the users to keep track of the status of the programme.

3.1.2. Budget/funding allocation and other resources

This section reflects the availability of budget and other key resources allocated for the implementation of the Victims Charter, specifically for services, resources and training relating to it. The CGE in 2009 found out that there is lack of financial, physical and human resources relating to the implementation of the Charter and a recommendation was made that victims in both remote and well-resourced provinces need to receive the same treatment, and as such facilities needed to receive adequate funding consistent with their socio-economic and geographical status.¹⁹ In its 2015/16 annual report²⁰ the DoJ & CD provided the overall budget for court services. However, the information does not specify how much goes to the services provided in relation to the Victims Charter.

3.1.3. Victims Charter-related skills development and capacity building

Training of officials and other important services offered to the victims is critical to the implementation of the Victims Charter. According to the 2007-2011 NIP, the department was required to invest in human capital by ongoing training and capacity building of court personnel dedicated for the Victims Charter and excellent customer service. The NIP further required the department to build awareness among various employees.²¹ However no relevant information was made available in this regard, especially from the national office. However, interviews with DoJ & CD regional offices and court officials revealed that the national department determines the courses to be offered by Justice College, especially on the development of the necessary and vital skills among staff.

Apart from the training of its own employees, DoJ & CD was required to partner with members of the judiciary and prosecution on peer training to improve service for victims of crime.²² No information was available to determine whether or not any training in this regard was conducted in the 2014/15 and 2015/16 financial years or any time after the 2009 CGE study on the Victims Charter-related work of the DoJ & CD was published.

¹⁹ CGE, Research Report on the Victims Charter (DOJ and SAPS) (2009)

²⁰ Department of Justice and Constitutional Development, Vote 21 Annual Report (2015/16), 155.

²¹ Department of Justice and Constitutional Development, National Implementation Plan Service Charter for Victims of Crime: 2007-2011.

²² *ibid*

3.1.4. Monitoring and evaluation systems

Monitoring and evaluation is one of the key responsibilities for DoJ & CD as the lead department in the implementation of the Victims Charter. The department is charged with the responsibility to monitor and evaluate the programme through reports to the JCPSC and development committee. It is required that DoJ & CD develop the rights-based monitoring framework with indicators informed by the seven victims' rights which is linked to NIP for all departments. This system should be linked to the complaints system in courts and all other facilities providing services to victims of crime as a feedback mechanism is an important monitoring system.²³ In compliance with this the department designed and planned to conduct a baseline survey to determine the satisfaction of citizens receiving its services to find out if the intervention is achieving the objective of improving access to justice. However, the report based on this survey was apparently not completed due to insufficient resources. The department hoped to ensure finalisation of this process by 2016/17²⁴.

The DoJ & CD is required to develop a case tracking system; the interviews held with the courts officials revealed that the department had developed the National Operation Centre (NOC) system to track progress of cases registered at courts. This system however, focuses more on collecting statistics and case flow information while not in any way monitoring the provision of services in line with the Victims Charter. The NOC is therefore clearly not relevant for this purpose. The department had also developed the National Register for Sex Offenders (NRSO) which is a system that is used to record names and details of people who have committed sexual offences to children and people who are mentally disturbed, to protect children and mentally disturbed people against sexual offenders. As a result of this system, the department's 2015/16 annual report revealed that 22 879 convictions were recorded electronically showing an increase from 17 500 recorded in the previous year.²⁵

In terms of reporting as per 2007-2011 NIP, the gender directorate of the DoJ & CD is expected to submit quarterly reports to the national development committee and JCPSC, as well as to make inputs to the government programme of action project card. The department is also required to develop annual reports informed by reports of all participating departments and to evaluate the Victims Charter project after every five

²³ Ibid

²⁴ Department of Justice and Constitutional Development Vote 21 Annual Report (2015/16)

²⁵ Ibid

years.²⁶ As indicated already, the DoJ & CD is no longer performing the oversight and coordinating function for the implementation of the Charter, therefore this function remains unfulfilled. It would appear though that the first and only evaluation of the Victims Charter was carried out in 2011, with talks of the development of the second NIP for the period 2012-2016.²⁷ However, it has transpired that the 2012-2016 NIP was never put in place, presumably because the DoJ & CD went on to abandon its leadership role in coordinating the implementation of the Victims Charter.

3.2 THE DOJ& CD – PROVINCIAL FINDINGS

The work of the DoJ & CD is also carried out through the courts in the provinces. This study sought to assess, using selected courts in a number of provinces, the extent of progress made in addressing some of the issues identified through the findings of the assessments carried out by the CGE in its 2009 study. One of the key developments in the work of the DoJ & CD after the CGE assessments were completed, has been the rolling out of a new court model that involves the integration of systems and services throughout the country. Aspects of this system are discussed through the findings below.

3.2.1. Mankweng, Thohoyandou and Sibasa Magistrate Courts (Limpopo Province)

A. Introduction

This section will focus on the three courts identified and visited by the CGE research team in the province of Limpopo. These are the Mankweng Regional Court, the Thohoyandou District Magistrate Court, as well as the Sibasa Regional Magistrate Court. Sibasa Regional Magistrate Court did not form part of the initial selection of facilities, but was visited because it is linked to the Thohoyandou District Magistrate Court, especially in dealing with matters of sexual offences. The Mankweng Court is located in a small township in the Capricorn district of Limpopo, 27 km away from the Polokwane city centre.²⁸ Mankweng is known as a university township as it was developed when the University of Limpopo was being established in the 1960s. The court is located in a diverse community and draws assistance from skilled professionals from the university and the Mankweng Hospital. The Thohoyandou District Magistrate Court is located within the small township of

²⁶ Department of Justice and Constitutional Development (2007), National Implementation Plan Service Charter for Victims of Crime: 2007-2011.

²⁷ National Conference on Taking Victims' Rights Forward 2012 – 2017, held on 01 – 03 February 2012. <http://www.justice.gov.za/VC/events/2012nationalconference.html> accessed on: 05 October 2016

²⁸ Wikipedia <https://en.wikipedia.org/wiki/Mankweng>, accessed on 10 February 2017

Thohoyandou, surrounded predominantly by rural areas and townships, while the Sibasa Regional Magistrate Court is based in the town of Sibasa in Venda. Sibasa is the former capital city of the Venda Bantustan.

B. State of facilities and services rendered to victims of GBV

The Mankweng Court, acting in its capacity as both a district and regional court, has two sexual offences courts responsible for dealing with sexual offences cases. During our onsite observations, it was noted that there was adequate signage in the premises of the Mankweng Magistrate Court both outside (to identify the facility) and inside (to identify the various sections and buildings). The sexual offences courts had proper waiting rooms, although it was noted that no facility or provision was made to secure privacy for breastfeeding women. The courts however had child-friendly facilities in the sexual offences courts waiting rooms, and featured a functioning close circuit television (CCTV) set. The entire facility appeared neat and well taken care of.²⁹

The Thohoyandou District Magistrate Court, on the other hand, referred cases of sexual offences to the Thohoyandou Regional Court, based in the nearby town of Sibasa, 4km away. The two courts work together closely, particularly on the handling of sexual offences cases. The team's onsite visit to the Sibasa Regional Court showed proper signage but only on the outside, to identify the facility for visitors. However, inside the facility the signage was not adequate, which could leave visitors unfamiliar with the facility and unable to find their way into it unassisted. It was also noted that the Sibasa sexual offences courts had waiting rooms that did not provide privacy for breastfeeding mothers. It also had a CCTV set although one of the cameras was not functioning during the onsite visit by CGE.³⁰

There is a clear difference between the Mankweng and Sibasa Courts in terms of the physical state and appearance of the two facilities, and the types of services rendered. The inequality of resource allocations of the two manifested itself clearly and visibly in their appearances, with the Sibasa Court appearing in a far more dishevelled state compared to the Mankweng Court.

In terms of the necessary personnel in line with the minimum standards of the Victims Charter, the two courts had appointed two women intermediaries each to assist children below the physical and mental age of 18 years in giving evidence in sexual offences court

²⁹Interview held with Mankweng Regional Magistrate Court, Mankweng, September 2016.

³⁰Interview held with Sibasa Regional Magistrate Court, Sibasa, September 2016.

cases, and in the use of CCTV. As indicated, the Sibasa CCTV set was not functioning at the time of the onsite observations. This is non-compliant in terms of the minimum standards outlined in the Victims Charter³¹ as well as the blueprint on the re-establishment of the sexual offences courts.³²

The minimum standards also require court preparation officers to be appointed to ensure the provision of information for preparing and supporting victims (includes catering for people with disabilities) during court sittings. The Mankweng Court had one female court preparation officer to give support to victims and familiarise them with the court environment before they appear in court. This is also in line with the minimum standards as contained in the document that outlines the new model of the sexual offences courts.³³ Both courts also had anatomically detailed dolls to assist children in terms of role-playing games to demonstrate incidents of sexual offences during court cases. The Mankweng Court also had an information desk, in line with the minimum standards as outlined in the Victim Charter, while both facilities did not have information posters or pamphlets on the walls containing information on the Charter and toll-free numbers as required in terms of the minimum standards to help the victims of crime.³⁴

The Sibasa Regional Court had two court preparation officers, one of which is a man and the other a woman, appointed by the NPA. The court did not have an information desk as required under the minimum standards, thus relying on security officers at the front gate to provide information to visitors, including victims of crimes seeking help. The facilities did not have information posters and pamphlets with information on the Charter as required under the minimum standards.³⁵

In terms of ensuring availability of interpreters, we found that the Sibasa Regional Court had appointed three interpreters trained in sexual offences and interpreting expert evidence. The courts are able to source out foreign and sign-language interpreters whenever they dealt with cases that required such services. The Mankweng Court did not provide information relating to the appointment of court interpreters.³⁶ In this instance it appeared that the Sibasa Regional Court had partly complied with the minimum standards for the provision of services to victims of crime.

³¹ Observations by CGE officials at Mankweng and Thohoyandou Regional Courts and interviews with courts officials, Mankweng and Sibasa, September 2016

³² Department of Justice and Constitutional Development, Report on the Re-Establishment of Sexual Offences Courts (2013), 75 – 79.

³³ Department of Justice and Constitutional Development, Report on the Re-Establishment of Sexual Offences Courts (2013), 75 – 79.

³⁴ Interview held with courts officials, Mankweng, September 2016.

³⁵ Interviews held with court officials, Sibasa, September 2016.

³⁶ Interview held with Sibasa Regional Magistrate Court officials, Sibasa, September 2016.

It was indicated that the Mankweng court refers victims and offenders to the National Institute for Crime Prevention and Reintegration of Offenders (NICRO) for psycho-social services. The courts also work closely with NPA-appointed case managers from the Mankweng TCC who are based at the Mankweng Court, to ensure that cases are dealt with by all appropriate officials within the court.³⁷ The Sibasa Regional Court refers victims to the Thohoyandou Victim Empowerment Programme (TVEP), based within the court premises, for psycho-social services. The TVEP also assists with babysitting and catering for the kids while the parents are attending court proceedings. This court also works closely with the case manager from the Thohoyandou TCC, based on the court premises and also appointed by NPA to ensure that cases are dealt with properly by appropriate officials.³⁸ Both courts appear to meet the minimum standards for victims of crime in terms of ensuring that the victims and offenders receive psycho-social services and minimise secondary victimisation.

In terms of providing court officials with emotional support to reduce the risk of trauma, as per the minimum standards, it would appear that officials from the Mankweng and Sibasa courts did not receive the necessary debriefing sessions during 2014/15 and 2015/16 periods. It was indicated, though, those officials from the Sibasa Court did undergo debriefing sessions years prior to this assessment. However, during the interview held with officials it was discovered that the court staff often get exposed to incidents of trauma, and the debriefing offered to them is often inadequate and ineffective. Also, it was revealed that group sessions were offered once a year, rather than individually tailored sessions.³⁹ It would also appear that the group debriefing sessions offered to staff were not being assessed to determine their effectiveness in line with the objectives of the Charter minimum standards.

C. Budget/funding and allocation of resources

Officials from the Mankweng, Thohoyandou and Sibasa courts did not have detailed knowledge of their budgetary allocations, indicating that the allocations are made at regional level. The budget includes provisions for day-to-day operations, infrastructure maintenance and other operational expenditures such as witness allowances and refreshments. The team was unable to obtain details of budget allocations for Charter-related programme activities for the three courts from officials responsible for this function.⁴⁰

³⁷ Interviews held with Mankweng Regional Court officials, Mankweng, September 2016.

³⁸ Interviews held with Sibasa Regional Magistrate Courts officials, Sibasa, September 2016.

³⁹ Interviews held with Mankweng Regional Magistrate Court officials, Sibasa Regional Magistrate Court officials and DOJ&CD regional officials, Mankweng, Sibasa, and Polokwane, September 2016.

⁴⁰ Ibid

In terms of availability of the necessary human resources responsible for providing services to victims of Gender-based Violence (GBV) in line with the Victims Charter, the team obtained the following details for the Mankweng, Thohoyandou and Sibasa courts:

- Court clerks: The Mankweng Court could not provide relevant information in this regard, while the Thohoyandou Court had appointed four court clerks designated to deal with all matters, not just GBV-related matters.
- Interpreters: The Sibasa Court had appointed interpreters to deal with all matters, not just sexual offences, although they had the necessary training to handle sexual offences matters and giving expert evidence. No information was available on the Mankweng Court in this regard.
- Intermediaries: Mankweng and Sibasa sexual offences courts had appointed two intermediaries each.
- Court preparation officers: The Mankweng Court had appointed one woman appointed by the NPA, while the Sibasa Court had two intermediaries appointed by the DCS.
- Case managers: Mankweng and Sibasa courts had one case manager each, appointed by the NPA.
- Magistrates: The Mankweng Court had appointed two magistrates, not designated to the Sexual Offences Court, while the Sibasa Court had appointed one magistrate. The magistrates for both do not specialise in sexual offences but deal with all cases that come to courts.
- Prosecutors: The Mankweng Court had appointed six prosecutors, with only one of them designated to deal with sexual offences cases. The Sibasa and Thohoyandou courts had appointed four prosecutors each, designated to deal with all cases, not just GBV-related cases.⁴¹

It should be noted though that the information provided did not indicate the extent to which such personnel were adequate to provide the capacity necessary to discharge Charter-related activities effectively and efficiently. More importantly, most of the personnel appeared not to have specialised training to deal with GBV-related cases. Our observation was that the gender profile of the personnel at both courts was balanced.

D. Victims Charter-related skills training and capacity building for officials

In terms of training, available information shows that all three courts did not offer training for 2014/15 and 2015/16. However, it would appear that the Sibasa Court interpreters,

⁴¹ Interviews held with Mankweng and Sibasa Regional Courts officials, Mankweng and Sibasa, September 2016.

intermediaries and court preparation officers did receive training from the Justice College previously. The training provided to the interpreters included the beginners' course for interpreters, giving expert evidence and handling sexual offences, which equip them with the skills they need in court cases related to sexual offences. The intermediaries were trained on basic and advanced intermediary skills, which also help in terms of taking part in court proceedings. Court preparation officers were trained on sexual offences to be able to provide information to victims of sexual offences in preparation for court sitting and to give support where required. It would appear also that the Sibasa Regional Court provided training and workshops to officials on the Victims Charter.⁴²

E. Monitoring and evaluation system

The information shows that the Mankweng Court uses the NOC system linked to both regional and national DoJ & CD departments, for reporting case-related statistics and progress on a monthly, quarterly and annual basis. The court follows the case flow chart to ensure that proper processes are followed to handle cases. In terms of compliance mechanisms, the Mankweng Court uses a suggestion box to deal with complaints from those receiving assistance. A court manager or section manager are responsible for attending to the suggestion boxes on a bi-weekly basis, to ensure that the complaints are resolved.⁴³ The Thohoyandou and Sibasa courts also use the same NOC system and a suggestion box for the same purposes.⁴⁴

Our analysis and assessment shows that the NOC system is not adequate for the purpose of monitoring and evaluating the effectiveness of Victims Charter-related services in the courts. This system is merely geared towards gathering cases' related statistics on a monthly, quarterly and annual basis, and does not monitor the nature, quality or relevance of services rendered to victims of crime. Similarly, the use of suggestion boxes does not seem to constitute or meet the standard of a rigorous monitoring and evaluation system for Charter-related services.

3.2.2. Mamelodi Magistrate and Vereeniging Regional Courts (Gauteng)

A. Introduction

This section will focus on the two courts assessed in the province of Gauteng. These are the

⁴²ibid

⁴³Interviews held with Mankweng court officials, Mankweng, September 2016.

⁴⁴Interviews held with Sibasa Regional Court officials, Sibasa, September 2016.

Mamelodi District Magistrate Court and the Vereeniging Regional Magistrates Courts. The Mamelodi Court is a small court based in a very busy peri-urban township east of Pretoria. The Vereeniging Court is based in the small town of Vereeniging, south of Johannesburg.

B. State of facilities and services rendered to victims of GBV

The Mamelodi magistrate's court is set in small premises, with mobile office structures and old infrastructure. The court does not have facilities for a specialised sexual offences court but uses the Pretoria regional magistrate's court to handle sexual offences cases. The court premises had clear signage on the outside to identify the facility, and also inside to identify the various units and sections of the court. It did not have a CCTV set. Apparently it utilised the premises of the Pretoria Regional Court for cases that require the use of CCTV sets. The waiting rooms for this court did not cater for the privacy of breastfeeding women, or facilities for changing baby nappies as per the minimum standards for the Victims Charter.⁴⁵

The Vereeniging regional court is both a regional and district court and has two sexual offences courts with separate entrances for victims and offenders. During onsite observations, it was noted that the Vereeniging Regional Court buildings did not have clear signage on the outside, while inside the signage was clearly visible indicating directions to the various sections and units. The court had a CCTV facility although the waiting rooms did not provide privacy for women with breastfeeding babies or changing rooms for mothers with small babies as required under the minimum standards for Victims Charter.⁴⁶

Regarding personnel capacity, available information shows that the court has the following categories of officials: it had appointed intermediaries to assist children below the physical and mental age of 18 to give evidence during court cases and in the use of audio-visual equipment. It was noted during the visit that the court had testifying rooms with functioning CCTV sets and two anatomically detailed dolls as aides for children during sexual offences court cases.⁴⁷ The Mamelodi Court had also appointed one intermediary, although it did not have a testifying room and CCTV set. The court intermediary has to use the Pretoria Regional Court for cases that require a CCTV set.⁴⁸ The courts are required to ensure availability of court preparation officers to assist victims to

⁴⁵Interview held with Mamelodi court officials, Mamelodi, August 2016.

⁴⁶Interview held with Vereeniging Regional Magistrate Court officials, Vereeniging, August 2016.

⁴⁷Interviews held with Vereeniging Regional Magistrate Court officials, Vereeniging, August 2016.

⁴⁸Interviews held with Vereeniging Regional Magistrate Court officials, Mamelodi, August 2016.

understand court processes, in giving evidence in court, and in understanding the role of all the different participants during court proceedings. The anatomically detailed dolls are useful for this purpose. The Vereeniging Court had one court preparation officer, a court preparation room with dolls to assist in demonstrations of role playing -for the benefit of the victims in preparation for the court sittings. However, the court did not have information posters on the Victims Charter and related information such as toll-free numbers. The court did not seem to have facilities and provisions for people with disabilities (e.g. information materials in Braille), although it did have an information desk to assist those approaching the court seeking help and information.⁴⁹ The Mamelodi Court had appointed four interpreters. In addition, it had also appointed three casual interpreters.⁵⁰ The court also had informative posters on the services provided to victims, although lacking other facilities such as an information desk.⁵¹ The Vereeniging Court has also appointed two interpreters, with expertise on sexual offences matters.⁵² The Vereeniging Court appeared to be better resourced compared to the Mamelodi Court in terms of availability of specialised services.

In those areas where the courts lacked the necessary specialised support service as required by the minimum standards of the Victims Charter, both courts usually refer victims of crime to other agencies for assistance. For instance, the Mamelodi Court had a close working relationship with NICRO and the Family and Marriage Society of South Africa (FAMSA) based within the court premises. They refer victims, including victims of domestic violence to NICRO for psycho-social services as required by the minimum standards for the Victims Charter. Some victims under the age of 18 are referred to DSD social workers and National Youth Development Agency (NYDA) for support programmes.⁵³ Similarly the Vereeniging Court also refers victims to FAMSA for psycho-social support services.

In terms of providing emotional support, trauma counselling/debriefing and other related assistance to court officials, as required in line with the NIP, the Mamelodi Court did not offer such assistance while the Vereeniging Court offered assistance in terms of debriefing sessions to intermediaries. However, during interviews held with some of the officials, it was felt that the debriefing sessions were not sufficient.⁵⁴

Our overall assessment was that both the Mamelodi and Vereeniging courts did not fully meet many of the minimum standards outlined in the Victims Charter.

⁴⁹ Interviews held with Vereeniging Regional Magistrate Court officials, Vereeniging, August 2016.

⁵⁰ Interviews held with Mamelodi District Magistrate Court officials, Mamelodi, August 2016.

⁵¹ Interviews held with Mamelodi District Magistrate Court officials, Mamelodi, August 2016.

⁵² Interview held with Vereeniging Regional Magistrate Court officials, Vereeniging, August 2016.

⁵³ Interviews held with Mamelodi District Magistrate Court officials, Mamelodi, August 2016.

⁵⁴ Interview held with Mamelodi District Court and Vereeniging Regional Court officials, Mamelodi and Vereeniging, August 2016.

C. Budget/funding and allocation of resources

According to the participants interviewed at the Mamelodi and Vereeniging courts, matters of budget allocations were decided at the regional office. The officials were not familiar with details of budget allocations and amounts earmarked for Victims Charter-related activities. In terms of human resources both courts indicated that available staff was inadequate to cope with the workload.⁵⁵ Information was however provided on the following categories of personnel at the two courts:

- Court clerks: The Mamelodi Court appointed two court clerks to deal with cases of domestic violence and harassment, while the Vereeniging Court appointed five court clerks, two of whom were competent to deal with sexual offences cases, the other two with cases of domestic violence and one with cases of harassment.
- Court interpreters: The Mamelodi Court had four interpreters. The court also appointed three casual interpreters. The Vereeniging Court had two interpreters.
- Court intermediaries: Both courts had one intermediary each.
- Court preparation officers: The Mamelodi Court did not have court preparation officers while the Vereeniging Court had one.
- Case managers: both courts had one case manager each.
- Magistrates: The Mamelodi Court had four magistrates. In addition, the court had the assistance of three more magistrates from other courts to assist due to high volumes of cases. The Vereeniging Court had appointed two magistrates. It was noted also that the magistrates from both courts were not specialising only in GBV cases, but had to handle all other cases as well.
- Prosecutors: The Mamelodi Court had appointed nine prosecutors while the Vereeniging Court had two. The prosecutors from both courts were not specialists on GBV-related matters though, and had to handle all the cases.⁵⁶

As is clear from the information presented here, it is clear that the officials at the two courts are not specialists in matters related to gender-based violence. This is an important constraint in terms of capacity to handle effectively matters relating to gender-based violence.⁵⁷

⁵⁵ibid

⁵⁶ibid

⁵⁷CGE, Research Report on the Victims Charter 2009

D. Victims Charter-related skills training and capacity building for officials

The officials interviewed at both the Mamelodi and Vereeniging courts did not have knowledge of or understanding of the Victims Charter, as they apparently never received specific training on the Charter or its related minimum standards.⁵⁸ It was indicated that training is usually provided through the Justice College which makes available lists of all available courses to officials nominated by their courts.

During the interview with Mamelodi and Vereeniging it was discovered that many of the court officials were still new. This explained their lack of understanding of the Victims Charter and its related minimum standards for services to be rendered to victims of crime. However, many of the officials did understand the role of the court in the provision of services to victims.⁵⁹ We note nonetheless that the training on the Victims Charter was lacking among the staff responsible for rendering Victims Charter-related services in the two courts. In its previous report on the work of the DoJ & CD on the implementation of the Victims Charter, the CGE had recommended continuous training of court officials, including the newly appointed officials, ineffective implementation of the Victims Charter to ensure sustainability of the programme.

E. Monitoring and evaluation system

In terms of monitoring the services rendered to victims of GBV, available information indicates that the Mamelodi Court uses a number of methods. Firstly, it uses the NOC tool, already referred to in the case of other magistrates courts, to register case-related statistics to monitor progress. Secondly, it was indicated that the court uses a complaints flowchart and contact details on notice boards for the victims to lodge complaints. Thirdly, a suggestion boxes exists for the victims to submit their complaints in writing.⁶⁰

The Vereeniging Court also mentioned the NOC tool, complaints flowcharts with the contact details on the notice boards for the victims to lodge complaints and suggestions. In addition, the Vereeniging Court indicated that it reports on a monthly basis at case flow management meetings and quarterly to the regional office.⁶¹ As already discussed in some of the magistrates courts above, the NOC system does not appear to be an

⁵⁸Interview held with Mamelodi District Magistrate Court officials and Vereeniging Regional Magistrate Court officials, Mamelodi and Vereeniging, August 2016.

⁵⁹ Interview held with Mamelodi District Magistrate Court and Vereeniging Regional Magistrate Court officials, Mamelodi and Vereeniging, August 2016.

⁶⁰Interviews held with Mamelodi District Court officials, Mamelodi, August 2016.

⁶¹ Interviews held with Vereeniging Regional Court officials, Vereeniging, August 2016.

appropriate, relevant and effective system for monitoring and evaluating the nature, quality and relevance of Victims Charter-related services. The relevance and effectiveness of other methods referred to here cannot be guaranteed.

3.2.3. Durban Regional and Umlazi Magistrate Courts (KwaZulu-Natal Province)

A. Introduction

This section will focus on the two courts selected from KwaZulu-Natal for this study: The Durban regional and Umlazi Magistrates Courts. The Durban Regional Court is clearly located in an urban setting within the city centre of Durban, with fairly well established facilities and infrastructure. The Umlazi Magistrate Court is located in the township of Umlazi, 25km away from Durban. It is a slightly smaller establishment compared to the Durban Regional Court, although also fairly well established in terms of its infrastructure and office facilities.

B. State of facilities and services rendered to victims of GBV

The two courts were both visited as part of onsite observations of the facilities selected for this study. It was noted that the signage for both court premises were clearly visible to give clear directions both inside and outside. Both courts have two sexual offences courts each. They both had separate waiting rooms for victims and offenders. Facilities were provided for the comfort of women with small children, such as changing rooms. Both courts have preparation rooms with anatomically detailed dolls, testifying rooms and CCTV sets as per the requirements set out in the minimum standards of the Victims Charter. It was also noted the two courts had structural modifications such as ramps to accommodate people in wheelchairs.⁶²

Information provided on court personnel available to assist victims indicates that both courts had various intermediaries responsible for functions such as helping children below the physical and mental age of 18 years to give evidence in court cases as required in the minimum standards. Each court had appointed two intermediaries for this role.⁶³ The Durban Regional Court had one court preparation officer to assist the victims with all the information they need and other relevant services through all the court processes including during court appearances. The victims are also allowed to see the courtroom

⁶²Interviews held with Durban Regional Court and Umlazi Regional court officials, Durban and Umlazi, August 2016.

⁶³Ibid

before the case starts and the officers accompany them to court if they need such support.⁶⁴ The Umlazi Court had two court preparation officers.⁶⁵ It was discovered that the two courts regularly reach out to local communities through public education campaigns on the rights of victims of crime, and the services offered by the courts to assist.⁶⁶

Both courts had interpreters in line with the provisions of the Victims Charter, with information available for those who need it, including people with disabilities. The Durban Court had appointed two interpreters⁶⁷ while the Umlazi Court had appointed four interpreters to deal with various matters relating to sexual offences, domestic violence and harassment. The Umlazi Court had also appointed two sign language interpreters.⁶⁸

Both courts do refer victims who need support services such as psycho-social counselling to other institutions, such as the DSD and contracted NGOs, with the necessary expertise. The Durban Court often refers victims who need psycho-social counselling to the Edinton Crisis Center, while the Umlazi Court uses facilities administered by KZN networks.⁶⁹ It was also found that both courts did provide some support, through debriefing and counselling sessions for officials exposed to trauma from dealing with the victims of violence, although in some cases the officials felt that this was inadequate (especially in the case of the Durban Court).⁷⁰ Nonetheless it would appear that the two courts largely met the minimum standards of rendering services to the victims of crime as set out in the Victims Charter.

C. Budget/funding and allocation of resources

During interviews with officials from both the Durban Regional and Umlazi Magistrate's Courts, it became clear that the process of budgetary allocations for the two courts takes place at regional office level. As such the court officials had no knowledge of the details regarding amounts allocated for various items, including activities related to the Victims Charter. It was made clear though that both courts do get allocations to cover daily operational needs, infrastructure maintenance, and allowances for witnesses as

⁶⁴ Interviews held with Durban Regional Court officials, Durban, August 2016.

⁶⁵ Interview held with Umlazi Regional Court officials, Umlazi, August 2016.

⁶⁶ Interview held with Durban Regional Court and Umlazi Regional Court officials, Durban and Umlazi, August 2016., Durban and Umlazi, August 2016.

⁶⁷ Interview held with Durban Regional Court officials, Durban, August 2016

⁶⁸ Interview held with Umlazi Regional Court officials, Umlazi, August 2016.

⁶⁹ Interview held Durban Regional Court and Umlazi Regional court officials, Durban and Umlazi, August 2016.

⁷⁰ Ibid

determined by the magistrates. In terms of human resources responsible for providing services to victims of GBV, the following information was made available:⁷¹

- Court clerks: The Durban Court had appointed 11 court clerks to assist with various matters such as domestic violence, sexual offences and harassment. The Umlazi Court had appointed four clerks to handle the same functions/responsibilities.
- Court interpreters: The Durban Court had two interpreters while the Umlazi Court had four. The Umlazi Court had also appointed two sign language interpreters.
- Intermediaries: both courts had appointed two intermediaries each.
- Court preparation officers: The Durban Court had one preparation officer while the Umlazi Court had two.
- Case managers: The Durban Court did not provide information in this regard, while the Umlazi Court had one case manager for sexual offences matters.
- Magistrates: The Durban Court had seven magistrates to handle a variety of cases, including sexual offences, family courts, domestic violence and harassment. The Umlazi Court had four magistrates handling the same matters.
- Prosecutors: the Durban Court did not provide information in this regard while the Umlazi Court had four prosecutors, two full-time and two part-time.⁷²

Officials at the Durban Court indicated that the court had adequate staff but only at junior level, and a shortage of staff, especially at supervisor level. For the Umlazi Court, it was reported that while they had adequate staff, it had to speed up internal recruitment processes to deal with a spate of recent resignations.⁷³ Interview held with Durban Regional Court and Umlazi Regional court officials, Durban and Umlazi, August 2016.

Overall though, it would appear that the two courts have been able to put the necessary resources in place to meet the minimum standards required for the Victims Charter and the establishment of sexual offences courts.

D. Victims Charter-related skills training and capacity building for officials

As in the case of budgetary allocations, the decision on the type of training and capacity building to be provided for court employees is also said to be made at regional level on an annual basis. The courts only nominate candidates to receive the training for the courses usually provided by the Justice College. The courses are usually offered in areas related to the services rendered by the courts towards the victims of GBV. Officials

⁷¹ Ibid

⁷² Ibid

from both courts were offered training during the 2014/14 and 2015/16 financial years, as indicated in the two tables below:

Table 2: Training offered to court officials

Court	Areas/subjects for training	Financial Year 2014/5	Financial Year 2015/6
Durban Regional Court	Introduction to Harassment Act	0	3 women
Umlazi Magistrate Court	Sexual Offences	2 men 1 woman	5 women 2 men
	Domestic Violence	3 women	4 women
	Harassment	1 woman	4 women

These figures show that while the Durban regional court provided for the training of officials on the Protection from Harassment Act in the 2015/16 financial year, the Umlazi Court provided training opportunities for its officials on subjects such as sexual offences, domestic violence and the harassment in two consecutive financial years as indicated in table 2 above. However, while none of the subjects of training offered included the Victims Charter as a programme as indicated in the recommendations contained in previous CGE reports,⁷⁴ knowledge of these subjects is still critical for those responsible for implementing programme activities related to the Victims Charter.

E. Monitoring and evaluation system

In terms of monitoring the services provided to victims of crime, officials from the two courts indicated that the same NOC tool used by the other courts as discussed above is also used to collect case statistics for tracking progress on cases registered with the courts. Also, monthly reports are submitted to section heads, as well as to the cluster and regional offices. Suggestion boxes and complaints flowcharts are also utilised, with the Durban Court placing the responsibility for handling individual complaints on the section head.

⁷⁴ CGE, Research Report on the Victims Charter (DOJ&CD and SAPS), (2009)

Both courts also use the tool of 'a mystery client' where an individual from one of the NGOs, requested by the regional office, would visit the court posing as a victim of crime, to assess the quality of services provided.⁷⁵

3.3. THE SAPS – NATIONAL FINDINGS

3.3.1. Role and responsibilities of the department in implementing the Victims Charter

In 2009 when the first CGE study⁷⁶ evaluating the implementation of the Victims Charter by the SAPS was conducted, the SAPS was reported to be discharging its obligations and responsibilities towards the Victims Charter and its accompanying minimum standards through the Visible Policing Unit (Vispol). The specialised detective services unit that was first referred to as the Child Protection Unit in 1986 and later called the Family Violence, Child Protection and Sexual Offences Unit (FCS) in 1996 had come to a halt. It is not clear why the unit had been closed. It can be observed, however, that the unit's functions were subsequently performed generally under the detective unit and were no longer treated as a speciality, even though other police stations had not totally disbanded their units. The FCS was, however, rekindled in 2010 by the minister of police to provide specialised and focused services for victims of family violence, child protection and sexual offences.

This section on the assessment of the SAPS's progress on the implementation of the Victims Charter is based on interviews conducted with officials from the FCS Unit at national level. Countless efforts were made by the CGE researchers to interview officials from the Vispol Unit, but they were not available to form part of the interviews. Nonetheless, a number of official documents from the unit have been obtained and were used to write this analysis.

The identified roles of the two units (FCS and Vispol) at national level and in line with the Victims Charter are to develop policies, standards and directives. The units are also responsible for performing an oversight role over provinces, monitoring, evaluation and development of interventions for provinces.

In terms of the development of national directives, this study found that the legislation that is relevant for the implementation of the Victims Charter within SAPS was effected through the SAPS National Instructions listed below:

- National Instruction 2/2012 – Victim empowerment
- National Instruction 7/1999 - Domestic violence

⁷⁵Interview held Durban Regional Court and Umlazi Regional court officials, Durban and Umlazi, August 2016.

⁷⁶CGE, Research Report on the Victims Charter (DOJ&CD and SAPS), (2009)

- National Instruction 3/2008 - Sexual offences
- National Instruction 2/2010 - Children in conflict with the law
- National Instruction 3/2010 - The care and protection of children in terms of the Children's Act
- Standing operating procedures for the reporting of FCS-related crimes.

The purpose of a National Instruction is to provide guidelines to ensure that members of the SAPS render professional services and assistance to victims in respect of the crime reported and investigations. The National Instruction 2/2012 on victim empowerment, for example, clarifies the role of the SAPS within the multi-disciplinary victim empowerment programme and the minimum standards of the Victims Charter. The document covers 16 themes⁷⁷: 1) Categories of victims 2) Treatment of victims 3) Victims with special needs 4) Appropriate language 5) Rights of victims (Victims Charter) 6) Complaints 7) Establishment of Victim Friendly Rooms (VFR) 8) Minimum standards for equipment for VFRs 9) Minimum standards for the VEP of police stations 10) Roles and responsibilities of SAPS officials in their ranks 11) the procedure to follow when referring a victim of a crime to a professional service provider 12) The establishment of partnerships with Non-Governmental Organisations (NGOs) 13) The use of volunteers 14) Transportation of a victim 15) Designation of coordinators; and 16) Reporting.

In addition to the National Instruction, the Vispol unit has developed a victim empowerment manual⁷⁸ which provides step-by-step guidelines for the establishment and management of Victim Empowerment and Victims Charter initiatives in the SAPS. The manual is an extension of the National Instruction but gives more detail in terms of the steps to be taken by each role player within the SAPS when presented with a victim, especially at station level. It is also noted that the manual incorporated the minimum standards of the Victims Charter in terms of SAPS's key responsibilities. The document further consolidates the legislative framework within which the concept of victim empowerment is integrated into routine SAPS practices and procedures, and determines the monitoring of services to ensure accountability and control at various levels.

The standing operating procedures for the reporting of FCS-related crimes,⁷⁹ dated 2010, guides the work of the FCS and details a set of responsibilities and procedures to be followed by the FCS detectives and forensic social workers when interacting with victims

⁷⁷ South African Police Service, National Instruction no. 2 on Victim Empowerment, (2012)

⁷⁸ South African Police Service, Victim Empowerment Manual, (undated)

⁷⁹ South African Police Service, Standing Operating Procedures: Reporting of Crimes: Family Violence, Child Protection and Sexual Offences (FCS), (2010).

and investigating FCS cases. Our analysis found that the document was meaningfully aligned to the Victims Charter and its minimum standards in terms of procedures outlined on how to handle and work with victims.

Although it is clear that the SAPS at national level has between 2009 and 2016 effected national directives to ensure the efficient implementation of the Victims Charter, it should be noted that some of the practical procedures noted in these documents are not always flawlessly implemented by officials at station level. These discrepancies will be discussed at length in the forthcoming sections below that focus on the SAPS at facility level.

The SAPS reported that all 1 140 nationwide police stations were rendering victim-friendly services to the victims of rape, sexual offences, domestic violence and abuse. The SAPS 2015/16 annual report⁸⁰ states that a station is deemed capable of rendering a victim-friendly service if it meets two of the following three requirements: first that 50 per cent of its operational members must have completed one or more of the following training courses: Victim Empowerment Learning Programme, Domestic Violence Learning Programme, Vulnerable Children Learning Programme and First Responders to Sexual Offences Learning Programme; second that it must have a dedicated VFR or, if space does not allow for that, specific alternate arrangements must be made to provide privacy when taking statements in cases of gender-based or intimate violence; and third, that a station order has been issued to direct the management of victim services at the police station, including referral to other service providers, management of the VFR and/or the alternate arrangements referred to above, and if applicable, management of volunteers. These prescripts are consistent with the minimum standards of the Victims Charter, except that training of personnel doesn't always transpire in the actual implementation of the obligations. Furthermore, our study found that not all VFRs were being used for their intended purpose and also, SAPS members were not always observing some of the basic requirements of their training, such as introducing themselves to the victims. Nonetheless, there were 1027 VFRs established at police stations, satellite police stations, contact points, airports, railway stations and FCS Units at the end of March 2016. The number of VFRs had increased from 989 as was reported at the end of March 2015.⁸¹

There are 176 FCS units nationwide, with some operating within police stations while others operating remotely from stations and are attached to several cluster police stations.⁸²

⁸⁰ South African Police Services, Annual Report, (2016), 99

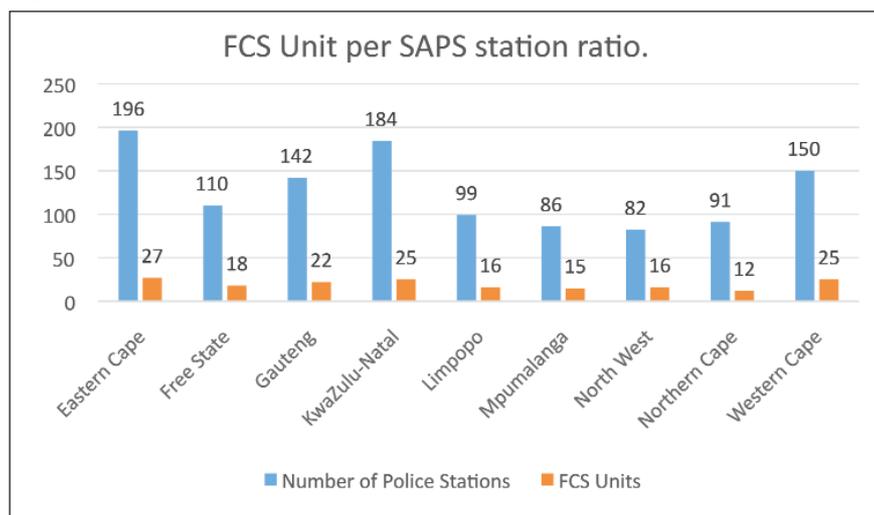
⁸¹ South African Police Services, Annual Report (2016), 137

⁸² Interview held with SAPS Official, SAPS National Offices in Pretoria, September 2016.

Direct figures in terms of which police stations had FCS detectives onsite were not provided, nor were the criteria used to select police stations at which FCS members are based. Furthermore, while the official interviewed at national level was reluctant to give details of some of the challenges linked to the limited number of FCS units and the related staff components nationwide, it is clear that the ratio of FCS units relative to the number of police stations in provinces was unsatisfactory, especially in the context of high volumes of FCS cases. The FCS detectives in the provinces had also indicated that caseloads related to FCS are particularly high in many areas, and that the SAPS should strive towards establishing FCS units in every police station.

The following graph shows the ratio of existing FCS units in relation to SAPS stations per province.

Figure 1: FCS unit per SAPS station ratio.



Source: SAPS

Figure 1 clearly shows the small number of FCS units relative to police stations. None of the provinces has reached 20 per cent in the number of FCS units in relation to the total number of existing police stations. Only Northern Cape comes close, with 19.5 per cent of its police stations having created FCS units. Mpumalanga (17.4 per cent) and Western Cape (16.7 per cent) come second and third respectively, while Northern Cape (13.2 per cent) is the lowest. The number of police stations with FCS units in the two most populous provinces of Gauteng (15.5 per cent) and KwaZulu-Natal (13.6 per cent) is significantly low.

3.3.2. Budget/funding allocation and other resources

The assessment of the SAPS's funding system in both the 2009 CGE study,⁸³ as well as the current assessment, indicated that SAPS budget allocations are obscure and inefficient. Officials were unable to provide accurate figures of budgets allocated for Victims Charter-related programmes. The FCS unit, for example, did not have a specific budget and was covered under the overall detective services budget. The same was true for the VEP which was budgeted for under Vispol. The 2015/16 SAPS annual report⁸⁴ revealed that a total of R15 149 725 was spent on detective services in the 2014/15 financial year and R15 947 270 in 2015/16. However, there was not sufficient data to reflect funding and budgetary allocation over a longer time to determine trends (i.e. increases or decreases) and what areas were being prioritised. Also, although it is not clear from available information how much of the budget was allocated to FCS specifically, the CGE is not convinced that the FCS unit is adequately resourced to function effectively to make an impact in the long term. Apart from the fact that 176 FCS units countrywide are not sufficient to cope with the caseloads related to crimes dealt with by the unit, issues relating to shortages of vehicles and sexual offence evidence collection kits render the SAPS budget deficient. In terms of Vispol, R36 700 272 was spent in 2014/15 and R38 321 105 in 2015/16.⁸⁵ It was also discovered that SAPS continued to rely on donor funding for most of the resources and equipment found in the VFRs. For instance, Business Against Crime, Spar supermarkets and religious organisations (i.e. churches) were identified as some of the donors.

3.3.3. Victims Charter-related skills development and capacity building

The CGE in its 2009 report⁸⁶ had revealed that there was a problem of inconsistent programme roll out concerning training related to the Victims Charter within the SAPS. This means that training was skewed towards certain provinces, while officials in other provinces were not receiving training at all. In the current assessment, SAPS could not disaggregate statistics to reflect how skills development training courses were spread across police stations in the different provinces. However, data obtained during our fieldwork indicated that in the two financial years 2014/15 and 2015/16, officials had attended various training sessions related to the Victims Charter.

⁸³CGE, Research Report on the Victims Charter (DOJ&CD and SAPS), (2009)

⁸⁴South African Police Service, Annual Report (2016), 19

⁸⁵Ibid

⁸⁶CGE, Research Report on the Victims Charter (DOJ&CD and SAPS), (2009)

In the 2014/15 and 2015/16 financial years, learning programmes/interventions covered the following broad themes: Domestic Violence (5 days), Victim Empowerment (5 days), Child Justice Act, Train-the-trainer, Human Rights, Children and Youth at Risk Development and First Responder to Sexual Offences (5 days). The focus of training in this learning area was on Vispol and support members. The 2014/15 SAPS annual report revealed that 23 209 members from Vispol were trained and 23 101 or 99.5 per cent of the members were declared competent upon completion of the training. In the 2015/16 financial year, a total number of 17 241 members were reported to be trained and 17 125 of them were declared competent, leading to an overall competency rate of 99.33 per cent. Members who were declared not yet competent were given an opportunity for remedial training and reassessment during the programme.⁸⁷

FCS detectives, on the other hand, attended a five-day training programme on victim support in 2014/15. Statistics were not provided to indicate how many officials had undergone this training. Furthermore, forensic social workers belonging to the FCS unit were also taken through a training course focusing on “Introducing the Child Witness, Forensic Social Work Report Writing and Statement Taking from a Child” in the same year. It was reported that 149 SAPS members underwent training in the forensic social work environment and 148 were declared competent which is equivalent to 99.33 per cent. The SAPS asserted that the training made a positive contribution in empowering investigators to address the scourge of violence against women, children and vulnerable persons by empowering the child witness to give evidence that would otherwise remain hidden.⁸⁸

To address the gaps identified in the rendering of quality services to the victims of GBV and to enhance the capacity of members, SAPS⁸⁹ claimed that capacity-building work sessions were conducted in 2015/16 in all provinces with provincial social crime coordinators, victim empowerment coordinators, cluster coordinators and police station representatives who are mostly dealing with gender-based programmes. The aim of the work sessions was to capacitate members on the proper implementation of the Domestic Violence Act, 1998, the Criminal Law (Sexual Offences and Related Matters) Amendment Act of 2007 and the VEP. In addition, the SAPS reported that one-on-one sessions were conducted in Mpumalanga and in the Free State with social crime coordinators to assist and improve quarterly reporting in terms of data integrity. Finally, a national victim empowerment coordinators forum work session was conducted with all provincial social

⁸⁷ South African Police Service, Annual Report. (2016), 67

⁸⁸ South African Police Service, Annual Report (2015), 78

⁸⁹ South African Police Service, Annual Report (2016), 139

crime coordinators to address non-compliance relating to the Domestic Violence Act, Sexual Offences Act and the VEP.

3.3.4. Monitoring and evaluation systems

The current assessment found that the SAPS uses an online Crime Administration System (CAS) as one of its monitoring tools. It was alleged that CAS captures information related to every case that is reported to police stations and that the data is immediately accessible to head office after it has been captured. In addition to CAS, the Domestic Violence Act 116 of 1998 dictates that all incidents of domestic violence must be recorded in a domestic violence register. It was reported that statistical data was used to determine crime hot spots in order to devise suitable interventions, such as motivating for improvement of staff capacity.⁹⁰ With that said, however, it can be noted that all FCS unit officials interviewed for this study complained about the inadequate staff component and shortage of resources such as vehicles. It wasn't clear therefore how CAS had been used to benefit the unit. Nevertheless, the official interviewed at national office further indicated that qualitative inspection reports were prepared in relation to the assessment of contents of case dockets, age of the victim, quality of the investigation, and data integrity. The qualitative method was also used to determine if officials at station level were complying with SAPS instructions.

It was indicated that the SAPS deals with public complaints through a division called the Complaints Nodal Point. Two channels have been established by SAPS and are available to be utilised by the public to lodge complaints against SAPS members in cases of dissatisfaction with services or corruption, and those are Crime Line and Crime Stop. It was clear, however, that the complaints lines were not an effective tool for assessing victim satisfaction with regard to SAPS services related to the Victims Charter. This is because officials could not clarify how reports from the Crime/Crime Stop lines have assisted the SAPS to improve on its services to victims.

The SAPS VEP manual⁹¹ outlines methods through which the SAPS can determine victim satisfaction with SAPS Victims Charter-related services. Methods include victim satisfaction surveys – however, none of the police stations visited were found to be using those surveys. The SAPS 2015/16 annual report⁹² however, indicated that SAPS officials had attended the

⁹⁰Interview held with SAPS Official, SAPS National Offices in Pretoria, September 2016.

⁹¹ South African Police Service, Victim Empowerment Manual, (undated)

⁹² South African Police Service, Annual Report (2016), 140

second victim satisfaction survey inter-sectoral meeting led by the DSD; the purpose and outcomes of this meeting were not provided, however.

3.4. THE SAPS – PROVINCIAL FINDINGS

3.4.1. Ndwedwe and Durban Central Police Stations (KwaZulu-Natal Province)

A. Introduction

In order to assess facilities whereby services related to the Victims Charter are being rendered to victims of crime by the SAPS, two police stations were visited in KwaZulu-Natal. The first was the Durban Central Police Station which is based in the heart of the Durban City Centre. The station is one of the biggest police stations in KwaZulu-Natal and is situated next to the Durban magistrate's court. The second station was the Ndwedwe Police Station which is situated in the rural Ndwedwe Village.

B. State of facilities and services rendered to victims of GBV

Observations carried out at the police stations found that both stations were in a good infrastructural condition and were based within fenced vicinities. The VFR at the Ndwedwe Police Station however, consisted of a small guardroom situated behind the station building. This posed risks for the safety, security and comfort of victims, in that the room was isolated and did not guarantee victims the security that a police station would provide under normal circumstances. Furthermore, the room was based far from the station amenities, such as water and toilets. Victims had to walk to the main station in order to access those facilities. Nonetheless, the room was partially consistent with the minimum standards of an SAPS VFR, in that it had a small desk and chair, first-aid kit, a small bed, burglar bars on the outside window and door, and a register for capturing victims' details. The room was also kept neat and appeared to be well maintained. Officials interviewed at the station indicated that the guardroom had been used since 2013 because of inadequate office space at the station. It was further indicated during the interviews that an application for a park-home had been submitted to senior SAPS officials in the province, but to no avail. In the case of Durban Central Police Station, their VFR was within the station building, open for 24 hours, but only contained a bed. The cleanliness and general neatness of the VFR was concerning, as well as the lack of posters and pamphlets detailing the rights of victims and contact details of psycho-social services available to the victims in the community.

Victim-friendly services rendered by SAPS to the victims of GBV-related cases in both stations included the use of VFRs for interviews and statement taking, as well as case investigations by FCS detectives. Both stations had dedicated VEP coordinators, whose responsibility was to ensure that VEP and Victims Charter-related services were observed and implemented at the police station.

Victim-friendly services at the Ndwedwe Police Station also included the option for victims to have their statement taken by a member of the same gender. This was, however, not the case with FCS services as the station had a dedicated male FCS member. The detective was officially based at KwaDukuza under the Elembe FCS unit cluster, but the station manager asked for it to be based directly at the station because of the challenges of long waiting periods experienced by victims.⁹³ KwaDukuza is estimated to be 55.1 km away from the Ndwedwe Village. Despite this accomplishment, the interviews revealed that the area had high incidences of FCS cases and that the caseload was strenuous on the one investigative member.⁹⁴ This is because part of the FCS member's responsibilities included transporting victims to the Thuthuzela Care Centre (TCC) for medical examinations, transporting victims to places of safety, while also having a backlog of cases to investigate and an added administrative role of submitting case dockets to court. The nearest TCC to the station was in Phoenix, which is estimated to be 42.5 km away from the station, while the place of safety linked to the station was 74.5 km away in Pinetown. The 2009 CGE study⁹⁵ had found that SAPS officials were struggling to find placements for victims in places of safety as they were always told that these places were full. The informants in the current assessment confirmed that this challenge was persisting and that the FCS official had to always motivate to use alternative places of safety.

Durban Central Police Station had members of the FCS based at the station and also available on standby at night. The FCS unit was, however, responsible for the entire EThekweni central cluster. Victims at the station were taken to a crisis centre at the Edington Hospital for medical examinations, and sometimes to Umlazi Hospital if doctors at Edington were not available. Edington Hospital was a close driving distance from the police station, while the Umlazi Hospital was only 25 km away. It was, however, clear that despite the easy access and short driving distances between the station and the crisis centres, the FCS unit was under-staffed and overworked, particularly because the 10 members in the unit were responsible for nine other stations. The station VEP coordinator

⁹³ Interview held with Ndwedwe SAPS officials, Ndwedwe Police Station, August 2016.

⁹⁴ Ibid

⁹⁵ CGE, Research Report on the Victims Charter (DOJ&CD and SAPS), (2009)

worked with two volunteers to provide services to victims in private, incorporating three of the four basic elements of victim empowerment which are: 1) emotional support, 2) practical support, 3) provision of information. The 4th basic element of victim empowerment entails referral to professional support services. It was alleged that this element was not incorporated into services because crisis centres and places of safety that victims were taken to provided psycho-social services as an essential part of their services.⁹⁶ Finally, our observations revealed that the VEP unit had neglected its responsibility to ensure that the VFR follows the standards set out in the National Instruction 2/2012 for victim empowerment.

C. Budget/funding and allocation of resources

The previous CGE study⁹⁷ had discovered that police stations were under-resourced to deliver vital Victims Charter-related services to victims of crime, as expected, in line with the stated minimum standards. Moreover, the study found that the SAPS had severe shortages of vehicles and sexual offence evidence collection kits. It appears that not much has been done to address these problems given that this study found that members of the FCS unit at the Durban Central Police Station were expected to operate with just two vehicles. This was a challenge because a major part of the functions of the FCS unit involves using a vehicle. At Ndwedwe police station, the detective had a dedicated car which was available to him at all times. Both stations, however, complained about the low supply of sexual offence evidence collection kits. Officials revealed that the kits were not always available at the stations, which resulted in depending on TCCs and Crisis Centres for the provision of the kits.⁹⁸ Challenges of staff capacity in the FCS units were predominant at both stations. Apart from the minimal appointments of FCS detectives, there also appeared to be a shortage of forensic social workers in the units. The findings indicate that there is an evident need for the SAPS to review the model of the FCS units in terms of staff composition and the placement of units. Moreover, it was indicated that budget allocations were the prerogative of the provincial office and therefore the informants at the police stations did not know details. Informants, however, indicated that there appeared to be a budget crisis. This was because FCS officials were expected to be on standby afterhours but were not paid overtime as expected. The state of the VFRs at both stations also corroborated the claim that the SAPS budgets were insufficient.⁹⁹

⁹⁶ Interview held with Durban SAPS Officials, Durban Central Police Station, August 2016.

⁹⁷CGE, Research Report on the Victims Charter (DOJ&CD and SAPS), (2009)

⁹⁸ Interviews held with Ndwedwe SAPS Officials, Ndwedwe Police Station and Durban Central Police Station, August 2016.

⁹⁹ Ibid

Other challenges linked to resources were IT-related, such as weak internet connections, lack of stationery and lack of public information by way of charts, posters and pamphlets.

D. Victims Charter-related skills training and capacity building for officials

This study found that a number of SAPS officials in the two stations had received training on the Victims Charter. Officials' scant understanding of the Victims Charter was, however, worrying. It appeared that officials were aware of the services expected from them but could not articulate clearly how the services were linked to the prescripts of the Charter. A total of two officials at the Ndwedwe Police Station from the Vispol unit were trained on the Victims Charter, which forms part of the greater victim empowerment training in the 2014/15 financial year. One of the officials was female while the other was male. In the 2015/16 financial year, three officials received training in the same unit and two of them were male, while the other one was female. Information on the training received by the member of the FCS was not available; however, it was clarified that he had gone through a three weeks FCS training course for him to specialise in the area. FCS members from the Durban Central Police Station had also undergone this training, although the dates and other information related to this training were not specified. Vispol members at the Durban Central Police Station underwent a training course on first responder to sexual offences. However, information related to this training could not be obtained to validate these claims.¹⁰⁰

E. Monitoring and evaluation system

In terms of monitoring and evaluation, both stations reported that they submit the number of dockets opened in a week to the cluster managers. In addition, weekly cluster meetings were held to discuss dockets and other matters arising. Stations were also expected to participate in the provincial crime combating forum on a weekly basis. The method used to capture incidents of crime was the CAS system which captured the details of the victim, including the gender and age of the victim. Our observations revealed that CAS was effective for generating crime statistics but on its own, it could not effectively monitor services rendered to victims in relation to the Victims Charter. The Ndwedwe Police Station had a suggestion box in the Community Service Centre (CSC) and kept a complaints register in which victims would express any dissatisfaction with the quality of services received at the police station.¹⁰¹

¹⁰⁰ Ibid.

¹⁰¹ Ibid.

Officials, however, could not corroborate claims about the effectiveness of these methods with any reports or substantive evidence that demonstrates how the methods enabled SAPS to effectively monitor and evaluate its services to the victims of crime.

3.4.2. Warrenton and Kimberley Police Stations (Northern Cape Province)

A. Introduction

The SAPS facilities selected for assessment, including onsite observations, in the Northern Cape were the Warrenton Police Station and the Kimberley Police Station. Warrenton is an agricultural town based in the north-eastern part of the Northern Cape Province, whereas Kimberley is the province's capital city.

B. State of facilities and services rendered to victims

Both buildings of the stations appeared to be in a good state and were fenced. Warrenton Police Station was, however, small and was extended with a number of park-homes. It was further observed that the VFR also functioned as the office of the VEP coordinator and the volunteer, which resulted in clutter. The room was equipped with desks, chairs and computers, which served as work stations for the VEP coordinator and the volunteer. A wheelchair ramp was observed at the VFR entrance, suggesting a structural modification to enable easier access for those in wheelchairs. A disability-friendly toilet was located in the VFR, although it was observed that the toilet was being used by police officials and was not necessarily dedicated to victims. This means that private sessions with victims were constantly getting interrupted by officials seeking to utilise the toilet, which subsequently compromised the victims' right to privacy. It became clear to us that the model of the VFR at the station needed to undergo robust evaluation in order for the VFR to serve its founding purpose for the benefit of the victims.

The Kimberley Police Station building, on the other hand, was relatively big, with a well-resourced VFR. The VFR had a waiting area, child-friendly facilities and a wealth of posters containing important information on the walls for the victims. It appeared that the Kimberley Police Station VFR was consistent with all the minimum standards for a VFR as outlined in the SAPS National Instruction 2/2012 for victim empowerment, in that it had a desk and chair for the police officer or volunteer serving the victim, two chairs for the victim and support person, couches in the waiting area, a filing cabinet, a lockable cupboard, a pin board, stationery, a dustbin, a tea table, burglar bars on all outside

windows, a register to capture the details of the victim, a first-aid kit; and a fire extinguisher. Interviews with officials however revealed that the VFR was not being used to obtain statements from the victims in private but was rather used as a waiting room. This is because an official from the FCS unit indicated that victims were removed from the VFR and then interviewed in their overcrowded offices.¹⁰² It would appear that officials at the Kimberley Police Station have misunderstood the purpose of the VFR, and thus potentially compromise the victims' right to privacy and respect for their dignity.

The Warrenton Police Station was linked to the FCS unit based in Jan Kempdorp, which is 28.9 km away from the station. In addition to the Warrenton station, the unit was also responsible for four other stations. Interviews with SAPS officials revealed that while the FCS had its own internal challenges, their plight was exacerbated by other key role players whom the FCS could not fully render their services without their cooperation. Victims of sexual offences at the Warrenton Police Station were transported to the Warrenton Clinic, which apparently had doctors trained in clinical forensic medicine. Medical services provided to victims at the clinic were described as effective and efficient. However, doctors were not always available to provide services, which resulted in the FCS detectives having to drive victims to Kimberley TCC and Hospital. The Kimberley TCC was only operating from 8 am to 4 pm during weekdays, after these hours victims would have to be taken to the hospital. Queues of victims of FCS-related crimes were said to be always long, because doctors were few. In fact, the informant indicated that doctors were always complaining about not being paid overtime and therefore sometimes refused to be on call afterhours. Detectives would then have to wait until morning for victims to be attended to. The situation was said to be no better at the TCC because it did not have dedicated doctors or nurses. Doctors had to be called in from the hospital but would first want to finish with their duties in the hospital before attending to victims in the TCC. It appeared that social workers at the TCCs were the only officials available to see victims immediately, but they were not available for 24 hours. The VEP coordinator and the volunteer at the station were responsible for ensuring that victims were offered emotional support and referred to psycho-social services available in the community, and provided other SAPS victim empowerment-related services.¹⁰³

The Kimberley Police Station had the FCS based on-site but was responsible for five other police stations. Victims of sexual offences were transported to either the Galeshewe TCC or to Kimberley Hospital by the FCS detectives. Victims could not always be taken first to

¹⁰² Interview held with Kimberly SAPS Officials, Kimberley Police Station, September 2016.

¹⁰³ Interview held with Warrenton SAPS Officials, Warrenton Police Station, September 2016.

the TCC because it did not operate on weekends and after 4pm during the week. Victims would then need to be taken to the TCC on Monday or the morning of the following day if the case was reported in the after-hours during the week. Victims would be taken to the TCC for counselling and other NPA-related services. The TCC was said to be well run, with comprehensive services offered to the victims. The FCS unit also had a forensic social worker placed at the station. The functions of the forensic social worker were to conduct investigations at the request of the investigating officer or public prosecutor, and to assist the judicial system and the court in making a just and fair decision in child abuse cases by means of an expert opinion.

Officials placed in charge of the station's VEP at the Kimberley Police Station were referred to as the social crimes prevention unit coordinators and not VEP coordinators. There were two officials coordinating the work and they worked with volunteers who were only available on call afterhours, given that the coordinators were only available during the day. The unit was responsible for the implementation of the Victims Charter and other social crimes-related programmes at the station. Their services related to the Victims Charter included managing the VFR, assisting victims with placements at places of safety and referring victims to NGOs in the area for psycho-social services, informing victims of their rights and managing public awareness campaigns.¹⁰⁴

The current assessment also revealed that officials did not struggle to find placements for victims at places of safety (shelters), compared to what was found in the 2009 study,¹⁰⁵ when it was indicated that victims would be turned away because of lack of space. It was indicated that shelters had extended their facilities to increase capacity for accommodating of victims.

C. Budget/funding and allocation of resources

Similar to what was reported in the 2009 CGE study, the two stations experienced budgetary and resource allocation challenges. FCS units were understaffed and expected to serve victims in police stations that were far apart from each other. The FCS unit at Warrenton had nine detectives in total and was responsible for five police stations, whereas 12 detectives at the Kimberley Police Station were responsible for serving six police stations. It was also indicated during the interviews, that there was a general

¹⁰⁴ Ibid

¹⁰⁵ CGE, Research Report on the Victims Charter (DOJ&CD and SAPS), (2009)

shortage of forensic social workers in the province. Provincial informants revealed that the Northern Cape had a dismally low number of five forensic social workers in total and there appeared to be no plans by the department to increase the number. The FCS Unit at Warrenton Police Station had a shortage of vehicles and would at times transport victims in the back of the police van. It was indicated that vehicles allocated for the use of the FCS unit were not always being utilised for work-related purposes. The unit was allocated four vehicles but the vehicles were not always available to them. FCS officials from both stations further indicated that they would provide meals for victims from their own pockets when experiencing delays at TCCs and hospitals. Apparently, the provision of meals did not feature on their unit budgets.¹⁰⁶

The VFR at Warrenton Police Station needed an upgrade as it did not adhere to the minimum standards for VFRs set by SAPS and FCS and officials at both stations needed more office space. It was observed that FCS officials would have a minimum of four officials based in one office. This has a potential for the violation of the victims' right to privacy, especially because the units did not only attend to victims at police stations where there is a provision of a VFR, but were also open for walk-ins.

D. Victims Charter-related skills training and capacity building for officials

Information obtained from the SAPS in the Northern Cape shows that several initiatives related to training and development of skills related to the implementation of the Victims Charter were offered to personnel in 2014/15 and 2015/16. A total of 101 officials received training in the five-day domestic violence course in the two financial years at the Kimberley Police Station; 41 of the officials trained were female, while 60 were male. Another five-day training course offered to officials at Kimberley Police Station was the victim empowerment course which was attended by 42 officials in total, 24 males and 18 females.¹⁰⁷ Officials at Warrenton Police Station also claimed that a number of officials at the station had been trained on victim empowerment; however, this claim could not be substantiated by any figures or course material.

E. Monitoring and evaluation systems

In terms of monitoring and evaluation, crime incidents were captured on the CAS system daily. Information was also sent to the Case Management Centre, which is a unit in the

¹⁰⁶ Interviews held with Warrenton SAPS officials, Warrenton Police Station and Kimberley Police Station, September 2016.

¹⁰⁷ Ibid

province that compiles statistics and other case docket-related information every month. These systems were used to analyse crime patterns, number of incidences, and the credibility of the data submitted on cases. Furthermore, both stations had a suggestion box and a complaints register; it was alleged that each complaint was attended to and that complainants were given feedback on how their complaint had been resolved. These methods did not appear to be effective for the monitoring and evaluation of services rendered to victims, in that officials could not provide substantive evidence to show how these methods have assisted the SAPS to evaluate and improve on their Victims Charter-related services. It was related that comprehensive feedback through phone calls and surveys were only administered with victims of domestic violence and not with all victims of GBV-related cases.¹⁰⁸ It also emerged that the SAPS did not have an effective monitoring and evaluation system to ensure that police stations provided adequate and quality services in line with the prescribed minimum standards for the implementation of the Victims Charter.

3.4.3. Lingeletu West and Strand Police Stations (Western Cape Province)

A. Introduction

The two police stations selected for this assessment in the Western Cape were the Lingeletu West Police Station and the Strand Police Station. Lingeletu West Police Station is a satellite police station situated in the partially informal township of Khayelitsha. Khayelitsha is the fifth largest black township in South Africa, and is well known for its densely populated slums, even though the area also has brick houses. Strand Police Station, on the other hand, is based in the suburban situated in . Strand comprises mostly of white high-income earners.

B. State of facilities and services rendered to victims of GBV

Both buildings of the police stations visited in the Western Cape appeared to be in a good condition and were located within fenced vicinities. The VFR at Lingeletu West Police Station was a Wendy house situated behind the station building. The VFR was consistent with some of the prescripts of the SAPS minimum standards for VFRs in that it had had a desk and chair for the police officer or volunteer serving the victim, two chairs for the victim and support person, kids' corner, couches but no waiting area, stationery, a dustbin, and a tea table. The room however did not have burglar bars on the window and door,

¹⁰⁸ Ibid

and this had a potential risk of compromising the victims' right to safety. Nonetheless, the room was kept in a clean state. It was noted during observations that the room was being used as a nurses' station for employee wellness day and not for its intended purpose of interviewing victims in private. It was also discovered that no alternative room had been arranged in case victims reported to the station on the day. The VFR's location also meant that victims had to go to the main station to access water and toilet facilities.

The VFR at Strand Police Station was a two-roomed park-home situated near the station entrance. One of the rooms was being used as an office for the VEP coordinator and six volunteers, while the other room was being used to interview victims of GBV-related crimes. Consistent with the SAPS minimum standards of VFRs, the room had a kids' corner, couches in the waiting area, tea and coffee table, stationery, a dustbin, desk and chair for the police officer or volunteer serving the victim, two chairs for the victim and support person, a lockable cupboard, a pin board, burglar bars on all outside windows, a register to capture the details of the victim, first-aid kit and a fire extinguisher.

Victims of rape at the Lingeletu West Police Station were being interviewed at the TCC for statements and not in the VFR. The informants revealed that the VFR was only being used for calming victims down until they felt ready to be taken to the Khayelitsha TCC where they would meet with the FCS detective. It was also indicated that the TCC receptionist was the one responsible for calling an FCS member on duty or on standby. This practice appeared to be unique to this particular station, given that in all the other police stations visited for this review, the FCS would be called in to take statements at the police station and in the VFR. Nonetheless, the practice was in no way in violation of the standing operating procedures for the reporting of FCS-related crimes, given that the TCC followed the same procedures for walk-ins. Furthermore, victims were transported to the TCC in unmarked detective vehicles by a member of the detectives based at the station. The TCC was also open for 24 hours and the SAPS did not seem to encounter any problems with the TCC. The FCS unit responsible for the Lingeletu West Police Station was based in Khayelitsha and was responsible for eight police stations in the Khayelitsha Cluster. The unit was located in close proximity to both the station and the TCC in Khayelitsha District Hospital. The social crimes prevention coordinator, together with the volunteer based in her office were responsible for providing services to victims in line with the four basic elements of victim empowerment. Their duties included ensuring that a referral list of support services is available at their station. This was done to ensure that efficient referral of victims to counselling and other support services and that victims are properly referred

to other victim support service providers. In addition to these duties, the unit was also responsible for public awareness campaigns and for ensuring that victims are assisted with applications for protection orders.¹⁰⁹

Strand Police Station was one of the stations that the Khayelitsha FCS cluster was responsible for. The distance between Strand and Khayelitsha is approximately 23.3 km which means that victims had to wait for about 30 minutes before an FCS member would arrive at the station. The FCS detectives were available 24 hours but had to be called in when a victim reported to the station. Victims of rape were transported to the rape crisis centre at Somerset West Hospital for medical examinations, which is about 6.8 km from the station. It was reported that services at the Centre were efficient and were available 24 hours. The FCS unit was also responsible for investigating cases and keeping victims abreast with information relating to the accused perpetrator. The social crimes prevention unit coordinator was also responsible for providing Victims Charter-related services to victims of GBV. Six volunteers were based in her office and were responsible for assisting her with upholding the victims' right to receive information, which included informing victims about support services available in the community and the procedures involved in accessing those services. Other Charter-related services included managing the VFR, assisting victims with placements at places of safety, providing lay counselling and running public awareness campaigns.¹¹⁰

C. Budget/funding and allocation of resources

Based on information obtained from respondents, the budget allocated to police stations was not enough to fulfil station obligations, including the provision of some of the Charter-related services. Informants from the Lingeletu Police Station revealed that inadequate office space was one of their most persisting challenges. A number of park-homes were being used to supplement office space but space was still insufficient, hence a Wendy house was being used for the VFR at the station. Furthermore, the station did not always have enough supply of sexual offence evidence kits and would depend on the TCC for their provision. At Strand Police Station, the social crime prevention unit coordinator claimed that she had made provision for the victims' tea station and stationery from her own personal funds, although claims of this nature cannot always be verified. The VFR was indeed receiving funding mostly from private funders, while the SAPS provided the park-home and some of the basic furniture. Much of the funding and resources donated to the

¹⁰⁹ Interview held with Lingeletu West SAPS Officials, Lingeletu West, September 2016.

¹¹⁰ Interview held with Strand SAPS Officials, Strand Police Station, September 2016.

VFR were made by the Spar supermarket chain and Business Against Crime.¹¹¹

D. Victims Charter-related skills training and capacity building for officials

It was found previously that Charter-related training and skills development was not consistently administered across all police stations in provinces. The current study, however, found that both police stations selected for this assessment in the Western Cape had sent officials for training on the Victims Charter and other related courses. It was alleged that officials at Lingeletu West Police Station had been taken through the domestic violence and the victims' empowerment course, which includes training in the Victims Charter. The station, however, could not submit statistics or training manuals to substantiate these claims. Ten officials were trained on domestic violence in the 2014/15 financial year at the Strand Police Station, and attendees were eight males and two females. In the 2015/16 financial year, 11 males attended the same training, while 6 females did also. This means that a total of 17 officials were trained on domestic violence from the police station in the financial year. Seven officials were taken through training on victim empowerment, five of whom were males and two females.¹¹² It appears that training was mainly skewed towards male officials. However, it is widely known that the SAPS is a male-dominated institution. Training had also been offered on sexual offences, which two male officials had attended.

E. Monitoring and evaluation system

Our findings show that the SAPS in general, and specific police stations selected for this assessment, did not have effective systems for the monitoring and evaluation of Victims Charter-related services. Statistics were routinely submitted to the cluster on a weekly and monthly basis. The CAS system was used to record case information and to also consolidate statistics. Officials alleged that information obtained from CAS was used for assessing loopholes within cases and for improving services rendered to victims. It was not clear how CAS was being used to assess services provided, given that the system required information on cases and not on victims' experiences with the services.¹¹³ Suggestion boxes were placed at the CSC in both stations, but again the method was not effective and could not enable the SAPS to determine the effectiveness and general quality of services rendered to victims. It was also observed that suggestion boxes were mainly placed at the CSCs and not in the VFR where victims of GBV accessed SAPS services. Although SAPS received feedback on the quality of services received by victims of

¹¹¹ Ibid.

¹¹² Ibid.

¹¹³ Ibid.

domestic violence as the Domestic Violence Act (116) 1998 dictates, feedback was not obtained from victims of sexual offences and other GBV-related crimes.

3.5. THE NPA – NATIONAL FINDINGS

3.5.1. Role and responsibilities of the department in implementing the Victims Charter

The TCC programme is led by the NPA's SOCA (Sexual Offences and Community Affairs Unit) which has a specialised focus on elevating the plight of sexual offences and GBV. In partnership with various departments and donors the NPA has centralised its prosecution services in supporting victims through reducing secondary victimisation, improving conviction rates and reducing the cycle time for finalisation of cases. According to the official interviewed at the national office, the role of the NPA is to align its activities with the precepts of the Charter including other pieces of legislation such as the Constitution, The Domestic Violence Act, The Protection from Harassment Act, etc., with the aim of enhancing services for victims through increasing conviction rates, awareness programmes and training of officials. Furthermore, at national level, much focus is on the strategic and provincial rollout and implementation of the TCC model in line with national strategies such as the NAP, the '365 Days of Action to End Violence against Women and Children' and the national anti-rape strategy. At provincial level, however; much focus is directed at improving services to victims on site and provincially as a whole.¹¹⁴

In addition, the NPA is also responsible for the establishment of TCCs in urban and rural areas to allow all victims to access services. Around the time the previous study was conducted there were 30 operational TCCs nationally.¹¹⁵ Currently the number of operational TCCs has increased to 55 which the NPA hails as a major improvement in enhancing services rendered to victims. These services, facilitated by the NPA, are as a result of inter-departmental cooperation, buy in, support and accountability which is said to be crucial for service delivery. It was, however, found that although the TCC model is a collaborative effort, there are other departments that tend to impede services rendered to victims. This is evident where certain departmental officials (i.e. forensic nurses or doctors) are not represented within some TCCs, even though there is a signed protocol. Through collaboration with the Department of Basic Education the NPA is also responsible for conducting awareness campaigns. It was reported that public awareness campaigns

¹¹⁴Interview held with NPA officials, Head office in Pretoria, October 2016

¹¹⁵ National Prosecuting Authority. Annual Report (2011/2012), 8.

i.e. 16 days of activism and victims' rights week etc. are rolled out throughout the year to improve public knowledge on sexual offences, rights of victims and other pieces of legislation.

3.5.2. Budget/funding allocation and other resources

Previously, the funding model for TCCs was heavily reliant on partnerships with donors from different organisations such as the United States Agency for International Development (USAID), the Research Triangle Institute (RTI) and the Canadian donor-funding agency. In the current assessment it was revealed that TCCs were still partially relying on donor funding. Out of the 55 operational TCCs, 51 were funded by government, while four were still reliant on donor funding from USAID administered by the Foundation for Professional Development (FPD) which was said to cease in June 2017. It was further stated that withdrawn donor funding was to impact psycho-social support services at some TCCs and the Networking HIV/AIDS Community of South Africa (NACOSA) was to cease funding to NGOs that offer trauma containment in some centres. Therefore, the department has to source other NGOs to render the services to the affected centres.

In addition, the official at national office was unable to provide an overall total of the budget allocated to TCCs as the budget allocation of R299 038¹¹⁶ was mainly for the National Specialised Prosecution Services programme which had a sub programme SOCA that dealt with TCCs. However, it was said that there was a devoted fund through National Treasury allocated to the implementation of TCCs as government had convened to support all activities of victims of sexual offences and domestic violence. With regard to the running of the TCC, the official stated that the budget was used specifically for vital goods and services for the TCC as well as for the compensation/remuneration of its employees. Therefore, the NPA did not incur the costs of other collaborating departments as each department was responsible for their own budgets. This is critical as it suggests potential fragmentation rather than integrated planning and cooperation by the various entities involved in the operations of the TCCs.

3.5.3. Victims Charter-related skills development and capacity building

In the previous study,¹¹⁷ it was reported that officials at national and provincial levels had

¹¹⁶National Prosecuting Authority, Annual Report (2015/16). 68

¹¹⁷ CGE, Victims Charter: Assessing the Effectiveness of the Implementation by the National Prosecuting Authority and Department of Social Development, (2011)

received training on legislation regulating sexual offences as well as other training pertaining to the rights of victims. This also included training on case management provided to all TCCs. Currently the aforementioned is still conducted, including the training of prosecutors who play a pivotal role in the conviction of criminals of sexual offences. According to the official at national office,¹¹⁸ training is conducted according to existing curricula which are reviewed annually depending on new legislative developments. Training includes (but is not limited to) child pornography seminars, advanced skills on prosecuting child sex offenders and policy on sexual harassment.

In addition, the NPA facilitates the multidisciplinary stakeholder trainings which involve different speakers from key departments through whom the NPA imparts skills such as trial advocacy, legislation and expert witnessing. Training sessions in respect of social offences, domestic violence, and traffic in persons are conducted over four days, while integrated training is conducted over a period of three days. Trained officials are also allocated a training manual which are said to be reviewed yearly.

For the two past financial years the NPA has trained the following:

2014/2015 financial year:¹¹⁹

Sexual offences: 6 sessions attended by 100 prosecutors, Pretoria, Johannesburg x2, Bloemfontein, Durban, Cape Town.

Child Justice: four attended by 84 prosecutors in Cape Town, Kimberley, Durban, Pretoria.

Domestic violence: 3 sessions attended by 40 prosecutors in Durban, Bloemfontein, Pretoria.

Maintenance: 5 sessions attended by 163 prosecutors in Pretoria x2, Ermelo, Kwa-Mhlanga, Johannesburg.

Trafficking in persons: 6 sessions attended by 104 prosecutors in Bloemfontein, PE, Johannesburg, Pretoria, Cape Town (2).

Integrated training for stakeholders at TCCs: 23 sessions attended by 563 delegates from various stakeholders including prosecutors.

2015/2016 financial year:

Sexual offences: 8 sessions, attended by 145 prosecutors.

Child justice: 8 sessions, attended by 132 prosecutors.

¹¹⁸ Interview held with NPA officials, Head office in Pretoria, October 2016.

¹¹⁹ Interview held with NPA officials, Head office in Pretoria, October 2016.

Domestic violence: 6 sessions, attended by 120 prosecutors.

Maintenance: 4 sessions, attended by 87 prosecutors.

Trafficking in persons: 7 sessions, attended by 146 prosecutors.

Integrated training for stakeholders at TCCs: 25 sessions, attended by 711 delegates from various stakeholders, including prosecutors.

It was indicated that additional training is also provided at community level through the house of traditional leaders which forms part of the Ndabezitha Izimbizo project which is currently still running. While none of the training modules directly touched on the Victims Charter, some of them are directly critical as part of developing the skills and knowledge of officials responsible for implementing Victims Charter-related programmes and activities within facilities under the authority of the NPA.

3.5.4. Monitoring and evaluation systems

In terms of monitoring and evaluation, it appears that there is still no standardised tool across TCCs as reported in the previous CGE study.¹²⁰ It had emerged that there had been a lack of uniformity, particularly when it came to addressing the complaints of victims, which is still evident in the current study. According to an official interviewed at the national office, the services rendered at facilities across the country are monitored by referring to monthly and quarterly statistics sent from TCCs to be verified by provincial heads. From here, apparently an official at national office updates the information and captures it into the performance management system for analysis. From the statistics, the NPA argues that it is possible to determine the performance of TCCs by reference to volume of cases and where to allocate more officials. However, it appears that the system merely indicates the number of cases reported to TCCs, including conviction rates and related matters rather than the nature, quality and relevance of services rendered to those approaching TCCs for assistance.

Furthermore, it was reported that the NPA conducts a general assessment on the level of satisfaction of victims at courts including those from TCCs. It would appear that this is done through the use of a crime and criminal justice survey conducted every second year nationally through a service provider. Officials interviewed¹²¹ for this assessment argued that the survey was informed by the minimum standards of the Victims Charter, for victims to measure their services through the courts. The NPA also says it utilises surveys conducted by Statistics South Africa (e.g. victims of crime survey) and the national service delivery plan service improvement for victims of crime presenting themselves through the TCCs.

¹²⁰ CGE, Victims Charter: Assessing the Effectiveness of the Implementation by the National Prosecuting Authority and Department of Social Development, (2011)

¹²¹ Interview held with NPA officials, Head office in Pretoria, October 2016.

3.6. THE NPA – PROVINCIAL FINDINGS

3.2.1. Libode and Mdantsane TCCs (Eastern Cape Province)

A. Introduction

The NPA formed part of the assessment of the implementation of the Victims Charter which was conducted in 2011. Two facilities were visited for the current assessment in the Eastern Cape viz. Mdantsane TCC and Libode TCC. Both facilities are located within district hospital premises (the former is based in Cecilia Makhiwane Hospital and the latter is based at St Barnabas Hospital). Mdantsane TCC is serving both urban and rural areas such as Mdantsane Township and its surrounding areas, such as East London and areas around former Transkei borders. Libode TCC, on the other hand, is serving predominantly rural communities.

B. State of facilities and services rendered to victims of GBV

Based on observations, as was found by the 2011 study,¹²² both facilities have buildings where medico, legal, psycho-social, coordination and assistance services are rendered. These buildings are clearly marked from the outside that they are TCCs. They displayed clear patients-centred signage and navigation guides that lead to the TCCs buildings. A parking lot for patients and staff was available. On the inside, buildings consist of different sections for different purposes, such as a reception area where victims are welcomed by the site coordinator, a waiting room, medical examination room, counselling room, bathrooms and a kitchen. However, these facilities lacked inclusive disability access. For example, both facilities visited had no sign language interpreters. This makes it difficult for staff members to communicate with victims who are deaf, hard of hearing and have speech impairments.¹²³ Respondents from the Libode TCC expressed concern that the cases of victims with communication barriers are not fully investigated. One respondent stated that, after medical examinations have been conducted, nothing gets done because it is quite difficult to consolidate concrete evidence to open a case since the victim cannot name a suspect.

The TCC model is a multidisciplinary approach that should comprise five departments on site viz. DoJ & CD, DSD, DOH, NPA, and SAPS. However, in both facilities that were part of

¹²² CGE, Victims Charter: Assessing the Effectiveness of the Implementation by the National Prosecuting Authority and Department of Social Development, 2011.

¹²³ Interview held with Mdantsane TCC officials, Mdantsane, November 2016

the assessment none of them had a full complement of the abovementioned departments. We discovered that the presence of some departments at the TCCs is inconsistent and not always guaranteed. For example, during the site visit to the Mdantsane TCC it emerged that there is an SAPS investigating officer (detective) on site who is responsible for taking statements from the victims of crime, whereas the same could not be said for the Libode TCC. The Libode TCC did not have a case manager. Instead, a case manager from the Mthatha TCC is often called upon to assist at the Libode TCC. When respondents from Libode TCC were asked about the absence of other departments onsite, especially the SAPS and DSD, they were reluctant to express their views but strongly hinted at the fact that some departments were not keen to answer to another government entity (especially the NPA) that had no seniority over them.

The 2011 CGE report¹²⁴ had indicated that the TCCs largely operated for 24 hours. The current review, however, reveals that this is largely no longer the case, especially for the Libode TCC. A myriad of reasons was put forward for this, such as staff burnout, staff shortages and lack of resources. Respondents from the Libode TCC stated that because of the facility not being open for 24-hours, the victims who report cases of crime at the police station afterhours are taken to the hospital for examination and then have to wait at the Out-Patient Department until the TCC opens the following day. Similarly, victims who go for medical treatment at the hospital¹²⁵ have to join long queues and wait for their turn with other ordinary patients at casualty ward to see doctors. This means that such victims of violence, abuse and trauma are often forced to wait until the TCC opens in the morning, which means that they face the risk of exposure to secondary victimisation at the hands of untrained medical personnel at the hospital's outpatients' department. It would appear therefore that, in an attempt to minimise such risks, the Libode site coordinator has to regularly find out from the hospital if there have been any reported incidents of sexual assault overnight or over the weekend.¹²⁶ This is potentially a cumbersome exercise, open to possible inefficacies.

Our findings have also revealed that there has been a slight change in the provision of therapeutic support services provided at the TCCs. For instance, the CGE 2011 report¹²⁷ revealed that therapeutic services in the TCCs were offered by social workers. However, this has changed for the Mdantsane TCC in that services, such as psychosocial services,

¹²⁴ CGE, *Victims Charter: Assessing the Effectiveness of the Implementation by the National Prosecuting Authority and Department of Social Development*, (2011).

¹²⁵ Interview held with Mdantsane TCC officials, Mdantsane, November 2016.

¹²⁶ Ibid

¹²⁷ CGE, *Victims Charter: Assessing the Effectiveness of the Implementation by the National Prosecuting Authority and Department of Social Development*, (2011).

pre-test and post-test counselling for HIV, are now provided by auxiliary social workers from an NGO called Masimanyane Women Support Centre.¹²⁸ nature of HIV. For the Libode TCC, auxiliary social workers refer cases to social workers based at Cecilia Makhiwane Hospital. However, it would appear that the social workers at the hospital are not always available to attend to victims referred from the TCC. This means that such vital services are not guaranteed for victims of crime at the Libode TCC. At the time of the study, the Mdantsane TCC was still waiting for the DSD to assign a social worker to the TCC, particularly given the fact that auxiliary social workers are prohibited from performing a number of duties including referrals of victims to places of safety. This leaves the victims' assistant officer (VAO) with no choice but to take over some duties of a social worker such as working on referrals of victims to places of safety.

During interviews with officials from the two TCCs, it became clear that the TCCs have to engage in public awareness campaigns for the public to be aware of the services offered. For instance, the Libode TCC regularly conducts school visits, church visits and *izimbizos*¹²⁹ for this purpose. However, these types of public awareness campaigns appear short-lived and limited due to lack of funds and other resources.

C. Budget/funding and allocation of resources

According to information obtained during the fieldwork, there is no standard budget allocation to TCCs across all facilities in the Eastern Cape. Instead, each participating department is expected to make funds and other resources available to ensure that relevant services are rendered with the TCC. For instance, the DoH is expected to contribute by making a building available, including medical staff and medical equipment. The NPA contributes office equipment to the TCC. Therefore, the TCC model is based on effective cooperation and collaboration among the departments that form part of the JCPSC. Informants from both TCCs expressed concerns about the ability of the two TCCs to perform some of the vital services due to lack of budgetary resources. For example, it was claimed that due to lack of resources, such as cars, stationery and internet connectivity, the two TCCs were unable to hold regular awareness campaign programmes among local residents to raise levels of awareness about rights. It is clear therefore that when some of the departments do not play their part in terms of

¹²⁸ Masimanyane Women Support Centre is a non-government organisation (NGO) focusing specifically on violence against women, sexual and reproductive health, women's rights and the gendered

¹²⁹ Interview held with Libode TCC officials, Libode, November 2016.

contributing resources to the functioning of the TCC, which undermines the effectiveness of the TCC model.¹³⁰

D. Victims Charter-related skills training and capacity building for officials

The CGE's 2011 report¹³¹ had found that regular training workshops and seminars were convened by the DOH for doctors, nurses and social workers, while the NPA assisted with training on subjects such as sexual assault and management of victims. The current assessment also revealed that training and capacity building remain a priority. The information and insights obtained from the facilities visited in the Eastern Cape Province confirmed regular training sessions on sexual offences convened by the FPD approximately three times a year.

Informants from the Libode TCC expressed their concerns about a shortage of forensic nurses and doctors strained in forensic examination skills. Because of this shortage, informants claimed that the victims are subjected to longer waiting times, as doctors are often not available immediately to examine them for incidents of sexual violence.

E. Monitoring and evaluation system

Based on responses received from informants it appears that suggestion and complaints boxes are still relied upon as mechanisms to monitor the quality of service delivery for victims of crime reporting at the TCCs. In addition, the NPA cluster coordinator highlighted that surveys are conducted by the VAO to rate victims' levels of satisfaction with services received from the TCCs. However, it is not clear how insights gained from these surveys are fed back to the TCCs to improve services accordingly. In fact, informants from the Mdantsane TCC expressed concerns that feedback from such surveys was not coming through to the TCC. For the Libode TCC, it would seem that no such surveys were being conducted at the time this assessment was being undertaken.

3.2.2. Nthabiseng and Sinakekelwe TCCs (Gauteng Province)

A. Introduction

The TCC model is implemented at ground level where victims of crime have an opportunity to access various critical services from different stakeholders under one roof.

¹³⁰ Ibid

¹³¹ CGE, Victims Charter: Assessing the Effectiveness of Implementation by the National Prosecuting Authority and Department of Social Development, (2011).

Out of the seven TCCs in Gauteng province, two were selected for assessment and onsite observation. The first is the Nthabiseng TCC, situated in Soweto, within the premises of the Chris Hani Baragwaneth Hospital, catering for the needs of patients from Soweto and other areas such as Krugersdorp, the Vaal, and Roodepoort. The second is the Sinakekelwe TCC, situated at the Thelle Mogoerane Hospital, in the township of Katlehong on the East Rand. The TCC caters for the needs of patients from Katlehong and other areas such as Voslorus and Thokoza. The two TCCs are open for 24 hours a day.

B. State of facilities and services rendered to Victims of GBV

In terms of infrastructure, both facilities were generally clean and in good condition. Observations revealed that both TCCs made provision for the needs of disabled people, with proper visible signage throughout the premises. The reception areas had the necessary provisions and amenities such as water dispensers, and the waiting areas kept clean. There was also a vast array of charts, posters and pamphlets on the rights of victims, procedures to be followed and other services afforded to victims. However, it was noted that the Nthabiseng TCC had inadequate parking spaces. Both centres did not have sign language interpreters for those who needed this service, although the Sinakekelwe TCC did indicate that teachers from the nearby school for the deaf were utilised to provide this service when necessary.

In terms of services rendered to victims, every TCC should comprise all relevant departments in terms of the TCC local protocol. Each respective department has to implement their duties and responsibilities according to the signed local protocol. During the assessment, it was found that both facilities had almost all officials onsite from the key role-player departments. However, only Nthabiseng TCC had no SAPS officials onsite nor did they have a VAO. It was stated during the interview¹³² that the police official was on call whenever police services were required. This is, however, in contravention of the protocol as it was required that all key departments including SAPS be housed onsite.

With regard to the VAO it was indicated that the position had been vacant for two years, meaning that victims were being referred to court preparation officers for assistance in this regard. It also came to light that at times the coordinator would have to perform the duties of the VAO, an important responsibility for which site coordinators are not trained or suitable to perform as it could compromise the quality of the services rendered to those

¹³² Interview held with Nthabiseng TCC official, Soweto, November 2016.

who need it. In addition, it was also reported that the case manager who was responsible for guiding investigations was stationed at courts instead and only made periodic visits to the centre. The potential negative consequences of such shortages clearly need to be taken seriously.

In terms of therapeutic and medical services rendered, both facilities had a sufficient staff complement of social workers, nurses, forensic nurses and doctors, as well as counsellors from various organisations. Nthabiseng TCC used the services of POWA (People Opposed to Women Abuse) and Child Line to offer counselling services to both adults and children. The TCC also had two doctors dedicated to the TCC who were on call after 4pm, as well as a single forensic nurse and three auxiliary nurses who were available for a period of 24 hours. However, at the Sinakekelwe TCC there were only two officials from the Ekhupoleni foundation that offered counselling for both children and adults.

It is evident from this discussion so far that the TCCs are not equally resourced, whether financially or in terms of staff complements. It was also revealed during interviews that some of the officials within the TCCs had to deal with, and were therefore exposed to, traumatic incidents of violence perpetrated against the victim. This issue was raised in the previous CGE study,¹³³ with a recommendation that officials be given the necessary counselling support through an employee wellness/assistance programme to help them develop individual coping mechanisms. It is not clear if this recommendation was taken on board by the two TCCs.

C. Budget/funding and allocation of resources

In the previous CGE study¹³⁴ the issue of budget allocation was not fully communicated to site officials. Currently, that has not changed as site coordinators were unable to give information regarding the amount of financial resources allocated to their respective centres. Instead both facility coordinators stated that respective departments were responsible for their own budgets, including provision of adequate human resources and other relevant equipment needed to run operations at the TCCs.¹³⁵ For example, the DoH was responsible for providing the building, its maintenance and providing medical equipment and all the necessary medical personnel such as doctors and nurses. According to the informants, the TCC has to rely on donor funding from different

¹³³ CGE, *Victims Charter: Assessing the Effectiveness of the Implementation by the National Prosecuting Authority and Department of Social Development* (2011).

¹³⁴ *Ibid*

¹³⁵ Interview held with Nthabiseng TCC official and Sinakekelwe TCC, Soweto and Natalspruit, November 2016.

organisations for comfort packs, clothes, groceries, furniture and toys. This was a finding contained in the previous CGE study.

The issue of the shortage of funds and other vital resources for the TCCs was confirmed during an interview with an official at provincial level who stated that there was no provincial allocation of budgets for the TCCs. The official indicated that if TCCs needed to make requests for any resources, site coordinators would need to fill in and submit requisition forms to the provincial office which would then be forwarded to the national finance officer for approval.¹³⁶ Clearly, this is a bureaucratic exercise that might not be adequately responsive to the urgent needs of the TCCs, which could explain the reliance of the TCCs on local donor funding organisations.

Our observations revealed that by far NPA officials at the Nthabiseng TCC had better provisions of vital supplies such as stationery, office furniture and other essential resources for their operations. However, the Sinakekelwe TCC was clearly experiencing shortages of basic resources such as office furniture, telephones, printers, internet and computers for its NPA members. It would appear that such variations are the result of local dynamics such as the level and nature of cooperation and collaboration between the various state entities/department required to assist the TCCs with the resources they needed. In the case of the shortages experienced at the Sinakekelwe TCC, it was alleged that the department of health had reneged on some of the commitments it had made to provide some of the necessary resources.

D. Victims Charter related skills development and capacity building

Skills training and capacity building are essential in strengthening and improving the skills of service providers who work with victims of sexual abuse. According to an NPA official interviewed for this study,¹³⁷ training is offered continuously based on requests received. For example, if the DoH is conducting training on key areas that would benefit the NPA, they would invite NPA members to attend. There is also an annual multi-disciplinary stakeholder training that runs for three days, which includes all key departments within the TCC model. However, it would seem that the number of days allocated for such extensive training is not sufficient, mainly due to budget constraints.

¹³⁶ Interview held with NPA official, head office, Pretoria. November 2016.

¹³⁷ *ibid*

Facility coordinators from the observed TCCs indicated that they had attended the multidisciplinary training during the month of July 2016. This training was mainly on sexual offence cases and how to give support and assistance to victims from a social context.

It was also stated that the NPA conducts four training sessions during the financial year for 30 members per TCC. However, due to budget constraints other training sessions offered depend on available donor funding from organisations such as the FPD, especially training for officials working with victims of rape which included police, site coordinators, nurses and volunteers.

E. Monitoring and evaluation

It is essential for facilities to undertake an effective monitoring and evaluation system that ensures that the quality of services is in line with the prescribed minimum standards of the Victims Charter. Our observations revealed that, like many of the other facilities assessed in this report, the two TCCs also rely mainly on feedback collected from the suggestion boxes to evaluate their services. It was reported that during staff meetings these complaints/suggestions, including other issues raised by patients, would be reviewed to identify the challenges facing service delivery at the TCCs.

Based on discussions and conversations with personnel at the two TCCs,¹³⁸ complaints and suggestions received are forwarded to the provincial manager, who meets with relevant stakeholder departments to address issues arising. Other issues and challenges are addressed during the multi-sectoral forum meetings, and that, where remedial action cannot be found, matters are then referred to provincial heads or even to the national office of the NPA. The Sinakekelwe TCC indicated that feedback and recommendations obtained from other stakeholders are also considered to improve services. Other methods that were mentioned for assessing the effectiveness of services at the TCCs included monthly site visits to obtain data and statistics, and a client experience survey for victims to rate the quality of services received. The team was informed that monthly reports are submitted to the respective departments to improve on highlighted areas of concern. However as argued in the case of other entities discussed earlier in this report, it is not clear how effective these disparate methods are, and neither is it clear what the impacts have been.

¹³⁸ Interview held with Nthabiseng TCC official and Sinakekelwe TCC official, Soweto and Natalspruit. November 2016.

3.2.3. Bongani and Tshepong TCCs (Free State Province)

A. Introduction

Two facilities were identified in the Free State province for assessment and site observations. These are the Tshepong TCC, based in Bloemfontein, and the Bongani TCC based in Welkom. These two facilities are both based in urban areas, but render their services to a wide group of communities in rural, urban and semi-urban areas. The Bongani TCC alone works together with 17 police stations across the region that brings victims of sexual assault in for assistance.

B. State of facilities and services rendered to victims of GBV

One of the key areas assessed was the state of the facilities and services rendered to the victims. Through interacting with staff from both facilities during onsite observations, it was observed that the facilities were fully operational and functional. They both were in good condition in terms of infrastructure, well-equipped with adequate office space and the necessary medical equipment. Both TCCs were still committed to a range of services including examinations of the victims, counselling and other related services. However, the problem of limited human resources capacity was identified as a major impediment for both TCCs. This assessment found that the shortage of staff (particularly forensic nurses) remains a key problem not just for the two TCCs, but also apparently for many other TCCs in the province. The consequences of staff shortages include long waiting times for victims to be attended to, often undermining their rights as victims. It also often leads to reduced business opening hours for the TCCs (e.g. from 24hrs to 8hrs).

The discussions and observations conducted with staff at the two TCCs confirmed what was found in the CGE's 2011 study that the therapeutic programmes, including trauma counselling services, rendered by social workers are still being offered as previously. In addition, both TCCs have an NGO that renders a variety of services such as counselling services (lay counselling) to victims. However, it would appear that there was inconsistency in the types of services offered across different facilities, including the two TCCs that were assessed and observed for this study. For instance, it was indicated that some of the TCCs do not provide clothes, toys, and food to victims in line with the local protocol. In other words, different TCCs offer different items, inconsistently and haphazardly. For example, it was indicated that the Bongani TCC provides food and

clothes to victims, while the Tshepong TCC only provides female underwear items. The main factor that appears to influence decisions in this regard is clearly the availability of funding. This means the ability of a TCC to raise additional funding from external sources (such as private donors and local businesses) can determine the quality and quantity of services of services offered to victims.

In the 2011 CGE report,¹³⁹ it was reported that the NPA, in collaboration with other stakeholders, had conducted public awareness and education campaigns which targeted mainly rural communities. It was indicated that such programmes are still in place as these are vital for enabling citizens to know their rights and claim them when necessary. However, it would appear that lack of funding is threatening the sustainability of these activities.

C. Budget/funding and allocation of resources

The 2011 CGE report¹⁴⁰ indicates that TCCs did not have dedicated budgets for their work. Nonetheless they were well catered for through the offices of the provincial coordinator. The report further underlined that no sufficient information pertaining to the budget could be solicited from site coordinators regarding financial resources allocation to their respective centres.¹⁴¹ The 2016 assessment has found that the situation has not changed, as two TCCs are still facing the same challenges as were faced when the 2011 CGE assessment was carried out, including problems related to ambiguous budget allocation processes.

It was expected that the national office of the NPA would make budget allocations directly to the TCCs for the implementation of the Victims Charter, including adequate resources to enable them to sustain their daily operations. What was found was that in practice many of these facilities in the province had no clear budget allocations for implementation of Victims Charter-related programmes and related activities. Instead, each entity represented within the TCC is expected to make financial and other resources available for its own services to be rendered. When such resources are not provided, there appears to be no central authority responsible for holding such entities accountable for ensuring that such services are adequately funded. This central oversight role, originally assigned to the DoJ & CD, no longer exists. This has left a vacuum that has not been filled, and the consequences are unmistakable.

¹³⁹ Ibid

¹⁴⁰ Ibid

¹⁴¹ Ibid

The current protocol governing the operations of the TCCs states that food, beverages, clothes and toys should be made available for victims at the TCCs. Also, after medical examinations, the victims are to be allowed to take a bath or shower and change into clean clothes. As already indicated, this is not always the case, mainly because of lack of resources, including funds from the government department concerned. The CGE's 2011 report had reported that the TCCs were heavily dependent on donor funding to render some of the basic services expected of them. However, based on interviews conducted with staff in the two TCCs, restrictions have been placed on fund-raising activities or accepting funds from external sources in general. It appears, however, that other departments, such as health, do not face such restrictions in soliciting funds from external sources.

D. Victims Charter-related skills training and capacity building for officials

The CGE's previous findings revealed that officials at national and provincial levels had undergone training on various subjects, including legislation, regulating sexual offences, human trafficking, domestic violence and the Victims Charter.¹⁴² This assessment has revealed that skills training and capacity-building opportunities are still being offered to staff in both TCCs up to twice a year on areas such as sexual offences and how to deal with these cases. Apparently, the training sessions are conducted by case managers and NGO officials in both TCCs. However, the full details of the training were not provided.

E. Monitoring and evaluation system

The Bongani and Tshepong TCCs were found to have no effective monitoring and evaluation system in place. The information provided claims that the NPA was intended to conduct a survey at the Tshepong TCC to enable the victims to rate the level of services received from the facility. However, it was revealed that the survey had not yet been carried out at the time this assessment was being conducted. Also, the information is vague in that it does not specify whether such a survey is a regular activity, how often it is conducted, and what happens to the outcomes of the survey. In addition, both facilities mentioned suggestion boxes as another method currently used to enable the victims and community members at large to submit suggestions or issues of grievances to the two TCCs.

¹⁴² Ibid

CHAPTER 4: OVERALL CONCLUDING ASSESSMENT

As indicated at the beginning of this report, this exercise was a review of the steps taken by the selected government departments and/or entities to address, or in response to, the findings and recommendations contained in the reports based on the assessments carried out on the same departments between 2009 and 2011. Therefore, instead of this report generating another set of recommendations, this section provides overall concluding assessments and concluding insights reached on each of the entities covered in this report.

4.1. DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

The CGE's assessment of the implementation of the Victims Charter by the JCPSC has over the two-year period (2015/16 and 2016/17) revealed that the DoJ & CD has abandoned its critical role of providing strategic leadership on the implementation of the Charter by the six implementing departments. This is after the department had successfully led the beginning phase of the implementation of the Victims Charter, which included the development of the five-year NIP for the period 2007-2011. Our findings, however, indicate that the department has failed to conduct effective monitoring and evaluation of the five-year plan and to provide leadership over the development of plans, strategies and programmes by the various JCPSC departments in the post-2011 period. It also remains unclear as to what had led to the unexpected abandonment of the lead role by the DJ&CD. What remains clear, however, is that the various departments, including the DoJ & CD, continue to carry out their Victims Charter-related programme responsibilities and obligations, although in a fragmented and uncoordinated manner.

In terms of the department's responsibilities to the Victims Charter as an implementing department, our findings revealed that the DOJ&CD had taken some important steps that addressed some of the key findings and recommendations contained in the CGE previous assessment report. For instance, the department has re-established the sexual offences courts to address victims' special needs, and to reduce and eliminate secondary traumatisation of the victims and their families as they engage with the court system, as well as to improve the case cycle times and the outcomes of cases. As part of this assessment, it was found that five regional magistrates courts (Mankweng Regional Magistrate Court, Sibasa Regional Magistrate Court, Vereeniging Regional Magistrate Court, Durban Regional Magistrate Court and Umlazi Regional Magistrate Court) had established sexual offences courts.

Many of the courts were found not to be compliant on many aspects of the DoJ & CD's blueprint for the establishment of sexual offences courts. For instance, in terms of facilities and equipment the CCTV system at one of the Sibasa sexual offences courtrooms was not functional and generally none of the courts had facilities for mothers with breastfeeding babies as required by the NIP for the Victims Charter. Furthermore, some of the courts, (e.g. the Vereeniging sexual offences court) did not have a sufficient number of anatomically detailed dolls, while the blueprint stipulates a minimum of four dolls describing an adult female, an adult male, a female child and a male child. Our findings also revealed that there were inconsistencies across the sexual offences courts in different provinces in terms of the appointment of various categories of personnel. Firstly, none of the courts had a designated social worker. Secondly, inconsistencies were discovered in terms of the allocation of court clerks to deal specifically with matters related to sexual offences. For instance, the Durban, Umlazi and Vereeniging sexual offences courts had dedicated court clerks, whereas both the Mankweng and Sibasa sexual offences courts did not. Thirdly, our observations and analysis of data received from the courts showed clearly that there were inconsistencies across these courts in terms of the standards of services provided, which led to unequal provision of services to victims of crime in different areas. This could be seen as a serious violation of the rights of victims.

Lack of Victims Charter-related training and skills development among court officials remains a great concern. The CGE had in its 2009 assessment of the implementation of the Victims Charter by DoJ & CD articulated the importance of continuous training of the various court officials on the implementation of the Victims Charter as an urgent task. The current assessment has, however, found that only one court (Umlazi Regional Magistrate Court) had in the financial years 2014/15 and 2015/16 taken officials through substantive training related to the Charter. There was also a general lack of knowledge and adequate understanding of the Victims Charter among court officials. Moreover, it emerged during the assessment that the department had discontinued Victims Charter-related funding for training activities, which is a great concern.

Information on funding and resource allocation for Victims Charter-related services was ambiguous, as court officials claimed that the services were generally budgeted for under court operational budgets. The CGE, however, had hoped to obtain a separate budget for the sexual offences courts, given that the re-establishment of the courts had been coasted for the first three foundational years (2013-2015) of the programme. Nonetheless,

the five courts assessed for this study appeared to be operational, even though it wasn't without the challenges identified throughout this document.

In terms of monitoring and evaluation, this is another area of weakness in response to the previous finding and recommendation by the CGE. The DoJ & CD facilities appear to rely mainly on elementary methods such as collecting statistics and using suggestion boxes. Our findings, however, indicated that these methods were not reliable for the effective and comprehensive monitoring and evaluation of services rendered to victims of crime. In addition, none of the entities could demonstrate the effectiveness and efficacy of these methods in making improvements in the quality of services and consistency of service delivery to victims of crime. The blueprint on the establishment of sexual offences courts clearly states that the data collection method intended to monitor and evaluate the effectiveness of court services must make provision for inputs from victims who have gone through the criminal justice system. Our findings, however, revealed that the department did not put much effort into ensuring that this happens. In one instance, where it was revealed that the department had planned a baseline survey on the level of victim satisfaction with court services, it emerged that the effort was postponed owing to a lack of resources. It appears therefore that the department has failed to put in place an effective monitoring and evaluation for regularly gauging the satisfaction levels of the victims of crime who have gone through the system.

4.2. SOUTH AFRICAN POLICE SERVICES

In assessing the SAPS's implementation of the Victims Charter and the extent to which the department had responded to some of the key findings and recommendations contained in the 2009 CGE report, our findings identify that even though there has been progress in terms of SAPS' implementation of the Victims Charter, a number of challenges remain.

The SAPS has managed to develop the necessary policies, standards and guidelines to ensure that programmes and services rendered to victims of crime are aligned with the Victims Charter. Our findings, however, found discrepancies between some of the services rendered at police stations and the blueprints established by SAPS. Most of the VFRs observed for this assessment were not adequately resourced and did not meet the standards set out in the minimum standards for VFRs. The VFR at Warrenton Police Station, for example, appeared to be more of an office than a VFR. Although the Victims Charter

and the National Instruction 2/2012 on victim empowerment allow for police stations to use offices in cases where the VFRs have not been established, such offices or rooms cannot be labelled VFRs. The station had, however, stated that the room was a VFR. Furthermore, the use of a guardroom as a VFR by Ndwedwe Police Station was an indication that provisions for the establishment of an adequate VFR by SAPS had not been made. Our findings also discovered that there were stations that were not using VFRs for their intended purpose and therefore exposing victims to the risk of suffering secondary victimisation when interacting with SAPS officials. It has therefore become clear that SAPS needs to evaluate the existing VFRs in order to assess the adequacy of resources in place to render services to victims.

Discrepancies in funding and resource allocation across rural/township stations vis-a-vis city-based stations were discovered in the 2009 study. CGE had found that city-based stations were better resourced to provide victim-friendly services in an effective and efficient manner, whereas rural and township-based stations were poorly resourced. It appears that the SAPS has not yet taken on board the recommendation to review their funding and resource allocation model in order to prioritise marginalised communities. This is because the current study also discovered that resources were disproportionately distributed among police stations. VFRs in stations based in affluent areas, such as Strand and Kimberley, seemed to be well equipped, as opposed to those in the rural and township areas, such as Ndwedwe, Lingeletu West and Warrenton Police Stations which struggled with some of the basic resources.

The SAPS has re-established the FCS units as a means to provide specialised and focused services for victims of family violence, child protection and sexual offences. Our findings, however, indicate that the placements of the units were a serious challenge. The allocation of FCS units was not uniform in that some stations had the FCS units based onsite, while others were attached to units located elsewhere in the cluster. The cluster system proved to be problematic as units were severely under-staffed and inadequately resourced. Lack of appropriate cars was one of the persisting challenges, as well as the backlog of cases borne by detectives in addition to their responsibilities of driving victims from stations to medical centres and places of safety. Furthermore, the units were also based far from some of the cluster police stations that they were attached to, which meant that victims at those stations had to wait for longer periods in order to be attended to by the FCS. There appeared to be a need for every police station to have its own dedicated members of the FCS placed on-site.

The 2009 CGE study had discovered challenges with how SAPS had disseminated Victims Charter-related skills development and training programmes across provinces. The report indicated that not all police stations visited for the assessment had received training. It appears that SAPS has successfully addressed this finding and the supporting recommendation that SAPS should consider providing Victims Charter-related training on a regular basis to police stations in all provinces. The findings of the current assessment indicate that all six police stations visited in three provinces (KwaZulu-Natal, Northern Cape, and Western Cape) had members of Vispol trained on Victims Charter-related courses in the 2014/15 and 2015/16 financial years.

With regard to monitoring and evaluation, the SAPS relied on the CAS system which captured case information of all complaints presented to the police stations. Other than that, stats were collected and submitted to the station commander and then sent to the cluster and provincial principals. Suggestion boxes were also used as one of the systems of monitoring the effectiveness of services. This method however, appeared to have a number of loopholes. Firstly, officials could not provide substantial evidence to illustrate the effectiveness of suggestion boxes. Furthermore, the boxes were mainly located in the CSC whereas victims of GBV-related cases were taken to the VFRs and not assisted in the CSC, meaning that complaints raised in the suggestion boxes were to the exclusion of victims of GBV. Again, suggestion boxes appeared to be mainly put in place as a complaints mechanism and not systematic ways of monitoring the relevance, effectiveness and efficiency of services rendered to victims. CGE therefore concludes that the SAPS does not have an effective system of monitoring and evaluating Victims Charter-related programmes and services.

4.3. NATIONAL PROSECUTING AUTHORITY

The findings presented in this report on the work of the NPA and its selected facilities revealed a number of key issues of concern. Firstly, based on the TCCs selected for this assessment, there was clearly a lack of uniformity or consistency among these facilities (i.e. TCCs) in terms of the composition of the services rendered. The inconsistency of service delivery across these facilities raises important questions about the coordination of services and oversight at national level, especially by the NPA. Secondly, the issue of interdepartmental cooperation and coordination of services is important in ensuring effective implementation of TCC protocol that governs the type and standards of services to be rendered across the different entities responsible for implementing Victims Charter-

related programmes. Given that the NPA is responsible for the operations of the TCCs, it is logically assumed the NPA would also take the lead in ensuring the necessary coordination of the vital professional services that are rendered within the TCCs by the various government departments as a way of ensuring that the TCCs meet the minimum standards of services rendered to the victims of crime. However, the fact that in practice fragmentation and discord are prevalent, and that officials from each department are accountable, and report directly only to their departments, is a clear sign that the NPA is unable to prevail upon other departments to honour and uphold the requirements of the TCC model as envisaged by the government. A clear sign of this fragmentation and lack of unity of purpose is that officials from other departments displayed a strong sense of rejection of the idea of submitting to the authority of, and answering to, NPA officials within the TCCs. The result of this therefore has been a great deal of inconsistency in the availability and provision of services across the various TCCs in different provinces as discussed in this report.

These inconsistencies are reflected in the different areas examined in this assessment, such as the state of the facilities and services rendered to victims of crime, the nature and focus of skills training, the availability of resources and even the mechanisms used for monitoring and evaluating services. The CGE's 2011 report contained a recommendation to address the issue of effective monitoring and evaluation of the quality of services rendered through the TCCs in relation to the stipulated minimum standards. It is clear that this has not yet been given attention. In other words, no standardised monitoring and evaluation system has been designed and put in place to enable the NPA to gauge on a regular basis the quality and level of Victims Charter-related services rendered by its facilities. Therefore, different TCCs continue to use various methods (i.e. suggestion/complaint boxes, customer satisfaction surveys, toll-free numbers, etc.) to rate the level of services received. However, the efficacy and effectiveness of these various methods could not be demonstrated by the entities covered in this assessment.

The variations across the various entities are a clear sign of the lack of a central agency or authority to ensure accountability in cases where poor delivery of services occurs. These are some of the issues identified in the previous CGE reports and recommendations. It is clear that the issue of effective coordination is a major weakness in the functioning of the TCC model. The withdrawal of the DoJ & CD from playing this coordination role left a vacuum that no other department, including the NPA, has attempted to fill.

Thirdly, it would seem clear that the NPA, together with the other departments responsible for providing Victims Charter-related services within the TCCs, have failed to develop a common service delivery framework aimed at standardising the services that are provided across all facilities and developing a funding framework that guarantees the necessary funds for a minimum set of basic services and supplies for victims in line with the stipulated minimum standards. One of the key recommendations contained in the previous CGE reports on the implementation of the Victims Charter was the need for the development of a clear funding model for the TCCs, which takes into account the socio-economic conditions of the various TCCs. This has not yet been done.

As indicated in the discussions of the findings on the work of some of the TCCs covered in this report, due to lack of funding, these entities could not consistently and meaningfully participate in awareness-raising campaigns as recommended in the CGE's 2011 on the work of the TCCs. The issue of lack of clarity on budgetary allocations for TCCs remains unresolved and shrouded in obscurity.

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