

**Policy Brief 9**

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**Commission for Gender Equality**  
A society free from gender oppression and inequality

**Victims Charter: From Policy to  
Implementation:  
Assessing Implementation by the Departments of  
Health and Correctional Services**

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## 1. INTRODUCTION

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Due to the high levels of crime in South Africa, specifically sexual assaults against women and child abuse, the government has been under pressure to develop effective policy interventions and responses to deal with this challenge. The introduction of the Victims Charter was a national policy intervention and response, placing emphasis on improving the quality of services to victims of sexual assault, with particular emphasis on avoiding secondary victimisation.

This Policy Brief is based on a study<sup>1</sup> conducted by the Commission on Gender Equality (CGE) in 2012 to assess the services rendered to victims of crime throughout the country by departments of Health and Correctional Services (primarily through the Thuthuzela Care Centres and other relevant healthcare facilities). The findings of the study clearly demonstrate that good policy intentions do not always translate into intended outcomes.

The objective of this Policy Brief is to raise awareness among key stakeholders, particularly policy-makers, by drawing their attention to the shortcomings in the implementation of the Victims Charter<sup>2</sup>. The Policy Brief also presents a number of recommendations resulting from the study in order to address the constraints hindering effective provision of services to victims of sexual assaults.

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<sup>1</sup>Commission for Gender Equality (2012). The Victims' Charter: Assessing the effectiveness of implementation by Departments of Health and Correctional Services (National Report 2012).

<sup>2</sup>RSA (2004). Service Charter for Victims of Crime in South Africa (Department of Justice and Constitutional Development)

## 2. BRIEF BACKGROUND

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The Victims Charter (VC) was designed to set minimum standards of services to be met by relevant organs of state in rendering assistance to victims of crime in South Africa. The Victims Charter represents a statement of policy commitment to standards of service, upholding the rights of victims of crime. It is part of the government's Integrated Victim Empowerment Policy<sup>3</sup>, aimed at providing a comprehensive and integrated response to the needs of the victims of crime.

The Charter turns on the following key principles:

- 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.

Prior to the enactment of the Victims Charter in 2004, the provision of vital specialist services necessary for victims of sexual assault lacked effective coordination and integration. For instance victims of sexual assault were expected to report crime and open cases at the local police station, before being taken to a hospital where, depending on availability of specialist services, forensic examinations would be conducted. Victims would also have to receive advice to ensure that forensic evidence was preserved. Failure to render such advice often led to loss of forensic evidence vital for subsequent court cases.

In many instances in the past, due to lack of skills and expertise at police stations, statements from victims would either not be obtained or be written down incorrectly. In some cases, statements were taken without proper counseling and under circumstances devoid of privacy,

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<sup>3</sup>RSA (2005). Integrated Policy Framework for Victim Empowerment (Department of Social Development)

confidentiality and sensitivity to the plight of the victims. This amounted to secondary victimisation at the hands of state officials tasked to assist the victims. To address these issues, government introduced one-stop centres where all the comprehensive specialist services for victims would be provided in a coordinated and integrated manner and under one roof.

**This study is part of the CGE's mandate to monitor and evaluate the work of organs of state to ensure the promotion and protection of gender equality in South Africa.**

Emphasis is placed on ensuring that the victims are central to the justice system. One of the key tenets of this is that victims would be afforded the opportunity to make representations before Parole Boards when offenders appeared for Parole hearings. This approach derives from the Constitution and other legislation such as the Witness Protection Act<sup>4</sup>, the Criminal Procedures Act<sup>5</sup> and relevant international instruments to which South Africa has acceded.

This study is part of the CGE's mandate to monitor and evaluate the work of organs of state to ensure the promotion and protection of gender equality in South Africa. The study sought to assess the effectiveness of the implementation of the Victims Charter by the Departments of Health (DoH) and Correctional Services (DCS), to determine the extent to which the rights of the victims of sexual crime were protected and promoted in accordance with the minimum standards outlined in the Victims Charter.

### 3. FINDINGS OF THE STUDY

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The study looked at the following key themes: knowledge and understanding of the Victims Charter; internal skills development and capacity building; internal monitoring and evaluation; and the nature of services provided to the victims.

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<sup>4</sup>RSA, Witness Protection Act (Act 112 of 1998)

<sup>5</sup>RSA, Criminal Procedures Act (Act 51 of 1997)

### 3.1 Department of Health

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The study revealed that there was widespread understanding among healthcare workers of the work performed by the service providers. However it was clear that some healthcare workers were not aware of the connection between their work and the Victims Charter.

Working with victims of sexual assault requires specialised skills, including forensic medicine, counseling and nursing. The study found that there were some forensic experts in the field of medicine, that healthcare workers were convinced that these new skills had brought improvements to the quality of services rendered to the victims, and this occurred in an environment that ensured confidentiality and privacy to the victims of sexual assault. However the number of personnel with forensic medical expertise and related skills was found to be inadequate, leading to severe under-staffing and therefore under-capacity, and pressure on the existing personnel (both doctors and nurses). The study also found other major constraints such as insufficient budgets and lack of specialised skills training for nurses and doctors, which affected the implementation of the Victims Charter. Some of the healthcare personnel had privately enrolled in training courses to address their skills development needs without the support of the department.

The study found that, generally, each Thuthuzela Care Centre had one medical doctor and one nursing professional on duty during the day. In instances where there were two doctors, the second one would usually be shared with another healthcare facility. This helped, especially in cases where one of the doctors was called out to present forensic evidence in a court case. In some healthcare centres, the problem of lack of trained personnel is addressed through the work of NGOs contracted by the Department of Health to provide services such as on-site HIV counselling.

Another important constraint identified by the study was the limited number of designated healthcare facilities, particularly in rural areas, and in cases of domestic violence. Lack of specialised services in these areas implied a failure to meet the needs of the victims by preventing efficient delivery of vital services to them. One of the major challenges facing the department is insufficient budgetary allocation, which has wider repercussions especially for human resources planning and the establishment of more one-stop centres, particularly in rural

areas. The consequence of this is that victims from outside the urban areas continue to face long queues at outpatient departments (OPD) of hospitals, and to be treated by general practitioners rather than healthcare personnel with specialised skills.

It was also found that no systematic evaluation of the services rendered to the victims was being undertaken except the collection of statistics of patients attended to at these centres. There is no evidence to show that the statistics are being used for further planning and improving the quality of services to victims.

The study did find that various services were being rendered at one-stop centres, including trauma counselling, pre- and post-HIV test counselling, provision of post-exposure prophylaxis (PEP) and antiretroviral (ARVs) drugs, as well as testifying for victims at court by medical doctors. The staff shortages at some centres meant that the DoH often had to rely on the work of independent NGOs working on-site to help it fulfill its objectives. In some cases the NGOs provided places of safety for victims of domestic violence.

### 3.2 Department of Correctional Services

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With regards to knowledge and understanding of the Victims Charter, the study found that informants were aware of the policy prescripts and the department's commitment towards coordinating the participation of victims in Parole Board hearings. However the challenge was in

**Another issue raised by some informants was the lengthy time period between sentencing of offenders on the one hand, and offenders appearing before the Parole Board on the other.**

terms of putting these commitments into practice. Issues of lack of skills, inadequate capacity and lack of resources were put forward as factors hampering effective implementation or compliance with key provisions of the Charter.

The study found that there was a lack of staff capacity to assist in locating the victims, especially for the purposes of participating in Parole Board hearings. The department has attempted to resolve this issue by contracting independent NGOs to perform this task. However this service was only just being introduced at DCS facilities at the time of the study, and therefore had not been in place for long enough to enable effective assessment.

Another issue raised by some informants was the lengthy time period between sentencing of offenders on the one hand, and offenders appearing before the Parole Board on the other. This often meant that victims were lost to the system due to factors such as victim relocation, change of address, or even disillusionment or unwillingness to re-engage with the justice system to avoid reliving the trauma. In some cases offenders were transferred to different correctional facilities without informing the victims as required by law. One example of this was in Kokstad(KwaZulu-Natal) where an offender was sentenced but at the time of the parole hearing, the offender was based at Ncome Centre, approximately 500km away from Kokstad. Under such circumstances and due to lack of funds, DCS personnel are usually unable to locate the victims to ensure their participation at parole hearings.

It was also clear that the DCS officials did not have sufficient capacity to render services to victims as outlined in the Victims Charter and in line with the department's commitments. As a result, DCS facilities in different provinces entered into memoranda of understanding with NGOs such as the National Institute of Crime and Reintegration of Offenders (NICRO) and the Foundation for Victims of Crime (FOVOC) to run workshops on victim-offender mediation. Some provinces have contracted the services of other organisations for this purpose.

Informants from all the provinces pointed to lack of adequate resources, especially a dedicated budget, for rendering critical services to victims, particularly for locating the victims during parole hearings. It was also discovered that many centres lack the necessary facilities, particularly the audio-visual equipment (e.g. CCTV cameras) to allow those victims who cannot present themselves in person to participate in the Parole Board hearings.

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#### 4. POLICY IMPLICATIONS

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This Policy Brief has highlighted the fact that attempts to improve the quality of services rendered to the victims of crime are hindered by a number of obstacles. There are several policy implications stemming from this. Firstly, there is an obvious commitment to the policy objectives outlined in the Victims Charter. However this is not accompanied by sufficient resources, thus undermining the expressed political commitment to the rights of the victims of crime. A clear policy implication here is the need for policy-makers to match policy commitment with the necessary resources (human and financial).

Secondly, the commitment of government, through the Victims Charter, to place the victims at the centre of the justice system needs high-level political commitment to leverage the necessary resources, institutional capacity and systems to ensure effective implementation. The absence of effective monitoring and evaluation systems for the Charter implies a lack of effective management of policy implementation on the ground to ensure intended outcomes, resulting in a gap between policy intentions and practical outcomes.

#### 5. RECOMMENDATIONS

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##### 5.1. Department of Health

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- The current model of funding TCCs appears to be ineffective. It is recommended that the NPA, DoH and other relevant role-players undertake a thorough independent review of the resources and funding model currently being used. This process should lead to a long-term funding strategy for TCCs to reduce their reliance on the financial and other resources of hospitals.
- It is recommended that the DoH institutes a system of regular on-the-job training and skills development for healthcare workers who are regularly involved in the provision of vital services to victims of crime. In particular, the need is for skills such as forensic medical services (including collecting, storing and presenting forensic evidence), psycho-social

counselling services, and awareness of the standards of services for victims of crime outlined in the VC.

- It is important that the DoH puts in place an effective and comprehensive system of reviewing the state of its healthcare facilities throughout the country to determine if these are consistent with the standards prescribed in the VC and in line with current policies and legislations. Commitment to the highest standards and quality of health services should be accompanied by regular reviews of internal systems, processes and programmes that aim to maintain these services and, where necessary, implementing effective interventions based on the outcomes of these reviews.
- Linked to the above recommendation, it is recommended that the DoH, together with the NPA, puts in place an effective, reliable and preferably independent system of regular reviews, monitoring and evaluation of the performance of its healthcare facilities, including the TCCs. Such a system should have a wide scope, focusing on the effectiveness and relevance of internal and external operations, systems, policies and practices of healthcare facilities throughout the country, including the experiences and levels of satisfaction of the victims.

## 5.2. Department of Correctional Services

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- It is recommended that the DCS undertakes a thorough review of its internal programmes and processes aimed at implementing the VC to improve strategic planning and the allocation of the necessary resources to such programmes. This exercise should also review current internal systems, policies and practices for allocating and managing the financial and other vital resources allocated to the implementation of the Victims Charter (e.g. the transport and related costs of ensuring that the victims of crime attend parole hearings).
- The DCS should review its current policy and practices relating to the capturing, storing and regular updating of the information and contact

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details of victims of crime. This exercise will be crucial for ensuring that DCS correctional facilities maintain regular contact with victims of crime to improve the tracing of victims when vital information has to be communicated to them or their next of kin.

- It is recommended that the crime, justice and security cluster departments and other institutions of state involved in the implementation of the VC develop a common operational strategy and system to ensure that the different (and sometimes incongruous) administrative boundary demarcations are managed effectively to avoid fragmented and disintegrated approaches in delivering various VC-related services to victims of crime.
- It is vital that the DCS institutes an effective, reliable, and preferably independent system of regular reviews, monitoring and evaluation of the performance of its correctional facilities. Such a system should have a wide scope, focusing on the effectiveness and relevance of internal and external operations, systems, policies and practices of DCS facilities throughout the country.
- Finally, it is recommended that the DCS institutes a system of regular on-the-job training and skills development for officials tasked with implementing the VC and rendering services to victims of crime in line with the Victims Charter.



## MANDATE:

Section 187(1) of the Constitution of South Africa reads: "The Commission for Gender Equality must promote respect for gender equality and the protection, development and attainment of gender equality." The CGE is a catalyst for the attainment of gender equality. Section 187(2) grants the CGE "the power, as regulated by national legislation, necessary to perform its functions, including the power to monitor, investigate, research, educate, lobby, advise and report on issues concerning gender equality."

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