



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

Gender-based violence and the Victims' Charter



**KZN Victim Empowerment Symposium
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Commissioner Janine Hicks**

CGE mandate and vision

- S187 of the Constitution and CGE Act No. 49 of 1996 require the CGE to promote respect for, and the protection, development and attainment of gender equality
- The CGE vision is a society free from gender oppression and all forms of inequality
- The CGE mandate is to monitor and evaluate legislation, policies and practices of the state, statutory bodies and private businesses, as well as indigenous and customary laws and practices; research and make recommendations to Parliament; receive and investigate complaints of gender discrimination; and conduct public awareness and education on gender equality. CGE has powers of subpoena and litigation
- Thematic focal areas: Poverty; GBV; Democracy and Good Governance; Cultures, Religions and Traditions; HIV and AIDS; NGM



Monitoring the Victims' Charter

- South African Services Charter for Victims of Crime adopted by Cabinet in December 2004, outlining seven basic rights.
- Developed in accordance with the national Crime Prevention Strategy's victim-centred vision for the criminal justice system, and in line with SA's Constitution and UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power.
- CGE mandate includes to monitor sector-specific roles in victim empowerment – and in particular the implementation of the Victims' Charter from a gender perspective.
- CGE implemented study to assess whether police stations and courts possess the necessary capacity to ensure victims of gender-based violence are able to realise the rights enshrined in the Charter.
- Study focused on a number of police stations and courts in all 9 provinces, and a sample of provincial NPA, Dept of Justice and Constitutional Development and Thuthuzela Centre employees.



Summary of findings

- Implementation of the Victims' Charter is characterised by the following difficulties:
 - lack of **uniformity and knowledge** about the Charter;
 - staff challenges**, shortage of magistrates and **delays in processing** court order forms;
 - inadequate and inappropriate responses** from police;
 - disparities in statistics** regarding cases opened and successful convictions and sentencing;
 - inadequate vehicles** to transport victims to places of safety and lack of **special rooms** at SAPS stations for receipt of domestic violence complaints;
 - lack of **anti-rape strategy** in most police stations;
 - inadequate capturing of GBV data** and statistics at police stations its nature of assault, and profile of victims and perpetrators of GBV.



Additional findings

- Research revealed elementary knowledge of gender based violence amongst police officers. While able to report on **domestic violence and sexual abuse**, they did not identify these incidents as forms of GBV.
- Difficult to identify GBV occurrence using SAPS classifications “**Assault GBH**”, “**Crimen Injuria**” “**Rape**” and **Common Assault**”, as this does not link the offences to gender, nor provide critical detail of child or gang rape, etc.
- **Number of police officials** designated to sexual offences is **very minimal**, and while most police stations had **trauma centres**, they were inadequately staffed with **social workers** to assess victims of domestic violence, and rape survivors.
- Evidence suggests that police stations located in **poorer areas have lesser resources** to fight GBV than those in affluent areas – points to the **interlocking** nature of **race, class and gender discrimination in South Africa**.



Interaction with communities

- Information on relations with communities suggests that, in general, **police stations have developed positive relations** with communities.
- Community members **assist with the identification of perpetrators**, volunteer as reservists and also help in raising awareness.
- Most communities seem to have **active community police forums**.
- Some communities identified **churches** as playing a role in the raising of awareness on issues of domestic abuse, rape and many other crimes.
- Police officers also highlighted that they refer some victims in need of **counseling** and other forms of support to NGOs.
- Relationships are, however, **threatened by factors** such as the tendency by victims to **withdraw complaints** after investigations and before going to court; the **reporting of false cases**; poorly conducted investigations; reaction time of police etc.



Challenges faced by courts

- Courts are generally adequately resourced In terms of **physical resources** required for victims and perpetrators, such as separate facilities, waiting rooms, availability of water, facilities for breastfeeding, etc.
- Most courts did not have **access to specialists like psychiatrists, social workers and clinical psychologists**. This is a great challenge when, for example, mentally unfit persons are accused.
- Another common challenge is the problem of the **withdrawal of charges** by victims of domestic abuse:
 - often **pressure on victims to withdraw charges** when the perpetrator is a **member of the family** or a close associate of the family, whose prosecution might have dire consequences for victim and others
 - women's dependency on men for their livelihood**
- **Stressful and often traumatic** court processes leading to contradiction under cross examination and labelling of victims as unreliable witnesses



Recommendations

1. There is a need for **increased knowledge and skills** on handling GBV among police officials, including training on the **identification and handling of GBV related cases**.
2. Increased access to **professional services** provided by social workers, psychologists and related disciplines in police stations and courts, and to necessary supporting resources.
3. Gaining success in relation to GBV related cases and convictions would also require **improved relations with communities**.
4. Improvement in data collection – gender-disaggregated; comparative and GBV – to enable monitoring of statistical data on GBV cases. This calls for **improved systems and capacity** in defining, collating, compiling and retrieving statistical data on GBV and related cases.
5. **Improved cooperation among Victims' Charter partners** to enable better access to sites and information.

