

A Presentation by the



The Victim Charter

YOUR RIGHTS AS A VICTIM OF CRIME

1. The right to be treated with fairness and with respect for your dignity and privacy
2. The right to offer information
3. The right to receive information
4. The right to protection
5. The right to assistance
6. The right to compensation
7. The right to restitution



1. The right to be treated with fairness and with respect for dignity and privacy

- You have the right to be attended to promptly and courteously, treated with respect for your dignity and privacy by all members of any department, institution, agency or organisation dealing with or providing a service to you (hereafter referred to as a service provider).
- The police, during the investigations; the prosecutors and court officials during preparation for and during the trial proceedings; as well as all other service providers, will take measures to minimise any inconvenience to you by, among others, conducting interviews with you in your language of choice and in private, if necessary.
- These measures will prevent you from being subjected to secondary victimisation.



2. The right to offer information

- You have the right to offer information during the criminal investigation and trial.
- The police, prosecutor and correctional services official will take measures to ensure that any contribution that you wish to make to the investigation, prosecution and parole hearing is heard and considered when deciding on whether to proceed with the investigation, or in the course of the prosecution or Parole Board hearing.



2. The right to offer information

- This right means that you can participate (if necessary and where possible) in criminal justice proceedings, by attending the bail hearing, the trial, sentencing proceedings and/or Parole Board hearing.
- It means that you will have the opportunity to make a further statement to the police if you realise that your first statement is incomplete; you may also, where appropriate, make a statement to the court or give evidence during the sentencing proceedings to bring the impact of the crime to the court's attention.
- Furthermore, you may make a written application to the Chairperson of the Parole Board to attend the parole hearing and submit a written input.



3. The right to receive information

- You have the right to be informed of your rights and of how to exercise them.
- You can, as part of this right, ask for explanations in your own language of anything you do not understand.
- You have the right to receive information and to be informed of all relevant services available to you by service providers.



3. The right to receive information

- You will be informed of your role in the case and of the approximate duration of the case. You can request information regarding court dates, witness fees and the witness protection programme.
- You can request to be informed of the status of the case, whether or not the offender has been arrested, charged, granted bail, indicted, convicted, or sentenced.
- You may request reasons for a decision that has been taken in your case on whether to prosecute or not.



3. The right to receive information

- You are entitled to receive documents that the law entitles you to have access to.
- You can request to receive notification of proceedings which you may attend.
- You can request the prosecutor to notify your employer of any proceedings which necessitate your absence from work.



4. The right to protection

- You have the right to be free from intimidation, harassment, fear, tampering, bribery, corruption and abuse. If you are a witness, you must report any such threats to the police or senior state prosecutor.
- The police will, if you comply with certain requirements, apply for you to be placed in a witness protection programme.
- If such an application is successful, you will be placed in a witness protection programme where you will be protected, as far as possible, from all forms of undue influence, harassment or intimidation.



4. The right to protection

- This will ensure your safety as a witness and the availability of your testimony, and prevent you from withdrawing from giving evidence as a result of undue influence.
- This right includes that in certain circumstances the court may prohibit the publication of any information (including your identity), or it may order that the trial be held behind closed doors (*in camera*).
- You can request Correctional Services to inform you if the offender has escaped or has been transferred.



5. The right to assistance

- You have the right to request assistance and, where relevant, have access to available social, health and counseling services, as well as legal assistance which is responsive to your needs.
- The police will assist you by explaining police procedures, informing you of your rights and making the appropriate referral to other relevant service providers.
- The office manager or head of office at the court will provide for the services of an interpreter.



5. The right to assistance

- The prosecutor will ensure that special measures are employed in relation to sexual offences, domestic violence and child support or maintenance matters and that, where available, such cases are heard in specialized courts.
- If you have special needs, all service providers will, within the scope of their functions, take all reasonable steps to accommodate you and ensure that you are treated in a sensitive manner.



6. The right to compensation

- You have the right to compensation for loss of or damage to property suffered as a result of a crime being committed against you.
- You can request to be present at court on the date of sentencing of the accused and request the prosecutor to apply to court for a compensation order in terms of section 297 and 300 of the Criminal Procedure Act, Act 51 of 1977.



6. The right to compensation ...

- “Compensation” refers to an amount of money that a criminal court awards the victim who has suffered loss or damage to property, including money, as a result of a criminal act or omission by the person convicted of committing the crime.
- The prosecutor will inform you if a compensation order has been granted, explain its contents and how to enforce it. You can institute a civil action against the accused where the criminal court did not grant a compensation order. This will usually happen where the damages are not easily quantifiable in financial terms, for example, in the case of psychological damages or pain and suffering.
- The clerk of the court will assist you with the enforcement of a compensation order granted by the court.



7. The right to restitution

- You have the right to restitution in cases where you have been unlawfully dispossessed of goods or property, or where your goods or property have been damaged unlawfully.
- “Restitution” refers to cases where the court, after conviction, orders the accused to give back to you the property or goods that have been taken from you unlawfully, or to repair the property or goods that have been unlawfully damaged, in order to restore the position you were in prior to the commission of the offence.
- The prosecutor will inform you what restitution involves and the clerk of the court will assist you in enforcing this right.



CLAIMING COMPENSATION FOR DAMAGES SUFFERED AS A RESULT OF DAMAGE OR LOSS TO PROPERTY IN TERMS OF SECTION 300 OF THE CRIMINAL PROCEDURE ACT No. 51 of 1977 (as amended)

- This is an additional mechanism to be considered in your basket of options, in an attempt to minimize the pain and disappointment suffered as a result of the scourge of crime.
- This section is an easy, efficient, and cost-effective way for a victim to recover damages from the perpetrator, arising from his / her unlawful or negligent conduct, for damage or loss caused to the victim's property, which includes money.
- This remedy is **not** applicable to claims for bodily injury, and therefore cannot be used to claim for pain, suffering, loss of amenities of life, and the like. The magistrate presiding at the criminal trial of the perpetrator has a discretion as to whether your request or application in terms of this section should be granted or refused.



CLAIMING COMPENSATION FOR DAMAGES SUFFERED AS A RESULT OF DAMAGE OR LOSS TO PROPERTY IN TERMS OF SECTION 300 OF THE CRIMINAL PROCEDURE ACT No. 51 of 1977 (as amended)

- This remedy will be well suited to certain claims, but inappropriate to others. In my view, it is well suited to instances where you are able to prove the damages very easily, by producing quotations to court for example. In other words, when your damages to property are easily quantifiable.
- **This remedy is only available to the victim, before the accused is sentenced.**



**CLAIMING COMPENSATION FOR DAMAGES SUFFERED AS A RESULT OF
DAMAGE OR LOSS TO PROPERTY IN TERMS OF SECTION 300 OF THE
CRIMINAL PROCEDURE ACT No. 51 of 1977 (as amended)**

The accused is sentenced to 6 months imprisonment, which period of imprisonment is suspended for 5 years on condition that:

- The accused is not convicted of an offence where dishonesty or force is an element within the period of suspension; and
- The accused pays to the complainant the amount of R xxxx.xx by not later than (a date to be determined by the court or in installments as determined).
- All payments made in terms of this order shall be paid to the clerk / registrar of the court, for collection by the complainant.

If the accused fails to pay, s/he could be imprisoned for the period of imprisonment (six months in our example).



**IN THE MAGISTRATES COURT OF WYNBERG
Held at COURT 5, WYNBERG**

Case No: 1921/11/2010

In the matter of:

The State

Versus

ABCD

**INSTRUCTIONS TO PROSECUTOR AND APPLICATION FOR COMPENSATION TO BE PAID IN TERMS OF
SECTION 300 OF THE CRIMINAL PROCEDURE ACT No. 51 OF 1977 (As Amended)**

I am the Complainant in this matter and the owner of the property set out hereunder.
This document constitutes my instruction to the Prosecutor to submit this application on my behalf.
I confirm that I have suffered damages in the sum of R 15,000, calculated on the basis of the invoices
annexed hereto:

[insert description of the item]

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I respectfully request the honourable court to consider granting this application for a compensation
order to be made, for the damages caused to and /or loss of my property, as a result of the
conduct of the accused.

THIS DATED AND SIGNED AT ON THISDAY OF 2010....

.....

Joe / Jean Bloggs

[Insert Address]



END

QUESTIONS?

