

NATIONAL INSTRUCTION ON SEXUAL OFFENCES

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T. C. WILLIAMS

National Commissioner: South African Police Service

NATIONAL INSTRUCTION 3/2008

SEXUAL OFFENCES

1 Background

The Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act 32 of 2007) creates a framework which will ensure the provision of adequate and effective protection to victims of sexual offences. The purpose of this National Instruction is to ensure that members render a professional service to victims in respect of the investigation of offences of this nature and to assist victims in this regard.

2 Definitions

In this instruction, unless the context otherwise indicates-

- (a) 'child' means a person below the age of 18 years;
- (b) 'crime scene' means the place, including, where applicable, the vehicle or vessel at or in which an alleged sexual offence took place;
- (c) 'health care professional' means the district surgeon or a person appointed by the Department of Health to conduct a medical examination of a victim of a sexual offence;
- (d) 'interested person' means any person who has a material interest in the well-being of a victim, including a spouse, same sex or heterosexual permanent life partner, parent, guardian, family member, care giver, curator, counsellor, medical practitioner, health service provider, social worker or teacher of such victim;
- (e) 'investigating officer' means a member of the Service designated to investigate the complaint of a sexual offence. If no member has yet been designated as such, the member or detective on standby. If the victim of the offence is a child, only a member trained by the FCS unit may be designated as investigating officer;
- (f) 'medical practitioner' means a person registered as a medical practitioner in terms of the Health Professions Act, 1974 (Act 56 of 1974), and who, for purposes of section 33 of the Act, is authorised to take blood samples as contemplated in Chapter 5 of the Act;

(g) 'nurse' means a person registered as such in terms of the Nursing Act, 2005 (Act 33 of 2005) and who, for purposes of section 33 of the Act, is authorised to take blood samples as contemplated in Chapter 5 of the Act;

(h) 'PEP' means Post Exposure Prophylaxis, which is medical treatment to minimize the risk of HIV infection;

(i) 'public health establishment', means a place designated by the Minister of Health (set out in Annexure A) to provide PEP to victims and to carry out compulsory HIV testing;

(j) 'sexual offence' means any offence contained in Annexure B;

(k) 'the Act' means the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act 32 of 2007); and

(l) 'victim' means a person, irrespective of gender or age, alleging that a sexual offence has been perpetrated against him or her.

3 Responsibility of Station Commissioner

(1) Every station commissioner must liaise with local representatives of the Departments of Health (including representatives of Public Health Establishments, referred to in Annexure A, that are within the station area), the Department of Social Development, the local Community Police Forum and any other relevant local institution, to identify local organisations which are willing and able to provide counselling and other support services (including medical services) to victims.

(2) After having identified the organisations referred to in subparagraph (1), the station commissioner must liaise with the said organisations to determine-

(a) the specific services that are rendered by each;

(b) whether the services are rendered after hours, during weekends and on public holidays, and, if so, the after hour contact numbers that may be used to access the services;

(c) whether the services are rendered free of charge or at a fee; and

(d) the contact particulars of each.

(3) The station commissioner must compile a list of the relevant organisations and include in it, in respect of each organisation, at least the information referred to in subparagraph (2) as well as information relating to hospitals, ambulance services and health care professionals that may be contacted to provide medical treatment to victims.

(4) The original list referred to in subparagraph (3) must be kept by the station commissioner who must update it at least once every six months.

(5) The station commissioner must ensure that a copy of-

(a) the Act;

(b) the Regulations promulgated in terms thereof;

- (c) this National Instruction;
- (d) the station orders issued by him or her in terms of subparagraph (6); and
- (e) the list referred to in subparagraph (3),

are at all times available in the Community Service Centre and that a copy of the list referred to in subparagraph (3) is at all times available in each police vehicle at his or her station which is utilized to attend to complaints.

(6) The station commissioner must, taking into account the unique circumstances prevailing in his or her specific station area, available resources, etc, issue station orders-

(a) requiring a member under his or her command to inform a victim of the services rendered by organisations mentioned in the list and how to inform the victim thereof (eg by providing the victim with a copy of the list or allowing the victim to peruse the list or reading the information from the list to the victim);

(b) setting out the steps that must be taken by such member to assist the victim, when requested thereto by the victim, to gain access to any service rendered by an organisation mentioned in the list or to obtain medical treatment should this be required; and

(c) in general, instructing members under his or her command on any other matter relating to the treatment of victims which he or she deems necessary to determine in respect of his or her specific station area.

(7) Where a police station area forms part of a larger area consisting of more than one police station area and a radio control unit has been established to patrol and attend to complaints in such larger area, every station commissioner of a station in such larger area must, for information purposes, provide the commander of such radio control unit with a copy of-

(a) the list referred to in subparagraph (3) and, when he or she has updated the list, a copy of the updated version thereof; and

(b) a copy of the station orders issued in accordance with subparagraph (6) and, if he or she amends the orders, a copy of the updated version thereof.

(8) The station commissioner must see to it that all functional members at his or her station receive in-service training (also at station meetings) on the Act, the Regulations, this Instruction and the station orders issued by him or her.

4 Receiving a report of a sexual offence at a police station

(1) The alleged commission of a sexual offence is usually reported by-

- (a) the victim of the offence;
- (b) a family member, friend or colleague of the victim; or

(c) a person who witnessed or received information about the commission of the offence.

(2) The person reporting the alleged commission of the offence, normally does so voluntarily (except in the circumstances referred to in subparagraph (3)) and is accordingly normally willing to provide all the information at his or her disposal to the police.

(3)(a) In terms of section 54(1) of the Act, any person who has knowledge that a sexual offence has been committed against a child, must report such knowledge to a police official. A failure to do so, constitutes an offence, and a person convicted of such offence, may be sentenced to five years' imprisonment.

(b) In terms of section 54(2) of the Act, any person who has knowledge or a reasonable belief or suspicion that a sexual offence has been committed against a mentally disabled person, must report such knowledge to a police official. A failure to do so, constitutes an offence, and a person convicted of such offence may be sentenced to five years' imprisonment.

(4) A person reporting his or her-

(i) knowledge that a sexual offence has been committed against a child or mentally disabled person; or

(ii) reasonable belief or suspicion that a sexual offence has been committed against a mentally disabled person,

as a result of the legal duty to do so in terms of section 54 of the Act, may sometimes do so out of fear of being prosecuted if he or she fails to do so.

(5) If a person (referred to in subparagraph (4)) reports such knowledge or his or her belief or suspicion to a police official, the member receiving the report may under no circumstances turn such a person away. Such a member must consider the information and-

(a) if the member is satisfied that there are reasonable grounds to believe that such an offence was indeed committed, take an affidavit from the person setting out the information provided by that person, open a docket for the investigation of the offence that was allegedly committed and register the docket on the CAS system; or

(b) if the member is not satisfied that there are reasonable grounds to believe that such an offence was indeed committed, consult with the Community Service Centre Commander who must make a comprehensive OB entry of the report and the reasons why the Commander is not satisfied that there are reasonable grounds to believe that such an offence was indeed committed and provide the number of the OB entry to the person who made the report. The entry must include sufficient particulars of the person that made the report to enable him or her to be located and be interviewed if this turns out to be necessary.

(6) Any person who reports the alleged commission of a sexual offence to a member must be treated in a professional manner and must be reassured that the report is viewed in a serious light and will be thoroughly investigated.

5 Victim assistance

(1) During the commission of a sexual offence, the victim suffers severe trauma. It is difficult to conceive of any other offence during the commission of which the bodily and psychological integrity, privacy and dignity of a victim is [sic] simultaneously violated more severely than during the commission of a sexual offence. Furthermore, the commission of a sexual offence not only affects the victim alone, but also his or her family and personal life. A member must continuously be mindful of this fact during his or her interaction with the victim and the family or friends of the victim.

(2) During the commission of a sexual offence, the victim normally experiences feelings of powerlessness, helplessness and of being exposed. When reporting the offence to a police official, the victim relives the event and, in so doing, experiences secondary trauma. The secondary trauma is exacerbated if the member conducts the interview in an insensitive manner or unnecessarily touches the victim. On the other hand, the secondary trauma is lessened if the victim is permitted to have a person of his or her choice present to support and re-assure him or her during the interview and if the interview is conducted in surroundings that are either familiar to the victim or are re-assuring to the victim (inducing in him or her a sense that he or she is safe and that what he or she says cannot be heard by others and is treated in confidence).

(3) In view of the above, it is imperative that the member to whom a victim reports the commission of a sexual offence at a police station-

(a) immediately requests the victim to accompany him or her to an appropriate area which is away from the main duty desk in the community service centre and which is out of sight and hearing of persons in the community service centre;

(b) reassures the victim that he or she is now safe and will be protected. If the victim and the alleged offender are in a domestic relationship, the member must advise the victim in accordance with the National Instruction on Domestic Violence;

(c) determines whether the victim requires medical assistance and if so, make arrangements for the victim to obtain medical assistance as soon as possible;

(d) asks the victim whether he or she would prefer to have another person present to support him or her during the interview and, if the victim prefers that such person be present, allow such person to be present to support him or her during the interview;

(e) reassures the victim that he or she did the right thing to report the matter to the police and that the matter will be dealt with sensitively and that he or she will not unnecessarily be exposed to further traumatization;

(f) listens to what the victim says, without interrupting him or her and put him or her at ease; and

(g) writes down everything that the victim says, as it may be evidence that may assist the police in the investigation (make investigative notes).

(4) Any member receiving a report that a sexual offence has allegedly been committed against any person, must always view the report in a very serious light and must pay immediate attention thereto, irrespective of how long ago (before the report) the offence was allegedly committed or in which station area it was allegedly committed. No victim may be turned away simply because the alleged offence took place a long time ago or was allegedly committed in the station area of another police station.

(5) While taking statements from the victim and his or her family, the member must at all times act in a professional manner and be sensitive towards the emotions of the victim and his or her family. The member must be patient with the victim to allow him or her to explain what happened during the alleged commission of the offence without unnecessarily interrupting the victim. A member may never be judgmental while interacting with the victim irrespective of the circumstances surrounding the offence.

(6) Once sufficient particulars have been obtained from the victim, a docket must be opened, registered on the CAS and an affidavit must be made in which the following must be clearly specified-

- (a) the time and date on which the offence was allegedly committed;
- (b) the place where the offence was allegedly committed;
- (c) the nature of the alleged offence;
- (d) the manner in which it was allegedly committed;
- (e) the first person to whom the victim has reported the alleged commission of the sexual offence before he or she reported it to the police;
- (f) any details regarding the alleged offender(s) that may assist in identifying and finding them; and
- (g) any details regarding possible witnesses that may assist in identifying and locating them.

(7) If the victim is unable to make a coherent statement, a skeleton docket must be opened, a statement must be obtained from any person that may be accompanying the victim and the victim must be allowed time before a statement is obtained from him or her.

(8) The member must, as soon as possible after the incident has been reported, inform the victim of-

- (a) the case number; and
- (b) the details of the investigating officer.

(9) The member must inform the victim of the processes that will follow next and why the processes need to be followed, to enable the victim to understand the procedure and to instil confidence in the victim that the police deal with the matter in a professional manner.

(10) The victim must be informed of the importance of undergoing a medical examination as soon as may be reasonably possible. The victim must be informed that the examination will be conducted at state expense and that he or she is entitled to ask the health care professional that conducts the examination for medical advice on how any aspect of his or her health may be affected as a result of the alleged sexual offence.

(11) The member must also inform the victim of available services as contemplated in paragraph 11(2)(b) (below) as well as information on the witness protection programme. The victim must also, on a regular basis, be informed on the progress of the investigation.

6 Telephonic report of a sexual offence

If a sexual offence is reported by phone, the member receiving the complaint must determine whether the caller is the victim and-

(a) if so, attempt to keep the victim on the line and reassure the victim that a police vehicle has been dispatched and provide the victim with appropriate advice while he or she waits for the vehicle to arrive; and

(b) if not, instruct the person to stay with the victim and not to disturb the crime scene, and

in both cases, immediately dispatch a police vehicle to the scene to assist the victim.

7 Responsibility of the first member on the crime scene

(1) The first member arriving at a scene where a sexual offence has allegedly been committed, must deal with the victim professionally and must safeguard the crime scene until an investigating officer is available to take charge of the investigation.

(2) The member on the scene must enquire from the victim whether the suspect could possibly still be in the vicinity and, if so, obtain a description of the suspect. The description of the suspect must immediately be relayed to all police vehicles in the area.

(3) A member who comes into contact with a victim of a sexual offence must, as far as possible, avoid touching the victim unnecessarily. The member interviewing the victim must-

(a) reassure the victim that he or she is now safe and will be protected;

(b) obtain a brief explanation of the events that took place (take investigative notes, not a statement);

(c) listen to what the victim says, without interrupting him or her and put him or her at ease;

(d) write down everything that the victim says, as it may be evidence that may assist the police in the investigation; and

(e) later make a comprehensive statement concerning the interview and the investigative notes taken and file the notes in the docket under part A of the docket.

(4) The member must avoid unnecessary or uncomfortable questions about the intimate details of the alleged sexual offence at this stage. Since a victim is often worried that everyone will know the intimate facts of the case, it is important that the member explain to the victim that the exact details of the incident will only be disclosed to the necessary role players and that it will not be necessary for intimate details to be told repeatedly.

(5) It is of utmost importance that the member on the scene safeguard the crime scene. Members must take note that in most cases of sexual offences, there are three basic crime scenes, namely the bodies of the victim and the suspect and the place including, where applicable, the vehicle or vessel at or in which the incident took place and where the victim and offender moved to. Important evidence in the case will often be that contained on the person of the victim and at the crime scene.

8 Steps to be taken to safeguard the crime scene

(1) A member or members arriving at the scene first, must emphasize the importance of the preservation of evidence of the sexual offence to the victim and all other persons who may be present and who support the victim (eg the parents of the victim). It is very important that a victim realises that his or her body is regarded as a crime scene and that he or she should, as far as possible, preserve any possible evidence until the medical examination has been conducted.

(2) In order to preserve evidence on the body of the victim, the member must inform the victim to-

(a) retain any toilet paper and other sanitary material if the victim needs to use the bathroom (toilet paper and other sanitary material must be air dried and be placed in an envelope or brown paper packet and dispatched to the Forensic Science Laboratory);

(b) refrain from drinking any liquid, if the victim has been forced to perform an oral sexual act, as evidence may be lost in the process. (This restriction is applicable only if the victim has not already rinsed his or her mouth.) An oral swab must be taken as soon as possible after the incident;

(c) retain the clothes that he or she was wearing at the time of the commission of the sexual offence, since the clothing may be needed for forensic testing; and

(d) if possible, arrange for additional underwear and other clothing when he or she goes for the medical examination.

(3) The member must ensure that the crime scene is guarded and protected from contamination until the investigating officer can take charge of the scene. Nothing on the crime scene should be touched or moved.

(4) The member must take steps to protect the privacy and dignity of the victim and must ensure that the victim is removed from the crime scene to a nearby private place. If there is no suitable private place nearby, the victim should be screened from public view. It is important that a member must remain with the victim until the investigating officer arrives.

(5) If the suspect is still on the scene, the member must keep him or her away from the victim and take appropriate steps to remove the suspect from the scene to prevent allegations of contamination of evidence or intimidation of the victim or other witnesses.

(6) The member must identify any person at the scene that may assist in the investigation and obtain sufficient particulars of that person to enable the investigating officer to contact him or her afterwards.

9 The role of the investigating officer

(1) The investigating officer is responsible to conduct a thorough and professional investigation in every case.

(2) The investigating officer must, as soon as possible after he or she has been informed that he or she has been designated to investigate a sexual offence-

(a) take charge of the investigation. If the investigating officer cannot attend to the investigation immediately, he or she must give instructions by cellular or telephone or radio to a member attending to the victim and the crime scene, to inform the victim of procedures that the victim will have to undergo and explain to the victim the role of the investigating officer and how he or she will assist the victim:

(b) if the victim is a child, ensure the safety of the child. This includes determining whether the child is in need of care and protection and, if so, taking appropriate steps to ensure the safety and protection of the child.

(c) obtain information from the victim. Initially, the investigating officer should only take a statement from the victim that sets out what happened (this is only a preliminary statement). The investigating officer must take this statement in private although a person of the victim's choice may be present;

(d) obtain the in-depth statement of the victim as soon as the victim has recuperated sufficiently from the ordeal (depending on circumstances, ideally within 24 - 36 hours). The reason for this is that a better statement can be obtained from the victim once the trauma he or she has experienced is less intense and a better rapport has been established with the investigating officer;

(e) keep the victim informed of the progress of the investigation (eg if the suspect is arrested, released on bail, dates of appearance in court). The details of all contacts by the investigating officer with the victim must be recorded in the investigation diary, mentioning inter alia date, time and place of contact and whether this was in person, telephonically or in writing. The victim must also be informed of the contact details of the investigating officer and be invited to contact the investigating officer; and

(f) submit a statement with regard to the crime scene irrespective of how long ago the incident occurred.

10 Medical examination of the victim

(1) The purpose of the medical examination of the victim is to examine the body of the victim to establish whether there is any evidence relating to the alleged sexual offence on or in the victim's body and to ascertain the mental and emotional state of the victim.

(2) The victim must, as soon as possible, be taken for the medical examination. Even if the sexual offence was only reported more than 72 hours after it had been committed, and even if the victim has already washed and may possibly have destroyed evidence in the process, the victim must nevertheless be taken for the medical examination. The possibility of still obtaining evidence can never be discounted.

(3) When taking the victim for the medical examination, the following points must be taken note of:

(a) The medical examination must be conducted as soon as possible.

(b) The medical examination must be done by a trained health care professional.

(c) The investigating officer must take the victim to the health care professional for the medical examination.

(d) A male member may not be present during the medical examination of a female victim, and vice versa. Even a member of the same gender as the victim may only be present during the medical examination if the victim agrees thereto.

(e) The health care professional will not conduct the medical examination before a case docket has been registered and an SAPS 308 form and J 88 form has been completed.

(4) If there are allegations of drugs or alcohol usage, whether voluntary or not, by either the victim or the alleged offender, the health care professional must be requested to obtain a urine sample as well as a blood sample from the victim. These samples must, if at all possible, be obtained within 24 hours after the commission of the offence.

(5) The investigating officer must inform the victim-

(a) of HIV testing and PEP, as provided for in paragraph 11;

(b) of the purpose of obtaining the samples;

(c) the reasons why the forms (SAPS 308 and J 88) must be completed and the process that will be followed;

(d) that he or she may request the return of all articles seized as evidence after the conclusion of the criminal case (the articles may, however, be damaged by the forensic process);

(e) that he or she will be allowed to wash or bath once the medical examination is completed; and

(f) that the health care professional will be able to answer questions relating to medical treatment or services available if the victim needs further treatment and will be able to refer the victim to a public health establishment.

(6) The investigating officer must-

(a) complete a form SAPS 308 stating all the relevant details of the sexual offence or attach it to the form (ie a short description of events);

(b) supply a form J 88 and the relevant evidence collection kit to the health care professional;

(c) record precisely which medical samples are required and ensure that they are taken (see Annexure C);

(d) if it appears from the J 88 that the victim had sexual contact less than 72 hours prior to the commission of the alleged sexual offence, samples must be obtained from the partner(s) concerned;

(e) mark samples clearly; and

(f) ensure that the samples are forwarded to the Forensic Science Laboratory within 7 days. In cases involving fetuses, the fetus must, as soon as reasonably possible, be taken to the Forensic Science Laboratory.

(7) If the victim requires immediate medical attention and the investigating officer is not present, all possible steps must be taken to ensure that a thorough medical examination is conducted and the correct samples are obtained without delay.

(8)(a) If the victim of the alleged sexual offence is a child, the investigating officer must explain the necessity of the examination to the parents or guardian of the child and obtain their consent for the examination to be performed and complete form SAPS 308.

(b) The investigating officer must also inform the parents or guardians of the child victim that they may accompany the child during the examination.

IF ...THEN ...a parent or guardian of a child victim -an application must be made to a magistrate in terms of section 335B of the Criminal Procedure Act, 1977 (Act 51 of 1977) for consent to conduct the medical examination.Ø cannot be traced within a reasonable time;Ø cannot grant consent in time;Ø is a suspect in respect of the offence in consequence of which the examination must be conducted;Ø unreasonably refuses consent;Ø has a mental disorder and cannot consent to the examination; orØ is dead a magistrate is not available a member who is a commissioned officer, or the local station commissioner, may give consent when presented with the following two affidavits:Ø One by the investigating officer, or another member from the station dealing with the matter, which states that a magistrate's consent cannot be obtained within a reasonable period.Ø One from a health care professional which states that the purpose of the medical examination will be defeated if it is not conducted forthwith.

(9) If a victim is not capable of consenting to medical treatment on account of his or her mental illness, consent for a medical examination must be obtained in writing in terms of the procedure as set out in section 32 of the Mental Health Care Act, 2002 (Act 17 of 2002). This section

deals, inter alia, with the care and treatment of mental health care users who are incapable of making informed decisions.

11 Inform the victim of a sexual offence of services available and hand over a Notice to the victim

(1) From the contents of the affidavit made by the victim, the member must form an opinion on whether the victim may have been exposed to the risk of being infected with HIV as a result of the commission of the offence. The victim will have been exposed to the risk of being so infected if the offence is a sexual offence that resulted in the victim coming into contact with the blood, semen or vaginal fluid of the alleged offender.

(2) A victim of a sexual offence who has been exposed to the risk of being infected with HIV as a result of the commission of the offence, must be-

(a) provided with a copy of the Form SAPS 580(a) (Notice of services available to victim) in English or Afrikaans (if the victim is able to read and understand the Notice in English or Afrikaans); and

(b) informed by a member, in accordance with the Notice referred to in (a)-

(i) of the importance of obtaining PEP for HIV infection without any delay, but within 72 hours after the alleged sexual offence has been committed against him or her;

(ii) that PEP will be administered at state expense at public health establishments in accordance with the state's prevailing norms and standards;

(iii) that the victim will receive free medical advice and assistance on the administering of PEP prior to the administration thereof;

(iv) of the need to obtain medical advice and assistance regarding the possibility of other sexual transmitted infections; and

(v) that the victim or interested person may apply for an order at the magistrate court compelling the alleged offender to undergo an HIV test at state expense.

(3) If the victim is unable to read and understand the Notice in English or Afrikaans, the member, or any other person who may be willing and able to assist the member to explain the contents of the Notice to the victim in a language that the victim understands, must explain the contents of the Notice to the victim. The victim must also be provided with the list of public health establishments in the province that are able to provide PEP to the victim. A list of such establishments is attached hereto as Annexure A.

(4) Once a victim has been informed as set out in subparagraph (2)(b) above, the victim must be asked whether he or she prefers to apply that the alleged offender, once arrested or located, be tested for HIV at state expense. The victim must be informed that he or she does not have to make the decision immediately, but must be aware that, if he or she should later decide to apply that the alleged offender be tested as set out above, he or she is only entitled to apply for such a test to be undertaken within 90 days from the date of the alleged commission of the offence.

(5) If the victim prefers to immediately apply that the alleged offender be tested for HIV, he or she must be provided with a copy of the Form SAPS 580(b) (Application by victim or interested person for HIV testing of alleged offender) and be requested to complete the application form. If the victim needs assistance to complete the application, the member must assist the victim and, if necessary, complete the application on behalf of the victim. Once the application has been completed, the victim must either attest under oath to the truth of the content of the application or solemnly declare that it is true, and the member must complete the relevant part of the application and sign that this was done.

(6) If the victim prefers not to immediately apply that the alleged offender be tested for HIV, he or she must be provided with a copy of Form SAPS 580(b) (Application by victim or interested person for HIV testing of alleged offender) and be informed that, if he or she later decides to apply that the alleged offender be tested for HIV, he or she must complete the application form and hand the completed application form to the investigating officer within 90 days from the alleged commission of the offence. If the victim hands the completed application form to the investigating officer within the 90 days, the victim must either swear to the truth of the content of the application or solemnly declare that the information provided in the application is true, and the member must sign that this was done by completing the relevant part of the application.

(7) Any steps taken in accordance with this paragraph must be recorded in the investigation diary of the docket.

12 Handling of application for HIV testing of offender

(1) The investigating officer must place the application in a sealed envelope marked 'Confidential/Vertroulik' and write on the envelope-

(a) 'Application by victim or interested person for HIV testing of alleged offender' or 'Application by victim or interested person to access HIV test result already obtained by investigating officer', as the case may be; and

(b) the case number and name, rank and Persal number of the investigating officer, and must submit it to the clerk of the court as soon as is reasonably practicable, but not later than two working days, after the application has been received by the investigating officer. The investigating officer must file a copy of the application under part 'B' of the docket.

(2) If the magistrate who considers the application requires additional evidence, either in the form of oral evidence or by means of an affidavit, the clerk of the court will inform the investigating officer personally telephonically and will confirm it in writing.

(3) If the magistrate requires further evidence by means of an affidavit, the investigating officer must obtain the affidavit(s) as soon as reasonably practicable or within the period determined by the magistrate and place the affidavit(s) in a sealed envelope-

(a) marked 'Confidential/Vertroulik'; and

(b) reflecting the case number and name, rank and Persal number of the investigating officer,

and hand it over to the clerk of the court.

(4) If the magistrate requires further oral evidence, the investigating officer must-

(a) inform the victim, interested person or other witness in writing on an official police letterhead (SAPS 21) to appear before the magistrate on the arranged date and time as conveyed by the clerk of the court and obtain his or her signature on the copy of the written notice as proof of the fact that he or she was informed as aforesaid;

(b) if the alleged offender is required to testify, and he or she-

(i) is in the custody of the Police, bring him or her on the arranged date and time to appear before the magistrate; or

(ii) is not in the custody of the Police, provide the alleged offender with a written notice on an official police letterhead (SAPS 21) informing him or her of the arranged date and time to appear before the magistrate and obtain his or her signature on the copy of the written notice as proof of the fact that he or she was informed as aforesaid; and

(c) attend the hearing on the arranged date and time and, if the victim, interested person, other witness or the alleged offender is absent, provide the magistrate with the copy of the written notice handed to the victim, interested person, other witness or the alleged offender and on which he or she has acknowledged receipt by means of his or her signature.

(5) Once a magistrate has decided on the application, the clerk of the court will hand the sealed decision to the investigating officer who must acknowledge receipt thereof in the register kept by the clerk of the court.

(6) The investigating officer must, as soon as is reasonably practicable or within the period determined by the magistrate, hand a Form SAPS 580(d) (Notice to alleged offender in respect of order for HIV testing) informing him or her of the order issued by the magistrate.

(7) Any steps taken in accordance with this paragraph must be recorded in the investigation diary of the docket.

13 Application for HIV testing of offender by investigating officer

(1) An investigating officer may, if he or she finds it necessary for the purposes of an investigation into a sexual offence, in terms of section 32 of the Act, himself or herself apply, as soon as is reasonably practicable after a docket has been opened in respect of the alleged sexual offence, on the Form SAPS 580(c) (Application by investigating officer for HIV testing of alleged offender) to a magistrate of the magisterial district in which the sexual offence is alleged to have been committed, in chambers, for an order that-

(a) the alleged offender be tested for HIV; or

(b) the result of the HIV test in respect of the alleged offender that was already obtained on application from the victim or interested person, be made available to the investigating

officer or the prosecutor who needs the result for purposes of the prosecution of the case or any other court proceedings.

(2) The procedure set out in paragraph 12 must also be followed in a case in which an application for the HIV testing of the alleged offender is made by the investigating officer.

14 Execution of order for HIV testing of offender

(1) As soon as an order for the HIV testing of the alleged offender has been handed to an investigating officer, he or she must-

(a) make the alleged offender available to ensure that two blood samples are obtained from him or her;

(b) request any medical practitioner or nurse to take two blood samples from the alleged offender; and

(c) deliver the blood samples to the head of a public health establishment or person designated by the head of the public health establishment.

(2) The investigating officer may, if the alleged offender is not being detained, and-

(a) there is reason to believe that he or she may avoid compliance with an order; or

(b) he or she has avoided compliance with an order,

for the compulsory HIV testing of an alleged offender, apply on form SAPS 580(f) (Application for Warrant of Arrest) to the magistrate who issued the said order, to issue a warrant for the arrest of the alleged offender to collect blood samples from him or her for HIV tests. If the magistrate who issued the order is not available or able to consider such application, the application may be submitted to any other magistrate.

(3) The investigating officer must, when arresting the alleged offender in terms of a Warrant of Arrest referred to [in] subparagraph (2), take reasonable steps to verify the identity of the alleged offender and must, without delay after the arrest, take the alleged offender to a public health establishment for the taking of the blood samples. The alleged offender must be released as soon as the samples have been taken.

(4) Once the investigating officer has obtained the duplicate sealed records of the test results from the public health establishment and has acknowledged receipt of the duplicate sealed records, he or she must-

(a) if the application was made by the victim or interested person, hand a sealed record of the result together with a copy of Form SAPS 580(e) (Notice containing information on confidentiality of and how to deal with HIV test results) to each of the victim or interested person and alleged offender; or

(b) if the application was made by the investigating officer, hand a sealed record of the result together with a Form SAPS 580(e) (Notice containing information on confidentiality of and how to deal with HIV test results) to the alleged offender, and retain the other record of the test

results (as provided for in paragraph 15(3)) and make the record of the test results available to a prosecutor who needs to know the results for purposes of the prosecution or any other court proceedings.

(5) If an order had been issued in terms of which an HIV test was conducted on an alleged offender as a result of an application made by an investigating officer, the investigating officer may inform the victim or an interested person whether or not the alleged offender in the case in question is infected with HIV with the view to-

(a) reduce secondary trauma and empower the victim to make informed medical, lifestyle and other personal decisions; or

(b) use the test results as evidence in any ensuing civil proceedings as a result of the sexual offence in question.

(6) If the prosecutor withdraws a charge on the request of the victim after a magistrate, on application by the victim, has issued an order for a HIV test of the alleged offender, the order will lapse and the test result may not be disclosed to the victim. The investigating officer must inform the Head of the public health establishment of the withdrawal of the charge and any sample taken or results obtained in respect of the alleged offender must be destroyed in accordance with the instructions of the Department of Health. If the investigating officer is in possession of sealed records of the HIV test result in such a case, he or she must likewise destroy the records containing the result.

(7) Any steps taken in accordance with this paragraph must be recorded in the investigation diary of the docket.

15 Record keeping of results of HIV testing

(1) Every commander of the detectives at a station or of a detective unit must keep a register in his or her office in which the particulars relating to every application for a compulsory HIV test must be recorded. A B16 book must be utilised as a register until further notice. The information (set out in Annexure G) relating to every such application must be recorded in that register. One full page of the register must be utilized to record the particulars (including the outcome of the application and the results of any tests) for every application. The pages of the register must be numbered and a table of contents of all applications containing the CAS number and the corresponding number of the page in the register containing the particulars of the application, must be recorded on the first pages of the register.

(2) The relevant commander is personally responsible to ensure that access to the register is only granted to-

(a) a member investigating a case in which an application for HIV testing was made;

(b) the victim;

(c) a person who has a material interest in the well-being of a victim, including a spouse, same sex or heterosexual permanent life partner, parent, guardian, family member, care

giver, curator, counsellor, medical practitioner, health service provider, social worker or teacher of such victim;

- (d) the alleged offender;
- (e) a prosecutor;
- (f) a person who is required to execute the court order to conduct the HIV testing; and
- (g) the Station Commissioner or an officer attached to provincial or national level for the purposes of inspecting the register.

(3) The record containing the result of an HIV test conducted on an alleged offender, must be filed in a file which is kept in the office of the commander of the detectives at the relevant station or in the office of the commander of the relevant detective unit (together with the register referred to in subparagraph (1)) and may not be filed in the docket. The said commander may only grant access to the record to the persons mentioned in subparagraph (2) above. Appropriate entries must be made in the investigating diary of the docket concerning all steps taken in respect of the HIV testing of an alleged offender. However, the result of an HIV test may not be disclosed in the investigating diary.

(4) An investigating officer may disclose the result of an HIV test of an alleged offender to the prosecutor that is responsible to conduct the prosecution of the alleged offender. If the prosecutor requests that the record containing the result be provided to him or her for the purposes of the prosecution of the alleged offender, the investigating officer must request the prosecutor to complete an Form SAPS 580(g) (Application for access to HIV test result of alleged sexual offender) and comply with the request. The investigating officer must also make an appropriate entry in the investigating diary of the docket and request the prosecutor to sign at the entry to acknowledge receipt of the record.

16 Medical examination of the suspect

(1) The purpose of the medical examination of the suspect is to examine the body of the suspect to establish whether there is any evidence relating to the alleged sexual offence on or in the body of the suspect. Samples obtained from the body of a suspect are utilized to link the suspect with the offence and to ensure that the perpetrator is prosecuted for the offence.

(2) The investigating officer must ensure that a suspect is taken for a medical examination, if this is necessary for the proper investigation of the case. In terms of section 37 of the Criminal Procedure Act, 1977 (Act 51 of 1977), a member has the power to request a health care professional to establish certain bodily features of the suspect and to take bodily samples of the suspect and provides for the circumstances in which the bodily features may be established and the samples may be taken.

(3) If it is necessary for the proper investigation of the case that bodily samples be taken from the suspect, the investigating officer must, once the suspect has been identified and located, take the suspect to a health care professional to establish the bodily features of the suspect and to obtain the necessary blood samples (including a control sample) from the suspect. Upon receipt of a

control sample, the sample must be handed over to the Forensic Science Laboratory as soon as possible. A letter must then be obtained from the prosecutor concerned in which the prosecutor requests that a DNA analysis be conducted on the samples. This letter must be handed over to the Forensic Science Laboratory as soon as possible and a copy of the letter must be filed under part 'B' of the docket.

(4) The investigating officer must ensure that-

(a) a form J 88 is available when the suspect is examined and that the form is completed properly by the health care professional;

(b) all the necessary samples are taken (see Annexure D);

(c) the samples are clearly marked;

(d) the samples are forwarded to the Forensic Science Laboratory without delay; and

(e) any visible injuries of the suspect are noted.

17 Preventing contamination of exhibits

(1) It is imperative that reasonable steps be taken to secure and protect samples of physical evidence obtained during the investigation of sexual offences from contamination. An allegation of any sexual offence is often extremely difficult to prove. Generally, the offence is committed in the absence of other witnesses and it therefore becomes the word of the victim against the word of the suspect.

(2) A member who is not trained or experienced in the gathering, handling, storing and transporting of evidence, must not gather, handle, store or transport evidence. Such a member must safeguard the crime scene(s) against contamination and request the assistance of a trained member or contact the Local Criminal Record Centre (LCRC) for assistance.

(3) The contamination of exhibits (including the loss of evidence on the victim and the suspect) must be secured by-

(a) avoiding contact by the same member of the victim and suspect. If a member arrests the suspect shortly after the offence was committed, that member must avoid coming into contact or interviewing the victim, before both the victim and the suspect-

(i) have been medically examined;

(ii) have dressed in different clothes; and

(iii) the clothes worn during the alleged sexual offence have been removed for forensic analysis;

(b) transporting the victim and suspect in different vehicles;

(c) avoiding contact by the same member of the clothes of the victim and the suspect. Both sets of clothes must not be packaged by the same member unless this is done at different stages of the investigation;

(d) ensuring that different tables or work surfaces are used for the packaging of the exhibits; and

(e) ensuring that the medical examination of the victim and suspect are done separately and not on the same surface.

18 Taking an in-depth statement from the victim

(1) The initial statement of the victim must be followed up by an in-depth statement. The investigating officer must take or ensure that the victim's in-depth statement is taken, once the victim has recuperated sufficiently (depending on circumstances, ideally between 24 to 36 hours) after the incident. The investigating officer must be sensitive to the cultural, language and religious background and gender of the victim.

(2) A guideline for the taking of the in-depth statement of the victim is contained in Annexure E. In the case of a child victim of a sexual offence, the guidelines contained in Annexure F must be taken into account when the investigating officer takes a statement from the child victim. The following general guidelines must be adhered to by the investigating officer when taking the in-depth statement of the victim:

(a) Preparation for taking the statement

The investigating officer must allow sufficient time to take a statement of this nature. It is important that the victim is not rushed. The statement must be comprehensive and contain detail. The investigating officer must take steps to set the victim at ease and the statement must be taken in a relaxed, private atmosphere where there are few distractions.

(b) Presence of an interested person

The investigating officer should enquire from the victim whether he or she wishes to have an interested person present in support of the victim. If the interested person identified by the victim to support him or her during the taking of the statement is a potential witness to the reported crime, the investigating officer must inform the victim that such a person is a potential witness and may not be present during the taking of his or her statement.

If the victim wishes to have an interested person present during the taking of the statement, the interested person must be informed that he or she may not-

(i) comment on the merits of the case;

(ii) prompt the victim; or

(iii) interfere with the investigating officer in any other manner in the process of obtaining the statement from the victim.

(c) Discussion of intimate details

The investigating officer must explain to the victim that the taking of the statement will involve the discussion of intimate details of the sexual incident. If the presence of an interested person may inhibit the victim to disclosure [sic] these details, the investigating officer may suggest to the victim that the interested person should not be present. However, the decision to allow the interested person to be present remains that of the victim.

(d) Victim must be told not to hide anything

The investigating officer must inform the victim, with great sensitivity, that if he or she has done something that might put him or her in a bad light when he or she is cross-examined, it is essential that he or she does not try to hide this fact, but state [sic] it clearly.

Example 1: If the victim had consumed liquor or drugs. Exactly what and how much was used must be included in the statement.

Example 2: If the victim had originally found the accused attractive and had allowed the accused to kiss him or her. (The fact that the victim acted in this way, does not mean that permission was given for the sexual offence to be committed.)

The fact that the victim states everything in his or her statement, even information that will reflect negatively on the victim, will enhance the credibility of the victim.

19 Victim after-care

(1) The importance of victim after-care

The victim of a sexual offence has undergone a traumatic experience and most victims of a sexual offence will need some form of counselling to enable them to deal with this. Victims of sexual offences may also fear that they have contracted AIDS or another sexually transmitted disease during the sexual offence.

(2) Safety of victims of sexual offences

Both in so far as crime prevention in general is concerned, as well as in terms of specific legislation, the Service has the duty to take appropriate steps to ensure that a vulnerable victim is protected.

(a) Sexual offence as a result of domestic violence

The member at the scene must, in the event of a sexual offence during an incident of domestic violence, act in accordance with the National Instruction on Domestic Violence and inform the victim of his or her right to-

(i) apply for a protection order in terms of the Domestic Violence Act, 1998 (Act 116 of 1998); and

(ii) lodge a criminal complaint (a criminal case does not have to be made before the victim can apply for a protection order).

(b) If the victim is a child

If the victim is a child, a member trained by the FCS Unit or specialised individual must be contacted. Where there are grounds for believing that it will be in the best interest of the child to be removed to a place of safe care, the provisions of the appropriate legislation relating to children must be applied.

(c) Mentally disabled persons

If the investigating officer encounters difficulty when dealing with a mentally disabled person, the matter must be discussed with Legal Services as the procedure may necessitate an urgent application to the High Court.

(3) Investigating officer to assist victims

It is the responsibility of the investigating officer to-

- (a) provide a victim with the details of medical and counselling services available in the area;
- (b) provide reasonable assistance [to] the victim in making use of such services; and
- (c) ensure that appropriate steps are taken to safeguard children or other vulnerable victims.

20 Identification parades

The investigating officer must ensure that an identification parade is held in the circumstances provided for and in accordance with the provisions contained in the National Instruction on Identification Parades.

21 Preparation for court proceedings

(1) The investigating officer must keep the victim informed of any developments in the investigation of the case and must explain to the victim the court process and what to expect in court in order to prepare [the] victim for the court hearing.

(2) In terms of section 153 of the Criminal Procedure Act, 1977 (Act 51 of 1977), the court may order that the evidence of a victim of a sexual offence be heard behind closed doors. The investigating officer must explain the provisions of this section to the victim and may request the prosecutor to assist him or her to explain the implications and practicalities to the victim.

(3) The investigating officer must take a further statement from the victim before the victim testifies in court. The purpose of this statement is to bring the effect (impact) of the sexual offence on the life of the victim to the attention of the prosecutor. The investigating officer must enquire from the victim how the incident has affected his or her life and relationships with loved ones. This will include any affects on the personality and health of the victim as a result of the sexual offence. If appropriate, an impact statement from a psychologist, social worker or forensic social worker or any other person must also be obtained.

(4) If the victim is a child, the investigating officer must obtain an impact statement from a parent, guardian, psychologist, social worker or forensic social worker or any other person that can

testify on how the child was affected by the offence. Facts already stated in the in-depth statement must not to be repeated in the impact statement.

(5) If at all possible, the investigating officer must take the victim to the court where the case will be heard prior to the day of the trial. The investigating officer must arrange for a pre-trial consultation between the prosecutor, the investigating officer, the victim, and key witnesses.

(6) The consultation between key witnesses must not be held in the presence of each other and the victim. During the consultation, the possibility of having the trial heard behind closed doors must also be discussed with the prosecutor. The docket must be supplied to the prosecutor timeously to enable him or her to prepare both for the pre-trial meeting, as well as the trial.

22 Assisting the victim during the court proceedings

(1) On the day of the trial or earlier if so requested by the victim, the investigating officer must hand the victim copies of his or her statements to read through again to refresh his or her memory.

(2) The investigating officer must, if there are any reporters in the court, inform the victim that, in terms of section 335A of the Criminal Procedure Act, 1977 (Act 51 of 1977), his or her particulars will not be reported unless authorized by the presiding officer and that any report without such authorisation will constitute an offence. The investigating officer must also request the victim to report any contravention of this section to the investigating officer as soon as he or she becomes aware of it.

(3) The investigating officer must explain the court proceedings and the possibility of postponements to the victim. The investigating officer must encourage the victim to press ahead with the case, despite any delays in the finalisation of the case.

23 Discontinuation of an investigation

(1) The provisions of Standing Order (General) 325.2 must, subject to subparagraph (2), at all times be strictly adhered to when the closing of a docket, opened in respect of a sexual offence, is concerned.

(2) Insofar as a docket opened in respect of a sexual offence is concerned, the authority to close a docket, conferred upon a 'warrant officer' (now 'inspector') by Standing Order (General) 325.2, is hereby withdrawn. Only an officer with the rank of Captain or a higher rank, who is a Station Commissioner or is in charge of the detectives at a station or unit, may close a docket in the circumstances provided for in Standing Order (General) 325.2.

(3) If a Station Commissioner at a police station does not hold the rank of Captain or a higher rank, dockets opened in respect of sexual offences at that station, may only be closed in the circumstances outlined in Standing Order (General) 325.2, by the Station Commissioner of the Accounting Station under which that station resorts or by an officer designated for that purpose by the Station Commissioner of the Accounting Station.

(4) An officer considering whether or not to close a docket that was opened in respect of a sexual offence because the suspect or complainant cannot be traced, must satisfy himself or herself

that the investigating officer has made every effort to trace the complainant or suspect. If the said officer is not so satisfied, he or she must give clear instructions in the investigation diary to the investigating officer on the steps to take in order to trace the suspect or complainant and determine a date on which the investigating officer must present the docket with the outcome of the steps taken.

ANNEXURE A

PUBLIC HEALTH ESTABLISHMENTS PROVIDING PEP TREATMENT

The following is a list of public health establishments (per province) where PEP treatment is available to victims of sexual offences at no cost to the victims:

MPUMALANGA

SUB-DISTRICT FACILITY TYPE TEL NUMBER
Umjindi LM Barberton Hosp District Hosp(013) 712 3011
Highlands LM Belfast Hosp District Hosp(013) 253 1184
Delmas LM Bernice Samuels Hosp District Hosp(013) 665 2086
Govan Mbeki LM Bethal Hosp Regional Hosp(017) 647 6341
Albert Luthuli LM Carolina Hosp District Hosp(017) 843 1121
Albert Luthuli LM Embhuleni Hosp District Hosp(017) 883 0093
Msukaligwa LM Ermelo Hosp District Hosp(017) 811 2223
Govan Mbeki LM Evander Hosp District Hosp(017) 632 2212
Thembisile LM KwaMhlanga Hosp District Hosp(013) 947 3311
Thaba Chewu LM Lydenburg Hosp District Hosp(013) 235 2233
Bushbuckridge LM Mapulangeng Hosp Regional Hosp(013) 799 0214
Thaba Chewu LM Matibidi Hosp District Hosp(013) 769 8092
Bushbuckridge LM Matikwana Hosp District Hosp(013) 708 6024
Steve Tshwete LM Middelburg Hosp Regional Hosp(013) 243 0999
Dr. JS Moroka LM Mmametlhake Hosp District Hosp(012) 723 2391
Mkhondo LM Piet Retief Hosp District Hosp(017) 826 2222
Mbombela LM Rob Ferreira Hosp Regional Hosp(013) 741 3031
Thaba Chewu LM Sabie Hosp District Hosp(013) 764 1222
Nkomazi LM Shongwe Hosp District Hosp(013) 781 0219
Lekwa LM Standerton Hosp District Hosp(017) 712 2323
Mbombela LM Themba Hosp Regional Hosp(013) 796 0201
Bushbuckridge LM Tintswalo Hosp District Hosp(013) 797 0001
Nkomazi LM Tonga Hosp District Hosp(013) 253 1184
Highlands LM Waterval Boven Hosp District Hosp(013) 257 0015
Emalahleni LM Witbank Hosp Prov Tertiary Hosp(013) 653 2000

NORTH WEST

SUB-DISTRICT FACILITY TYPE TEL NUMBER
Lekwa-Teemane LM Bloemhof/Christiana HDistrict Hosp(053) 433 1146
Madibeng LM Brits Hosp District Hosp(012) 252 3311
Merafong City LM Carletonville Hosp District Hosp(018) 787 2111
Lekwa-Teemane LM Christiana Hosp District Hosp(053) 441 2238
KagLSAno LM Ganyesa Hosp District Hosp(053) 996 3356
Mafikeng LM Gelukspan Hosp District Hosp(016) 336 2100
Ditsobotla LM General de la Rey HDistrict Hosp(016) 632 3041
Moses Kotane LM George Stegmann HDistrict Hosp(014) 556 1774/9
Klerksdorp LM Klerksdorp/Tshepong Hosp Regional Hosp(018) 406 4400
(018) 406 4600
Kgetleng Rivier LM Koster Hosp District Hosp(014) 543 2027
Ramotshere Moiloa Lehurutshe Hosp District Hosp(018) 363 3505
Mafikeng LM Mafikeng General H Regional Hosp(018) 383 2005
Moses Kotane LM Moreteletsi Hosp District Hosp(014) 519 0600/07
Maquassi Hills LM Nic Bodenstein Hosp District Hosp(018) 596

1100(018) 596 2110Potchefstroom LMPotchefstroom Hosp Regional Hosp(018) 297 7011Rustenburg
LMRustenburg HospRegional Hosp(014) 590 5100Mamusa LMSchweizer-Reneke HDistrict Hosp(053)
953 1291Kgetleng Rivier LMSwartruggens HospDistrict Hosp(014) 544 0751Greater Taung LMTaung
HospDistrict Hosp(053) 994 1805/9Ditsobotla LMThusong HospDistrict Hosp(018) 338 2418(018) 338
2920Ventersdorp LMVentersdorp HospDistrict Hosp(018) 264 2081(018) 264 4478Naledi LMVryburg
HospDistrict Hosp(053) 927 2121Ramotshere Moiloa Zeerust HospDistrict Hosp(018) 642 1121

KWAZULU-NATAL

SUB-DISTRICTFACILITYTYPE TEL NUMBERNewcastle LMMadadeni HospRegional Hosp(034) 374
9221Newcastle LMNewcastle HospRegional Hosp(034) 328 0000Utrecht LMNiemeyer Memorial
HDistrict Hosp(034) 331 3011eThekwini SDAddington HospRegional Hosp(031) 332 2111eThekwini
SDInkosi Albert Luthuli HNational Central H(031) 240 1000eThekwini SDKing Edward VIII HospProv
Tertiary Hosp(031) 360 3111eThekwini SDMahatma Gandhi HospRegional Hosp(031) 502
1719eThekwini SDMcCords HospDistrict Hosp(031) 268 5700eThekwini SDOsindisweni HospDistrict
Hosp(032) 541 0323eThekwini SDPrince Mshiyeni Memorial HospRegional Hosp(031) 907
8111eThekwini SDRK Khan HospRegional Hosp(031) 459 6000eThekwini SDSt Aidan's HospRegional
Hosp(031) 314 2200eThekwini SDSt Mary's HospDistrict Hosp(031) 717 1000eThekwini
SDWentworth HospDistrict Hosp(031) 460 5000KwaDukusa LMStanger HospRegional Hosp(032) 437
6000Maphumulo LMUmphumulo HospDistrict Hosp(032) 481 7787/8/9Maphumulo LMUntujambili
HospDistrict Hosp(033) 444 0818Ndwedwe LMMontebello HospDistrict Hosp(033) 506 0008Kokstad
LMEast Griqualand/Usher HospDistrict Hosp(039) 797 8100Ingwe LMSt Apollinaris HospDistrict
Hosp(039) 833 1045/55Matatiele LMTayler Bequest HospDistrict Hosp(039) 737 3107Ubuhlebezwe
LMChrist the King HospDistrict Hosp(039) 834 2067Umzimkhulu LMRietvlei HospDistrict Hosp(039)
260 0000Umzimkhulu LMSt Margaret's Hosp District Hosp(039) 259 9222Hibiscus Coast LM
Murchison HospDistrict Hosp(039) 687 7311Hibiscus Coast LM Port Shepstone HospRegional
Hosp(039) 688 6000Umdoni LMGJ Crookes' HospDistrict Hosp(039) 978 7000uMuziwabantu LMSt
Andrew's HospDistrict Hosp(039) 433 1955The Msunduzi LMEdendale HospRegional Hosp(033) 395
4911The Msunduzi LMGrey's HospProv Tertiary H(033) 897 3000The Msunduzi LMNorthdale
HospDistrict Hosp(033) 387 9000uMshwathi LMAppelsbosch HospDistrict Hosp(032) 294
0002Hlabisa LMHlabisa HospDistrict Hosp(035) 838 1003Jozini LMBethesda HospDistrict Hosp(035)
595 1004Jozini LMMosvold HospDistrict Hosp(035) 591 0122Umhlabuyalingana LMManguzi
HospDistrict Hosp(035) 592 0150/9303Umhlabuyalingana LMMseleni HospDistrict Hosp(035) 574
1004Endumeni LMDundee HospDistrict Hosp(034) 212 1111Msinga LMChurch of Scotland H District
Hosp(033) 493 0004Nquthu LMCharles Johnson Mem HDistrict Hosp(034) 271 1900Umvoti
LMGreytown HospDistrict Hosp(033) 413 9400Emnambithi LMLadysmith HospRegional Hosp(036)
637 2111Okhahlamba LMEmmaus HospDistrict Hosp(036) 488 1570Umtshezi LMEstcourt
HospDistrict Hosp(036) 342 7000Mthonjaneni LMKwaMagwa HospRegional Hosp(035) 450
2071Nkandla LMEkhombe HospDistrict Hosp(035) 834 2000Nkandla LMNkandla HospDistrict
Hosp(035) 833 0012uMhlathuze LMLower Umfolozi War HRegional Hosp(035) 902 8500uMhlathuze
LMNgwelezana HospRegional Hosp(035) 901 7000uMlalazi LMCatherine Booth HospDistrict
Hosp(035) 474 8403/9/7uMlalazi LMEshowe HospDistrict Hosp(035) 473 4500uMlalazi
LMMbongolwane HospDistrict Hosp(035) 476 6242Abaqulusi LMVryheid HosDistrict Hosp(034) 982
2111Nongoma LMBenedictine HospDistrict Hosp(035) 831 0314Ulundi LMCeza HospDistrict

Hosp(035) 832 0081/0021Ulundi LMNkonjeni HospDistrict Hosp(035) 873 0013uPhongolo
LMItshelejuba HospDistrict Hosp(034) 413 2542

FREE STATE

SUB-DISTRICTFACILITYTYPE TEL NUMBERMasilonyana LMWinburg HospDistrict Hosp(051) 881
0046Matjhabeng LMBongani HospRegional Hosp(057) 396 6300Matjhabeng LMKatleho
HospitalDistrict Hosp(057) 212 4221Matjhabeng LMThusanong HospDistrict Hosp(057) 354 2111Nala
LMNala HospDistrict Hosp(056) 515 2071Tswelopele LMMohau HospDistrict Hosp(053) 444
1912Mangaung LMBotshabelo HospDistrict Hosp(051) 533 0111Mangaung LMDr JS Moroka
HospDistrict Hosp(051) 873 2233Mangaung LMNational District HospDistrict Hosp(051) 405
2911Mangaung LMOranje HospRegional Hosp(051) 407 9911Mangaung LMPelonomi HospRegional
Hosp(051) 405 1911Mangaung LMUniversitas HospProv Tertiary H(051) 405 3911Mangaung
LMMantsopa HospDistrict Hosp(051) 91 3268Mafube LMMafube HospDistrict Hosp(058) 813
1040Metsimaholo LMMetsimaholo HospDistrict Hosp(016) 976 0270Moqhaka LMBoitumelo
HospRegional Hosp(056) 25 2113Ngwathe LMParys HospDistrict Hosp(056) 811 2155Ngwathe
LMTokollo HospDistrict Hosp(058) 892 3039Dihlabeng LMDihlabeng HospRegional Hosp(058) 303
5331Dihlabeng LMPhekolong HospDistrict Hosp(058) 303 5331Maluti a Phofung LMElizabeth Roos
HospDistrict Hosp(058) 789 1213Maluti a Phofung LMMofumahadi Manapo MopeliRegional
Hosp(058) 713 1211Maluti a Phofung LMThebe HospDistrict Hosp(058) 622 1111Nketoana
LMNketoana HospDistrict Hosp(058) 863 2806Phumelela LMPhumelela HospDistrict Hosp(058) 013
1044Setsoto LMItemoheng HospDistrict Hosp(058) 48 2114Setsoto LMJohn Daniel Newberry
HospDistrict Hosp(051) 943 0434Setsoto LMPhuthuloha HospDistrict Hosp(051) 92 2284Kopangong
LMDiamond/Diamant HospDistrict Hosp(051) 724 0058Mohokare LMEmbekweni HospDistrict
Hosp(051) 673 1211Mohokare LMMatlakeng HospDistrict Hosp(051) 673 1240Mohokare LMStoffel
Coetzee HospDistrict Hosp(051) 683 1120

WESTERN CAPE

SUB-DISTRICTFACILITYTYPE TEL NUMBERTygerberg SDTygerberg HospNational Central H (021) 938
4911Eden DMAUniondale HospDistrict Hosp(044) 752 1068Southern SDVictoria HospRegional
Hosp(021) 799 1111Saldanha Bay LMVredenburg HospDistrict Hosp(022) 713 1251Matzikama
LMVredendal HospDistrict Hosp(027) 213 3706Northern Panorama Westfleur HospDistrict
Hosp(021) 572 3071Central SDSomerset HospRegional Hosp(021) 402 6429Stellenbosch
LMStellenbosch HospDistrict Hosp(021) 887 0310Swartland LMSwartland HospDistrict Hosp(022)
487 9201Swellendam LMSwellendam HospDistrict Hosp(028) 514 1141/2Prince AlbertPrince Albert
Hosp District Hosp(023) 541 1300Bergrivier LMRadie Kotze HospDistrict Hosp(022) 913 1175Central
SDRed Cross Children's HospNational Central H(021) 658 5111Hessequa LMRiversdale
HospitalDistrict Hosp(028) 713 2445Br River/ Winelands LMRobertson HospDistrict Hosp(023) 826
3155/6/7Cape Agulhas LMOtto Du Plessis HospDistrict Hosp(028) 424 2654Oudtshoorn
LMOudtshoorn HospDistrict Hosp(044) 272 8921Drakenstein LMPaarl HospRegional Hosp(021) 872
1711Br River/Winelands LMMontagu HospDistrict Hosp(023) 614 1860Mossel Bay LMMossel Bay
HospDistrict Hosp(044) 691 2011Central Karoo DMA Murraysburg HospDistrict Hosp(049) 844

0053Kannaland LMLadismith HospDistrict Hosp(028) 551 1010Laingsburg LMLaingsburg HospDistrict Hosp(023) 551 1237Bergrivier LMLAPA Munnik HospDistrict Hosp(022) 487 9201Eastern SDHottentots Holland HRegional Hosp(021) 852 1334Tygerberg SDKarl Bremer HospRegional Hosp(021) 916 1911Knysna LMKnysna HospDistrict Hosp(044) 382 6666Central SDGroote Schuur Hosp National Central H(021) 404 9111Overstrand LMHermanus HospDistrict Hosp(028) 312 1166Breede Valley LMEben Dönges HospRegional Hosp(023) 348 1100Eastern SDEerste River HospDistrict Hosp(021) 904 8188Southern SDFalse Bay HospDistrict Hosp(021) 782 1211George LMGeorge HospRegional Hosp(044) 874 5122Klipfontein SDGF Jooste HospRegional Hosp(021) 690 1000Theewaterskloof LM Caledon HospDistrict Hosp(028) 312 1670Witzenberg LMCeres HospDistrict Hosp(023) 312 1116Cederberg LMCitrusdal HospDistrict Hosp(022) 921 2153/4/5Cederberg LMClanwilliam HospDistrict Hosp(027) 482 1628Beaufort West LMBeaufort West Hosp District Hosp(023) 415 2188

EASTERN CAPE

SUB-DISTRICTFACILITYTYPE TEL NUMBERUmzimvubu LSAMary Teresa HospDistrict Hosp(039) 255 0062Umzimvubu LSAMount Aylit HospDistrict Hosp(039) 254 0231Umzimvubu LSASipetu HospDistrict Rasp(039) 255 0077Amahlati LSA Cathcart HospDistrict Rasp(045) 843 1029Amahlati LSASS Gida HospDistrict Hosp(040) 658 0097Amahlati LSASTutterheim HospDistrict Hosp(043) 683 1313Buffalo City LSABisho HospDistrict Hosp(040) 835 2950/60Buffalo City LSA Cecilia Makiwane HospRegional Hosp(043) 708 2111Buffalo City LSAFrere HospRegional Hosp(043) 709 1111Buffalo City LSA Grey HospDistrict Hosp(043) 643 3300Buffalo City LSAKomga HospDistrict Hosp(043) 831 1013Buffalo City LSANompumeleto HospDistrict Hosp(040) 673 3321Mbhashe LSAMadwaleni HospDistrict Hosp(047) 131 1371Mnquma LSAButterworth HospDistrict Hosp(047) 491 4161/5Mnquma LSATafalofefe HospDistrict Hosp(047) 498 7223Nkonkobe LSA Adelaide HospDistrict Hosp(046) 684 0066Nkonkobe LSABedford HospDistrict Hosp(046) 685 0043Nkonkobe LSA Fort Beaufort Hosp District Hosp(046) 645 1111Nkonkobe LSA Victoria HospDistrict Hosp(040) 653 1141Emalahleni LSADordrecht HospDistrict Hosp(045) 953 1195Emalahleni LSAGlen Grey HospDistrict Hosp(047) 878 0018Emalahleni LSAIndwe HospDistrict Hosp(045) 952 1190/1288Intsika Yethu LSA Cofimvaba HospDistrict Hosp(047) 874 0111Inxuba Yethemba LSA Cradock HospDistrict Hosp(048) 881 2123Inxuba Yethemba LSAMartje Venter HospDistrict Hosp(045) 846 0053Inxuba Yethemba LSA Wilhelm Stahl HospDistrict Hosp(049) 242 1111Lukhanji LSA Frontier HospRegional Hosp(045) 839 4001Lukhanji LSAHewu HospDistrict Hosp(040) 841 0133Lukhanji LSAMolteno HospDistrict Hosp(045) 987 0089Lukhanji LSA Sterkstroom HospDistrict Hosp(045) 966 0268Ngcobo LSA All Saints HospDistrict Hosp(047) 248 1111Ngcobo LSAMjanyana HospDistrict Hosp(047) 532 4496Sakhisizwe LSA Cala HospDistrict Hosp(047) 877 0129Sakhisizwe LSA Elliot HospDistrict Hosp(045) 931 1321Camdeboo LSA Aberdeen HospDistrict Hosp(049) 846 0578Camdeboo LSA Andries Vosloo HospDistrict Hosp(042) 243 1313Camdeboo LSAMidland HospDistrict Hosp(049) 892 2211Camdeboo LSA AWAS Memorial HospDistrict Hosp(049) 836 0214Camdeboo LSA Willowmore HospDistrict Hosp(044) 923 1148Kouga LSA BJ Vorster HospDistrict Hosp(042) 288 0714Kouga LSA Humansdorp HospDistrict Hosp(042) 295 1100Kouga LSA Sundays Valley HospDistrict Hosp(042) 230 0567Makana LSA Port Alfred HospDistrict Hosp(046) 624 5752Makana LSA Settlers HospDistrict Hosp(046) 622 2215N Mandela LSA Dora Nginza HospRegional Hosp(041) 406 4111N Mandela LSA Livingstone HospRegional Hosp(041) 405 9111N Mandela LSA Port Elizabeth Prov

HRegional Hosp (041) 392 3911N Mandela LSAUitenhage HospDistrict Hosp(041) 995 1111King Dalindyebo LSAMthatha General HospRegional Hosp(047) 501 3000King Dalindyebo LSANelson Mandela AcadRegional Hosp(047) 502 4513King Dalindyebo LSAZitulele HospDistrict Hosp(047) 575 0005Mhlonlo LSANessie Knight Hosp District Hosp(047) 557 0722Mhlonlo LSAST Lucy's HospDistrict Hosp(047) 545 9831Nyandeni LSABambisana HospDistrict Hosp(039) 253 7803Nyandeni LSACanzibe HospDistrict Hosp(047) 564 1346Nyandeni LSAIsilimela HospDistrict Hosp(047) 564 2805Nyandeni LSAST Barnabas HospDistrict Hosp(047) 555 1010/1/2Qaukeni LSAGreenville HospDistrict Hosp(039) 251 3009/10Qaukeni LSAHoly Cross HospDistrict Hosp(039) 200 2590/1Qaukeni LSAST Elizabeth's HospRegional Hosp(039) 253 1111Qaukeni LSAST Patrick's HospDistrict Hosp(039) 251 0232/6Elundini LSAMaclear HospDistrict Hosp(045) 932 1186Elundini LSATayler Bequest HospDistrict Hosp(039) 257 0007Maletswai LSAAliwal North HospDistrict Hosp(051) 634 2381Maletswai LSAburgersdorp HospDistrict Hosp(051) 653 1882Maletswai LSASteynsburg HospDistrict Hosp(048) 884 0241Senqu LSAcloete Joubert HospDistrict Hosp(045) 971 0091Senqu LSAEmpilisweni HospDistrict Hosp(051) 661 0037Senqu LSA Lady Grey HospDistrict Hosp(051) 603 0093

LIMPOPO

SUB-DISTRICT FACILITY TYPE TEL NUMBER Blouberg LMBlouberg HospDistrict Hosp(015) 501 0505Molemole LMBotlokwa HospDistrict Hosp(015) 527 0058Gr Tubatse LMDilokong HospDistrict Hosp(013) 214 7270Mutale LMDonald Fraser Hosp District Hosp(015) 982 4050Gr Tzaneen LMDr CN Phatudi Hosp District Hosp(015) 355 3432Greater Letaba LM Duiwelskloof HospDistrict Hosp(015) 309 9241Makhado LMElim HospDistrict Hosp(015) 558 3201Lephalale LMEllisras HospDistrict Hosp(014) 763 2227Modimolle LMFR Odendaal HospDistrict Hosp(014) 717 2324Mogalakwena LMGeorge Masebe Hosp District Hosp(015) 295 9056Gr Groblersdal LM Groblersdal HospDistrict Hosp(013) 262 3024Blouberg LMHelene Frans HospDistrict Hosp(015) 505 0750Makhudutamaga LMJane Furse HospDistrict Hosp(013) 265 1000Greater Letaba LM Kgapane HospDistrict Hosp(015) 328 3510Lepelle-Nkumpi LM Lebowakgomo HospDistrict Hosp(015) 632 6900Greater Tzaneen LMLetaba HospRegional Hosp(015) 303 1711Makhado LMLouis Trichardt HospDistrict Hosp(015) 516 0148Thumamela LMMalamulele HospDistrict Hosp(015) 851 0026Polokwane LMMankweng HospProv Tertiary Hosp(015) 267 0330Ba-Phalaborwa LMMaphutha L Malatjie HDistrict Hosp(015) 769 1520Gr Marble Hall LM Matlala HospitalDistrict Hosp(013) 264 9602Gr Tubatse LMMecklenburg HospDistrict Hosp(015) 619 0208Musina LMMessina HospDistrict Hosp(015) 534 0446Mogalakwena LMMokopane HospRegional Hosp(015) 483 0331Greater Giyani LM Nkhensani HospDistrict Hosp(015) 812 3251Ba-Phalaborwa LMPhalaborwa HospDistrict Hosp(015) 781 3511Gr Groblersdal LM Philadelphia HospRegional Hosp(013) 983 0112Mogalakwena LMPotgietersrus MogalakwenaProv Tertiary Hosp(015) 297 3163Maruleng LM Sekororo HospDistrict Hosp(015) 383 0006Polokwane LMSeshego HospDistrict Hosp(015) 223 5141Makhado LMSiloam HospDistrict Hosp(015) 973 0004Makhudutamaga LM Rita's HospDistrict Hosp(013) 298 1000Thabazimbi LMThabazimbi HospDistrict Hosp(014) 777 1599Thulamela LMTshilidzini HospRegional Hosp(015) 964 1061Greater Tzaneen LMVan Velden MemorialDistrict Hosp(015) 307 4475Mogalakwena LMVoortrekker MemorialDistrict Hosp(015) 491 2236Bela-Bela LMWarmbaths HospRegional Hosp(014) 736 2121Aganang LMWF Knobel HospDistrict Hosp(015) 221 0002Laphalale LMWitpoort HospDistrict Hosp(014) 769 0025Lepelle-Nkumpi LM Zebediela HospDistrict Hosp(015) 662 0787

NORTHERN CAPE

SUB-DISTRICT FACILITY TYPE TEL NUMBER Richtersveld LMAlexander Bay Hosp District Hosp Dikgatlong
LMBarkly Wes Hosp District Hosp(053) 531 0661 Hantam LMCalvinia Voortrekker HDistrict Hosp(027)
341 1205 Kareeberg LMCarnarvon Hosp District Hosp(053) 382 3036 Umsobomvu LMColesberg
Hosp District Hosp(051) 753 0771 Enthanjeni LMDe Aar (Centr Karoo) HRegional Hosp(053) 631
2123 Siyancuma LMDouglas Hosp District Hosp(053) 298 2612 Ubuntu LMRichmond Hosp District
Hosp(053) 693 0112 Nama Khoi LMSpringbok Hosp District Hosp(025) 122 018 Ubuntu LMVictoria
West District Hosp(053) 621 0271 Nama Khoi LMNababeep Hosp District Hosp(027) 713
8542 Umsobomvu LMNoupoort (Fritz Visser) HDistrict Hosp(049) 843 1448 Tsantsabane
LMPostmasburg Hosp District Hosp(059) 130 664 Siyathemba LMPrieska (Bill Pickard) HDistrict
Hosp(053) 353 2037 Sol Plaatjie LMKimberley Hosp Regional Hosp(053) 802 9111 Nama Khoi
LMKleinsee Hosp District Hosp(027) 807 3767 Kamiesberg LMGaries (Van Rooyen) HDistrict Hosp(027)
652 1002 Khara Hais LMGordonia Hosp District Hosp(054) 331 1580 Phokwane LMHartswater
Hosp District Hosp(053) 474 0148 Thembelihle LMHopetown (Wege) HDistrict Hosp(053) 203
0163 Phokwane LMJan Kempdorp Hosp District Hosp(053) 456 0126 Kai Garib LMKakamas
Hosp District Hosp(054) 431 0866 Kai Garib LMKeimoes Hosp District Hosp(054) 461 1004

GAUTENG

SUB-DISTRICT FACILITY TYPE TEL NUMBER Johannesburg SDChris Hani Baragwanath Hosp National
Central H (011) 933 2159 Johannesburg SDCoronation Hosp Regional Hosp(011) 470 9000 Tshwane
North SDDr George Mukhari HNational Central H(012) 529 3111 Mogale City LMDr Yusuf Dadoo
Hosp District Hosp(011) 951 6132 Johannesburg SDEdenvale Hosp Regional Hosp(011) 882
2400 Ekurhuleni East SDFar East Rand Hosp Regional Hosp(011) 817 1426 Ekurhuleni South
SDGermiston Hosp District Hosp(011) 345 1200 Lesedi LMHeidelberg Hosp District Hosp(016) 341
2171 Johannesburg SDHelen Joseph Hosp Regional Hosp(011) 489 0111 Johannesburg
SDJohannesburg Hosp National Central H (011) 488 4911 Tshwane Cent SDKalafong Hosp Regional
Hosp(012) 318 6400 Emfuleni LMKopanong Hosp District Hosp(016) 423 7000 Mogale City LMLeratong
Hosp Regional Hosp(011) 411 3500 Tshwane Cent SDMamelodi Hosp District Hosp(012) 601
1905 Ekurhuleni South SDNatalsspruit Hosp Regional Hosp(011) 389 0500 Tshwane North SDOdi
Hosp District Hosp(012) 702 2274 Ekurhuleni East SDPholosong Hosp Regional Hosp(011) 738
5020 Tshwane Cent SDPretoria Acad Hosp National Central H(012) 354 1000 Tshwane Cent SDPretoria
West Hosp District Hosp(012) 386 5111 Emfuleni LMSebokeng Hosp Regional Hosp(016) 930
3000 Johannesburg SDSouth Rand Hosp District Hosp(011) 435 0022 Ekurhuleni South SDTambo
Memorial Hosp Regional Hosp(011) 892 1144 Ekurhuleni North SDTembisa Hosp Regional Hosp(011)
926 0814 Tshwane Cent SDJubilee Hosp District Hosp(012) 717 2075

ANNEXURE B

OFFENCES IN TERMS OF THE CRIMINAL LAW (SEXUAL OFFENCES AND RELATED MATTERS)
AMENDMENT ACT, 2007 (ACT 32 OF 2007) AND COMMON LAW SEXUAL OFFENCES AND THEIR CAS
CRIME CODES

23701Section 3:Rape23702Section 4:Compelled rape23703Section 5:Sexual assault23704Section 6:Compelled sexual assault23705Section 7:Compelled self-sexual assault23706Section 8:Compelling or causing persons 18 years or older to witness a sexual offence[s], sexual acts or self-masturbation23707Section 9:Exposure or display of or causing exposure or display of genital organs, anus or female breasts to persons 18 years or older ('flashing')23708Section 10:Exposure or display of or causing exposure or display of child pornography to persons 18 years or older23709Section 11:Engaging sexual services of persons 18 years or older23710Section 12:Incest23711Section 13:Bestiality23712Section 14:Sexual act with corpse23713Section 15:Acts of consensual sexual penetration with certain children (statutory rape)23714Section 16:Acts of consensual sexual violation with certain children (statutory sexual assault)23715Section 17:Sexual exploitation of children23716Section 18:Sexual grooming of children23717Section 19:Exposure or display of or causing exposure or display of child pornography or pornography to children23718Section 20:Using children for or benefiting from child pornography23719Section 21:Compelling or causing children to witness sexual offences, sexual acts or self-masturbation23720Section 22:Exposure or display of or causing exposure or display of genital organs, anus or female breasts to children ('flashing')23721Section 23:Sexual exploitation of persons who are mentally disabled23722Section 24:Sexual grooming of persons who are mentally disabled23723Section 25:Exposure or display of or causing exposure or display of child pornography or pornography to persons who are mentally disabled23724Section 26:Using persons who are mentally disabled for pornographic purposes or benefiting therefrom23725Section 55:Attempt, conspiracy, incitement or inducing another person to commit sexual offence23726Section 71(1):Trafficking in persons for sexual purposesSection 71(2):Involvement in trafficking in persons for sexual purposesSection 71(6):Transportation by commercial carrier of a person for sexual purposes into or out of the Republic without travel documents required for lawful entry into or departure from the country22004/22993Common law rape - only applicable if offence was committed before 16 December 2007, but reported after the Criminal Law (Sexual Offences and Related Matters) Amendment Act came into operation13994Common law indecent assault - only applicable if offence was committed before 16 December 2007, but reported after the Criminal Law (Sexual Offences and Related Matters) Amendment Act came into operation25011Common law incest - only applicable if offence was committed before 16 December 2007, but reported after the Criminal Law (Sexual Offences and Related Matters) Amendment Act came into operation

ANNEXURE C

POSSIBLE SAMPLES TO BE TAKEN FROM THE VICTIM

Please note that this table should only be used as a guideline, and that it remains the responsibility of the investigating officer to ensure that all the necessary samples are taken. The health care professional may be requested to take one or all of the following samples from the victim:

Sample	Description
Swab	(posterior fornix)Swab must be air dried. Crime Kit 1 or 3
Glass smear	of swab
Swab	must be rolled over glass slides. Do not use fixative and do not put slides on top of each

other. Anal, vaginal or oral swabs or smear where applicable Anal, oral or vaginal swabs and smears where applicable (it must be dry before being placed in tube) Hair exhibit (foreign hair, not that of victim) These must be combed from the victim's pubic area. Place the hairs in a soft paper envelope. Crime Kit 4 Control hair samples from the victim's head and pubic area A minimum of 20 hairs are required. These must be pulled from different places on the victim's head. (Root of hair must be included) These hairs are required from different places on the head as there may be length and colour differences. Crime Kit 4 They must not be cut from the victim. Place the hairs in a soft paper envelope. Nail scrapings Scrapings from under the nails of the victim if he or she has scratched the suspect (only if blood was drawn). Crime Kit 1

Additional samples required

Where groupings and comparisons are required, the following additional samples must be taken:

Sample Description A control blood sample of the victim All the suspects and all other parties with whom the victim has had intercourse within 72 hours (3 days) before the reported incident must be gathered and a blood sample from each is to be taken. Questions concerning parties with whom victim has had sexual intercourse must be posed sensitively and must be asked in private. Control blood samples must be in a fluid form, as well as one coagulated blood sample (red-brown plug), and one EDTA blood sample (purple plug). Crime Kit 2 DNA If DNA analysis is required details can be obtained from the Forensic Science Laboratory which will offer guidance in this regard.

The health care professional may also need to take an alcohol sample and/or collect body fluid.

A blood-alcohol kit must be used for this purpose and be sent to the Department of Health. Advice on contraceptive counselling may be given on request.

In the event of any uncertainty regarding the gathering, packaging and transportation of samples, the investigating officer should contact the Forensic Science Laboratory without delay.

ANNEXURE D

POSSIBLE SAMPLES TO BE TAKEN FROM THE SUSPECT

Please note that this table should only be used as a guideline and that it remains the responsibility of the investigating officer to ensure that the necessary samples are taken. If the suspect is traced he will be taken to the health care professional and the following samples may be taken:

Sample Description Pubic hairs These must be combed from the suspect's pubic area. Place the hairs in a soft paper envelope Control hair samples from the suspect's head Minimum of 20 hairs are required. These must be pulled from different places on the suspect's head. Crime Kit 4 These hairs are required from different places on the head as there may be differences in length and colour. Hair

must not be cut from the suspect's head. Place the hairs in a soft paper envelope. Blood Crime Kit 2 EDTA Blood for determining alcohol content Only required if this is a factor in the case. Blood or Alcohol Kit

The health care professional may also need to take an alcohol sample and collect body fluid. A Blood/Alcohol Kit must be used for this purpose and the samples be sent to the Department of Health.

ANNEXURE E

SEXUAL OFFENCE STATEMENT CHECKLIST

Please note that the checklist should only be used as a guideline, and that it remains the responsibility of the investigating officer to take a full statement in every case.

Item Detail 1 Paragraph statements. 2 Do not prime the victim - it must be his or her own statement. (Never ask leading questions.) 3 Full names (Maiden name, if applicable) - Age and date of birth - Identity number - Occupation - Residential and postal address - Telephone number and code - Place of employment, if applicable - Cellphone number - Facsimile number 4 Detail of events leading up to the incident. (This will vary according to circumstances and there will be more information in some cases than in others.) 5 Describe the scene of crime prior to the attack. 6 Fully describe the victim's clothing and the victim (this may assist forensic identification). 7 Describe the other victims (if more than one victim was involved). 8 Day and date. Specify the day of week. 9 Clarify time - how did the victim know what the time was? 10 Describe, if possible, any route taken by the victim prior to attack. 11 Witness - any known to victim, describe other witnesses and give their names (if possible), witnesses may link the victim to the suspect. 12 How the suspect approached victim. 13 How the suspect maintained control of the victim. 14 If restraints were used, did the suspect bring them with him or her or did they belong to the victim? 15 Weapons, etc, used, displayed, mentioned.

Item Detail 16 Exact words spoken by the suspect. Use direct speech. 17 Exact words spoken by the victim to suspect. Use direct speech. 18 If there is more than one suspect, briefly identify each one by some distinguishing feature such as a moustache, facial mark, colour of shirt. 19 Details of anything left at the scene by the suspect. 20 Describe anything touched by the suspect. 21 Did the suspect have an escape route prepared prior to the attack? 22 Describe the victim's state of mind throughout the entire incident. What was the victim feeling or thinking in relation to each event as it occurred? 23 Threats made by suspect - exact language. 24 Was there any resistance by the victim? Include reasons for resisting or not resisting. 25 If the victim resisted, explain the suspect's reaction (speech, facial expression, physical reaction). 26 Did the suspect force the victim into any particular physical position? 27 Did the suspect photograph the victim? 28 Describe if and how clothing was removed and by whom, and in what order - where the clothing was placed or left. 29 Was the victim made to dress in any specific items of clothing. 30 Were these items brought to the scene by the suspect? 31 Were any items of clothing stolen by the suspect? 32 Did the suspect force the victim to use any specific words or sentences during the attack? 33 Fully describe the sexual assault. Describe

the acts. Was the victim given any options? Consider: Touching Where and by whom; Victim by suspect. Suspect by victim. Kissing Suspect by victim. Victim by suspect.

Use of Instruments Foreign objects used or placed in vagina, anus, etc. Digital penetration (Fingers) In vagina or anus. Fetishism Particular attraction/request for certain object (clothing/perfume/baby oil). Voyeurism Watching a particular act (eg suspect watching victim masturbate). Cunnilingus Mouth to vagina. Sexual sadism Beatings, burning, whipping, biting, twisting breasts, asphyxiation (strangulation) until victim is unconscious, painful bondage (tied up). Annullingus Licking anus. Urination Urinating on victim. Defecation Defecation of human waste matter (faeces) on victim. Bestiality Forced to perpetrate sexual act with animal. 34 If sexual intercourse took place, exact description of how the victim felt (force, fear, fraud). 35 How penis entered vagina (or other orifices)- position of bodies- position of hands- position of legs 36 Was the suspect's penis erect? 37 Was any lubricant used? 38 Was the suspect circumcised? 39 Did the suspect have difficulty in achieving an erection or maintaining it or experience premature ejaculation? 40 Was the victim forced manually to masturbate the suspect to achieve or maintain his erection? 41 Did suspect ejaculate? How did the victim know that the suspect had ejaculated? 42 Did the suspect use anything to wipe his penis after the offence? 43 Was anything done by the suspect to remove or stop semen being left behind, eg forcing the victim to wash, combing victim's pubic hairs, using a condom? 44 If tissues were used, what happened to them? Where did they come from?

Item Detail 45 If oral sex occurred, did the victim spit out semen or vomit - if so, where? 46 Did the suspect tell or force him/her to take any drugs or medication or alcohol? 47 Was there any blood anywhere? Describe whether it was on the victim or suspect or scene of crime. 48 If a number of sexual acts were carried out, describe the exact position in which they were committed and the speech used towards the victim, prior, during and after these acts. 49 Any specific threats made to victim not to report the offence. The exact words used must be given. 50 Any actions or words used to prevent that the victim recognize the suspect. 51 Did the suspect take steps to avoid leaving fingerprints? 52 Was any of victim's property taken to assist the suspect in locating him or her again? Was this taken to stop the victim from reporting the incident? Was this specifically mentioned by the suspect? 53 Did the suspect suggest they meet again? Give specifics. 54 Was the suspect curious about the victim's life, family or previous relationships, sexual or otherwise? 55 Did the suspect pay any compliments to the victim? 56 Did the suspect make excuses for what he had done or apologize for it? 57 Did the suspect make any mention of Police procedures? 58 How did the attack end? 59 How did the victim leave the scene? 60 How did the suspect leave the scene. Was it by foot, by car, or bicycle? 61 Did the victim tell anyone and when did he or she do so? 62 A full description of the suspect(s) from head to toe. 63 Include a description of the suspect's clothing. It may be necessary to state what the suspect was not wearing, eg a jacket.

Item Detail 64 Did the suspect speak in language known to victim? Clarify. 65 Did the suspect have an accent? Clarify, if possible. 66 Did the victim know the suspect? If the answer is in the affirmative, give details. Would the victim be able to recognize suspect again? 67 How was the incident reported to police? 68 Permission from victim for the examination of the scene or his/her property and for the removal of items for evidence and forensic examination. 69 Fully describe all property taken, including serial numbers, colours, sizes, identifying marks. 70 Get the victim to formally identify any property left by the suspect at the scene. 71 Describe all the injuries inflicted on the victim. 72 Include the fact that victim did not consent, even if this is obvious. 73 Record the absence of consent for the

removal of any of the victim's property by the suspect.⁷⁴Is the victim willing to attend court?⁷⁵Make sure that the victim reads the statement thoroughly and that it is signed in all the right places.⁷⁶When was the last time the complainant had sexual intercourse? If within 72 hours before the incident, control blood samples are required from all the partners.⁷⁷Victim's consent to forensic testing of articles seized for examination and that the victim knows that the articles may be damaged in the process of the forensic examination.

ANNEXURE F

GUIDELINES RELATING TO THE TAKING OF A STATEMENT OF A CHILD VICTIM

1 Introduction

The basic principles pertaining to the taking of statements from children remain the same as those applicable to adult victims and witnesses.

The instructions pertaining to the taking of statements as set out in Standing Orders 322, 327 and Standing Order General 18 of 1990 must be adhered to.

There are, however, a few differences pertaining to the format and content of statements of children. These will be outlined below.

2 General aspects

- A child is a person under the age of 18 years as defined in section 28 of the Constitution.
- It is imperative that it be determined, before the taking of the statement, whether or not the child understands the oath or affirmation. It is generally accepted that a child under the age of 12 years does not understand the oath or affirmation and that a statement under oath or affirmation can therefore not be taken from him or her. In exceptional cases where a child is under the age of 12 years and can fully explain the oath or affirmation to the police official taking the statement, such a statement may be sworn or affirmed to.
- Should a child be older than 12 years, it should still be determined whether or not that child understands the oath or affirmation.
- In cases involving very young children (below the age of 7 years) who are unable to write their names or make a mark, but are able to give a full account of what happened to them, the police official who interviews the child should make a statement with regard to the interview conducted with the child. The investigative notes made during the interview must be attached to the statement of the police official in order to support the content of this statement.
- It is not always necessary, possible or advisable that the parent/guardian or accompanying adult should physically be present whilst the statement is obtained. The courts regard the statement of the child as admissible as long as the parent/guardian or accompanying adult is aware of the contents thereof and has acknowledged this by means of a signature.

- Should the parent, guardian or accompanying adult be an adult witness in the same case and the child indicates that he or she would like that adult witness to be present during the taking of the statement, it is imperative that the statement of the adult witness be taken before the statement of the child so as to ensure objectivity and minimize influence.

- Should the parent, guardian or accompanying adult be the alleged offender, the statement of the child should, under no circumstances, be taken in the presence of the alleged offender.

- Every page of the statement should be initialled by the police official taking the statement, the child, the interpreter and the parent, guardian or accompanying adult (Standing Order 322 and 327).

- All corrections must be corrected according to Standing Order 301.1 and initialled and dated by the police official who took the statement, the child and the parent, guardian or accompanying adult.

3 Format and requirements of statements of children

A statement is divided into 3 parts:

- A preamble
- Content
- Ending

3.1 Preamble of the statement

- In most cases involving children, the statement will not be sworn to or affirmed.
- The following must appear on the first line of the statement:

- Full names and surname of the child
- Indication of whether the statement is sworn to/affirmed or neither

- The language spoken by the child (this enables the prosecutor to arrange for a relevant interpreter and intermediary at the trial)

- Example:

JOSEPH THABANG RICHIE states in English/Zulu/Sepedi

- The following should appear in the preamble (paragraph 1):
 - Identity number or date of birth of the child
 - Full residential address of the child
 - Cellular phone number of the child

- Home telephone number and contact particulars of the parent/guardian
- Name of the child's school
- Physical address of the child's school
- The grade in which the child is
- The name of the child's class teacher

3.2 Content of statement

- Before commencing with the writing of the statement, during the interview, the police official should determine whether or not the child knows the difference between the truth and a lie. This can be done by posing, for example, the following questions to the child:

TruthLie
 There are televisions in South Africa
 There are no televisions in South Africa
 The sun shines during the day
 The sun does not shine during the day
 You can use a pencil to draw a picture
 You use a pencil to plant a tree

- Once this has been determined, paragraph 2 of the statement will contain the following:

I know the difference between right and wrong. I know what it means to speak the truth. What I am about to say, is the truth.

- The exact words used by the child must be used in order to ensure authenticity and originality. The following can be used as examples:

Words of childAdult translation
 The uncle spanked meMr Nel assaulted me
 The naughty man put his toti into my flower
 Mr Ndlovu inserted his penis into my vagina
 He put his wee-wee into my wee-wee
 Mr Rodricks raped me

- Care must be taken not to 'translate' the language used by the child into adult language, for example, the meaning of 'toti' and 'flower' should under no circumstances be written in brackets after the child's words. It must be kept in mind that the defence is entitled to obtain a copy of the child's statement. The defence may cross-examine the child on terminology used in the child's statement. This may lead to an acquittal in court.

- A statement must be submitted by the police official or the parent/guardian/accompanying adult in which an explanation is given to the meaning of the words used by the child.

- Great care must be taken in recording the child's statement in an understandable, chronological order since children often do not refer to events in sequence. It is therefore advisable that the police official who obtains the statement from the child should make extensive notes during

the interview before commencing with the writing down of the statement. Police officials should refer to the module on investigative interviewing of children in order to understand this and apply this to practice.

3.3 Ending of statement

- Once the statement has been obtained, the entire statement is read to the child and an opportunity is given to the child to make any corrections/changes/additions.

- The child is requested to write his/her name or make his/her mark on the next line after the last word of the statement.

- Should the services of a translator be utilized, the translator is required to certify the translation in the following manner:

Translated from Zulu to English and vice versa

- The interpreter then signs the certification.

- The parent, guardian or accompanying adult of the child then endorses the statement in the following [manner]:

Statement was obtained in my presence. I have read the contents thereof.

- The parent/guardian/accompanying adult signs the statement and endorses the date, time and place under his/her signature.

- The police official who obtained the statement endorses it in the following manner:

The above statement was taken by me in the presence of the parent/guardian/accompanying adult.

- The police official's signature is placed thereon and the date, time and place is endorsed under his/her signature.

4 Example of a statement of child

JOSEPH THABANG RICHIE states in English:

1

I am a 9 year old boy and I was born on 1 April 1999. I stay at 123 Alpha Road, Windsor Park, Pretoria. My home telephone number is 012 393 1234. My mother's cell phone number is 083 123 4567 and my father's cell phone number is 082 123 7654. I am a grade 3 pupil at Windsor Park Primary School, 456 Beta Road, Windsor Park, Pretoria. I am in Miss Dhlamini's class. My home language is isiZulu.

2

I know the difference between right and wrong. I know what it means to tell the truth. What I am about to say is the truth.

3

On Monday, 6 November 2008, I went to my uncle John's house after school. I normally go there every day after school. I don't know what his address is but he stays close to my school.

4

After I had lunch, uncle John told me to go and change my clothes. Whilst I was in the bathroom, changing my clothes, uncle John came into the bathroom. I was standing in my underpants and he asked me how my day at school was. He sat on the toilet with all his clothes on and asked me to come and sit on his lap. I sat on his lap and started telling him about my day at school.

5

Uncle John then started kissing me on my mouth. He put his tongue into my mouth. I tried to jump off his lap but I couldn't because he was holding me too tightly. Uncle John then put his hand inside my underpants and started playing with my toti. I told him to stop but he said that if he carries on a little while longer, I would like it. I felt scared and didn't know what to do and I started crying.

6

At that moment I heard my aunt Elizabeth's car in the driveway. Uncle John threw me off his lap and told me to get dressed. He said that what happened is our secret and I mustn't tell anyone about it. He promised to buy me a new bike for Christmas.

7

While I was busy getting dressed, my aunt Elizabeth came into the bathroom. She saw I had been crying and asked me what was wrong. I started crying again and I told her what happened. My aunt didn't say anything to me, she just took me home. When we arrived at my house, my aunt and parents sent me to my room and they spoke in the lounge. I never told anyone else but my aunt about what happened to me.

XXXXXXXXXX

(Child writes his/her name or makes his mark)

The above statement was translated by me from Zulu to English and back into Zulu.

XXXXXXXXXX

(Signature of translator)

Statement was obtained in my presence. I read the contents thereof.

XXXXXXXXXX

(Signature of parent/guardian/accompanying adult)

Pretoria

2008-11-17

11:20

The above statement was taken by me in the presence of the mother, Ms JS Richie.

XXXXXXXX

(Signature of police official)

Pretoria

2008-11-17

11:23

5 Conclusion

Obtaining a statement from a child remains a challenge and requires specialized skills. Investigating officers should approach this task with empathy and diligence. Statements which are obtained correctly ensure[s] that the interest of justice is upheld and that children as victims are empowered.

ANNEXURE G

REGISTER RELATING TO APPLICATIONS FOR A COMPULSORY HIV TEST

The following information relating to every application for an HIV test must be recorded:

- (a) The CAS/CR number;
- (b) The date of the application;
- (c) the full names, date of birth, identity number, address and contact details of the victim;
- (d) if the application is brought by an interested person on behalf of the victim, the full names, date of birth, identity number, address and contact details of that interested person and the relationship between the victim and the interested person;
- (e) the full names, date of birth, identity number, address and contact details of the alleged offender;
- (f) full particulars of the alleged sexual offence;
- (g) the date the order for HIV testing was made;
- (h) whether the application was granted or dismissed by the magistrate;
- (i) whether a warrant of arrest was issued;
- (j) the magistrate's court and particulars of the magistrate who considered the application;

(k) if the application was granted, the date on which, and name of the health establishment where the order was executed; and

(l) where the sealed record is kept of the test results in cases applied for by an investigating official.

SOUTH AFRICAN POLICE SERVICE NOTICE OF SERVICES AVAILABLE TO VICTIMS Section 28(3) of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act 32 of 2007) (The member to whom the alleged commission of a sexual offence is reported, must hand this form to the victim of the alleged offence or an interested person.) The purpose of this Form is to provide the victim of the alleged sexual offence with information, and in particular with the details of the available services regarding the receiving of Post Exposure Prophylaxis (PEP) for possible HIV infection and for the testing of the alleged sex offender for HIV. Note:

In terms of section 27 of the Act, an 'interested person' is any person who has a material interest in the well-being of a victim, including a spouse; same sex or heterosexual permanent life partner; parent; guardian; family member; care giver; curator; counsellor; medical practitioner; health service provider; social worker; or teacher of the victim. An interested person may apply on behalf of the victim for the services referred to in this Form.

What is HIV infection?

HIV refers to infection with the human immuno-deficiency virus. HIV destroys important cells that control and support the immune system. As a result, the body's natural built-in defence mechanisms are weakened and find it difficult to offer resistance against illnesses. Most people infected with HIV ultimately develop AIDS and die as their bodies can no longer offer any resistance to illnesses such as TB, pneumonia and meningitis. Infection with HIV therefore has serious consequences for you as an individual. There is currently no cure for HIV/AIDS.

How is HIV transmitted?

HIV is transmitted in three different ways:

- through sexual intercourse;
- during a blood transfusion when HIV infected blood is passed directly into the body; and
- by a mother to a fetus during pregnancy, childbirth or whilst breast feeding.

Can I be exposed to HIV during a sexual offence?

Yes, if you come into contact with the blood, semen or vaginal fluid of the offender. For example, if you were vaginally or anally raped and the semen of the offender entered your body, you would have been exposed to HIV.

What is PEP?

PEP (Post Exposure Prophylaxis) refers to antiretroviral medication administered to reduce the risk of a person contracting HIV after a known exposure to the virus. The treatment usually involves the administering of a group of drugs (or certain medication on its own) which act against HIV. It is important that PEP be administered to you as soon as possible after the sexual offence was committed, but in any event within 72 hours after the alleged sexual offence has been committed. A public health establishment designated by the Minister of Health may administer the medication and this will be done free of charge. A list of public health establishments within a reasonable distance from the police station where the complaint was laid and where this treatment may be obtained, is attached to this notice. You will be able to obtain free medical advice from the health establishment in respect of the administering of PEP before it is administered. You must consent to the administering of PEP.

Can I expose other people to the risk of HIV infection as a result of my possible exposure to HIV?

You cannot transmit HIV through daily contact with other people, such as hugging, shaking hands, and sharing food, water or utensils. However, since HIV may be transmitted through sexual intercourse, you may have become infected through the alleged sexual offence and may, as a result, infect your sexual partner. You should therefore practise safe sex until you are certain that you have not been infected. If you are pregnant, you may transmit HIV to your unborn child. If you are breast feeding, you may also expose your child to the risk of HIV infection. You must obtain expert advice (as set out at the end of this Notice) to deal with the implications of the risk of infection for yourself, your sexual partner and others.

What about other sexually transmitted infections?

During the commission of a sexual offence, the victim may also be exposed to other sexually transmitted infections (STI's). All other STI's can be treated effectively without serious consequences to the health of the victim. You will be able to obtain free medical advice from the health establishment in respect of STI's, the symptoms to look out for and what to do if you suspect that you may have contracted such an infection.

How do I deal with my possible exposure to HIV during the alleged sexual offence?

You can apply to a magistrate to have the alleged offender tested for HIV, and the results of his or her tests will be disclosed to you. If you know the HIV status of the alleged sex offender, it may give you peace of mind and place you in a better position to make decisions on whether you should take medication to prevent or reduce the risk of HIV transmission and what you can do to protect your sexual partner and others against HIV infection. Expert medical advice may be necessary for you to deal with the implications of the risk of infection for yourself, your sexual partner and others. The test result from a compulsory HIV test may not be reliable, because the alleged offender may be in the window period while he or she is tested for HIV. This means that the test result may indicate that the alleged offender tested negative although he or she is, in fact, HIV positive. You must therefore talk to an expert before you make any medical or lifestyle decision based on the test result. Furthermore, please take into account that an HIV positive test result does not mean that the virus was necessarily transmitted to you during the commission of the sexual offence.

It is in your own best interest to be tested for HIV when you feel ready to do so. In the meantime, make sure that you practise safe sex.

How do I apply for HIV testing of the alleged sex offender?

- You must report the commission of the sexual offence to the police station nearest to where the offence was committed. The Police will investigate the matter.
- You may immediately thereafter apply for the HIV testing of the alleged sex offender, or inform the investigating officer that you wish to apply for the HIV testing of the alleged offender.
- An application form can be obtained from the police station. You must complete the application form to apply for an order to have the alleged offender tested.
- Once you have completed and signed the application form, you may hand it to the investigating official.

Who will consider my application?

The investigating officer who is responsible to investigate the alleged sexual offence will submit your completed application to a magistrate. The magistrate will consider the application during court hours in his or her office. The magistrate may request further evidence, orally or by affidavit and may also question the alleged offender before taking a decision. The investigating officer will inform you of the outcome of your application.

What will happen once the magistrate has ordered that the alleged offender be tested for HIV?

The investigating officer will ensure that two blood samples of the alleged offender are taken at the same time and are tested for HIV.

Who will pay for the HIV testing?

The State. It will not cost you any money.

How will I be informed about the HIV test result?

Once the results become available, the investigating officer will as soon as possible ensure that you receive a sealed envelope containing the HIV test result, as well as information on where you can obtain assistance in dealing with the results and the implications thereof.

May I disclose the HIV status of the alleged offender to other people?

The HIV test results may only be disclosed to the victim or the interested person who initiated the application for the compulsory HIV testing of the alleged offender, the alleged offender, the investigating officer and the prosecutor, where applicable, or any other person who needs to know the test results for purposes of any civil proceedings or an order of the court.

For what period may I apply for the HIV testing of the alleged sex offender?

You must apply within 90 days after the alleged sexual offence was committed. The 90 day period is called a window period, which means that if the test is conducted thereafter, it will not be reliable

since, if the test is positive, the alleged offender could have contracted the virus after the alleged offence had been committed. Remember that, even if the test was conducted during the 90 days, a negative test result may not be reliable since the alleged offender may be in the window period and test negative although he or she is in fact HIV positive. It is therefore advised that, if you decide to apply to have the alleged offender tested for HIV, you do so as soon as possible after the alleged commission of the sexual offence. However, it remains in your best interest to have yourself tested for HIV.

Are there any service organizations which can provide counselling and support?

There are a number of private and public facilities that will assist you to deal with the implications of the HIV test results. Some of these services are free of charge, while others may require the payment of a fee. These include:

- Private medical and social facilities (eg a general medical practitioner or psychologist);
- Public medical and social facilities, including-
 - Life Line
 - Child Line
 - Child protection organizations
 - Local State Hospitals and Clinics - Rape Crisis
- FAMSAs
- Departments of Social Welfare
- Local AIDS Service Organizations Contact details of these service providers are available in the telephone directory and from the investigating officer

SOUTH AFRICAN POLICE SERVICE APPLICATION BY VICTIM OR INTERESTED PERSON FOR HIV TESTING OF ALLEGED OFFENDERS

Section 30 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act 32 of 2007) PLEASE READ THE FOLLOWING NOTES BEFORE COMPLETING THE APPLICATION FORM:(1)

In terms of the Act, the victim of a sexual offence or an interested person acting on behalf of the victim, may apply for the HIV testing of the alleged perpetrator of the sexual offence. The Act provides that an interested person is any person who has a material interest in the well-being of a victim, including a spouse, same sex or heterosexual permanent life partner, parent, guardian, family member, care giver, curator, counsellor, medical practitioner, health service provider, social worker or teacher of a victim.(2) If the application is made by an interested person (as set out above), the application must be made with the written consent of the victim, unless the victim is -

- younger than 14 years;
- mentally disabled;
- unconscious;

- a person in respect of whom a curator has been appointed in terms of an order of court; or

- a person whom the magistrate considering the application is satisfied is unable to provide the required consent. Where applicable, the written consent of the victim must be attached to the application form. (3) If you require assistance with the completion of the application form, you may request the investigating officer to assist you.

IN THE MAGISTRATES' COURT FOR THE DISTRICT OF HELD

AT CA

SE

NO: A

APPLICATION To the clerk of the court,

..... Take notice that,
..... (the victim Delete which is not applicable*/interested person Delete which is not applicable*) in terms of section 30 of the Act applies to this Court for an order- (a) that the alleged sex offender, described below, be tested for HIV Delete which is not applicable*; and (b) that the HIV test results be disclosed to (the victim Delete which is not applicable*/interested person Delete which is not applicable*) and to the alleged offender; or (c) that the test results of the alleged offender, which has already been obtained on application by an investigating officer as contemplated in section 32 of the Act, be disclosed to (the victim Delete which is not applicable*/interested person Delete which is not applicable*)

PART A: DECLARATION BY VICTIM OR INTERESTED PERSON ACTING ON BEHALF OF VICTIM 1

PARTICULARS OF VICTIM Full names and surname:

..... Indicate any other surnames: Date of birth: Age: Identity number/passport number:

..... 2 PARTICULARS OF INTERESTED PERSON, IF APPLICABLE (See note (1) above) Full names and surname:

..... Date of birth: Identity number/passport number: Relationship with victim (eg parent): If the applicant is not the spouse, same sex or heterosexual permanent life partner or parent of the victim, state the reason why application is made on behalf of victim:

..... 3 WRITTEN CONSENT OF VICTIM IF APPLICATION IS MADE BY INTERESTED PERSON (See note (2) above) (a) Has the written consent been obtained from the victim? If yes, attach the consent to this form Delete which is not applicable*

(b) The written consent of the victim is not required if the victim is Delete which is not applicable* - below the age of 14 years;

- mentally disabled;
- unconscious;
- a person in respect of whom a curator has been appointed by the court; or
- unable to provide consent because (provide reasons):

.....

.....4

PARTICULARS OF ALLEGED SEXUAL OFFENCE AND POSSIBLE EXPOSURE TO THE BODY FLUIDS OF THE OFFENDER (To be completed by the victim or the interested person acting on his or her other behalf or by the investigating officer) (a) Date, time and place where the alleged sexual offence was committed: (b) Explain why you believe that you were exposed to the body fluids (semen, blood, vaginal fluid) of the alleged offender:.....

.....

(Attach a copy of the J 88 or medical report if available.) An application for HIV testing of the alleged offender may only be lodged if the alleged offence was reported within 72 hours after the alleged sexual offence took place to-

- (i) the South African Police Service Delete which is not applicable*; or
- (ii) a designated health establishment Delete which is not applicable*, and

within a period of 90 days from the date on which it is alleged that the offence took place. Delete which is not applicable*5

PARTICULARS OF APPLICATION ALREADY MADE BY INVESTIGATING OFFICER IN TERMS OF SECTION 32 OF THE ACT, IF APPLICABLE Case/CAS/CR

number:.....Date of application:

.....Particulars of Magistrate who granted application:

.....Name of investigating officer:

.....Contact particulars of investigating officer:State where the

extra copy of the test result is kept:6

AFFIDAVIT/SOLEMN DECLARATION BY VICTIM OR INTERESTED PERSON ACTING ON HIS OR HER BEHALF (To be completed by a Justice of the Peace or Commissioner of Oaths)I,

..... (victim or interested person) hereby declare that the above information is to the best of my knowledge true and correct. The above statement was made by me at the place, date and time as indicated. Delete which is not applicable*

I know and understand the contents of this statement.

I have no objection to taking the prescribed oath.

I consider the prescribed oath to be binding on my conscience. OR Delete which is not applicable* I solemnly affirm that the contents of this statement is true.....

.....SIGNATURE OF VICTIM/INTERESTED PERSON

PLACE.....DATE I certify that the deponent has acknowledged that he/she Delete which is not applicable* knows and understands the contents of this statement which was sworn to/affirmed Delete which is not applicable* before me and the deponent's signature was placed thereon in my presence.

SIGNED AND SWORN TO/SOLEMNLY CONFIRMED Delete which is not applicable* IN MY PRESENCE ON THIS THE DAY OF..... AT AND AT(TIME).....

SIGNATURE OF JUSTICE OF THE PEACE/COMMISSIONER OF OATHS Full names:

.....Designation:Area for which appointed:Business address:.....PART B:

ALLEGED OFFENDER1 PARTICULARS OF ALLEGED OFFENDER (To be completed by the investigating officer) A complaint in respect of an alleged sexual offence has been reported by the victim whose particulars appear in PART A above against the alleged offender whose particulars appear below. Name and surname:

.....Date of birth:Age:Identity number/passport number:Residential address/temporary address:

.....Telephone number:

.....Cell number:CAS/CR no:.....Offence charged with:

.....Is the alleged offender in detention or has he or she been released on bail?(Delete if not applicable) If the alleged offender is in detention, state the place where he or she is being detained:

.....If the alleged offender has been released on bail, state the bail conditions subject to which he or she has been released:

.....
.....
.....

6[sic] AFFIDAVIT/SOLEMN DECLARATION BY INVESTIGATING OFFICER I,
..... (the investigating officer) with Personal
number, hereby declare that the above information
is to the best of my knowledge true and correct. The above statement was made by me at the place,
date and time as indicated. Delete which is not applicable* I know and understand the contents
of this statement. I have no objection to taking the prescribed oath. I consider the
prescribed oath to be binding on my conscience. OR Delete which is not applicable* I solemnly
affirm that the contents of this statement is [sic]
true.....SIGN
ATURE OF INVESTIGATING OFFICER PLACE.....

DATE I certify that the deponent has acknowledged that he/she Delete which is not applicable*
knows and understands the contents of this statement which was sworn to/affirmed Delete which is
not applicable* before me and the deponent's signature was placed thereon in my presence. SIGNED
AND SWORN TO/SOLEMNLY CONFIRMED Delete which is not applicable* IN MY PRESENCE ON THIS
THE DAY OF AT
..... AND AT
(TIME).....SIGNED: JUSTICE OF THE
PEACE'/COMMISSIONER OF OATHS Delete which is not applicable*

Full
names:.....Design
ation:Area for
which appointed:Business
address:
.....

.....Please note: The
Act strictly limits the circumstances in which an alleged offender of a sexual offence may, without his
or her consent, be subjected to a compulsory HIV test. The Act only allows this in order to assist
victims of sexual offences. If you have not been the victim of a sexual offence, or you do not act on
behalf of a victim of a sexual offence, and abuse this procedure to establish the HIV status of person
with malicious intent, you may be prosecuted and convicted of an offence and sentenced to a fine or
to imprisonment for a period not exceeding three years. You may also face a civil claim for damages.

SOUTH AFRICAN POLICE SERVICE

APPLICATION BY INVESTIGATING OFFICER FOR HIV TESTING OF ALLEGED

OFFENDER

Section 32 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007

(Act 32 of 2007)

Note:

This application form must be completed by the investigating officer. The completed form must be placed in a sealed envelope which is marked 'Confidential/Vertroulik', with the CAS/CR number and name and rank of the investigating officer written on the envelope. The envelope must be handed to the clerk of the court. IN THE MAGISTRATES' COURT FOR THE DISTRICT OF

.....HELD
AT.....Ca
se No.:

.....1

APPLICATION To the clerk of the court,

.....Take notice that
..... (the investigating officer) applies
in terms of section 32 of the Act to this Court for an order-

(a) that the alleged sex offender, described below, be tested for HIV; or

(b) that the HIV test results of the alleged offender, already obtained on application by a victim or interested person on behalf of a victim as contemplated in section 30 of the Act, be made available to-

(i)(the investigating officer);
and/or

(ii)

(the prosecutor who needs to know the results for purposes of the prosecution of the matter in question or any other court proceedings, contemplated in section 32(1)(b) of the Act).2 PARTICULARS OF VICTIM Full names and surname:

.....Any other surnames:

.....Date of birth:

.....Age:

.....Id

entity number/passport number:

.....3 PARTICULARS OF ALLEGED

OFFENDER Full names and surname:

.....Any other surnames:

.....Date of birth:

.....Age:

.....Id

entity number/passport number:

.....4 GROUNDS FOR

APPLICATION On the strength of information taken on oath or by way of solemn declaration, in which it is alleged that a sexual offence, or an offence as defined in section 27 of the Act, was committed by the alleged offender, the application is based on the following grounds:

.....

5 PARTICULARS OF APPLICATION ALREADY BROUGHT BY VICTIM OR INTERESTED PERSON IN TERMS OF SECTION 30 OF THE ACT Delete whichever is not applicable* Date of application:

.....Magistrate's Office where application was granted:Where is [sic] test results kept?6

AFFIDAVIT/SOLEMN DECLARATION OT INVESTIGATING OFFICER I,(the investigating officer) with Persal number....., hereby declare that the above information is to the best of my knowledge true and correct. The above statement was made by me at the place, date and time as indicated. Delete whichever is not applicable* I know and understand the contents of this statement.

I have no objection to taking the prescribed oath.

I consider the prescribed oath to be binding on my conscience. OR Delete whichever is not applicable* I solemnly affirm that the contents of this statement is true.....

.....SIGNATURE OF INVESTIGATING OFFICER PLACE.....DATE| certify that the deponent has acknowledged that he Delete whichever is not applicable*/she Delete whichever is not applicable* knows and understands the contents of this statement which was sworn to Delete whichever is not applicable*/affirmed Delete whichever is not applicable* before me and the deponent's signature was placed thereon in my presence. SIGNED AND SWORN TO Delete whichever is not applicable*/SOLEMNLY CONFIRMED Delete whichever is not applicable* IN MY PRESENCE ON THIS THE DAY OF..... AT AND AT

(TIME).....SIGNED: JUSTICE OF THE PEACE/COMMISSIONER OF OATHS Full names:

.....Designation :Area for which appointed:Business address:

NOTICE TO ALLEGED OFFENDER IN RESPECT OF ORDER FOR HIV TESTING

Section 31(5)(b) of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007

(Act 32 of 2007) IN THE MAGISTRATES' COURT FOR THE DISTRICT OF

..... HELD AT

..... Case

No.: (To be handed to the alleged offender by the investigating officer) To:

..... (the alleged offender) charged with the offence of

.....
.....

against..... (the victim). The purpose of this notice is to inform you that the court mentioned above issued an order to have you tested for HIV without your consent and to disclose the result of the test to the victim or an interested person acting on behalf of the victim and, where applicable, to the prosecutor responsible for your prosecution or any other related court proceedings. What is HIV infection? HIV refers to infection with the human immuno-deficiency virus. HIV destroys important cells that control and support the immune system. As a result, the body's natural built-in defence mechanisms are weakened and find it difficult to offer resistance against illnesses. Most people infected with HIV ultimately develop AIDS and die as their bodies can no longer offer any resistance to illnesses such as TB, pneumonia and meningitis. Infection with HIV therefore has serious consequences for you as an individual. There is currently no cure for HIV/AIDS. How is HIV transmitted? HIV is transmitted in three different ways: • during sexual intercourse; • during a blood transfusion when HIV infected blood is passed directly into the body; and • from a mother to a fetus during pregnancy, childbirth or whilst breast feeding. Can HIV be transmitted during the commission of a sexual offence? Yes. If there is any exposure to HIV infected blood, semen or vaginal fluid during the commission of the offence, HIV may be transmitted. Why should I be tested for HIV? You may have exposed the victim to HIV during the commission of the alleged sexual offence or offence as defined in section 27 of the Act with which you are charged. (Section 27 of the Act defines a 'sexual offence' as a sexual offence in terms of which the victim may have been exposed to body fluids of the alleged offender, and an 'offence' is defined as any offence, other than a sexual offence, in which the HIV status of the alleged offender may be relevant for purposes of investigation or prosecution). In the light of the serious consequences of HIV infection and the fear of victims of being infected with HIV, victims have the right to apply for the HIV testing of the alleged offenders and to have the result disclosed to them. The investigating officer may also apply to have you tested for HIV.

How will knowledge about my HIV status help the alleged victim? The result of the test may help him or her- • to decide whether to submit himself or herself to medical treatment which is costly and has serious effects but could prevent him or her from contracting the virus; • to take

measures to prevent the virus from being transmitted further from himself or herself to other persons (eg to the sexual partner of the victim or to her baby if she is pregnant or breast-feeding); and

- to provide the victim with peace of mind regarding his or her possible exposure to HIV during the alleged commission of the sexual offence.

Who granted the order that I be tested for HIV? A magistrate from the magistrate's court in the district in which you allegedly committed the sexual offence or offence granted the order. On what basis has the court order been granted? The magistrate granted the order after considering evidence on oath by the person who applied to have you tested for HIV and by the investigating officer. The magistrate is satisfied that on a prima facie basis-

- you have committed a sexual offence or offence against the victim who applied, or on whose behalf application was made, to have you tested for HIV;
- in the course of the commission of the alleged offence, the victim may have been exposed to your body fluids (semen, blood or vaginal fluid); and
- no more than 90 calendar days have lapsed from the date of the alleged commission of the offence.

You must note that the existence of prima facie evidence against you does not mean that you will be convicted of the crime. The state must prove [sic] beyond reasonable doubt that you committed the offence you are charged with. Prima facie evidence is utilized for the application to have you tested for HIV without your consent. May I refuse to have my blood samples tested for HIV? No. It is an order of the court. The magistrate may also issue a Warrant of Arrest if there is reason to believe that you may avoid compliance with the order or have already avoided compliance therewith. If you fail to comply with, or avoid compliance with a court order for your HIV testing, you are guilty of an offence and may be liable on conviction to a fine or to imprisonment for a period not exceeding three years. How will I be tested for HIV? The investigating officer will take you to a registered medical practitioner or nurse who will take two blood samples from you. The investigating officer will take the properly identified samples to a designated public health establishment where they will be tested for HIV. Who will pay for the HIV testing? The State. It will not cost you any money. Will I be informed about the HIV test result? Yes. The investigating officer will ensure that you receive the HIV test result and information on where you can obtain assistance in dealing with the results and the implications thereof. What if the charge against me is a false charge? Any person who, with malicious intent, lays a charge with the South African Police Service in respect of an alleged sexual offence with the intention to apply in terms of section 30(1) of the Act to ascertain the HIV status of any person, is guilty of an offence and is liable on conviction to a fine or to imprisonment for a period not exceeding three years. Will the test result be disclosed to other persons? The HIV test results may only be disclosed to the victim or the interested person who applied for the compulsory HIV testing of the alleged offender, yourself (as the alleged offender), the investigating officer and the prosecutor, where applicable, or any other person who needs to know the test results for purposes of any civil proceedings or an order of the court. Will the test result be used in the trial against me? Yes. Section 34 of the Act provides that the results of an HIV test may be used as evidence in any civil proceedings ensuing from the sexual offence or to enable the investigating officer to gather information for purposes of criminal proceedings. How does my HIV status affect others? Your HIV status does not only have serious implications for the alleged victim, but also for your own health and the health of others (eg your sexual partner or baby). Every person has the responsibility not to put others at risk of HIV infection. It is important that you obtain advice, assistance and information on treatment if you are HIV positive and on how to protect yourself and others against infection with HIV. Are there any service organizations which can provide counselling and support? There are a number of private and public institutions that will assist you to deal with the implications of the HIV test results. Some of these services are free of charge, while others may

require the payment of a fee. These include: • Private medical and social facilities (eg a general medical practitioner or psychologist);

- Public medical and social facilities, including-
 - Life Line
 - Child Line
 - Child protection organizations
 - Local State Hospitals and Clinics
 - Rape Crisis- FAMSA
 - Departments of Social Welfare
 - Local AIDS Service Organizations
- Contact details of these service providers are available in the telephone directory, from the investigating officer and from the prison authorities.

SOUTH AFRICAN POLICE SERVICE

NOTICE CONTAINING INFORMATION ON CONFIDENTIALITY OF AND HOW TO DEAL WITH HIV TEST RESULTS

Section 33(1)(e) of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act 32 of 2007) Note:

(1) The Notice must be handed to-

(a) the victim or interested person who acts on behalf of the victim and who applied to have the alleged offender tested for HIV; and

(b) the alleged offender who has been tested for HIV. (2) The purpose of the Notice is to provide the parties set out in (1) above, with information on the confidentiality and how to deal with information about the outcome of a compulsory HIV test. How will I be informed of the HIV test result of the alleged offender? The results of the HIV test of the alleged offender will be made available to you in a sealed envelope, marked 'Confidential/Vertroulik'. What will be contained in the sealed envelope? The sealed envelope will contain a document completed by a person attached to the health establishment that performed the HIV testing on the blood samples of the alleged offender. The form will state whether the alleged offender tested: • positive for HIV; or

• negative for HIV. If I am the victim, may I disclose the HIV status of the alleged offender to other people? You may not disclose the HIV test results with malicious intent or in a grossly negligent manner to any person other than the alleged offender, the investigating officer, the prosecutor or any other person who needs to know the test results for purposes of any civil proceedings or an order of the court. What should I do with the HIV test result? You should obtain assistance from an

expert to understand the implications of the result and on how to deal with the result, regardless of whether the test result was positive or negative. Expert assistance will help you to-

- understand the test result;
- deal with immediate emotional reactions and concerns;
- understand how the result will affect your health and the health of others (eg your sexual partner);
- identify the need for social and medical care; and
- discuss the need to disclose the test result to others.

Service organisations which can provide counselling and support

There are a number of private and public facilities that will assist you to deal with the implications of the HIV test results. Some of these services are free of charge, while others may require the payment of a fee. These include:

- Private medical and social facilities (eg a general medical practitioner or psychologist);
 - Public medical and social facilities, including-
 - Life Line - Rape Crisis - Child Line- FAMSA - Child protection organizations- Departments of Social Welfare - Local State Hospitals and Clinics- Local AIDS Service Organizations
- Contact details of these service providers are available in the telephone directory and from the investigating officer. If, after you have read the Notice, there is anything you do not understand, you may contact the investigating official, one of the service providers mentioned above or a social worker of the Department of Correctional Services for assistance.

SOUTH AFRICAN POLICE SERVICE

APPLICATION FOR A WARRANT OF ARREST

Section 33(3) of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007

(Act 32 of 2007) IN THE MAGISTRATES' COURT FOR THE DISTRICT OF

.....HELD AT

.....CASE NO:

.....1

APPLICATIONI, (Persal number)

..... (rank)

..... (name and surname of investigating officer), hereby applies [sic] in terms of section 33(3) of the Act to the Magistrate of

..... to

issue a warrant of arrest for the alleged offender referred to below as- Delete whichever is not applicable.*(a) there is reason to believe that he or she may avoid; or Delete whichever is not applicable.*(b) he or she has avoided,

compliance with an order contemplated in section 31(3) or section 32(3) of the Act.2

PARTICULARS OF ALLEGED OFFENDER CHARGED WITH COMMITTING SEXUAL OFFENCE OR OFFENCE Full names and surname:

.....Any other surnames:
.....Date of birth:
.....Age:
.....Identi
ty number/passport number:Home
address/temporary address:

.....Delete whichever is not
applicable.*The offender has not been arrested for the alleged sexual offence or offence.Delete
whichever is not applicable.*The offender has been released on bail subject to the following bail
conditions:.....
.....

.....
.....

.....3

ORDER FOR HIV TESTING CONTEMPLATED IN SECTION 31(3) OR SECTION 32(3) OF THE
ACTThe order contemplated in section 31(3) or section 32(3) of the Act-

Delete whichever is not applicable. *(a) was granted on
(date). A copy of the order is attached hereto.Delete whichever is not applicable. *(b) is
being applied for simultaneously with this application.

4 GROUNDS FOR APPLICATIONThe application is brought on the following grounds:

.....
.....
.....
.....
.....
.....

.....T

he above statement was made by me at the place, date and time as indicated below.Delete
whichever is not applicable* I know and understand the contents of this statement. I have no
objection to taking the prescribed oath. I consider the prescribed oath as binding on my
conscience.ORDelete whichever is not applicable* I solemnly affirm that the contents of this
statement is

true.....SIGNATU
RE OF INVESTIGATING OFFICERPLACE.....DATEI certify that the deponent has

acknowledged that he/sheDelete whichever is not applicable* knows and understands the contents
of this statement which was sworn to/affirmedDelete whichever is not applicable* before me and
the deponent's signature was placed thereon in my presence.SIGNED AND SWORN TO/SOLEMNLY

CONFIRMED Delete whichever is not applicable* IN MY PRESENCE ON THIS THE
DAY OF..... AT AND AT
..... (TIME)..... SIGNED:

JUSTICE OF THE PEACE/COMMISSIONER OF OATHS Full names:
..... Designation:
..... Area for which
appointed: Business address:
.....
.....

SOUTH AFRICAN POLICE SERVICE

APPLICATION FOR ACCESS TO HIV TEST RESULT OF ALLEGED SEXUAL OFFENDER,
.....
(name and surname of prosecutor) attached to the
..... (court), hereby apply to
..... (rank)
..... (name and surname of investigating
official) in the case of
(name of alleged sexual offender) to obtain access to the HIV test result that was conducted on the
alleged offender. I am responsible to conduct the prosecution of the alleged offender for the
commission of the sexual offence or any other court
proceedings..... SIG
NATURE OF PROSECUTOR DATE I, (Persal
number)..... (rank)
..... (name and surname of
investigating official), handed over the result of the HIV test of the alleged offender to the
prosecutor referred to
above..... SIGNATURE OF INVESTIGATING OFFICIAL DATE

Notes to the investigating official: (1) This application form must
be filed in the docket. (2) An appropriate entry must be made in the investigating diary of the docket
and you must request the prosecutor to sign at the entry to acknowledge receipt of the record.

NATIONAL DIRECTIVES AND INSTRUCTIONS ON CONDUCTING A FORENSIC EXAMINATION ON
SURVIVORS OF SEXUAL OFFENCE CASES IN TERMS OF THE ACT

Published under

GN 223 in GG 31957 of 6 March 2009

1 General

These directives, which are designed to provide standardized procedures for conducting
forensic examination on sexual offence survivors in all health establishments in the Republic, must

be read with the Department of Health's National Sexual Assault Policy, National Management Guidelines for Sexual Assault Care, the Victims Charter, the National Health Act, 2003 (Act 61 of 2003), Termination of Pregnancy Amendment Act, 2004 (Act 38 of 2004), Children's Act, 2005 (Act 38 of 2005), and all other relevant legislation. The directives must be adhered to, in order to, amongst others, ensure a holistic, coordinated, efficient, and supportive response to survivors of sexual offence as well as to ensure the provision of a full range of comprehensive services to survivors who have made the decision to report a sexual offence by:

- (i) Meeting the immediate needs of the survivor with crisis intervention and support services;
- (ii) Provide a joint, effective, sensitive approach to survivors of sexual offence; and
- (iii) Assist the police conducting an investigation of the crime by documenting and preserving forensic evidence for prosecuting the alleged sexual offender.

Directive 1

Section 66(3)(a)(i) the administering of Post Exposure Prophylaxis (PEP)

2 Survivors of sexual offence who present within 72 hours

PEP must be offered to all HIV negative patients presenting within 72 hours of a sexual offence that resulted in the patient coming into contact with the blood, semen or vaginal fluid of the alleged offender.

3 HIV testing

- (a) PEP is provided to survivors of sexual offence who are HIV negative.
- (b) HIV testing to establish status is therefore essential for PEP provision.
- (c) Survivors of sexual offence must be counselled prior to being offered testing for HIV.
- (d) In the case of children under 12 years, who do not have sufficient maturity to understand the benefits and mentally ill or disabled survivors of sexual offence, pre- and post-test counselling must be provided to the parent or legal guardian as they are persons who must give consent for HIV testing.
 - (e) Such parents or legal guardian must be treated as the 'patient'.
 - (f) If such persons are not available, the head of a health establishment, the court, child commissioner or social worker may sign the consent form for HIV testing.
 - (g) Children over the age of 12 years, and younger children with sufficient maturity to understand the benefits, risks and implications of an HIV test, can legally consent for HIV testing.
 - (h) Use a rapid HIV test for all survivors of sexual offence who opt for PEP.
 - (i) If the test is negative inform the patient of the results and provide post-test counselling.

(j) If the first test is positive, this must be confirmed with a second rapid test. The survivor can be informed of the positive results after a confirmatory result that is also positive.

(k) If the second test is negative, a laboratory test (HIV-ELISA) is required.

(l) Further counselling on the use of ARVs as prophylaxis, the common side-effects, the importance of follow-up testing and the necessity to practice safe sex until all testing is completed at 3 months must be given.

(m) An anti-emetic should be given with PEP to prevent nausea and vomiting.

4 Post-exposure prophylaxis

(a) PEP must be administered within 72 hours of exposure.

(b) A 3-day starter pack must be offered to those patients who prefer not to test immediately, those who are not ready to receive results immediately or those who are unable to consent immediately due to severity of injuries or traumatisation.

(c) The rest of the treatment must be given when the HIV status of the patient has been established as negative.

(d) For those patients who cannot return for their one-week assessment due to logistical or economic reasons, a 28 day treatment supply with an appointment date must be given. This may be particularly relevant outside of the metropolitan areas.

(e) Patients who test HIV positive at the first test and those who sero-convert must be referred for long-term HIV and AIDS care.

(f) While on PEP and until the three-month visit showing the patient is HIV negative, the patient must be advised to use condoms with partner. Condoms should be provided to the survivor.

(g) The health care professional must inform the patient of other services available to the patient such as reporting the case to the police, counselling and management of sexually transmitted infections and other infectious diseases (tetanus and Hepatitis B).

5 AZT and 3TC regimen for adults

(a) Dose of Zidovudine (AZT): 300mg 12 hourly (or 200 mg 8 hourly for 28 days).

(b) Dose of Lamivudine (3TC): 150mg 12 hourly for 28 days.

6 AZT and 3TC regimen for children <14 years

(a) The maximum dose calculated per child should not exceed the adult doses, viz. Zidovudine 300 mg 12 hourly and Lamivudine 150mg 12 hours. Paediatric dosage is based on height and weight and is calculated by the doctor.

(b) The standard dose for the lopinavir/ritonavir is 230mg Lopinar and 57.5mg Ritonavir per metre square twice daily.

WeightLamivudine

(Epiriv(R) 3TC)Zidovudine(R), (Retrovir ZVD, AZT)4mg/kg twice daily240mg/m² twice dailyKGLiquid

10 mg/ml Tablet

150 mgLiquid 10mg/ml Capsule 100mg5-6.92ml7ml7-9.93ml6ml1 cap10-11.94ml12ml1 cap12-14.95ml14mlA cap15-16.96ml15ml2 caps17-19.97ml1/2 tab17ml2 caps20-24.9 9ml1/2 tab20ml2 caps25-29.925-27.911ml1/2 ab24ml3 caps or 300mg28-29.912ml1/230-34.913ml1 tab 27ml3 caps or 300mg15ml1tab30ml 3 caps or 300mg

7 High risk exposure

(a) A third drug lopinavir/ritonavir 400/100mg 12 hourly, can be added to the above is recommended in patients whose risk of infection is assessed to be high.

(b) The risk of HIV transmission is regarded high under the following conditions:

- (i) Where there have been multiple perpetrators;
- (ii) Anal penetration;
- (iii) Obvious trauma to the genitalia; and/or
- (iv) Known HIV positivity of one of the perpetrators.

(c) An assessment of the patient's ability to adhere to medication must be taken into account as lopinavir/ritonavir is a large capsule that cannot be crushed or opened and should be swallowed whole. It has a bitter aftertaste and requires a specific regimen.

(d) Not enough scientific evidence exists to support the three drug regimen, but it is considered best-practice in these circumstances.

8 Side effects/contra-indications

(a) Relative contra-indications to the use of AZT and 3TC include significant renal or liver impairment. Where a health care professional is in doubt about the use of AZT and 3TC in individual patients, s/he must contact his/her local physician or referral centre for advice.

(b) The health care professional must explain the common side effects of the drugs to the patient, which are tiredness, headache, malaise, flu-like symptoms, muscle pains, nausea and vomiting.

(c) Most of these symptoms can be relieved with ordinary analgesia such as paracetamol and anti-emetics.

(d) The patient must be informed that these are temporary, vary in intensity and that they do not cause long-term harm.

9 Drug interaction and adherence

(a) Taking other medication such as those for pregnancy prevention and antibiotics may compound the side effects of AZT and 3TC.

(b) The health care professionals must advise the patient to return to the health facility if symptoms occur rather than stop the drugs.

(c) The health care professional must emphasize the importance of adherence.

(d) The health care professionals must improve adherence by employing a number of strategies such as:

- (i) Encouraging patient to continue with counselling sessions;
- (ii) How to identify each tablet;
- (iii) When to take them;
- (iv) Expected side-effects and management options for side-effects;
- (v) Always providing an anti-emetic with the treatment;
- (vi) Home visits;
- (vii) Follow-up phone calls;
- (viii) Pill diary;
- (ix) Referral to NGOs; and
- (x) Support groups.

(e) If the patient is taking lopinavir/ritonavir, she must be advised that the effectiveness of oral contraception is reduced.

(f) All survivors taking PEP should therefore be advised to practice safer sex until the 3 month HIV test.

(f) Patients who are using a condom, it is not necessary to adjust the dose of oral contraceptives.

(g) However, if she cannot use a condom, the patient must then be advised to increase the dosage of oral contraceptives when taking Kaletra.

10 Use in pregnancy

(a) PEP is not contra-indicated during pregnancy or lactation and the use of AZT and 3TC in the first trimester of pregnancy has not been shown to be teratogenic.

(b) However, there is no evidence on whether lopinavir/ritonavir is teratogenic and is therefore not recommended if the patient is pregnant.

11 Survivors presenting after 72 hours of sexual offence

(a) Survivors of sexual offence presenting after 72 hours should be provided with general counselling and be informed that there is no evidence that PEP will have any impact if taken more than 72 hours after exposure and that there is a potential risk of HIV infection.

(b) HIV testing should be offered at this visit with the prerequisite pre- and post-test counselling. The window period should be explained to patients who test negative at this time. The patients must be advised to return for a repeat HIV test at 6 weeks and again at 3 months. The necessity to practice safer sex should be explained.

12 Other treatment

(a) The following should be given:

Anti-tetanus toxoid (ATT) for injuries covered by dirt, if the patient was last immunized against tetanus more than 10 years ago.

(b) Treatment for STIs should be provided to all patients.

(i) Treatment for adults:

- Cefixime 400mg stat po (alternative: Ceftriaxone 250mg IMI stat)
- Doxycycline 100mg bd po for 7 days
- Metronidazole 2g stat po (alternative: Metronidazole 400mg bd po for 7 days). Only for female patients or males who were sexually assaulted by females.

(ii) Treatment for pregnant women:

- Cefixime 400mg stat po (alternative: Ceftriaxone 250mg IMI stat or Spectinomycin 2g stat IMI)
- Erythromycin 500mg qid for 7 days
- Metronidazole 2g stat po (alternative: Metronidazole 400mg bd po for 7 days). Metronidazole 400mg bd po for 7 days should be used in the first trimester.

(iv) Treatment for children <14 years of age:

Ceftriaxone:

- If child weighs <25kg: 125mg IMI stat
- If child weighs >25kg: 250mg IMI stat
- In children >13 years of age can use Cefixime 400mg stat po

Erythromycin:

- If child <12 years: 50mg/kg body weight per day in 4 doses
- If child >12 years: 250mg qid for 7 days

(v) Metronidazole (Only for female patients or males who were sexually assaulted by females):

- If child 1 -3 years: 50mg tds for 7 days
- If child 4-7 years: 100mg bd for 7 days
- If child 8-10 years: 100mg tds for 7 days
- In children >10 years: Metronidazole 2g stat po (alternative: Metronidazole 400mg bd po for 7 days). Metronidazole 400mg bd po for 7 days is preferred for children.

(b) Emergency contraceptives pills (ECP) with an antiemetic, should be provided to all females in the reproductive age who have a negative pregnancy test and present within 5 days of the rape.

(c) This includes girls with signs of breast development and all women who have not had a hysterectomy or undergone menopause.

(d) The recommended regimen is levonorgestrel 1.5mg stat po.

(e) Alternative regimens include combined pills including ethinyl estradiol and levonorgestrel in various dosing combinations. These have to be taken immediately and repeated in 12 hours.

(f) Hepatitis immunisation can be provided to survivors who have not been completely vaccinated or previously infected. A complete course of vaccination i.e. 3 doses would be required to prevent future infections.

(g) Medication regimes may be routine and sound simple for health care professionals, however to patients who are traumatized and stressed, enormous difficulty may be experienced in relation to remembering what must be taken when and why etc.

(h) Patients should be given simple and clearly written instructions about taking medication.

13 Referral

(a) The patient should be given information about appropriate local support services.

(b) Written referrals should be provided if the patient requests this. These services include:

- (i) NGO's Support
- (ii) Rape crisis centers
- (iii) Shelters or safe houses
- (iii)[sic] Legal AID

- (iv) Support groups
- (v) Social Services
- (vi) Reproductive health services/TOP services for failed contraception

14 Follow up

(a) On discharging the patient ensure that the proper follow-up arrangements are in place.

(b) Clinical follow-up should be at a week, 6 weeks and three months. At the clinical follow up examinations check the following:

Clinical follow-up at a week

Counselling and HIV test for those that did not take the test initially - discontinue ARV if test positive. Counselling should be continued at each visit especially for those not tested for HIV initially

- Results of HIV test
- Provide rest of ARV if HIV negative
- Assessment of general physical state, healing of injuries
- Assess completion of medications
- Assessment of emotional state
- Ask about psychological reactions and coping and provide appropriate support
- Contraception counselling if appropriate
- Clinical follow-up at 6 weeks
- Repeat HIV test if tested negative at first visit
- Give results of HIV test
- Assessment of general physical state, healing of injuries
- Assessment of emotional state
- Assess completion of medications
- Ask about psychological reactions and coping and provide appropriate support
- Look for post traumatic stress disorder and treat
- Pregnancy testing and counselling - possible referral for TOP
- Contraception counselling if appropriate
- Clinical follow-up at 3 months
- Repeat HIV test if 6 week test was negative

- Provide results of HIV test
- Assessment of general physical state, health of injuries
- Assessment of emotional state
- Ask about psychological reactions and coping and provide appropriate support
- Look for post-traumatic stress disorder and treat

Directive 2

(ii) The manner in which court orders for compulsory HIV testing contemplated in section 33 must be executed in order to ensure the security, integrity and reliability of the testing processes and test results

15 Compulsory HIV testing of alleged offender

(a) The health care professional must ensure that the survivor of the sexual offence or interested person [has] requested HIV testing of the alleged offender within 90 days of the sexual offence prior to conducting the HIV testing.

(b) The health care professional must offer the alleged sexual offender pre-test counselling or ensure that such pre-test counselling has been done.

(c) The health care professional must give the alleged sexual offender all the necessary information with regard to HIV and AIDS.

16 Blood specimens

(a) A blood specimen for ELISA testing must be collected.

(b) If Elisa test is positive, the results are conclusive and reported as such.

(c) If the ELISA test is negative, then the test result is reported as 'negative'.

(d) To ensure the security of the HIV test results, health care professionals must ensure that they are handled confidentially.

(e) All HIV test results of alleged sexual offenders must be kept in a locked cabinet/cupboard with access restricted only to the head of the health establishment or unit.

(f) Only the investigating officer has access to the results.

(h)[sic] Offenders will receive their sealed HIV results from the investigating officer, and a notice providing prescribed information on the confidentiality of and how to deal with the HIV test results.

(g)[sic] If necessary, the health care professional must explain the contents of the notice. One set of the HIV test results must remain at the health establishment for record keeping as prescribed or, where applicable, make the record of the HIV test results available to the prosecutor

who needs to know the results for purposes of the prosecution of the matter in question or any other court proceedings.

Directive 3

(iii) The manner in which the HIV test results contemplated in section 37 must be dealt with in order to ensure confidentiality

17 The obligation of the health care professional with regard to the HIV test results of the alleged offender

(a) The health care professional must maintain and guarantee confidentiality about the conducting of the HIV test.

(b) To ensure the security, integrity and confidentiality of the HIV test results, the health care professional must ensure that they are handled confidentially.

(c) All HIV test results of alleged sexual offenders must be kept in a locked cabinet/cupboard with access restricted only to the head of the health establishment or unit.

(d) These results must be made available only to the investigating officer responsible for the case.

(e) The health care professional must hand the investigating officer the record of the result of the HIV test with duplicate sealed separate envelopes marked 'confidential' with:

(i) The case number;

(ii) Name and rank of the investigating officer;

(iii) Name of the survivor; and

(iv) Name of the alleged offender.

(f) The HIV results must be handed to the investigating officer in a sealed record with a notice containing information on confidentiality as contemplated in form 9.

(g) The survivor or the interested person should be counselled prior to receiving the HIV results of the alleged sexual offender. The investigating officer must ensure that the survivor or interested person has been counselled before handing over the sealed record of the HIV results to the survivor or to the interested person, as the case may be.

Directive 4

(iv) The manner in which the reporting of an alleged sexual offence is to be dealt with if the offence is reported to a designated public health establishment

18 Patients who do not want to report the incident to the police

(a) There is no statutory obligation to report the sexual offence if the patient is an adult, except if the survivor is an older person in need of care and protection in terms of the Older Persons

Act, 2006 (Act 13 of 2006), minors in terms of the Children's Act, 2005 (Act 38 of 2005) and mentally ill persons as defined in the Mental Health Care Act, 2002 (Act 17 of 2002).

(b) In case of a patient who is uncertain about reporting the alleged offence, the health care professional should address the patient's fears and concerns to assist the patient make the decision about reporting.

(c) However, uncertain patients should be encouraged to report the case to the police within 24 hours of the sexual offence.

(d) The patient must also be encouraged to allow the collection of non-degradable evidence to be preserved in case she/he decides to report the case at a later date.

(e) The patient must be informed that the evidence will only be retained at the health care establishment for a minimum of 6 weeks.

(f) The health care professional must ensure that such evidence is properly secured.

(f)[sic] Amongst others, the patient should be offered the following health care services:

(i) Counselling;

(ii) Treatment of any physical injuries;

(iii) STI's and HIV and AIDS prevention;

(iv) In case of female patients of reproductive age, pregnancy risk evaluation and prevention; and

(v) Other infectious diseases prevention and treatment.

(g) The patient's right to decide should always be respected and honoured.

(h) The patient, including minors, should never be coerced or forced to report the sexual offence or to undergo medical forensic examination.

(i) If the patient consents to be examined, but refuses biological evidence to be collected, diagrams, photographs and completion of J88 form is still recommended.

(j) By law children under the age of 16 years cannot consent to intercourse. Therefore, health care professionals have a legal obligation to report sexual offences cases involving minors under the age of 16 to the police irrespective of the patient's choice.

(k) If the patient is willing to report the alleged offence, but is unable to do so due to injuries, the head of the designated unit or health care establishment must request the police to interview the patient on site for statement recording.

(l) The patient who is willing and able to go and report the matter to the police must be encouraged to do so.

(v) The manner in which assistance in the investigation and prosecution of sexual offences, generally must be conducted

19 Investigations/examination of sexual offences patients

(a) The Sexual Assault Evidence Collection Kit (the kit) must be utilized in conducting forensic medical examination in sexual offence cases. There are different kits for both adults and children under the age of 12 years.

(b) The kit has a checklist of all the evidence needed to be collected for forensic purposes as well as instructions, which should be followed meticulously.

(c) The rights of the patient must be respected at all times.

(d) Informed consent is vital in the examination of patients of sexual offence. Therefore, a required consent form SAP308 must be completed prior to physical examination.

(e) Complete history of the patient should be taken.

(f) Physical examination by experienced and skilled forensic health care professional must be performed in all forensic examination.

(g) Special consideration should be taken in the examination involving children.

(h) Correct positioning of patients and techniques is very important during the examination.

(i) Forensic health care professionals must adequately complete the required documentation (including the J88 form) and sound conclusions be made.

(j) The box and all items in the kits are bar coded with their unique number. As a result, components of different kits should not be swapped or mixed.

(k) Unused components of each kit must be discarded.

(l) The collection of forensic evidence should immediately follow medical examination.

(m) Only medically stabilized patients should be referred for forensic medical examination evidence collection.

(n) Emergency treatment enjoys precedent[sic] over forensic medical evidence collection.

(o) Forensic evidence collection includes:

(i) Biological samples;

(ii) Trace evidence;

(iii) Physical injuries;

(iv) Psychological behaviour;

(v) Photography;

(vi) Diagrams; etc

(p) The specimens should be properly packaged (and stored for a minimum of 6 weeks, if necessary) and transferred.

(q) Mismanagement of the evidentiary chain may result in the court ruling it as inadmissible.

(r) Similarly, evidence collected by a non-expert will be rejected by the court.

20 Samples to be collected on a sexual offence patient

(a) The following samples should be collected:

(i) Oral specimen;

(ii) Clothing collection;

(iii) Evidence on patient's body;

(iv) Fingernails;

(v) Saliva on skin;

(vi) Semen or other stains on body;

(vii) Head hair;

(viii) Pubic area specimen;

(ix) Ano-rectal specimen;

(x) Genital specimen; and

(xi) Reference blood sample as per instruction in the kit.

(b) During the forensic examination, only parts under examination should be exposed and be covered before proceeding to the next site of concern.

21 Precautionary measures during the collection of forensic medical evidence

(a) Take care not to damage the hymen in sexually inactive females.

(b) Obtain the required swab from the genital area.

(c) Refrain from a speculum examination in a person who was a virgin prior to the sexual offence.

(d) Speculum examinations in pre-pubertal females are discouraged.

(e) The members of the forensic team must avoid cross-contamination of biological substances, including their own.

Patients must be informed that confiscated clothing is being sent for forensic analysis.

(f) The following persons must be granted assistance during forensic medical examination:

- (i) Children;
- (ii) The disabled;
- (iii) Psychological[ly] traumatized; and
- (iv) The elderly

22 Drugs and alcohol

(a) In suspected drug facilitated sexual offences, collect blood for alcohol in the prescribed blood tube.

(b) Urine for metabolite screening should also be collected in the case of suspected drug facilitated sexual offence as this can be detected in the urine for longer periods after ingestion than in blood.

23 HIV test

(a) Blood for HIV testing should be collected if patient consents to testing.

(b) This may be done immediately on presentation after the reported sexual offence or after three days.

(c) For the procedure and management thereof, see Directives 1, 2 and 3.

24 Urine for pregnancy test

(a) The health care professional must collect urine for pregnancy test in female children and women of child-bearing age who are otherwise sexually active and not adequately covered by a contraceptive as it is important to rule out pregnancy.

(b) Presence of a pregnancy might affect the type of treatment given and the woman will want to know whether the pregnancy preceded the sexual offence.

25 Products of conception

(a) Products of conception that resulted from a sexual offence can be collected using the Human Tissue Collection Kit.

(b) This may be collected at birth or after an abortion.

(c) The specimens may include placental tissue, fetus or fetal tissue.

26 Additional diagnostic tests

If there is any necessity for any additional diagnostic tests to be done, the required samples should be taken.

27 Additional investigations for children: screening for STIs

(a) Although investigations for sexually transmitted infections are no longer recommended for the management of sexual offences in adults, in children the presence of STIs may be diagnostic of sexual abuse and therefore investigations are required.

(b) The following specimens should be taken:

(i) A vaginal swab for microscopy and/or culture .

(ii) Blood for STIs and HIV.

28 Maintaining chain of evidence/reporting to the police

(a) Until a trial takes place, access to the confidential information contained in the J88 form is legally privileged to the investigating officer and the Department of Justice and Constitutional Development.

(b) The information may, however, be disclosed to the defence lawyer after obtaining a court order from the Magistrate or Prosecution.

(c) The original J88 form should be handed to the investigating officer after obtaining his/her signature. A copy should be filed in the patient's file for record purposes and subsequent court proceedings.

(d) If the investigating officer is not present, the forensic health care professional should clearly mark and registered[sic] the forms and kit, and keep them under lock and key. These should only be given to the investigating officer and not just any person.

(e) The storage period should be very short. Non-degradable evidence can be kept for a longer period.

(f) The transfer of forensic medical evidence specimen from official to official should be recorded and confirmed by the signature or statement by the recipient. Failure to obtain acknowledgement may result in the rejection of the evidence.

(g) Evidence is like a chain and should not be broken. Evidence must be passed directly from one custodian to another.

(h) Ideally the specimens should be handed over to the police immediately after the examination.

(i) Dispatching forensic medical samples is strictly police responsibility.

(j) Collected samples should be handed to the investigating officer as soon as possible.

29 Giving evidence in court: expert evidence

- (a) A forensic health care professional should factually and confidently present evidence in court.
- (b) A forensic health care professional should interpret his/her findings within the parameters of his/her expertise.
- (c) Both doctors and nurses are recognised experts.
- (d) Expertise is based on education, training, skills and experience.
- (e) Experts are called as witnesses in order to assist the court in coming to a proper decision on complex technical or scientific matters.

30 The South African court procedure

- (a) The South African court procedure is based upon an adversarial legal system. This means that the opposing sides (the prosecution and defence) may each call their own witnesses (including experts) to provide evidence in court.
- (b) Each side is also given the opportunity to test the other's through the process of cross-examination.
- (c) Once both sides have presented their evidence and argument, it is then up to the judge or magistrate to pass judgement on whether or not the state has proven its case against the accused beyond reasonable doubt.
- (d) It is essential for the forensic health care professionals to prepare their testimony by reviewing all records and notes, consult with other non-involved experts and refer to relevant research regarding their examination of the sexual offence patient.
- (e) Ideally the forensic health care professional should also consult with the state prosecutor beforehand. This will enable them to explain the findings and their significance and date of giving evidence to avoid delays and waiting for long periods in court.
- (f) When called to the stand, the prosecutor will begin leading evidence by asking the forensic health care professional to describe her/his expertise to the court. This may include qualifications, training and experience of examining sexual offence patients.
- (g) Thereafter the provider will be asked to describe her/his:
 - (i) Findings/opinion/results;
 - (ii) The process used/scientific criteria applied and reliability; and
 - (iii) Reasons for the findings/results.
- (h) After the prosecutor has led the forensic health care professional's evidence, it is then the turn of the defence attorney to cross-examine the provider. The purpose of the cross-examination is:

- (i) To separate truth from lies;
- (ii) To separate opinions from fact;
- (iii) To establish what the witnesses heard as opposed to what they know; and
- (iv) To establish things that actually happened as distinct from what the witness thought happened.

(i) Defence lawyers may dispute expertise by questioning the qualification and/or experience of the forensic health care professional.

(j) The defence lawyers may also put statements to the witness and then attempt the expert to agree with that statement.

(k) This is done to obtain concessions in the expert's testimony and narrow or eradicate any conflict between the expert's testimony and the defence's case. In this way, the defence attempts to create reasonable doubt.

(l) The expert witness must be prepared to defend the integrity of their[sic] findings and opinions against the questions of the cross-examiner.

31 Tips for giving evidence in court

(a) The attire of the testifying forensic health care professional should reflect professionalism.

(b) Avoid medical terminology. Explain in lay terms the details of their[sic] examination, findings and conclusions as required or requested.

(c) Do not provide more information than you are asked.

(d) Do not venture beyond your field of expertise, and answer of 'I don't know' is acceptable.

(e) Try to distinguish factual statements from opinions.

(f) Limit information to what is requested/required.

(g) The expert witness should be unbiased and be a servant of science and research only.

(h) Opinion evidence may be confirmed with the aid of relevant recognised research articles and books.

(i) After presenting factual evidence, the expert witness is entitled to opinion evidence.

(j) The forensic health care professional does not represent the State nor the defence, but should be considered independent.

(k) Consultants[sic] with the defence lawyer should be done with the permission and the presence of the State Prosecutor.

(Signed)