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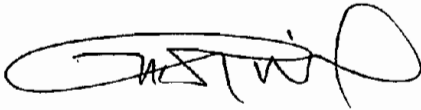
**GOVERNMENT NOTICE
GOEWERMENSKENNISGEWING**

**DEPARTMENT OF SAFETY AND SECURITY
DEPARTEMENT VAN VEILIGHEID EN SEKURITEIT**

No. 865

15 August 2008

The National Instruction on Sexual Offences is hereby published in terms of section 66(1) of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No. 32 of 2007) for general information.



**T.C. WILLIAMS
ACT/NATIONAL COMMISSIONER**

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 No. 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 No. 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 No. 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;

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- (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 No. 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);

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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 (e.g. 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

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- 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 —
- (l) 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 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;

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- (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*.

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- (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 instill 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 despatched 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;

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- (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 despatched 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.

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- (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;

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- (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.

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IF ...	THEN ...
<p>a parent or guardian of a <i>child victim</i> —</p> <ul style="list-style-type: none"> ▶ cannot be traced within a reasonable time; ▶ cannot grant consent in time; ▶ is a suspect in respect of the offence in consequence of which the examination must be conducted; ▶ unreasonably refuses consent; ▶ has a mental disorder and cannot consent to the examination; or ▶ is dead 	<p>an application must be made to a magistrate in terms of section 335B of the Criminal Procedure Act, 1977 (Act No. 51 of 1977) for consent to conduct the medical examination.</p>
<p>a magistrate is not available</p>	<p>a member who is a commissioned officer, or the local station commissioner, may give consent when presented with the following two affidavits:</p> <ul style="list-style-type: none"> ▶ One by the <i>investigating officer</i>, or another member from the station dealing with the matter, which states that a magistrate's consent cannot be obtained within a reasonable period. ▶ One from a <i>health care professional</i> which states that the purpose of the medical examination will be defeated if it is not conducted forthwith.

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- (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 No. 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.

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- (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

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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

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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 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 No. 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 completed 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 disclose 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 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 No 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.

(4) 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 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 *victim* for the court hearing.
- (2) In terms of section 153 of the Criminal Procedure Act, 1977 (Act No 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 No 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/ AANHANGSEL A

**PUBLIC HEALTH ESTABLISHMENTS PROVIDING PEP TREATMENT
OPENBARE GESONDHEIDSINSTELLINGS WAT PEP BEHANDELING
VOORSIEN**

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:

Die volgende is 'n lys van openbare gesondheidsinstellings (per provinsie) waar PEP behandeling vir slagoffers van seksuele misdrywe gratis beskikbaar is:

MPUMALANGA

SUB-DISTRICT	FACILITY	TYPE	TEL NUMBER
SUB-DISTRIK	FASILITEIT	TIPE	TEL NOMMER
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 Cheweu LM	Lydenburg Hosp	District Hosp	(013) 235 2233
Bushbuckridge LM	Mapulangeng Hosp	Regional Hosp	(013) 799 0214
Thaba Cheweu 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 Cheweu 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 / NOORDWES

SUB-DISTRICT	FACILITY	TYPE	TEL NUMBER
SUB-DISTRIK	FASILITEIT	TIPE	TEL NOMMER
Lekwa-Teemane LM	Bloemhof/Christiana H	District 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 H	District Hosp	(016) 632 3041
Moses Kotane LM	George Stegmann H	District 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	Moretelelesi Hosp	District Hosp	(014) 519 0600/07
Maquassi Hills LM	Nic Bodenstein Hosp	District Hosp	(018) 596 1100 (018) 596 2110
Potchefstroom LM	Potchefstroom Hosp	Regional Hosp	(018) 297 7011
Rustenburg LM	Rustenburg Hosp	Regional Hosp	(014) 590 5100
Mamusa LM	Schweizer-Reneke H	District Hosp	(053) 953 1291
Kgetleng Rivier LM	Swartruggens Hosp	District Hosp	(014) 544 0751
Greater Taung LM	Taung Hosp	District Hosp	(053) 994 1805/9
Ditsobotla LM	Thusong Hosp	District Hosp	(018) 338 2418 (018) 338 2920
Ventersdorp LM	Ventersdorp Hosp	District Hosp	(018) 264 2081 (018) 264 4478
Naledi LM	Vryburg Hosp	District Hosp	(053) 927 2121
Ramotshere Moiloa	Zeerust Hosp	District Hosp	(018) 642 1121

KWAZULU-NATAL

SUB-DISTRICT SUB-DISTRIK	FACILITY FASILITEIT	TYPE TIPE	TEL NUMBER TEL NOMMER
Newcastle LM	Madadeni Hosp	Regional Hosp	(034) 374 9221
Newcastle LM	Newcastle Hosp	Regional Hosp	(034) 328 0000
Utrecht LM	Niemeyer Memorial H	District Hosp	(034) 331 3011
eThekwini SD	Addington Hosp	Regional Hosp	(031) 332 2111
eThekwini SD	Inkosi Albert Luthuli H	National Central H	(031) 240 1000
eThekwini SD	King Edward VIII Hosp	Prov Tertiary Hosp	(031) 360 3111
eThekwini SD	Mahatma Gandhi Hosp	Regional Hosp	(031) 502 1719
eThekwini SD	McCords Hosp	District Hosp	(031) 268 5700
eThekwini SD	Osindisweni Hosp	District Hosp	(032) 541 0323
eThekwini SD	Prince Mshiyeni Memorial Hosp	Regional Hosp	(031) 907 8111 (031) 907 8254
eThekwini SD	RK Khan Hosp	Regional Hosp	(031) 459 6000
eThekwini SD	St Aidan's Hosp	Regional Hosp	(031) 314 2200
eThekwini SD	St Mary's Hosp	District Hosp	(031) 717 1000
eThekwini SD	Wentworth Hosp	District Hosp	(031) 460 5000
KwaDukusa LM	Stanger Hosp	Regional Hosp	(032) 437 6000
Maphumulo LM	Umphumulo Hosp	District Hosp	(032) 481 7787/8/9
Maphumulo LM	Untujambili Hosp	District Hosp	(033) 444 0818
Ndwedwe LM	Montebello Hosp	District Hosp	(033) 506 0008
Kokstad LM	East Griqualand/Usher Hosp	District Hosp	(039) 797 8100
Ingwe LM	St Apollinaris Hosp	District Hosp	(039) 833 1045/55
Matatiele LM	Taylor Bequest Hosp	District Hosp	(039) 737 3107
Ubuhlebezwe LM	Christ the King Hosp	District Hosp	(039) 834 2067
Umzimkhulu LM	Rietvlei Hosp	District Hosp	(039) 260 0000
Umzimkhulu LM	St Margaret's Hosp	District Hosp	(039) 259 9222
Hibiscus Coast LM	Murchison Hosp	District Hosp	(039) 687 7311
Hibiscus Coast LM	Port Shepstone Hosp	Regional Hosp	(039) 688 6000
Umdoni LM	GJ Crookes' Hosp	District Hosp	(039) 978 7000
uMuziwabantu LM	St Andrew's Hosp	District Hosp	(039) 433 1955
The Msunduzi LM	Edendale Hosp	Regional Hosp	(033) 395 4911
The Msunduzi LM	Grey's Hosp	Prov Tertiary H	(033) 897 3000
The Msunduzi LM	Northdale Hosp	District Hosp	(033) 387 9000
uMshwathi LM	Appelsbosch Hosp	District Hosp	(032) 294 0002
Hlabisa LM	Hlabisa Hosp	District Hosp	(035) 838 1003
Jozini LM	Bethesda Hosp	District Hosp	(035) 595 1004
Jozini LM	Mosvold Hosp	District Hosp	(035) 591 0122
Umhlabuyalingana LM	Manguzi Hosp	District Hosp	(035) 592 0150/9303
Umhlabuyalingana LM	Mseleni Hosp	District Hosp	(035) 574 1004
Endumeni LM	Dundee Hosp	District Hosp	(034) 212 1111
Msinga LM	Church of Scotland H	District Hosp	(033) 493 0004
Nquthu LM	Charles Johnson Mem H	District Hosp	(034) 271 1900
Umvoti LM	Greytown Hosp	District Hosp	(033) 413 9400

Emnambithi LM	Ladysmith Hosp	Regional Hosp	(036) 637 2111
Okhahlamba LM	Emmaus Hosp	District Hosp	(036) 488 1570
Umtshezi LM	Estcourt Hosp	District Hosp	(036) 342 7000
Mthonjaneni LM	KwaMagwa Hosp	Regional Hosp	(035) 450 2071
Nkandla LM	Ekhombe Hosp	District Hosp	(035) 834 2000
Nkandla LM	Nkandla Hanp	District Hosp	(035) 833 0012
uMhlathuze LM	Lower Umfolozi War H	Regional Hosp	(035) 902 8500
uMhlathuze LM	Ngwelezana Hosp	Regional Hosp	(035) 901 7000
uMlalazi LM	Catherine Booth Hosp	District Hosp	(035)474 8403/9/7
uMlalazi LM	Eshowe Hosp	District Hosp	(035) 473 4500
uMlalazi LM	Mbongolwane Hosp	District Hosp	(035) 476 6242
Abaqulusi LM	Vryheid Hos	District Hosp	(034) 982 2111
Nongoma LM	Benedictine Hosp	District Hosp	(035) 831 0314
Ulundi LM	Ceza Hosp	District Hosp	(035) 832 0081/0021
Ulundi LM	Nkonjeni Hosp	District Hosp	(035) 873 0013
uPhongolo LM	Itshelejuba Hosp	District Hosp	(034) 413 2542

FREE STATE / VRYSTAAT

SUB-DISTRICT SUB-DISTRIK	FACILITY FASILITEIT	TYPE TIPE	TEL NUMBER TEL NOMMER
Masilonyana LM	Winburg Hosp	District Hosp	(051) 881 0046
Matjhabeng LM	Bongani Hosp	Regional Hosp	(057) 396 6300
Matjhabeng LM	Katleho Hospital	District Hosp	(057) 212 4221
Matjhabeng LM	Thusanong Hosp	District Hosp	(057) 354 2111
Nala LM	Nala Hosp	District Hosp	(056) 515 2071
Tswelopele LM	Mohau Hosp	District Hosp	(053) 444 1912
Mangaung LM	Botshabelo Hosp	District Hosp	(051) 533 0111
Mangaung LM	Dr JS Moroka Hosp	District Hosp	(051) 873 2233
Mangaung LM	National District Hosp	District Hosp	(051) 405 2911
Mangaung LM	Oranje Hosp	Regional Hosp	(051) 407 9911
Mangaung LM	Pelonomi Hosp	Regional Hosp	(051) 405 1911
Mangaung LM	Universitas Hosp	Prov Tertiary H	(051) 405 3911
Mangaung LM	Mantsopa Hosp	District Hosp	(051) 91 3268
Mafube LM	Mafube Hosp	District Hosp	(058) 813 1040
Metsimaholo LM	Metsimaholo Hosp	District Hosp	(016) 976 0270
Moqhaka LM	Boitumelo Hosp	Regional Hosp	(056) 25 2113
Ngwathe LM	Parys Hosp	District Hosp	(056) 811 2155
Ngwathe LM	Tokollo Hosp	District Hosp	(058) 892 3039
Dihlabeng LM	Dihlabeng Hosp	Regional Hosp	(058) 303 5331
Dihlabeng LM	Phekolong Hosp	District Hosp	(058) 303 5331
Maluti a Phofung LM	Elizabeth Roos Hosp	District Hosp	(058) 789 1213
Maluti a Phofung LM	Mofumahadi Manapo Mopeli	Regional Hosp	(058) 713 1211
Maluti a Phofung LM	Thebe Hosp	District Hosp	(058) 622 1111
Nketoana LM	Nketoana Hosp	District Hosp	(058) 863 2806
Phumelela LM	Phumelela Hosp	District Hosp	(058) 013 1044
Setsoto LM	Itemoheng Hosp	District Hosp	(058) 48 2114
Setsoto LM	John Daniel Newberry Hosp	District Hosp	(051) 943 0434
Setsoto LM	Phuthuloaha Hosp	District Hosp	(051) 92 2284
Kopangong LM	Diamond/Diamant Hosp	District Hosp	(051) 724 0058
Mohokare LM	Embekweni Hosp	District Hosp	(051) 673 1211
Mohokare LM	Matlakeng Hosp	District Hosp	(051) 673 1240
Mohokare LM	Stoffel Coetzee Hosp	District Hosp	(051) 683 1120

WESTERN CAPE / WES-KAAP

SUB-DISTRICT	FACILITY	TYPE	TEL NUMBER
SUB-DISTRIK	FASILITEIT	TIPE	TEL NOMMER
Tygerberg SD	Tygerberg Hosp	National Central H	(021) 938 4911
Eden DMA	Uniondale Hosp	District Hosp	(044) 752 1068
Southern SD	Victoria Hosp	Regional Hosp	(021) 799 1111
Saldanha Bay LM	Vredenburg Hosp	District Hosp	(022) 713 1251
Matzikama LM	Vredendal Hosp	District Hosp	(027) 213 3706
Northern Panorama	Westfleur Hosp	District Hosp	(021) 572 3071
Central SD	Somerset Hosp	Regional Hosp	(021) 402 6429
Stellenbosch LM	Stellenbosch Hosp	District Hosp	(021) 887 0310
Swartland LM	Swartland Hosp	District Hosp	(022) 487 9201
Swellendam LM	Swellendam Hosp	District Hosp	(028) 514 1141/2
Prince Albert	Prince Albert Hosp	District Hosp	(023) 541 1300
Bergrivier LM	Radie Kotze Hosp	District Hosp	(022) 913 1175
Central SD	Red Cross Children's Hosp	National Central H	(021) 658 5111
Hessequa LM	Riversdale Hospital	District Hosp	(028) 713 2445
Br River/WinelandsLM	Robertson Hosp	District Hosp	(023) 826 3155/6/7
Cape Agulhas LM	Otto Du Plessis Hosp	District Hosp	(028) 424 2654
Oudtshoorn LM	Oudtshoorn Hosp	District Hosp	(044) 272 8921
Drakenstein LM	Paarl Hosp	Regional Hosp	(021) 872 1711
Br River/Wine-lands LM	Montagu Hosp	District Hosp	(023) 614 1860
Mossel Bay LM	Mossel Bay Hosp	District Hosp	(044) 691 2011
Central Karoo DMA	Murraysburg Hosp	District Hosp	(049) 844 0053
Kannaland LM	Ladismith Hosp	District Hosp	(028) 551 1010
Laingsburg LM	Laingsburg Hosp	District Hosp	(023) 551 1237
Bergrivier LM	LAPA Munnik Hosp	District Hosp	(022) 487 9201
Eastern SD	Hottentots Holland H	Regional Hosp	(021) 852 1334
Tygerberg SD	Karl Bremer Hosp	Regional Hosp	(021) 916 1911
Knysna LM	Knysna Hosp	District Hosp	(044) 382 6666
Central SD	Groote Schuur Hosp	National Central H	(021) 404 9111
Overstrand LM	Hermanus Hosp	District Hosp	(028) 312 1166
Breede Valley LM	Eben Dönges Hosp	Regional Hosp	(023) 348 1100
Eastern SD	Eerste River Hosp	District Hosp	(021) 904 8188
Southern SD	False Bay Hosp	District Hosp	(021) 782 1211
George LM	George Hosp	Regional Hosp	(044) 874 5122
Klipfontein SD	GF Jooste Hosp	Regional Hosp	(021) 690 1000
Theewaterskloof LM	Caledon Hosp	District Hosp	(028) 312 1670
Witzenberg LM	Ceres Hosp	District Hosp	(023) 312 1116
Cederberg LM	Citrusdal Hosp	District Hosp	(022) 921 2153/4/5
Cederberg LM	Clanwilliam Hosp	District Hosp	(027) 482 1628
Beaufort West LM	Beaufort West Hosp	District Hosp	(023) 415 2188

EASTERN CAPE /OOS-KAAP

SUB-DISTRICT SUB-DISTRIK	FACILITY FASILITEIT	TYPE TIPE	TEL NUMBER TEL NOMMER
Umzimvubu LSA	Mary Teresa Hosp	District Hosp	(039) 255 0062
Umzimvubu LSA	Mount Aylit Hosp	District Hosp	(039) 254 0231
Umzimvubu LSA	Sipetu Hosp	District Rasp	(039) 255 0077
Amahlati LSA	Cathcart Hosp	District Rasp	(045) 843 1029
Amahlati LSA	SS Gida Hosp	District Hosp	(040) 658 0097
Amahlati LSA	Stutterheim Hosp	District Hosp	(043) 683 1313
Buffalo City LSA	Bisho Hosp	District Hosp	(040) 835 2950/60
Buffalo City LSA	Cecilia Makiwane Hosp	Regional Hosp	(043) 708 2111
Buffalo City LSA	Frere Hosp	Regional Hosp	(043) 709 1111
Buffalo City LSA	Grey Hosp	District Hosp	(043) 643 3300
Buffalo City LSA	Komga Hosp	District Hosp	(043) 831 1013
Buffalo City LSA	Nompumeleto Hosp	District Hosp	(040) 673 3321
Mbhashe LSA	Madwaleni Hosp	District Hosp	(047) 131 1371
Mnquma LSA	Butterworth Hosp	District Hosp	(047) 491 4161/5
Mnquma LSA	Tafalofefe Hosp	District Hosp	(047) 498 7223
Nkonkobe LSA	Adelaide Hosp	District Hosp	(046) 684 0066
Nkonkobe LSA	Bedford Hosp	District Hosp	(046) 685 0043
Nkonkobe LSA	Fort Beaufort Hosp	District Hosp	(046) 645 1111
Nkonkobe LSA	Victoria Hosp	District Hosp	(040) 653 1141
Emalahleni LSA	Dordrecht Hosp	District Hosp	(045) 953 1195
Emalahleni LSA	Glen Grey Hosp	District Hosp	(047) 878 0018
Emalahleni LSA	Indwe Hosp	District Hosp	(045) 952 1190/1288
Intsika Yethu LSA	Cofimvaba Hosp	District Hosp	(047) 874 0111
Inxuba Yethemba LSA	Cradock Hosp	District Hosp	(048) 881 2123
Inxuba Yethemba LSA	Martje Venter Hosp	District Hosp	(045) 846 0053
Inxuba Yethemba LSA	Wilhelm Stahl Hosp	District Hosp	(049) 242 1111
Lukhanji LSA	Frontier Hosp	Regional Hosp	(045) 839 4001
Lukhanji LSA	Hewu Hosp	District Hosp	(040) 841 0133
Lukhanji LSA	Molteno Hosp	District Hosp	(045) 987 0089
Lukhanji LSA	Sterkstroom Hosp	District Hosp	(045) 966 0268
Ngcobo LSA	All Saints Hosp	District Hosp	(047) 248 1111
Ngcobo LSA	Mjanyana Hosp	District Hosp	(047) 532 4496
Sakhisizwe LSA	Cala Hosp	District Hosp	(047) 877 0129
Sakhisizwe LSA	Elliot Hosp	District Hosp	(045) 931 1321
Camdeboo LSA	Aberdeen Hosp	District Hosp	(049) 846 0578
Camdeboo LSA	Andries Vosloo Hosp	District Hosp	(042) 243 1313
Camdeboo LSA	Midland Hosp	District Hosp	(049) 892 2211
Camdeboo LSA	SAWAS Memorial Hosp	District Hosp	(049) 836 0214
Camdeboo LSA	Willowmore Hosp	District Hosp	(044) 923 1148
Kouga LSA	BJ Vorster Hosp	District Hosp	(042) 288 0714
Kouga LSA	Humansdorp Hosp	District Hosp	(042) 295 1100
Kouga LSA	Sundays Valley Hosp	District Hosp	(042) 230 0567

Makana LSA	Port Alfred Hosp	District Hosp	(046) 624 5752
Makana LSA	Settlers Hosp	District Hosp	(046) 622 2215
N Mandela LSA	Dora Nginza Hosp	Regional Hosp	(041) 406 4111
N Mandela LSA	Livingstone Hosp	Regional Hosp	(041) 405 9111
N Mandela LSA	Port Elizabeth Prov H	Regional Hosp	(041) 392 3911
N Mandela LSA	Uitenhage Hosp	District Hosp	(041) 9951111
King Dalindyebo LSA	Mthatha General Hosp	Regional Hosp	(047) 501 3000
King Dalindyebo LSA	Nelson Mandela Acad	Regional Hosp	(047) 502 4513
King Dalindyebo LSA	Zitulele Hosp	District Hosp	(047) 575 0005
Mhlontlo LSA	Nessie Knight Hosp	District Hosp	(047) 557 0722
Mhlontlo LSA	St Lucy's Hosp	District Hosp	(047) 545 9831
Nyandeni LSA	Bambisana Hosp	District Hosp	(039) 253 7803
Nyandeni LSA	Canzibe Hosp	District Hosp	(047) 564 1346
Nyandeni LSA	Isilimela Hosp	District Hosp	(047) 564 2805
Nyandeni LSA	St Barnabas Hosp	District Hosp	(047) 555 1010/1/2
Qaukeni LSA	Greenville Hosp	District Hosp	(039) 251 3009/10
Qaukeni LSA	Holy Cross Hosp	District Hosp	(039) 200 2590/1
Qaukeni LSA	St Elizabeth's Hosp	Regional Hosp	(039) 253 1111
Qaukeni LSA	St Patrick's Hosp	District Hosp	(039) 251 0232/6
Elundini LSA	Maclear Hosp	District Hosp	(045) 932 1186
Elundini LSA	Taylor Bequest Hosp	District Hosp	(039) 257 0007
Maletswai LSA	Aliwal North Hosp	District Hosp	(051) 634 2381
Matetswai LSA	Burgersdorp Hosp	District Hosp	(051) 653 1882
Maletswai LSA	Steynsburg Hosp	District Hosp	(048) 884 0241
Senqu LSA	Cloete Joubert Hosp	District Hosp	(045) 971 0091
Senqu LSA	Empilisweni Hosp	District Hosp	(051) 661 0037
Senqu LSA	Lady Grey Hosp	District Hosp	(051) 603 0093

LIMPOPO

SUB-DISTRICT	FACILITY	TYPE	TEL NUMBER
SUB-DISTRIK	FASILITEIT	TIPE	TEL NOMMER
Blouberg LM	Blouberg Hosp	District Hosp	(015) 501 0505
Molemole LM	Botlokwa Hosp	District Hosp	(015) 527 0058
Gr Tubatse LM	Dilokong Hosp	District Hosp	(013) 214 7270
Mutale ML	Donald Fraser Hosp	District Hosp	(015) 982 4050
Gr Tzaneen LM	Dr CN Phatudi Hosp	District Hosp	(015) 355 3432
Greater Letaba LM	Duiwelskloof Hosp	District Hosp	(015) 309 9241
Makhado LM	Elim Hosp	District Hosp	(015) 558 3201
Lephalale LM	Ellisras Hosp	District Hosp	(014) 763 2227
Modimolle LM	FR Odendaal Rosp	District Hosp	(014)7172324
Mogalakwena LM	George Masebe Hosp	District Hosp	(015) 295 9056
Gr Groblersdal IM	Groblersdal Hosp	District Hosp	(013) 262 3024
Blouberg LM	Helene Frans Hosp	District Hosp	(015) 505 0750
Makhudutamaga LM	Jane Furse Hosp	District Hosp	(013)265 1000
Greater Letaba LM	Kgapane Hosp	District Hosp	(015) 328 3510
Lepelle-Nkumpi LM	Lebowakgomo Hosp	District Hosp	(015) 632 6900
Greater Tzaneen LM	Letaba Hosp	Regional Hosp	(015) 303 1711
Makhado LM	Louis Trichardt Hosp	District Hosp	(015) 516 0148
Thumamela LM	Malamulele Hosp	District Hosp	(015) 851 0026
Polokwane LM	Mankweng Hosp	Prov Tertiary Hosp	(015) 267 0330
Ba-Phalaborwa LM	Maphutha L Malatjie H	District Hosp	(015) 769 1520
Gr Marble Hall LM	Matlala Hospital	District Hosp	(013) 264 9602
Gr Tubatse LM	Mecklenburg Hosp	District Hosp	(015) 619 0208
Musina LM	Messina Hosp	District Hosp	(015) 534 0446
Mogalakwena LM	Mokopane Hosp	Regional Hosp	(015) 483 0331
Greater Giyani LM	Nkhensani Hosp	District Hosp	(015) 812 3251
Ba-Phalabarwa LM	Phalaborwa Hosp	District Hosp	(015) 781 3511
Gr Groblersdal LM	Philadelphia Hosp	Regional Hosp	(013) 983 0112
Mogalakwena LM	Potgietersrus Mogalakwena	Prov Tertiary Hosp	(015) 297 3163
Maruleng LM	Sekororo Hosp	District Hosp	(015) 383 0006
Polokwane LM	Seshego Hosp	District Hosp	(015) 223 5141
Makhado LM	Siloam Hosp	District Hosp	(015) 973 0004
Makhudutamaga LM	Rita's Hosp	District Hosp	(013) 298 1000
Thabazimbi LM	Thabazimbi Hosp	District Hosp	(014) 777 1599
Thulamela LM	Tshilidzini Hosp	Regional Hosp	(015) 964 1061
Greater Tzaneen LM	Van Velden Memorial	District Hosp	(015) 307 4475
Mogalakwena LM	Voortrekker Memorial	District Hosp	(015) 491 2236
Bela-Bela LM	Warmbaths Hosp	Regional Hosp	(014) 736 2121
Aganang LM	WF Knobel Hosp	District Hosp	(015) 221 0002
Laphalale LM	Witpoort Hosp	District Hosp	(014) 769 0025
Lepelle-Nkumpi LM	Zebediela Hosp	District Hosp	(015) 662 0787

NORTHERN CAPE / NOORD-KAAP

SUB-DISTRICT SUB-DISTRIK	FACILITY FASILITEIT	TYPE TIPE	TEL NUMBER TEL NOMMER
Richtersveld LM	Alexander Bay Hosp	District i-fasp	
Dikgatlong LM	Barkly Wes Hosp	District Hosp	(053) 531 0661
Hantam LM	Calvinia Voortrekker H	District Hosp	(027) 341 1205
Kareeberg LM	Carnarvon Hosp	District Hosp	(053) 382 3036
Umsobomvu LM	Colesberg Hosp	District Hosp	(051) 753 0771
Enthanjeni LM	De Aar (Centr Karoo) H (053) 631 2123		Regional Hosp
Siyancuma LM	Douglas Hosp	District Hosp	(053) 298 2612
Ubuntu LM	Richmond Hosp	District Hosp	(053) 693 0112
Nama Khoi LM	Springbok Hosp	District Hosp	(025) 122 018
Ubuntu LM	Victoria West	District Hosp	(053) 621 0271
Nama Khoi LM	Nababeep Hosp	District Hosp	(027) 713 8542
Umsobomvu LM	Noupoort (Fritz Visser) H	District Hosp	(049) 843 1448
Tsantsabane LM	Postmasburg Hosp	District Hosp	(059) 130 664
Siyathemba LM	Prieska (Bill Pickard) H	District Hosp	(053) 353 2037
Sol Plaatjie LM	Kimberley Hosp	Regional Hosp	(053) 802 9111
Nama Khoi LM	Kleinzee Hosp	District Hosp	(027) 807 3767
Kamiesberg LM	Garies (Van Rooyen) H	District Hosp	(027) 652 1002
Khara Hais LM	Gordonia Hosp	District Hosp	(054) 331 1580
Phokwane LM	Hartswater Hosp	District Hosp	(053) 474 0148
Thembelihle LM	Hopetown (Wege) H	District Hosp	(053) 203 0163
Phokwane LM	Jan Kempdorp Hosp	District Hosp	(053) 456 0126
Kai Garib LM	Kakamas Hosp	District Hosp	(054) 431 0866
Kai Garib LM	Keimoes Hosp	District Hosp	(054) 461 1004

GAUTENG

SUB-DISTRICT	FACILITY	TYPE	TEL NUMBER
SUB-DISTRIK	FASILITEIT	TIPE	TEL NOMMER
Johannesburg SD	Chris Hani Baragwanath Hosp	National Central H	(011) 933 2159
Johannesburg SD	Coronation Hosp	Regional Hosp	(011) 470 9000
Tshwane North SD	Dr George Mukhari H	National Central H	(012) 529 3111
Mogale City LM	Dr Yusuf Dadoo Hosp	District Hosp	(011) 951 6132
Johannesburg SD	Edenvale Hosp	Regional Hosp	(011) 882 2400
Ekurhuleni East SD	Far East Rand Hosp	Regional Hosp	(011) 817 1426
Ekurhuleni South SD	Germiston Hosp	District Hosp	(011) 345 1200
Lesedi LM	Heidelberg Hosp	District Hosp	(016) 341 2171
Johannesburg SD	Helen Joseph Hosp	Regional Hosp	(011) 489 0111
Johannesburg SD	Johannesburg Hosp	National Central H	(011) 488 4911
Tshwane Cent SD	Kalafong Hosp	Regional Hosp	(012) 318 6400
Emfuleni LM	Kopanong Hosp	District Hosp	(016) 423 7000
Mogale City LM	Leratong Hosp	Regional Hosp	(011) 411 3500
Tshwane Cent SD	Mamelodi Hosp	District Hosp	(012) 601 1905
Ekurhuleni South SD	Natalspruit Hosp	Regional Hosp	(011) 389 0500
Tshwane North SD	Odi Hosp	District Hosp	(012) 702 2274
Ekurhuleni East SD	Pholosong Hosp	Regional Hosp	(011) 738 5020
Tshwane Cent SD	Pretoria Acad Hosp	National Central H	(012) 354 1000
Tshwane Cent SD	Pretoria West Hosp	District Hosp	(012) 386 5111
Emfuleni LM	Sebokeng Hosp	Regional Hosp	(016) 930 3000
Johannesburg SD	South Rand Hosp	District Hosp	(011) 435 0022
Ekurhuleni South SD	Tambo Memorial Hosp	Regional Hosp	(011) 892 1144
Ekurhuleni North SD		Tembisa Hosp	Regional Hosp
	(011) 926 0814		
Tshwane Cent SD	Jubilee Hosp	District Hosp	(012) 717 2075

ANNEXURE B**OFFENCES IN TERMS OF THE CRIMINAL LAW (SEXUAL OFFENCES AND RELATED MATTERS) AMENDMENT ACT, 2007 (ACT NO. 32 OF 2007) AND COMMON LAW SEXUAL OFFENCES AND THEIR CAS CRIME CODES****23701**

Section 3: Rape

23702

Section 4: Compelled rape

23703

Section 5: Sexual assault

23704

Section 6: Compelled sexual assault

23705

Section 7: Compelled self-sexual assault

23706

Section 8: Compelling or causing persons 18 years or older to witness a sexual offences, sexual acts or self-masturbation

23707

Section 9: Exposure or display of or causing exposure or display of genital organs, anus or female breasts to persons 18 years or older ("flashing")

23708

Section 10: Exposure or display of or causing exposure or display of child pornography to persons 18 years or older

23709

Section 11: Engaging sexual services of persons 18 years or older

23710

Section 12: Incest

23711

Section 13: Bestiality

23712

Section 14: Sexual act with corpse

23713

Section 15: Acts of consensual sexual penetration with certain children (statutory rape)

23714

Section 16: Acts of consensual sexual violation with certain children (statutory sexual assault)

23715

Section 17: Sexual exploitation of children

23716

Section 18: Sexual grooming of children

23717

Section 19: Exposure or display of or causing exposure or display of child pornography or pornography to children

23718

Section 20: Using children for or benefiting from child pornography

23719

Section 21: Compelling or causing children to witness sexual offences, sexual acts or self-masturbation

23720

Section 22: Exposure or display of or causing exposure or display of genital organs, anus or female breasts to children ("flashing")

23721

Section 23: Sexual exploitation of persons who are mentally disabled

23722

Section 24: Sexual grooming of persons who are mentally disabled

23723

Section 25: Exposure or display of or causing exposure or display of child pornography or pornography to persons who are mentally disabled

23724

National Instruction 3/2008	Sexual Offences	Annexure B
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Section 26: Using persons who are mentally disabled for pornographic purposes or benefiting therefrom

23725

Section 55: Attempt, conspiracy, incitement or inducing another person to commit sexual offence

23726

Section 71(1): Trafficking in persons for sexual purposes

Section 71(2): Involvement in trafficking in persons for sexual purposes

Section 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 country

22004 / 22993

Common 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 operation.**

13994

Common 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 operation.**

25011

Common 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	<p>These must be combed from the suspect's pubic area .</p> <p>Place the hairs in a soft paper envelope</p>
Control hair samples from the suspect's head	<p>Minimum of 20 hairs are required.</p> <p>These must be pulled from different places on the suspect's head. Crime Kit 4</p> <p>These hairs are required from different places on the head as there may be differences in length and colour.</p> <p>Hair must not be cut from the suspect's head.</p> <p>Place the hairs in a soft paper envelope.</p>
Blood	Crime Kit 2 EDTA
Blood for determining alcohol content	<p>Only required if this is a factor in the case.</p> <p>Blood or Alcohol Kit</p>

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) <ul style="list-style-type: none"> - Age and date of birth - Identity number - Occupation - Residential & 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?				
	<table border="0"> <tr> <td style="vertical-align: top;">Consider: Touching</td> <td style="vertical-align: top;">Where and by whom; Victim by suspect. Suspect by victim.</td> </tr> <tr> <td style="vertical-align: top;">Kissing</td> <td style="vertical-align: top;">Suspect by victim. Victim by suspect.</td> </tr> </table>	Consider: Touching	Where and by whom; Victim by suspect. Suspect by victim.	Kissing	Suspect by victim. Victim by suspect.
Consider: Touching	Where and by whom; Victim by suspect. Suspect by victim.				
Kissing	Suspect by victim. Victim by suspect.				

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	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 (faces) 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?	

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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 suspects clothing. It may be necessary to state what the suspect was not wearing, eg a jacket.

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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.
74	Is the victim willing to attend court?
75	Make sure that the victim reads the statement thoroughly and that it is signed in all the right places.
76	When 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.
77	Victim'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:

Truth	Lie
<i>There are televisions in South Africa</i>	<i>There are no televisions in South Africa</i>
<i>The sun shines during the day</i>	<i>The sun does not shine during the day</i>
<i>You can use a pencil to draw a picture</i>	<i>You use a pencil to plant a tree</i>

- 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 child	Adult translation
<i>The uncle spanked me</i>	<i>Mr Nel assaulted me</i>
<i>The naughty man put his toti into my flower</i>	<i>Mr Ndlovu inserted his penis into my vagina</i>
<i>He put his wee-wee into my wee-wee</i>	<i>Mr Rodricks raped me</i>

- 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 visa versa
- The interpreter then signs the certification.
- The parent, guardian or accompanying adult of the child then endorses the statement in the following
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.

XXXXXXXXXX

(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 ensures 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

SUID-AFRIKAANSE POLISIEDIENS

SAPS 580(a)

**NOTICE OF SERVICES AVAILABLE TO VICTIM***Section 28(3) of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No. 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 practice 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 practice 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 counseling 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.

SOUTH AFRICAN POLICE SERVICE

SUID-AFRIKAANSE POLISIEDIENS



APPLICATION BY VICTIM OR INTERESTED PERSON FOR HIV TESTING OF ALLEGED OFFENDER

Section 30 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No. 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 ...
Case No.:

APPLICATION

To the clerk of the court, ...

Take notice that ...

(the victim*/interested person*) 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*; and
(b) that the HIV test results be disclosed to ... (the victim*/interested person*) 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*/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*

(b) The written consent of the victim is not required if the victim is * —

- 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):

* Delete which is not applicable

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 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*; or
- (ii) a designated health establishment*, 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:

* Delete which is not applicable

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.

- * 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

- * I solemnly affirm that the contents of this statement is true.

.....
SIGNATURE OF VICTIM / INTERESTED PERSON

.....
PLACE

.....
DATE

*Delete whichever is not applicable

I certify that the deponent has acknowledged that he/she* knows and understands the contents of this statement which was sworn to / affirmed * before me and the deponent's signature was placed thereon in my presence.

SIGNED AND SWORN TO / SOLEMNLY CONFIRMED* 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:

.....

**Delete whichever is not applicable*

PART B: ALLEGED OFFENDER

1. 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. AFFIDAVIT/SOLEMN DECLARATION BY 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.

- * 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

- * I solemnly affirm that the contents of this statement is true.

**Delete whichever is not applicable*

.....

SIGNATURE OF INVESTIGATING OFFICER	PLACE
---	--------------

.....
DATE

I certify that the deponent has acknowledged that he/she* knows and understands the contents of this statement which was sworn to / affirmed * before me and the deponent's signature was placed thereon in my presence.

SIGNED AND SWORN TO / SOLEMNLY CONFIRMED* 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:

**Delete whichever is not applicable*

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 a 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

SAP5 580(c)
SUID-AFRIKAANSE POLISIEDIENS



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 No. 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
Case 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:
Identity number/passport number:

3. PARTICULARS OF ALLEGED OFFENDER

Full names and surname:
Any other surnames:
Date of birth:
Age:
Identity 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*

Date of application:
Magistrate's Office where application was granted:
Where is test results kept?
**Delete whichever is not applicable*

6. AFFIDAVIT / SOLEMN DECLARATION BY 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.

- * 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

- * I solemnly affirm that the contents of this statement is true.
**Delete whichever is not applicable*

.....
SIGNATURE OF INVESTIGATING OFFICER **PLACE**

.....
DATE

I certify that the deponent has acknowledged that he* / she* knows and understands the contents of this statement which was sworn to* / affirmed * before me and the deponent's signature was placed thereon in my presence.

SIGNED AND SWORN TO* / SOLEMNLY CONFIRMED* 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:

**Delete whichever is not applicable*

SOUTH AFRICAN POLICE SERVICE

SAPS 580(d)
SUID-AFRIKAANSE POLISIEDIENS



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 No. 32 of 2007)*

IN THE MAGISTRATE’S 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 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 counseling 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	- 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, from the investigating officer and from the prison authorities.

SOUTH AFRICAN POLICE SERVICE

SUID-AFRIKAANSE POLISIEDIENS



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 No. 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
 - 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 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

SUID-AFRIKAANSE POLISIEDIENS



APPLICATION FOR A WARRANT OF ARREST

Section 33(3) of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No. 32 of 2007)

IN THE MAGISTRATES' COURT FOR THE DISTRICT OF

HELD AT

Case No.:

1. APPLICATION

I, (Persal number) (rank)

..... (name and surname

of investigating officer), hereby applies 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 —

*(a) there is reason to believe that he or she may avoid; or

*(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:

Identity number / passport number:

Home address / temporary address:

* The offender has not been arrested for the alleged sexual offence or offence.

* The offender has been released on bail subject to the following bail conditions:

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

* Delete whichever is not applicable.

3. ORDER FOR HIV TESTING CONTEMPLATED IN SECTION 31(3) OR SECTION 32(3) OF THE ACT

The order contemplated in section 31(3) or section 32(3) of the Act —

*(a) was granted on (date). A copy of the order is attached hereto.

*(b) is being applied for simultaneously with this application.

* Delete which is not applicable

4. GROUNDS FOR APPLICATION

The application is brought on the following grounds:

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

The above statement was made by me at the place, date and time as indicated below.

- * 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.

OR

- * I solemnly affirm that the contents of this statement is true.
**Delete whichever is not applicable*

.....
SIGNATURE OF INVESTIGATING OFFICER

.....
PLACE

.....
DATE

I certify that the deponent has acknowledged that he/she* knows and understands the contents of this statement which was sworn to / affirmed * before me and the deponent’s signature was placed thereon in my presence.

SIGNED AND SWORN TO / SOLEMNLY CONFIRMED* 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:

**Delete whichever is not applicable*

SOUTH AFRICAN POLICE SERVICE

SAPS 580(g)
SUID-AFRIKAANSE POLISIEDIENS



APPLICATION FOR ACCESS TO HIV TEST RESULT OF ALLEGED SEXUAL OFFENDER

I, (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 MIV 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.

.....
SIGNATURE OF PROSECUTOR

.....
DATE

I, (Persal number) (rank) (name and surname of investigating official) handed over the result of the MIV test of the alleged offender to the prosecutor referred to above.

.....
SIGNATURE OF INVESTIGATING OFFICIAL

.....
DATE

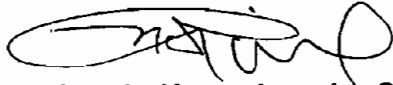
Notes to the investigating official:

- (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.

No. 865

15 Augustus 2008

Die Nasionale Instruksie oor Seksuele Misdrywe word hiermee kragtens artikel 66(1) van die Wysigingswet op die Strafwet (Seksuele Misdrywe en Verwante Aangeleenthede), 2007 (Wet No. 32 van 2007) vir algemene inligting gepubliseer.



T.C. WILLIAMS
ACT/NATIONAL COMMISSIONER

Nasionale Kommissaris: Suid-Afrikaanse Polisie

NATIONALE INSTRUKSIE 3/2008

SEKSUELE MISDRYWE

1. Agtergrond

Die Wysigingswet op die Strafbreg (Seksuele Misdrywe en Verwante Aangeleenthede), 2007 (Wet No. 32 van 2007) skep 'n raamwerk om te verseker dat omvattende en doeltreffende beskerming aan *slagoffers* van *seksuele misdrywe* verleen word. Die doel van hierdie Nasionale Instruksie is om te verseker dat lede 'n professionele diens lewer aan *slagoffers* ten opsigte van die ondersoek van misdrywe van hierdie aard en om in hierdie verband *slagoffers* by te staan.

2. Woordomskrywings

In hierdie Instruksie, tensy uit die konteks anders blyk, beteken —

- (a) **“belanghebbende persoon”**, enige persoon wat 'n wesenlike belang in die welstand van 'n *slagoffer* het, wat insluit 'n gade, permanente lewensmaat van dieselfde of teenoorgestelde geslag, ouer, voog, familielid, sorggewer, kurator, berader, *geneesheer*, gesondheidsorgvoorsiener, maatskaplike werker of onderwyser of onderwyseres van so 'n *slagoffer*;
- (b) **“die Wet”**, die Wysigingswet op die Strafbreg (Seksuele Misdrywe en Verwante Aangeleenthede), 2007 (Wet No. 32 van 2007);
- (c) **“geneesheer”**, 'n persoon wat ingevolge die Wet op Gesondheids-beroepe, 1974 (Wet No. 56 van 1974) as 'n geneesheer geregistreer is, en wat, vir doeleindes van artikel 33 van *die Wet*, gemagtig is om bloedmonsters soos beoog in Hoofstuk 5 van *die Wet* te neem;
- (d) **“professionele gesondheidsversorger”** die distriksgeneesheer of persoon wat deur die Departement van Gesondheid aangestel is om 'n *slagoffer* van 'n *seksuele misdryf* medies te ondersoek;
- (e) **“kind”** 'n persoon onder die ouderdom van 18 jaar;
- (f) **“misdaadtoneel”** die plek, insluitende, waar toepaslik, die voertuig of vaartuig waarby of waarin 'n beweerde *seksuele misdryf* gepleeg is;
- (g) **“ondersoekbeampte”** 'n lid van die Diens wat aangewys is om die klagte van 'n *seksuele misdryf* te ondersoek. Indien geen lid al as sodanig aangewys is nie, die lid of speurder wat op bystand is. Indien die *slagoffer* van die misdryf 'n *kind* is, mag slegs 'n lid wat deur die GKS- eenheid opgelei is, as *ondersoekbeampte* aangewys word;
- (h) **“openbare gesondheidsinstelling”**, 'n plek (soos uiteengesit in Aanhangsel A) wat deur die Minister van Gesondheid aangewys is om *PEP* aan *slagoffers* te voorsien en om verpligte MIV-toetsing uit te voer;
- (i) **“PEP”**, Na-Blootstellingsprofilakse, wat mediese behandeling is om die risiko van MIV- infeksie te verminder;

- (j) “**seksuele misdryf**” enige misdryf wat in Aanhangel B vermeld word;
- (k) “**slagoffer**” ‘n persoon, ongeag geslag of ouderdom, wat beweer dat ‘n *seksuele misdryf* teen hom of haar gepleeg is; en
- (l) “**verpleër of verpleegster**” ‘n persoon wat ingevolge die Wet op Verpleging, 2005 (Wet No. 33 van 2005) as sodanig geregistreer is en wat, vir doeleindes van artikel 33 van *die Wet*, gemagtig is om bloedmonsters, soos beoog in Hoofstuk 5 van *die Wet*, te neem.

3. Verantwoordelikheid van Stasiekommissaris

- (1) Elke Stasiekommissaris moet met plaaslike verteenwoordigers van die Departement van Gesondheid, (insluitende verteenwoordigers van *openbare gesondheidsinstellings* wat binne die stasiewyk is (waarna in Aanhangel A verwys word)), die Departement van Welsyn, die plaaslike Gemeenskapspolisieforum en enige ander relevante plaaslike instansie skakel om plaaslike organisasies te identifiseer wat bereid en in staat is om berading en ander ondersteuningsdienste (insluitende mediese behandeling) aan *slagoffers* te voorsien.
- (2) Nadat die organisasies bedoel in subparagraaf (1) geïdentifiseer is, moet die Stasiekommissaris met die genoemde organisasies skakel om te bepaal –
 - (a) watter bepaalde dienste deur elkeen verskaf word;
 - (b) of die dienste na-ure, tydens naweke en op openbare vakansiedae verskaf word en, indien wel, die na-ure kontakbesonderhede wat gebruik kan word om toegang te verkry tot die dienste;
 - (c) of die dienste gratis of teen ‘n fooi verskaf word; en
 - (d) die kontakbesonderhede van elkeen.
- (3) Die Stasiekommissaris moet ‘n lys van die relevante organisasies saamstel en, rakende elke organisasie, minstens die inligting waarna in subparagraaf (2) verwys word, daarby insluit, asook inligting rakende hospitale, ambulansdienste en *professionele gesondheidsversorgers* wat gekontak kan word om mediese behandeling aan *slagoffers* te verskaf.
- (4) Die oorspronklike lys bedoel in subparagraaf (3), moet deur die Stasiekommissaris bygehou word en hy of sy moet dit minstens eenmaal elke ses maande opdateer.
- (5) Die Stasiekommissaris moet verseker dat ‘n afskrif van –
 - (a) die *Wet*;
 - (b) die Regulasies wat ingevolge daarvan uitgevaardig is;
 - (c) hierdie Nasionale Instruksie;
 - (d) die stasie orders wat deur hom of haar ingevolge subparagraaf (6) uitgevaardig is; en
 - (e) die lys waarna in subparagraaf (3) verwys is, ten alle tye in die Gemeenskapdienssentrum beskikbaar is en dat ‘n afskrif van die lys waarna in subparagraaf (3) verwys word, ten alle tye in elke polisievoertuig beskikbaar is wat by sy of haar stasie gebruik word om klagtes by te woon.

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- (6) Die Stasiekommissaris moet stasie orders uitvaardig wat, inaggenome die unieke omstandighede wat in sy of haar bepaalde stasiewyk heers, die beskikbare hulpbronne, ens. –
- (a) van 'n lid onder sy of haar bevel vereis om 'n *slagoffer* in te lig van die dienste wat deur organisasies (vermeld in die lys) verskaf word en die manier waarop die *slagoffer* daarvan ingelig moet word (bv. deur die *slagoffer* van 'n afskrif van die lys te voorsien of om die *slagoffer* toe te laat om die lys deur te lees of die inligting in die lys aan die *slagoffer* te lees);
 - (b) die stappe uiteensit wat deur so 'n lid geneem moet word om, wanneer deur die *slagoffer* daartoe versoek, die *slagoffer* by te staan om toegang te verkry tot enige diens wat verskaf word deur 'n organisasie vermeld in die lys, of om mediese behandeling, indien dit benodig word, te verkry; en
 - (c) in die algemeen, lede onder sy of haar bevel, opdrag gee oor enige ander onderwerp rakende die behandeling van *slagoffers* wat hy of sy, ten opsigte van sy of haar bepaalde stasiewyk, nodig ag.
- (7) Waar die polisiestasiewyk deel vorm van 'n groter area wat uit meer as een polisiestasiewyk bestaan en 'n radiobeheereenheid is gestig om sodanige groter area te patroleer en klagtes by te woon, moet elke Stasiekommissaris van 'n stasie in sodanige groter area, vir inligtingsdoeleindes, die bevelvoerder van so 'n radiobeheereenheid voorsien van 'n afskrif van –
- (a) die lys waarna in subparagraaf (3) verwys word en, wanneer hy of sy die lys opgedateer het, 'n afskrif van die opgedateerde weergawe daarvan; en
 - (b) 'n afskrif van die stasie orders wat ooreenkomstig subparagraaf (6) uitgevaardig is, en, indien hy of sy die orders wysig, 'n afskrif van die opgedateerde weergawe daarvan.
- (8) Die Stasiekommissaris moet toesien dat alle funksionele lede by sy of haar stasie indiensopleiding (ook by stasiebyeenkomste) ondergaan aangaande die *Wet*, die *Regulasies*, hierdie *Instruksie* en die stasie orders wat deur hom of haar uitgereik is.

4. Aanmelding van 'n seksuele misdryf by 'n polisiestasie

- (1) Die beweerde pleging van 'n *seksuele misdryf* word gewoonlik aangemeld deur –
- (a) die *slagoffer* van die misdryf;
 - (b) 'n familielid, vriend of kollega van die *slagoffer*; of
 - (c) 'n persoon wat die pleging waargeneem het of inligting oor die pleging van die misdryf ontvang het.
- (2) Die persoon wat die beweerde pleging van die misdryf aanmeld, doen dit gewoonlik vrywillig (behalwe in omstandighede waarna in subparagraaf (3) verwys) word en is derhalwe gewoonlik gewillig om alle inligting wat hy of sy het, aan die polisie oor te dra.
- (3) (a) Ingevolge artikel 54(1) van *die Wet*, moet enige persoon wat daarvan kennis dra dat 'n *seksuele misdryf* teenoor 'n *kind* gepleeg is, sodanige kennis by 'n polisiebeampte aanmeld. Versuim om dit te doen, kom neer op 'n misdryf en 'n persoon is by skuldigebevinding strafbaar met 'n

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- boete of gevangenisstraf vir 'n tydperk van hoogstens vyf jaar of met beide sodanige boete en sodanige gevangenisstraf.
- (b) Ingevolge artikel 54(2) van *die Wet*, moet enige persoon wat daarvan kennis dra of 'n redelike oortuiging of vermoede het dat 'n *seksuele misdryf* teenoor 'n verstandelik gestremde persoon gepleeg is, sodanige kennis, oortuiging of vermoede by 'n polisiebeampte aanmeld. Versuim om dit te doen, kom neer op 'n misdryf en 'n persoon is by skuldigbevinding strafbaar met 'n boete of gevangenisstraf vir 'n tydperk van hoogstens vyf jaar of met beide sodanige boete en sodanige gevangenisstraf.
- (4) 'n Persoon wat sy of haar —
- (i) kennis dat 'n seksuele misdryf teenoor 'n *kind* of verstandelik gestremde persoon gepleeg is; of
- (ii) redelike oortuiging of vermoede dat 'n *seksuele misdryf* teenoor 'n verstandelik gestremde persoon gepleeg is, aanmeld as gevolg van die regsplig om dit ingevolge artikel 54 van *die Wet* aan te meld, kan dit soms doen weens vrees vir vervolging indien hy of sy versuim om dit te doen.
- (5) Indien 'n persoon (waarna in subparagraaf (4) verwys word) sodanige kennis of sy of haar redelike oortuiging of vermoede by 'n polisiebeampte aanmeld, mag die lid wat die inligting ontvang onder geen omstandighede sodanige persoon wegwys nie. So 'n lid moet die inligting oorweeg en —
- (a) indien die lid tevrede is dat daar redelike gronde is om te glo dat so 'n misdryf inderdaad gepleeg is, 'n beëdigde verklaring van die persoon verkry wat die inligting insluit wat deur daardie persoon verskaf is, 'n dossier vir die ondersoek van die misdryf, wat na bewering gepleeg is, open en die dossier op die MAS-stelsel registreer; of
- (b) indien die lid nie tevrede is dat daar redelike gronde is om te glo dat so 'n misdryf inderdaad gepleeg is nie, met die Gemeenskapdienssentrumbevelvoerder konsulteer wat 'n volledige VB-inskrywing van die aanmelding moet maak, asook die redes waarom die bevelvoerder nie tevrede is dat daar redelike gronde is om te glo dat so 'n misdryf inderdaad gepleeg is nie, en die nommer van die VB-inskrywing aan die persoon verskaf wat die aanmelding gemaak het. Die inskrywing moet voldoende besonderhede van die persoon, wat die aanmelding gemaak het, insluit sodat hy of sy opgespoor kan word en 'n onderhoud met hom of haar gevoer kan word indien dit nodig sou blyk te wees.
- (6) Enige persoon wat die beweerde pleging van 'n *seksuele misdryf* teenoor 'n *kind* aanmeld, moet deur 'n lid op 'n professionele wyse hanteer word en moet gerusgestel word dat die aanmelding in 'n ernstige lig beskou word en deeglik ondersoek sal word.

5. Slagofferbystand

- (1) Tydens die pleging van 'n *seksuele misdryf*, ervaar die *slagoffer* ernstige trauma. Dit is moeilik om aan enige ander misdryf te dink waartydens die liggaamlike en psigiese integriteit, privaatheid en menswaardigheid van 'n *slagoffer* terselfdertyd meer ernstig geskend word as tydens die pleging van 'n *seksuele misdryf*. Verder raak die pleging van 'n *seksuele misdryf* nie net die

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slagoffer alleen nie, maar ook sy of haar familie en persoonlike lewe. 'n Lid moet hierdie feit voortdurend in gedagte hou tydens sy of haar interaksie met die *slagoffer* en die familie of vriende van die *slagoffer*.

- (2) Tydens die pleging van 'n *seksuele misdryf* ervaar die *slagoffer* gewoonlik gevoelens van magteloosheid, hulpeloosheid en weerloosheid. Wanneer die misdryf by 'n polisiebeampte aangemeld word, herleef die *slagoffer* die voorval en ervaar daardeur sekondêre trauma. Die sekondêre trauma word vererger indien die lid die onderhoud op 'n ongevoelige wyse voer of die *slagoffer* onnodig aanraak. Aan die ander kant word sekondêre trauma verminder indien die *slagoffer* toegelaat word om 'n persoon, van sy of haar keuse, ter ondersteuning teenwoordig te hê en hy of sy tydens die onderhoud gerusgestel word en die onderhoud gevoer word in 'n omgewing wat, óf bekend is aan die *slagoffer*, óf vir die *slagoffer* gerusstellend is (wat die gevoel by die *slagoffer* skep dat hy of sy veilig is en dat wat hy of sy sê nie deur ander gehoor kan word nie en met vertroulikheid hanteer word).
- (3) In die lig van bovermelde, is dit noodsaaklik dat die lid, by wie 'n *slagoffer* die pleging van 'n *seksuele misdryf* by 'n polisiestrasie aanmeld, —
- (a) onmiddellik die *slagoffer* versoek om hom of haar na 'n toepaslike area te vergesel, verwyderd van die hooftoonbank in die Gemeenskapdienssentrum en wat buite sig en hoorafstand is van persone in die Gemeenskapdienssentrum;
 - (b) die *slagoffer* gerusstel dat hy of sy nou veilig is en beskerm sal word. Indien die *slagoffer* en die beweerde oortreder in 'n gesinsverhouding is, moet die lid die *slagoffer* ooreenkomstig die Nasionale Instruksie oor Gesinsgeweld inlig;
 - (c) vasstel of die *slagoffer* mediese hulp benodig en, indien wel, reël tref dat die *slagoffer* so gou as moontlik mediese hulp bekom;
 - (d) die *slagoffer* vra of hy of sy sal verkies om 'n ander persoon teenwoordig te hê om hom of haar gedurende die onderhoud te ondersteun en, indien die *slagoffer* verkies dat sodanige persoon teenwoordig is, sodanige persoon toelaat om teenwoordig te wees om hom of haar gedurende die onderhoud te ondersteun;
 - (e) die *slagoffer* gerusstel dat hy of sy die regte ding doen het om die aangeleentheid by die polisie aan te meld en dat die aangeleentheid sensitief hanteer sal word en dat hy of sy nie onnodig aan verdere traumatisering blootgestel sal word nie;
 - (f) luister na wat die *slagoffer* sê, sonder om hom of haar in die rede te val en hom of haar gerusstel; en
 - (g) elke ding wat die *slagoffer* sê, neerskryf, aangesien dit getuienis kan wees wat die polisie in die ondersoek kan help (maak ondersoeknotas).
- (4) Enige lid wat inligting ontvang dat 'n *seksuele misdryf* na bewering teen enige persoon gepleeg is, moet altyd die inligting in 'n baie ernstige lig beskou en moet onmiddellik daaraan aandag gee, ongeag hoe lank gelede (voor die inligting aangemeld is) die misdryf na bewering gepleeg is of in watter stasie se wyk dit na bewering gepleeg is. Geen *slagoffer* mag weggewys word bloot weens die feit dat die beweerde misdryf lank gelede plaasgevind het of na bewering in die stasiewyk van 'n ander polisiestrasie gepleeg is nie.

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- (5) Terwyl daar verklarings van die *slagoffer* en sy of haar familie verkry word, moet die lid ten alle tye op 'n professionele wyse optree en sensitief wees teenoor die emosies van die *slagoffer* en sy of haar familie. Die lid moet geduldig wees met die *slagoffer* en hom of haar toelaat om te verduidelik wat gedurende die beweerde pleging van die misdryf gebeur het sonder om die *slagoffer* onnodig te onderbreek. 'n Lid mag nooit bevooroordeelde wees tydens interaksie met die *slagoffer* nie, ongeag wat die omringende omstandighede van die misdryf is.
- (6) Wanneer voldoende besonderhede van die *slagoffer* bekom is, moet 'n dossier geopen, op die MAS geregistreer en 'n beëdigde verklaring afgelê word waarin die volgende duidelik vermeld moet word:
- (a) die tyd en datum waarop die misdryf na bewering gepleeg is;
 - (b) die plek waar die misdryf na bewering gepleeg is;
 - (c) die aard van die beweerde misdryf;
 - (d) die wyse waarop dit na bewering gepleeg is;
 - (e) die eerste persoon aan wie die *slagoffer* die beweerde pleging van die *seksuele misdryf* gemeld het, voordat hy of sy dit by die polisie aangemeld het;
 - (f) enige besonderhede aangaande die beweerde oortreder(s) wat van hulp kan wees om hulle te identifiseer en op te spoor; en
 - (g) enige besonderhede aangaande moontlike getuies wat van hulp kan wees om hulle te identifiseer en op te spoor.
- (7) Indien die *slagoffer* nie in staat is om 'n samehangende verklaring te maak nie, moet 'n dossier (staat soos per) geopen word, 'n verklaring verkry word van enige persoon wat die *slagoffer* vergesel het en die *slagoffer* moet tyd gegun word voordat 'n verklaring van hom of haar geneem word.
- (8) Die lid moet, so gou as moontlik nadat die voorval aangemeld is, die *slagoffer* inlig van die —
- (a) saaknommer; en
 - (b) besonderhede van die *ondersoekbeampte*.
- (9) Die lid moet die *slagoffer* inlig van die prosesse wat daarna gevolg sal word en waarom die prosesse nodig is, ten einde die *slagoffer* in staat te stel om die prosedure te begryp en om vertroue by die *slagoffer* in te boesem dat die polisie die aangeleentheid op 'n professionele wyse hanteer.
- (10) Die *slagoffer* moet ingelig word van die belangrikheid om, so gou as wat redelikerwys moontlik is, 'n mediese ondersoek te ondergaan. Die *slagoffer* moet ingelig word dat die ondersoek op staatskoste gedoen sal word en dat hy of sy daarop geregtig is om die *professionele gesondheidsversorger* wat die ondersoek doen, mediese advies te vra oor enige aspek van sy of haar gesondheid wat weens die beweerde *seksuele misdryf* geraak is.
- (11) Die lid moet ook die *slagoffer* inlig van beskikbare dienste soos beoog in paragraaf 11(2)(b) (hieronder), asook oor die Getuiebeskermings-program. Die *slagoffer* moet ook, op 'n gereelde basis, van die vordering met die ondersoek ingelig word.

6. Telefoniese aanmelding van 'n seksuele misdryf

Indien 'n *seksuele misdryf* telefonies aangemeld word, moet die lid wat die klage hanteer, bepaal of die persoon wat skakel die *slagoffer* is en, —

- (a) indien wel, probeer om die *slagoffer* aan die praat te hou en die *slagoffer* gerusstel dat 'n polisievoertuig uitgestuur is en toepaslike advies aan die *slagoffer* verskaf terwyl hy of sy vir die voertuig wag; en
- (b) indien nie, die persoon aansê om by die *slagoffer* te bly en nie die *misdaadtoneel* te versteur nie, en

in albei gevalle, onmiddellik 'n polisievoertuig na die toneel stuur om die *slagoffer* by te staan.

7. Verantwoordelikheid van die eerste lid op die misdaadtoneel

- (1) Die eerste lid wat op 'n toneel aankom waar 'n *seksuele misdryf* na bewering gepleeg is, moet die *slagoffer* op 'n professionele wyse hanteer en moet die *misdaadtoneel* beveilig totdat 'n *ondersoekbeampte* beskikbaar is om beheer van die ondersoek te neem.
- (2) Die lid op die toneel moet by die *slagoffer* vasstel of die verdagte moontlik nog in die omgewing kan wees en, indien wel, 'n beskrywing van die verdagte verkry. Die beskrywing van die verdagte moet onmiddellik aan alle polisievoertuie in die area oorgedra word.
- (3) 'n Lid wat in kontak kom met 'n *slagoffer* van 'n *seksuele misdryf* moet, so ver as moontlik, vermy om onnodig aan die *slagoffer* te raak. Die lid wat die *slagoffer* ondervra, moet —
 - (a) die *slagoffer* gerusstel dat hy of sy nou veilig is en beskerm sal word;
 - (b) 'n kort verduideliking van die gebeure wat plaasgevind het, verkry (neem ondersoeknotas, nie 'n verklaring nie);
 - (c) luister na wat die *slagoffer* sê, sonder om hom of haar in die rede te val en hom of haar op sy of haar gemak plaas;
 - (d) elke ding wat die *slagoffer* sê, neerskryf, aangesien dit getuie is wat die polisie in die ondersoek van hulp kan wees; en
 - (e) later 'n omvattende verklaring maak aangaande die onderhoud en die ondersoeknotas wat geneem is en die notas in die dossier onder deel "A" van die dossier liasseer.
- (4) Die lid moet dit vermy om op hierdie stadium onnodig ongemaklike vrae oor die intieme besonderhede van die beweerde *seksuele misdryf* te stel. Aangesien 'n *slagoffer* dikwels bekommerd is dat almal die intieme feite van die saak sal weet, is dit belangrik dat die lid aan die *slagoffer* verduidelik dat die spesifieke besonderhede van die voorval net aan die nodige rolspelers bekend gemaak sal word en dat dit nie nodig sal wees om die intieme besonderhede herhaaldelik oor te vertel nie.
- (5) Dit is noodsaaklik dat die lid op die toneel die *misdaadtoneel* beveilig. Lede moet daarvan kennis neem dat daar in die meeste gevalle van *seksuele misdrywe* basies drie *misdaadtonele* is, naamlik die liggeme van beide die *slagoffer* en die verdagte en die plek, insluitende waar van toepassing, die voertuig of vaertuig waarin die voorval plaasgevind het en waar die *slagoffer* en

oortreder beweeg het. Belangrike getuienis in die saak sal dikwels dit wees wat op die persoon van die *slagoffer* en by die *misdaadtoneel* opgespoor word.

8. Stappe wat gedoen moet word om die misdaadtoneel te beveilig

- (1) 'n Lid of lede wat eerste op die toneel aankom, moet die belangrikheid van die bewaring van getuienis van die pleging van die *seksuele misdryf* aan die *slagoffer* en alle ander persone wat teenwoordig kan wees en wat die *slagoffer* ondersteun (soos die ouers van die *slagoffer*), beklemtoon. Dit is baie belangrik dat 'n *slagoffer* beseft dat sy of haar liggaam as 'n *misdaadtoneel* beskou word en dat hy of sy, so ver as moontlik, enige moontlike getuienis moet bewaar totdat die mediese ondersoek gedoen is.
- (2) Ten einde getuienis op die liggaam van die *slagoffer* te bewaar, moet die lid die *slagoffer* inlig om —
 - (a) enige toiletpapier en ander sanitêre materiaal te bewaar indien die *slagoffer* nodig het om na die badkamer te gaan (toiletpapier en ander sanitêre materiaal moet winddroog gemaak word en in 'n koevert of bruin papiersak geplaas en na die Forensiese Wetenskapslaboratorium gestuur word);
 - (b) homself of haarself daarvan te weerhou om enige vloeistof te drink, indien die *slagoffer* gedwing is om 'n handeling van orale seks uit te voer, aangesien getuienis in die proses verlore kan gaan. (Hierdie beperking geld slegs indien die *slagoffer* nog nie sy of haar mond uitgespoel het nie.) 'n Mondwattedepper moet so gou as moontlik na die voorval geneem word;
 - (c) die kleres wat hy of sy ten tye van die pleging van die *seksuele misdryf* aangehad het, behou, aangesien die kleres vir forensiese toetse nodig mag wees; en
 - (d) indien moontlik, reëlings te tref vir bykomende onderklere en ander kleres wanneer hy of sy vir die mediese ondersoek gaan.
- (3) Die lid moet die *misdaadtoneel* beskerm teen kontaminasie en beveilig totdat die *ondersoekbeampte* beheer van die toneel kan neem. Niks op die *misdaadtoneel* moet aangeraak of verskuif word nie.
- (4) Die lid moet stappe doen om die privaatheid en menswaardigheid van die *slagoffer* te beskerm en moet verseker dat die *slagoffer* van die *misdaadtoneel* na 'n nabygeleë private plek verwyder word. Indien daar geen geskikte private plek naby is nie, moet die *slagoffer* van die publiek afgeskerf word. Dit is belangrik dat 'n lid by die *slagoffer* moet bly totdat die *ondersoekbeampte* opdaag.
- (5) Indien die verdagte steeds op die toneel is, moet die lid hom of haar weghou van die *slagoffer* en toepaslike stappe doen om die verdagte van die toneel te verwyder om te voorkom dat bewerings gemaak word dat getuienis kontamineer is of dat die *slagoffer* of ander getuies geïntimideer is.
- (6) Die lid moet enige persoon op die toneel identifiseer wat behulpsaam kan wees in die ondersoek en voldoende besonderhede van daardie persoon verkry sodat die *ondersoekbeampte* hom of haar later kan kontak.

9. Die rol van die ondersoekbeampte

- (1) Die *ondersoekbeampte* is verantwoordelik om 'n deeglike en professionele ondersoek in elke saak te doen.
- (2) Die *ondersoekbeampte* moet, so gou as moontlik nadat hy of sy ingelig is dat hy of sy aangewys is om 'n *seksuele misdryf* te ondersoek, —
 - (a) beheer neem van die ondersoek. Indien die *ondersoekbeampte* nie onmiddellik die ondersoek kan behartig nie, moet hy of sy, by wyse van selfoon of telefoon of radio opdragte aan 'n lid gee wat na die *slagoffer* omsien en die *misdaadtoneel* behartig, om die *slagoffer* in te lig van prosedures wat die *slagoffer* sal moet ondergaan en aan die *slagoffer* te verduidelik wat die rol van die *ondersoekbeampte* is en hoe hy of sy die *slagoffer* sal bystaan;
 - (b) indien die *slagoffer* 'n *kind* is, die veiligheid van die *kind* verseker. Dit sluit in om te bepaal of die *kind* sorgbehoewend is en, indien wel, toepaslike stappe doen om die veiligheid en beskerming van die *kind* te verseker;
 - (c) inligting van die *slagoffer* verkry. Aanvanklik moet die *ondersoekbeampte* slegs 'n verklaring van die *slagoffer* neem wat uiteensit wat gebeur het (hierdie is slegs 'n voorlopige verklaring). Die *ondersoekbeampte* moet hierdie verklaring in privaatheid neem, hoewel 'n persoon van die *slagoffer* se keuse teenwoordig mag wees;
 - (d) die in-diepte verklaring van die *slagoffer* verkry so gou as wat die *slagoffer* genoegsaam van die beproewing herstel het (afhangende van omstandighede, ideaal gesproke, binne 24 - 36 uur). Die rede hiervoor is dat 'n beter verklaring van die *slagoffer* verkry kan word wanneer die trauma wat hy of sy ervaar het, minder intens is en 'n beter verstandhouding met die *ondersoekbeampte* bewerkstellig is;
 - (e) die *slagoffer* ingelig hou van die vordering van die ondersoek (soos dat die verdagte gearresteer is, op borgtog vrygelaat is, datums van hofverskynings, ens.). Die besonderhede van alle kontak deur die *ondersoekbeampte* met die *slagoffer* moet in die ondersoekdagboek aangeteken word, met vermelding van, onder andere, datum, tyd en plek waar kontak gemaak is en of dit persoonlik, telefonies of skriftelik was. Die *slagoffer* moet ook ingelig word van die kontakbesonderhede van die *ondersoekbeampte* en aangemoedig word om die *ondersoekbeampte* te kontak; en
 - (f) 'n verklaring met betrekking tot die *misdaadtoneel* inhandig, ongeag hoe lank gelede die voorval plaasgevind het.

10. Mediese ondersoek van die slagoffer

- (1) Die doel van die mediese ondersoek van die *slagoffer* is om die liggaam van die *slagoffer* te ondersoek om te bepaal of daar enige getuienis aangaande die beweerde *seksuele misdryf* op of in die *slagoffer* se liggaam is en om vas te stel wat die verstandelike en emosionele toestand van die *slagoffer* is.
- (2) Die *slagoffer* moet, so gou as moontlik, vir die mediese ondersoek geneem word. Selfs indien die *seksuele misdryf* eers meer as 72 uur nadat dit gepleeg is, aangemeld is, en selfs indien die *slagoffer* reeds gewas het en moontlik getuienis in die proses vernietig het, moet die *slagoffer* nog steeds vir die

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mediese ondersoek geneem word. Die moontlikheid dat daar steeds getuienis bekom kan word, kan nooit uitgesluit word nie.

- (3) Wanneer die *slagoffer* vir die mediese ondersoek geneem word, moet daar op die volgende gelet word:
- (a) Die mediese ondersoek moet so gou as moontlik uitgevoer word.
 - (b) Die mediese ondersoek moet deur 'n opgeleide *professionele gesondheidsversorger* uitgevoer word.
 - (c) Die *ondersoekbeampte* moet die *slagoffer* vir die mediese ondersoek na die *professionele gesondheidsversorger* neem.
 - (d) 'n Manlike lid mag nie teenwoordig wees tydens die mediese ondersoek van 'n vroulike *slagoffer* nie, en omgekeerd. Selfs 'n lid van dieselfde geslag as die *slagoffer* mag slegs tydens die mediese ondersoek teenwoordig wees indien die *slagoffer* daartoe toestem.
 - (e) Die *professionele gesondheidsversorger* sal nie die mediese ondersoek doen voordat 'n saakdossier geregistreer is en vorms SAPD 308 en J 88 voltooi is nie.
- (4) Indien daar bewerings van dwelm- of alkoholgebruik, ongeag vrywillig of nie, deur óf die *slagoffer* óf die beweerde oortreder, gemaak word, moet die *professionele gesondheidsversorger* versoek word om 'n urienemonster, sowel as 'n bloedmonster, van die *slagoffer* te bekom. Hierdie monsters moet, indien enigsins moontlik, binne 24 uur na die pleging van die misdryf verkry word.
- (5) Die *ondersoekbeampte* moet die *slagoffer* inlig —
- (a) van MIV- toetsing en PEP, soos beoog in paragraaf 11;
 - (b) van die doel waarvoor die monsters bekom word;
 - (c) van die redes waarom die vorms (SAPD 308 en J 88) voltooi moet word en die proses wat gevolg sal word;
 - (d) dat hy of sy die teruggawe kan versoek van alle voorwerpe waarop daar beslaggelê is as getuienis na die afhandeling van die strafsak (die artikels kan egter tydens die forensiese proses beskadig word);
 - (e) dat hy of sy toegelaat sal word om te was of te bad nadat die mediese ondersoek afgehandel is; en
 - (f) dat die *professionele gesondheidsversorger* in staat sal wees om vrae te beantwoord in verband met mediese behandeling of beskikbare dienste indien die *slagoffer* verdere behandeling benodig en in staat sal wees om die *slagoffer* na 'n *openbare gesondheidsinstelling* te verwys.
- (6) Die *ondersoekbeampte* moet —
- (a) 'n vorm SAPD 308 voltooi waarin al die relevante besonderhede van die *seksuele misdryf* vermeld word of dit aan die vorm heg (dit wil sê, 'n kort beskrywing van gebeure);
 - (b) 'n vorm J 88 en die relevante toerusting aan die *professionele gesondheidsversorger* verskaf om die getuienis in te samel;
 - (c) aantekens presies watter mediese monsters benodig word en verseker dat dit geneem word (sien Aanhangsel C);
 - (d) indien dit uit die J 88 blyk dat die *slagoffer* minder as 72 uur voor die pleging van die beweerde *seksuele misdryf* seksuele kontak gehad het, moet monsters van die betrokke metgesel(le) verkry word;
 - (e) die monsters duidelik merk; en

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- (f) verseker dat die monsters binne 7 dae na die Forensiese Wetenskapslaboratorium gestuur word. In gevalle waar fetusse betrokke is, moet die fetus, so gou as wat redelikerwys moontlik is, na die Forensiese Wetenskapslaboratorium geneem word.
- (7) Indien die *slagoffer* onmiddellike mediese aandag benodig en die *ondersoekbeampte* is nie teenwoordig nie, moet alle moontlike stappe gedoen word om te verseker dat 'n deeglike mediese ondersoek gedoen word en die regte monsters onverwyld verkry word.
- (8) (a) Indien die *slagoffer* van die beweerde *seksuele misdryf 'n kind* is, moet die *ondersoekbeampte* die noodsaaklikheid van die ondersoek aan die ouers of voog van die *kind* verduidelik en hulle toestemming verkry vir die ondersoek wat gedoen moet word en die vorm SAPD 308 voltooi.
- (b) Die *ondersoekbeampte* moet ook die ouers of voogde van die *kinderslagoffer* inlig dat hulle die *kind* na die ondersoek mag vergesel.

INDIEN ...	DAN ...
<p>'n ouer of voog van 'n <i>kinderslagoffer</i> —</p> <ul style="list-style-type: none"> ▶ nie binne 'n redelike tyd opgespoor word nie; ▶ nie betyds toestemming kan gee nie; ▶ 'n verdagte is ten opsigte van die oortreding waarvoor die ondersoek gedoen moet word; ▶ onredelik toestemming weier; ▶ geestesongesteld is en nie toestemming kan verleen vir die ondersoek nie; of ▶ oorlede is, 	<p>moet aansoek, ingevolge artikel 335B van die Strafproseswet, 1977 (Wet No. 51 of 1977) by 'n landdros gedoen word om toestemming te verkry dat die mediese ondersoek gedoen kan word.</p>

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INDIEN ...	DAN ...
'n landdros nie beskikbaar is nie,	<p>kan 'n lid wat 'n offisier is of die plaaslike Stasiekommissaris, toestemming verleen mits die volgende twee beëdigde verklarings voorgelê word:</p> <ul style="list-style-type: none"> ▶ Een deur die <i>ondersoekbeampte</i> of 'n ander lid van die stasie wat die saak hanteer, waarin vermeld word dat 'n landdros se toestemming nie binne 'n redelike tyd verkry kan word nie. ▶ Een van 'n <i>professionele gesondheidsversorger</i> wat aandui dat die mediese ondersoek nie in sy doel sal slaag as dit nie onmiddellik gedoen word nie.

- (9) Indien 'n *slagoffer*, weens sy of haar geestesiekte, nie in staat is om tot mediese behandeling toe te stem nie, moet skriftelike toestemming vir 'n mediese ondersoek verkry word ooreenkomstig die prosedure soos uiteengesit in artikel 32 van die Wet op Geestesgesondheidsorg, 2002 (Wet No. 17 van 2002). Hierdie artikel handel, onder andere, oor die versorging en behandeling van geestesgesondheidsorggebruikers wat nie in staat is om ingeligte besluite te neem nie.

11. Lig die slagoffer van 'n seksuele misdryf in van die beskikbare dienste en oorhandig 'n Kennisgewing aan die slagoffer

- (1) Uit die inhoud van die *slagoffer* se beëdigde verklaring, moet die lid 'n mening vorm of die *slagoffer*, weens die pleging van die misdryf, blootgestel is aan die risiko om met MIV besmet te word. Die *slagoffer* sou blootgestel kon wees aan die risiko om met MIV besmet te word, indien die misdryf 'n *seksuele misdryf* is waartydens die *slagoffer* in kontak was met die *bloed, semen of vaginale vloeistof* van die beweerde oortreder.
- (2) 'n *Slagoffer* van 'n *seksuele misdryf* wat blootgestel is aan die risiko om met MIV besmet te wees as gevolg van die pleging van die *seksuele misdryf*, moet —
- (a) voorsien word van 'n afskrif van die Vorm SAPD 580(a) (Kennisgewing aan 'n slagoffer van beskikbare dienste) in Afrikaans of Engels (indien die *slagoffer* in staat is om die Kennisgewing in Afrikaans of Engels te lees en te verstaan); en

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- (b) ooreenkomstig die Kennisgewing waarna in (a) verwys word, deur 'n lid ingelig word —
- (i) van die belangrikheid daarvan om *PEP* vir MIV-infeksie te ontvang sonder enige vertraging, maar in elk geval binne 72 uur na die beweerde *seksuele misdryf* teen hom of haar gepleeg is;
 - (ii) dat *PEP* op staatskoste by 'n *openbare gesondheidsinstelling* ooreenkomstig die staat se geldende behandelingskriteria en protokolle aan hom of haar toegedien sal word;
 - (iii) dat die *slagoffer* gratis mediese advies en hulp aangaande die toediening van *PEP* sal ontvang alvorens dit toegedien word;
 - (iv) van die noodsaaklikheid om mediese advies en hulp aangaande die moontlikheid van ander seksueel oordraagbare infeksies te ontvang; en
 - (v) dat die *slagoffer* of *belanghebbende persoon* by die landdroshof kan aansoek doen vir 'n bevel wat die beweerde oortreder dwing om, op staatskoste, 'n MIV- toets te ondergaan.
- (3) Indien die *slagoffer* nie in staat is om die Kennisgewing in Afrikaans of Engels te lees en te verstaan nie, moet die lid, of enige ander persoon wat bereid en in staat is om die lid by te staan om die inhoud van die Kennisgewing aan die *slagoffer* te verduidelik in 'n taal wat die *slagoffer* verstaan, die inhoud van die Kennisgewing aan die *slagoffer* verduidelik. Die *slagoffer* moet ook voorsien word van die lys van *openbare gesondheidsinstellings* in die provinsie wat in staat is om *PEP* aan die *slagoffer* te voorsien. 'n Lys van sodanige instellings is hierby aangeheg as Aanhangsel A.
- (4) Wanneer 'n *slagoffer*, soos uiteengesit in subparagraaf (2)(b) hierbo, ingelig is, moet die *slagoffer* gevra word of hy of sy verkies om aansoek te doen dat die beweerde oortreder, wanneer hy of sy gearresteer of opgespoor is, op staatskoste vir MIV getoets word. Die *slagoffer* moet ingelig word dat hy of sy nie die besluit onmiddellik hoef te neem nie, maar moet beseft dat, indien hy of sy sou besluit om later aansoek te doen dat die beweerde oortreder getoets moet word soos hierbo uiteengesit, hy of sy slegs daarop geregtig sal wees om **binne 90 dae** vanaf die datum van die beweerde pleging van die misdryf, aansoek te doen dat sodanige toets gedoen word.
- (5) Indien die *slagoffer* verkies om onmiddellik aansoek te doen dat die beweerde oortreder vir MIV getoets word, moet hy of sy voorsien word van 'n afskrif van die Vorm SAPD 580(b) (Aansoek deur slagoffer of belanghebbende persoon vir die MIV-toetsing van die beweerde oortreder) en versoek word om die aansoekvorm te voltooi. Indien die *slagoffer* bystand benodig om die aansoek te voltooi, moet die lid die *slagoffer* bystaan en, indien nodig, die aansoek namens die *slagoffer* voltooi. Wanneer die aansoek voltooi is, moet die aansoek òf beëdig word deurdat die aansoeker sweer dat die inhoud van die aansoek waar is, òf bevestig word deurdat die aansoeker plegtig verklaar dat dit waar is en die lid moet die betrokke deel van die aansoekvorm voltooi en teken dat dit tydens die voltooiing van die aansoek gedoen is.
- (6) Indien die *slagoffer* verkies om nie onmiddellik aansoek te doen dat die beweerde oortreder vir MIV getoets word nie, moet hy of sy voorsien word van 'n afskrif van die vorm SAPD 580(b) (Aansoek deur slagoffer of belanghebbende persoon vir die MIV-toetsing van die beweerde oortreder) en

ingelig word dat, indien hy of sy later besluit om aansoek te doen dat die beweerde oortreder vir MIV getoets word, moet hy of sy die aansoekvorm voltooi en **binne 90 dae** vanaf die beweerde pleging van die misdryf, die voltooide aansoekvorm aan die *ondersoekbeampte* oorhandig. Indien die *slagoffer* die voltooide aansoekvorm binne 90 dae aan die *ondersoekbeampte* oorhandig, moet die *slagoffer* of sweer dat die inhoud van die aansoek waar is, of opreg verklaar dat die inligting wat in die aansoek verskaf is, waar is, en die lid moet teken dat dit gedoen is tydens die voltooiing van die betrokke deel van die aansoek.

- (7) Enige stappe wat ooreenkomstig hierdie paragraaf gedoen is, moet in die ondersoekdagboek van die dossier aangeteken word.

12. Hantering van 'n aansoek vir die MIV-toetsing van die oortreder

- (1) Die *ondersoekbeampte* moet die aansoek plaas in 'n verseëelde koevert wat "Confidential/Vertroulik" gemerk is en op die koevert —
- (a) "Aansoek deur *slagoffer* of *belanghebbende persoon* vir MIV- toetsing van beweerde oortreder" of "Aansoek deur *slagoffer* of *belanghebbende persoon* om toegang tot MIV- toetsuitslag reeds deur *ondersoekbeampte* verkry", na gelang van die geval; en
 - (b) die saaknommer, naam, rang en Persalnommer van die *ondersoekbeampte*,
- skryf en dit so gou as wat redelikerwys prakties is, maar nie later nie as twee werksdae, nadat die aansoek deur die *ondersoekbeampte* ontvang is, na die klerk van die hof stuur. Die *ondersoekbeampte* moet 'n afskrif van die aansoek onder deel "B" van die dossier liasseer.
- (2) Indien die landdros wat die aansoek oorweeg, aanvullende getuienis benodig, hetsy in die vorm van mondelinge getuienis of by wyse van 'n beëdigde verklaring, sal die klerk van die hof die *ondersoekbeampte* persoonlik telefonies inlig en dit skriftelik bevestig.
- (3) Indien die landdros aanvullende getuienis in die vorm van beëdigde verklaring vereis, moet die *ondersoekbeampte* die beëdigde verklaring(s) so gou as wat redelikerwys prakties is of binne die tydperk soos bepaal deur die landdros, bekom en die beëdigde verklaring(s) in 'n verseëelde koevert plaas en die koevert —
- (a) merk as "Confidential/Vertroulik"; en
 - (b) die saaknommer, naam rang en Persalnommer van die *ondersoekbeampte* aandui,
- en dit aan die klerk van die hof oorhandig.
- (4) Indien die landdros aanvullende mondelinge getuienis vereis, moet die *ondersoekbeampte* —
- (a) die *slagoffer*, *belanghebbende persoon* of ander getuie skriftelik op 'n amptelike briefhoof (SAPD 21) in kennis stel om op die vasgestelde datum en tyd, soos oorgedra deur die klerk van die hof, voor die landdros te verskyn en sy of haar handtekening verkry op 'n afskrif van die skriftelike kennisgewing as bewys van die feit dat hy of sy dienooreenkomstig in kennis gestel is;

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- (b) indien daar van die beweerde oortreder vereis word om te getuig, en hy of sy is —
 - (i) in aanhouding by die Polisie, hom of haar op die vasgestelde datum en tyd neem om voor die landdros te verskyn; of
 - (ii) nie in aanhouding by die Polisie nie, aan die beweerde oortreder 'n skriftelike kennisgewing op 'n amptelike briefhoof (SAPD 21) oorhandig wat hom of haar inlig van die vasgestelde datum en tyd waarop hy of sy voor die landdros moet verskyn en sy of haar handtekening op 'n afskrif van die skriftelike kennisgewing verkry as bewys van die feit dat hy of sy dienooreenkomstig ingelig is; en
 - (c) die verhoor op die vasgestelde datum en tyd bywoon en, indien die *slagoffer, belanghebbende persoon*, ander getuie of die beweerde oortreder afwesig is, die landdros voorsien van die afskrif van die skriftelike kennisgewing wat aan die *slagoffer, belanghebbende persoon*, ander getuie of die beweerde oortreder oorhandig is en waarop hy of sy ontvangs by wyse van sy of haar handtekening erken het.
- (5) Wanneer 'n landdros oor die aansoek besluit het, sal die klerk van die hof die verseëld besluit aan die *ondersoekbeampte* oorhandig wat, in die register wat die klerk van die hof byhou, ontvangs daarvan moet erken.
- (6) Die *ondersoekbeampte* moet, so gou as wat redelikerwys prakties is of binne die tydperk wat deur die landdros bepaal is, 'n vorm SAPD 580(d) (Kennisgewing aan beweerde oortreder ten opsigte van 'n bevel vir MIV-toetsing) oorhandig wat hom of haar inlig van die bevel wat deur die landdros uitgereik is.
- (7) Enige stappe wat ooreenkomstig hierdie paragraaf gedoen is, moet in die ondersoekdagboek van die dossier aangeteken word.

13. Aansoek deur ondersoekbeampte vir MIV-toetsing van oortreder

- (1) 'n *Ondersoekbeampte* kan, ingevolge artikel 32 van *die Wet*, indien hy of sy dit vir doeleindes van 'n ondersoek in verband met 'n *seksuele misdryf* nodig vind, self by 'n landdros van die landdrosdistrik waarbinne die *seksuele misdryf* of misdryf na bewering gepleeg is, in kamers aansoek doen op vorm SAPD 580(c) (Aansoek deur ondersoekbeampte vir die MIV-toetsing van die beweerde oortreder) vir 'n bevel dat —
- (a) die beweerde oortreder vir MIV getoets word; of
 - (b) die uitslag van die MIV-toetsing ten opsigte van die beweerde oortreder wat reeds by wyse van 'n aansoek deur die *slagoffer* of *belanghebbende persoon* bekom is, beskikbaar gestel word aan die *ondersoekbeampte* of aanklaer wat die uitslag benodig vir doeleindes van die vervolging in die saak of enige ander hofverrigtinge.
- (2) Die prosedure wat in paragraaf 12 uiteengesit is, moet ook gevolg word in 'n geval waar 'n aansoek vir die MIV-toetsing van die beweerde oortreder deur die *ondersoekbeampte* gedoen word.

14. Uitvoering van bevel vir MIV- toetsing van oortreder

- (1) Sodra 'n bevel vir die MIV-toetsing van die beweerde oortreder aan 'n *ondersoekbeampte* oorhandig is, moet hy of sy —
- (a) die beweerde oortreder beskikbaar stel om te verseker dat twee bloedmonsters van sy of haar liggaam verkry kan word;
 - (b) enige *geneesheer* of *verpleër* of *verpleegster* versoek om twee bloedmonsters van die beweerde oortreder te neem; en
 - (c) die twee bloedmonsters van die beweerde oortreder aflewer by die hoof van 'n *openbare gesondheidsinstelling* of persoon wat deur die hoof van 'n *openbare gesondheidsinstelling* aangewys is.
- (2) Die *ondersoekbeampte* kan, indien die beweerde oortreder nie aangehou word nie, en —
- (a) daar gronde is om te glo dat hy of sy die nakoming van die bevel vir verpligte MIV-toetsing sal vermy; of
 - (b) hy of sy die nakoming van die bevel vir die verpligte MIV-toetsing vermy het,
- by die landdros wat die vermelde bevel uitgereik het, op vorm SAPD 580(f) (Aansoek vir 'n Lasbrief vir Arrestasie) aansoek doen om die uitreiking van 'n lasbrief vir die arrestasie van die beweerde oortreder om bloedmonsters vir MIV-toetsing van sy of haar liggaam te neem. Indien die landdros wat die bevel uitgereik het, nie beskikbaar is of nie in staat is om sodanige aansoek te oorweeg nie, kan die aansoek aan enige ander landdros voorgelê word.
- (3) Die *ondersoekbeampte* moet, wanneer die beweerde oortreder kragtens die Lasbrief vir Arrestasie, waarna in subparagraaf (2) verwys word, gearresteer is, redelike stappe doen om die identiteit van die beweerde oortreder te bevestig en die beweerde oortreder onverwyld na 'n openbare gesondheidsinstelling neem sodat bloedmonsters van hom of haar geneem kan word. Die beweerde oortreder moet so gou as wat die bloedmonsters geneem is, vrygelaat word.
- (4) Wanneer die *ondersoekbeampte* die duplikaat verseëelde rekords van die toetsuitslae van die *openbare gesondheidsinstelling* bekom en ontvangs daarvan erken het, moet hy of sy —
- (a) indien die aansoek deur die *slagoffer* of *belanghebbende persoon* gemaak is, 'n verseëelde rekord van die uitslag tesame met 'n afskrif van vorm SAPD 580(e) (Kennisgewing met inligting oor die vertroulikheid van en hantering van uitslag van MIV-toets) beide aan die *slagoffer* of *belanghebbende persoon* en beweerde oortreder oorhandig; of
 - (b) indien die aansoek deur die *ondersoekbeampte* gemaak is, 'n verseëelde rekord van die uitslag met 'n vorm SAPD 580(e) (Kennisgewing met inligting oor die vertroulikheid van en hantering van uitslag van MIV-toets) aan die beweerde oortreder oorhandig, en die ander rekord van die toetsuitslae hou (soos bedoel in paragraaf 15(3)) en die uitslag van die toetsing aan die aanklaer beskikbaar stel wat kennis moet dra van die uitslae vir doeleindes van die vervolging of enige ander hofverrigtinge.
- (5) Indien 'n bevel uitgereik is ingevolge waarvan 'n MIV-toets gedoen is op 'n beweerde oortreder uit hoofde van 'n aansoek deur 'n *ondersoekbeampte*, mag die *ondersoekbeampte* die *slagoffer* of 'n *belanghebbende persoon* in daardie bepaalde saak van die MIV-status van die beweerde oortreder inlig met die oog daarop om —

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- (a) sekondêre trauma te verminder en die *slagoffer* te bemagtig om ingeligte mediese -, lewensstyl - en ander persoonlike besluite te neem; of
 - (b) die toetsuitslae as getuienis te gebruik in enige daaropvolgende siviele verrigtinge wat voortspruit uit die betrokke *seksuele misdryf*.
- (6) Indien die aanklaer 'n klagte op versoek van die *slagoffer* terugtrek nadat 'n landdros, op aansoek van die *slagoffer*, 'n bevel uitgereik het vir 'n MIV-toets van die beweerde oortreder, sal die bevel verval en mag die toetsuitslag nie aan die *slagoffer* openbaar gemaak word nie. Die *ondersoekbeampte* moet die Hoof van die *openbare gesondheidsinstelling* van die terugtrek van die klagte inlig en enige monster wat geneem is of uitslae wat ten opsigte van die beweerde oortreder bekom is, moet, in ooreenstemming met die instruksies van die Departement van Gesondheid, vernietig word. Indien die *ondersoekbeampte* in so 'n geval in besit is van verseëde rekords van die MIV-toetsuitslag, moet hy of sy ook die rekords wat die uitslae bevat, vernietig.
- (7) Enige stappe wat ooreenkomstig hierdie paragraaf gedoen is, moet in die ondersoekdagboek van die dossier aangeteken word.

15. Rekordhouding van uitslae van MIV- toetsing

- (1) Elke bevelvoerder van die speurders by 'n stasie of 'n speureenheid moet 'n register in sy of haar kantoor byhou waarin die besonderhede aangaande elke aansoek vir 'n verpligte MIV-toets aangeteken moet word. 'n B16-boek moet, tot verdere kennisgewing, as 'n register gebruik word. Die inligting (soos uiteengesit in Aanhangsel G) ten opsigte van elke sodanige aansoek moet in daardie register aangeteken word. Een volledige bladsy van die register moet gebruik word om die besonderhede (insluitende die uitslag van die aansoek en die uitslae van enige toetse) vir elke aansoek aan te teken. Die bladsye van die register moet genommer word en 'n inhoudsopgawe van alle aansoeke met die betrokke MAS-nommer en die ooreenstemmende nommer van die bladsy in die register wat die besonderhede van die aansoek bevat, moet op die eerste bladsy van die register aangebring word.
- (2) Die betrokke bevelvoerder is persoonlik verantwoordelik om toe te sien dat toegang tot die register slegs verleen word aan —
- (a) 'n lid wat 'n saak ondersoek in verband waarmee daar aansoek vir MIV-toetsing gedoen is;
 - (b) die *slagoffer*;
 - (c) 'n persoon wat 'n wesenlike belang in die welstand van 'n *slagoffer* het, insluitend 'n gade, permanente lewensmaat van dieselfde of teenoorgestelde geslag, ouer, voog, familielid, sorggewer, kurator, berader, *geneesheer*, gesondheidsorgvoorsiener, maatskaplike werker of onderwyser of onderwyseres van so 'n *slagoffer*;
 - (d) die beweerde oortreder;
 - (e) 'n aanklaer;
 - (f) 'n persoon wat geregtig is om die hofbevel om die MIV-toetsing te doen, uit te voer; en
 - (g) die Stasiekommissaris of 'n offisier op provinsiale of nasionale vlak, ten einde die register te inspekteer.

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- (3) Die rekord wat die uitslag bevat van 'n MIV-toets wat op 'n beweerde oortreder uitgevoer is, moet geliasseer word in 'n lêer wat in die kantoor van die bevelvoerder van die speurders by die betrokke stasie of in die kantoor van die bevelvoerder van die betrokke eenheid van die speurdiens gehou word (tesame met die register waarna in subparagraaf (1) verwys word) en mag nie in die dossier geliasseer word nie. Die betrokke bevelvoerder mag slegs toegang tot die rekord verleen aan die persone in subparagraaf (2) hierbo vermeld. Toepaslike inskrywings, ten opsigte van alle stappe wat gedoen is en opsigte van die MIV-toetsing van 'n beweerde oortreder, moet in die ondersoekdagboek van die dossier aangeteken word. Die uitslag van 'n MIV-toets mag egter nie in die ondersoekdagboek aangeteken word nie.
- (4) 'n *Ondersoekbeampte* mag die uitslag van 'n MIV-toets van 'n beweerde oortreder aan die aanklaer, wat verantwoordelik is om die vervolging van die beweerde oortreder te hanteer, openbaar. Indien die aanklaer versoek dat die rekord wat die uitslag bevat vir doeleindes van die vervolging van die beweerde oortreder aan hom of haar verskaf word, moet die *ondersoekbeampte* die aanklaer versoek om 'n aansoek op vorm SAPD 580(g) (Aansoek om toegang tot die MIV-toets uitslag van die beweerde seks-oortreder) te voltooi en aan die versoek voldoen. Die *ondersoekbeampte* moet ook 'n gepaste inskrywing in die ondersoekdagboek maak en die aanklaer versoek om by die inskrywing te teken as erkenning van die ontvangs van die rekord.

16. Mediese ondersoek van die verdagte

- (1) Die doel van die mediese ondersoek van die verdagte is om die liggaam van die verdagte te ondersoek en te bepaal om daar enige getuieis in verband met die beweerde *seksuele misdryf* op of in die liggaam van die verdagte is. Monsters verkry van die liggaam van 'n verdagte word gebruik om die verdagte met die misdryf te verbind en om te verseker dat die pleger van die misdryf vervolgt word.
- (2) Die *ondersoekbeampte* moet verseker dat 'n verdagte, indien dit nodig is vir die behoorlike ondersoek van die saak, vir 'n mediese ondersoek geneem word. Artikel 37 of die Strafproseswet, 1977 (Wet No. 51 van 1977), verleen aan 'n lid die bevoegdheid om 'n *professionele gesondheidsversorger* te versoek om sekere liggaamlike kenmerke van die verdagte vas te stel en om monsters van die liggaam van die verdagte te neem en bepaal ook die omstandighede waarin die liggaamlike kenmerke vasgestel kan word en die monsters geneem kan word.
- (3) Indien dit vir die behoorlike ondersoek van die saak nodig is dat liggaamlike monsters van die verdagte geneem word, moet die *ondersoekbeampte*, wanneer die verdagte geïdentifiseer en opgespoor is, die verdagte na 'n *professionele gesondheidsversorger* neem om die liggaamlike kenmerke van die verdagte te bepaal en om die nodige bloedmonsters (insluitende 'n kontrolemonster) van die verdagte te neem. By ontvangs van 'n kontrolemonster, moet die monster so gou as moontlik aan die Forensiese Wetenskapslaboratorium oorhandig word. 'n Brief moet onverwyld van die betrokke aanklaer verkry word waarin die aanklaer versoek dat 'n DNS analise op die monsters gedoen word. Hierdie brief moet so gou as moontlik aan die Forensiese Wetenskapslaboratorium oorhandig word en 'n afskrif van die brief moet onder deel "B" van die dossier geliasseer word.

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- (4) Die *ondersoekbeampte* moet verseker dat —
- (a) 'n vorm J 88 beskikbaar is wanneer die verdagte ondersoek word en dat die vorm behoorlik deur die *professionele gesondheidsversorger* voltooi word;
 - (b) alle nodige monsters geneem word (sien Aanhangsel D);
 - (c) die monsters duidelik gemerk is;
 - (d) die monsters onverwyld na die Forensiese Wetenskapslaboratorium gestuur word; en
 - (e) enige sigbare beserings aan die verdagte aangeteken word.

17. Voorkoming van kontaminasie van bewysstukke

- (1) Dit is noodsaaklik dat redelike stappe gedoen word om monsters van fisiese bewysstukke wat tydens die ondersoek van *seksuele misdrywe* verkry is, teen kontaminasie te beveilig en te beskerm. 'n Beweerde *seksuele misdryf* is dikwels uiters moeilik om te bewys. Oor die algemeen word so 'n misdryf gepleeg terwyl geen ander getuies teenwoordig is nie en dit is derhalwe die woord van die *slagoffer* teen die woord van die verdagte.
- (2) 'n Lid wat nie opgelei of ondervinding het in die versameling, hantering, bewaring en vervoer van bewysstukke nie, moet nie bewysstukke versamel, hanteer, bewaar en vervoer nie. Sodanige lid moet die *misdaadtoel(e)* teen kontaminasie beveilig en die hulp van 'n opgeleide lid of vanaf die Plaaslike Kriminele Rekordsentrum (PKRS) versoek.
- (3) Die kontaminasie van getuienis (insluitende die verlies van bewysstukke op die *slagoffer* en die verdagte) moet voorkom word deur —
- (a) kontak met die *slagoffer* en verdagte deur dieselfde lid te vermy. Indien 'n lid die verdagte kort na die pleging van die misdryf gearresteer het, moet daardie lid kontak of ondervraging van die *slagoffer* vermy, voordat **beide** die *slagoffer* en die verdagte —
 - (i) medies ondersoek is;
 - (ii) in ander klere verkleed is; en
 - (iii) die klere wat tydens die beweerde *seksuele misdryf* gedra is, vir forensiese analise verwyder is;
 - (b) die *slagoffer* en verdagte in verskillende voertuie te vervoer;
 - (c) kontak deur dieselfde lid met die klere van die *slagoffer* en die verdagte te vermy. Beide stelle klere mag nie deur dieselfde lid verpak word nie, tensy dit in verskillende stadiums van die ondersoek gedoen word;
 - (d) te verseker dat verskillende werksoppervlaktes gebruik word vir die verpakking van die bewysstukke; en
 - (e) te verseker dat die mediese ondersoek van die *slagoffer* en verdagte afsonderlik en nie op dieselfde oppervlakte gedoen word nie.

18. Neem van in-diepte verklaring van die slagoffer

- (1) Die aanvanklike verklaring van die *slagoffer* moet deur 'n in-diepte verklaring opgevolg word. Die *ondersoekbeampte* moet verseker dat die *slagoffer* se in-diepte verklaring geneem word wanneer die *slagoffer* genoegsaam herstel het (afhangende van die omstandighede, ideaal gesproke, tussen 24 en 36 uur) na die voorval. Die *ondersoekbeampte* moet sensitief wees vir die kulturele-, taal- en geloofsagtergrond en geslag van die *slagoffer*.

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- (2) Riglyne vir die neem van die in-diepte verklaring van die *slagoffer* word in Aanhangsel E vervat. In die geval van 'n *kinderslagoffer* van 'n *seksuele misdryf*, moet die riglyne vermeld in Aanhangsel F in aggeneem word wanneer die *ondersoekbeampte* 'n verklaring van die *kinderslagoffer* neem. Die volgende algemene riglyne moet deur die *ondersoekbeampte* nagekom word wanneer die in-diepte verklaring van die *slagoffer* geneem word:

(a) **Voorbereiding vir die neem van die verklaring**

Die *ondersoekbeampte* moet voldoende tyd toelaat om 'n verklaring van hierdie aard te neem. Dit is belangrik dat die *slagoffer* nie aangejaag word nie. Die verklaring moet omvattend wees en besonderhede bevat. Die *ondersoekbeampte* moet stappe doen om die *slagoffer* op gemak te stel en die verklaring moet in 'n ontspanne, private atmosfeer geneem word waar daar min onderbreking is.

(b) **Teenwoordigheid van 'n belanghebbende persoon**

Die *ondersoekbeampte* moet by die *slagoffer* uitvind of hy of sy verkies om 'n *belanghebbende persoon* teenwoordig te hê vir ondersteuning. Indien die *belanghebbende persoon* wat deur die *slagoffer* geïdentifiseer is om hom of haar tydens die neem van die verklaring te ondersteun, 'n potensiele getuie van die aangemelde misdaad is, moet die *ondersoekbeampte* die *slagoffer* inlig dat sodanige persoon 'n potensiele getuie is en nie teenwoordig mag wees tydens die neem van sy of haar verklaring nie.

Indien die *slagoffer* verkies om 'n *belanghebbende persoon* teenwoordig te hê tydens die neem van die verklaring, moet die *belanghebbende persoon* ingelig word dat hy of sy nie —

- (i) oor die meriete van die saak kommentaar mag lewer nie;
- (ii) die *slagoffer* mag voorsê nie; of
- (iii) op enige wyse met die *ondersoekbeampte* mag inmeng in die proses van die verkryging van die verklaring van die *slagoffer* nie.

(c) **Bespreking van intieme besonderhede**

Die *ondersoekbeampte* moet aan die *slagoffer* verduidelik dat die neem van die verklaring die bespreking van intieme besonderhede van die seksuele voorval sal behels. Indien die teenwoordigheid van 'n *belanghebbende persoon* die *slagoffer* sal verhinder om hierdie besonderhede te openbaar, kan die *ondersoekbeampte* aan die *slagoffer* voorstel dat die *belanghebbende persoon* nie teenwoordig moet wees nie. Die besluit om die *belanghebbende persoon* toe te laat om teenwoordig te wees, bly egter dié van die *slagoffer*.

(d) **Slagoffer moet ingelig word om niks weg te steek nie**

Die *ondersoekbeampte* moet die *slagoffer*, met groot sensitiviteit inlig, dat, indien hy of sy iets gedoen het wat hom of haar gedurende sy of haar kruisverhoor in 'n slegte lig kan stel, dit noodsaaklik is dat hy of sy nie probeer om die feit weg te steek nie, maar dit openlik stel.

Voorbeeld 1: Indien die *slagoffer* drank of dwelms gebruik het. Presies wat en hoeveel gebruik is, moet in die verklaring ingesluit word.

Voorbeeld 2: Indien die *slagoffer* aanvanklik die beskuldigde aantreklik gevind het en die beskuldigde toegelaat het om hom of haar te soen. (Die feit dat die *slagoffer* op hierdie wyse opgetree het, beteken nie dat hy of sy toegestem het dat die *seksuele misdryf* gepleeg word nie.)

Die feit dat die *slagoffer* elke aspek in sy of haar verklaring vermeld, selfs inligting wat negatief op die *slagoffer* kan reflekteer, sal die geloofwaardigheid van die *slagoffer* verhoog.

19. Nasorg van die slagoffer

(1) Die belangrikheid van nasorg van die slagoffer

Die *slagoffer* van 'n *seksuele misdryf* het 'n traumatiese gebeurtenis beleef en die meeste *slagoffers* van 'n *seksuele misdryf* het 'n mate van berading nodig om hulle in staat te stel om dit te kan hanteer. *Slagoffers* van *seksuele misdrywe* kan ook vrees dat hulle tydens die *seksuele misdryf* VIGS of 'n ander seksueel oordraagbare siekte kon opgedoen het.

(2) Veiligheid van slagoffers van seksuele misdrywe

Beide met die oog op misdaadvoorkoming in die algemeen, asook soos vereis deur bepaalde wetgewing, het die Diens 'n plig om gepaste stappe te doen om te verseker dat 'n weerlose *slagoffer* beskerm word.

(a) Seksuele misdryf as gevolg van gesinsgeweld

Die lid op die toneel moet, in die geval waar 'n *seksuele misdryf* gedurende 'n voorval van gesinsgeweld gepleeg is, ooreenkomstig die Nasionale Instruksie oor Gesinsgeweld optree en die *slagoffer* inlig van sy of haar reg om —

- (i) ingevolge die Wet op Gesinsgeweld, 1998 (Wet No 116 van 1998), aansoek te doen vir 'n beskermingsbevel; en
- (ii) 'n kriminele klagte in te dien ('n kriminele klagte hoef nie eers ingedien te word voordat die *slagoffer* vir 'n beskermingsbevel aansoek kan doen nie).

(b) Indien die slagoffer 'n kind is

Indien die *slagoffer* 'n *kind* is, moet 'n lid wat deur die GKS- Eenheid opgelei is of 'n gespesialiseerde individu gekontak word. Waar daar gronde is om te glo dat dit in die beste belang van die *kind* sal wees om na 'n plek van veilige bewaring verwyder te word, moet die bepalings van die toepaslike wetgewing in verband met *kinders* toegepas word.

(c) Verstandelik gestremde persone

Indien die *ondersoekbeampte* moeilikheid ondervind wanneer daar met 'n verstandelik gestremde persoon gewerk word, moet die aangeleentheid met Regsdienste bespreek word aangesien die prosedure mag vereis dat 'n dringende aansoek by die Hooggeregshof gebring moet word.

(4) Onderzoekbeampte moet slagoffers bystaan

Dit is die verantwoordelikheid van die *ondersoekbeampte* om —

- (a) aan 'n *slagoffer* die besonderhede van mediese- en beradingsdienste wat in die area beskikbaar is, te verskaf;

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- (b) redelike bystand aan die *slagoffer* te verleen om van sodanige dienste gebruik te maak; en
- (c) te verseker dat toepaslike stappe gedoen word om *kinders* of ander weerlose *slagoffers* te beveilig.

20. Uitkenningsparades

Die *ondersoekbeampte* moet verseker dat 'n uitkenningsparade gehou word in omstandighede soos beoog in en ooreenkomstig die bepalings van die Nasionale Instruksie oor Uitkenningsparades.

21. Voorbereiding vir hofverrigtinge

- (1) Die *ondersoekbeampte* moet die *slagoffer* ingelig hou van enige verwickelinge in die ondersoek van die saak en moet aan die *slagoffer* die hofproses verduidelik en wat om in die hof te verwag ten einde die *slagoffer* vir die hofsaak voor te berei.
- (2) Ingevolge artikel 153 of die Strafproseswet, 1977 (Wet No 51 van 1977), kan die hof beveel dat die getuienis van 'n *slagoffer* van 'n *seksuele misdryf* agter geslote deure aangehoor word. Die *ondersoekbeampte* moet die bepalings van hierdie artikel aan die *slagoffer* verduidelik en kan die aanklaer versoek om hom of haar te help om die implikasies en uitwerking daarvan aan die *slagoffer* te verduidelik.
- (3) Die *ondersoekbeampte* moet 'n verdere verklaring van die *slagoffer* neem voordat die *slagoffer* in die hof getuig. Die doel van hierdie verklaring is om die gevolge (impak) van die *seksuele misdryf* op die lewe van die *slagoffer* onder die aandag van die aanklaer te bring. Die *ondersoekbeampte* moet by die *slagoffer* uitvind hoe die voorval sy of haar lewe en verhoudings met geliefdes geraak het. Dit sal enige veranderinge aan die persoonlikheid en gesondheid van die *slagoffer* as gevolg van die *seksuele misdryf* insluit. Indien toepaslik, moet 'n impakverklaring van 'n sielkundige, maatskaplike werker of forensiese maatskaplike werker of enige ander persoon ook verkry word.
- (4) Indien die *slagoffer* 'n *kind* is, moet die *ondersoekbeampte* 'n impakverklaring verkry van 'n ouer, voog, sielkundige, maatskaplike werker of forensiese maatskaplike werker of enige ander persoon wat kan getuig hoe die *kind* deur die misdryf geraak is. Feite wat reeds in die in-diepte verklaring vermeld is, moet nie in die impakverklaring herhaal word nie.
- (5) Indien dit enigsins moontlik is, moet die *ondersoekbeampte* die *slagoffer* voor die dag van die verhoor na die hof neem waar die saak aangehoor sal word. Die *ondersoekbeampte* moet reël vir 'n voor-verhoor konsultasie tussen die aanklaer, die *ondersoekbeampte*, die *slagoffer* en sleutelgetuies.
- (6) Die konsultasie met sleutelgetuies moet nie in die teenwoordigheid van mekaar en van die *slagoffer* plaasvind nie. Tydens die konsultasie moet die moontlikheid om die verhoor agter geslote deure aan te hoor ook met die aanklaer bespreek word. Die dossier moet betyds aan die aanklaer verskaf word om hom of haar in staat te stel om vir beide die voor-verhoorvergadering, asook die verhoor voor te berei.

22. Bystaan van die slagoffer gedurende die hofverrigtinge

- (1) Die *ondersoekbeampte* moet, op die dag van die verhoor of vroeër indien die *slagoffer* so versoek, afskrifte van die *slagoffer* se verklarings aan hom of haar oorhandig om deur te lees om sy of haar geheue te verfris.
- (2) Die *ondersoekbeampte* moet, indien daar enige verslaggewers in die teenwoordig is, die *slagoffer* inlig dat sy of haar besonderhede, ingevolge artikel 335A of die Strafproseswet, 1977 (Wet No 51 van 1977), nie gepubliseer kan word tensy die voorsittende beampte dit gemagtig het nie en dat enige publikasie sonder sodanige magtiging op 'n misdryf sal neerkom. Die *ondersoekbeampte* moet ook die *slagoffer* versoek om enige oortreding van hierdie artikel so gou as wat hy of sy daarvan bewus word, by die *ondersoekbeampte* aan te meld.
- (3) Die *ondersoekbeampte* moet die hofverrigtinge en die moontlikheid van uitstel aan die *slagoffer* verduidelik. Die *ondersoekbeampte* moet die *slagoffer* aanmoedig om met die saak voort te gaan, ten spyte van enige vertragings in die afhandeling van die saak.

23. Staking van 'n ondersoek

- (1) Die bepalings van Staande Order (Algemeen) 325.2 moet, onderhewig aan subparagraaf (2), ten alle tye streng nagekom word wanneer 'n dossier, wat ten opsigte van 'n *seksuele misdryf* geopen is, afgesluit word.
- (2) Die bevoegdheid om 'n dossier af te sluit, wat deur Staande Order (Algemeen) 325.2 aan 'n "adjutant-offisier" (nou "inspekteur") verleen word, word hierby ingetrek sover dit 'n dossier betref wat ten opsigte van 'n *seksuele misdryf* geopen is. Slegs 'n offisier met die rang van Kaptein of 'n hoër rang, wat 'n Stasiekommissaris is of in beheer is van die speurders by 'n stasie of eenheid, mag so 'n dossier afsluit in die omstandighede vermeld in Staande Order (Algemeen) 325.2.
- (3) Indien 'n Stasiekommissaris by 'n polisiestasie nie die rang van Kaptein of 'n hoër rang beklee nie, mag dossiere wat ten opsigte van *seksuele misdrywe* by daardie stasie geopen is, slegs afgesluit word in die omstandighede wat in Staande Order (Algemeen) 325.2 uiteengesit is, deur die Stasiekommissaris van die Rekenpligtige Stasie onder wie se beheer daardie stasie ressorteer of deur 'n offisier wat vir daardie doel deur die Stasiekommissaris van die Rekenpligtige Stasie aangewys is.
- (4) 'n Offisier wat oorweeg of 'n dossier wat ten opsigte van *seksuele misdrywe* geopen is, afgesluit moet word, omdat die verdagte of klaer nie opgespoor kan word nie, moet homself of haarself tevrede stel dat die *ondersoekbeampte* alle pogings aangewend het om die klaer of verdagte op te spoor. Indien die vermeldde offisier nie tevrede is nie, moet hy of sy duidelik instruksies in die ondersoekdagboek aan die *ondersoekbeampte* gee oor die stappe wat gedoen moet word om die verdagte of klaer op te spoor en moet 'n datum bepaal waarop die *ondersoekbeampte* die dossier moet voorlê met die uitslag van die stappe wat gedoen is.

AANHANGSEL A

**PUBLIC HEALTH ESTABLISHMENTS PROVIDING PEP TREATMENT
OPENBARE GESONDHEIDSINSTELLINGS WAT PEP BEHANDELING
VOORSIEN**

Sien "Aanhangsel A" in die Engelse weergawe van die Nasionale Instruksie.

AANHANGSEL B**MISDRYWE INGEVOLGE DIE WYSIGINGSWET OP DIE STRAFREG (SEKSUELE MISDRYWE EN VERWANTE AANGELEENTHEDE), 2007 (WET NO. 32 VAN 2007) EN GEMEENREGTELIKE SEKSUELE MISDRYWE EN HULLE MAS MISDAADKODES****23701**

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Artikel 4: Gedwonge verkragting

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Artikel 5: Seksuele aanranding

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Artikel 6: Gedwonge seksuele aanranding

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Artikel 7: Gedwonge self-seksuele aanranding

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Artikel 8: Dwang of veroorsaking van persone 18 jaar of ouer om seksuele misdrywe, seksuele handeling of self-masturbasie waar te neem

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Artikel 9: Blootstelling of vertoon van of veroorsaking van blootstelling of vertoon van geslagsorgane, anus of vroulike borste aan persone 18 jaar of ouer ("ontbloting")

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Artikel 10: Blootstelling of vertoon van of veroorsaking van blootstelling of vertoon van kinderpornografie aan persone 18 jaar of ouer

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Artikel 18: Seksuele aanvoring van kinders

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Artikel 19: Blootstelling of vertoon of veroorsaking van blootstelling of vertoon van kinderpornografie of pornografie aan kinders

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23721

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Artikel 25: Blootstelling of vertoon van of veroorsaking van blootstelling of vertoon van pornografie of skadelike materiaal aan persone wat verstandelik

gestremd is

23724

Artikel 26: Gebruikmaking van persone wat verstandelik gestremd is vir pornografiese doeleindes of voordeeltrekking daaruit

23725

Artikel 55: Poging, sameswering, aansporing of oorhaling van iemand anders om seksuele misdryf te pleeg

23726

Artikel 71: Handeldryf in mense vir seksuele doeleindes

22004 / 22993

Gemeenregtelike verkragting - **slegs toepaslik indien die misdryf gepleeg is voor 16 Desember 2007, maar eers aangemeld is na die Wysigingswet op die Strafbreg (Seksuele Misdrywe en Verwante Aangeleenthede) in werking getree het.**

13994

Gemeenregtelike onsedelike aanranding - **slegs toepaslik indien die misdryf gepleeg is voor 16 Desember 2007, maar eers aangemeld is na die Wysigingswet op die Strafbreg (Seksuele Misdrywe en Verwante Aangeleenthede) in werking getree het.**

25011

Gemeenregtelike bloedsbande - **slegs toepaslik indien die misdryf gepleeg is voor 16 Desember 2007, maar eers aangemeld is na die Wysigingswet op die Strafbreg (Seksuele Misdrywe en Verwante Aangeleenthede) in werking getree het.**

AANHANGSEL C

MOONTLIKE MONSTERS WAT VAN DIE SLAGOFFER GENEEM MOET WORD

Let asseblief daarop dat hierdie tabel slegs as 'n riglyn gebruik moet word en dat dit steeds die verantwoordelikheid van die ondersoekbeampte is om te verseker dat al die nodige monsters geneem word. Die gesondheidsorgwerker kan versoek word om een of elkeen van die volgende monsters van die slagoffer te neem:

Monster	Beskrywing
Wattedepper (posterior fornix)	Wattedepper moet winddroog word. Crime Kit 1 of 3
Glassmeer van wattedepper	Wattedeppers moet oor glasskyfies gerol word. Moenie kleefmiddel gebruik nie en moenie die skyfies bo-op mekaar sit nie.
Anale, vaginale of mondwattedeppers of smeer, waar toepaslik	Anale, vaginale of mondwattedeppers en smere, waar torpaslik (dit moet droog wees voordat dit in die buis geplaas word.)
Haarbewysstuk (vreemde hare, nie dié van die slagoffer nie)	Dit moet uit die slagoffer se skaamdele gekam word. Plaas die hare in 'n sagte papierkoevert. Crime Kit 4
Kontrolehaarmonsters van die slagoffer se kop en skaamdele	'n Minimum van 20 hare word benodig. Dit moet van verskillende plekke op die slagoffer se kop uitgetrek word. (Die haarwortel moet ingesluit wees) Hierdie hare moet word vereis van verskillende plekke op die kop, aangesien daar verskille in lengtes en kleur wees. Crime Kit 4 Dit mag nie van die slagoffer afgesny word nie. Plaas die hare in 'n sagte papierkoevert.
Naelskrappings	Skraapsels van onder die naels van die slagoffer indien hy of sy die verdagte gekrap het (slegs as daar bloed was). Crime Kit 1

Bykomende monsters wat benodig word

As groeperings en vergelykings benodig word, moet die volgende bykomende monsters geneem word:

Monster	Beskrywing
'n Kontrolebloedmonster van die slagoffer	<p>Alle verdagtes en ander partye met wie die slagoffer binne 72 uur (3 dae) voordat die voorval aangemeld is, geslagsgemeenskap gehad het, moet byeengeroep word en 'n bloedmonster moet van elkeen geneem word. Vrae oor die betrokke partye met wie die slagoffer seksuele omgang gehad het, moet sensitief en in privaatheid gestel word.</p> <p>Kontrolebloedmonsters moet in 'n vloeistofvorm wees, asook een gestolde bloedmonster (rooibruin prop) en een EDTA-bloedmonster (pers prop). Crime Kit 2</p>
DNS	Indien DNS-ontledings benodig word, kan besonderhede van die Forensiese Wetenskaplaboratorium verkry word wat leiding in hierdie verband kan verleen.

Die gesondheidsorgwerker mag dalk ook alkoholmonsters en/of liggaamsvloeistof wil neem.

'n Bloedalkohol-kit moet vir hierdie doel gebruik word en na die Departement van Gesondheid gestuur word. Inligting oor kontrasepsieberading kan op versoek gegee word.

In die geval waar daar enige twyfel bestaan oor die versameling, verpakking en vervoer van monsters, moet die ondersoekbeampte onverwyld die Forensiese Wetenskaplaboratorium kontak.

AANHANGSEL D**MOONTLIKE MONSTERS WAT VAN DIE VERDAGTE
GENEEM MOET WORD**

Let asseblief daarop dat hierdie tabel slegs as 'n riglyn gebruik moet word en dat dit steeds die verantwoordelikheid van die ondersoekbeampte is om te verseker dat al die nodige monsters geneem word. Indien die verdagte opgespoor word, moet hy of sy na die gesondheidsorgwerker geneem word, en die volgende monsters kan geneem word:

Monster	Beskrywing
Skaamhare	Dit moet uit die verdagte se skaamdele gekam word. Plaas die hare in 'n sagte papierkoevert.
Kontrolehaarmonsters van die verdagte se kop	'n Minimum van 20 hare word vereis. Dit moet van verskillende plekke op die slagoffer se kop uitgetrek word. Crime Kit 4 Hierdie hare moet word vereis van verskillende plekke op die kop, aangesien daar verskille in lengtes en kleur wees. Dit moet nie van die verdagte se kop afgesny word nie. Plaas die hare in 'n sagte papierkoevert.
Bloed	Crime Kit 2 EDTA
Bloed om die alkoholvlak te bepaal	Slegs benodig as dit 'n faktor in die saak is. Bloed- of alkohol kit

Die gesondheidsorgwerker mag ook 'n alkoholmonster wil neem of 'n liggaamsvloeistof wil versamel. 'n Bloed-/alkohol kit moet vir hierdie doel gebruik word en die monsters moet na die Departement van Gesondheid gestuur word.

AANHANGSEL E**KONTROLELYS VIR VERKLARINGS RAKENDE SEKSUELE MISDRYWE**

Let asseblief daarop dat die kontrolelyns slegs as 'n riglyn gebruik moet word en dat dit die verantwoordelikheid van die ondersoekbeampte bly om 'n volledige verklaring in elke saak af te neem.

Item	Besonderhede
1	Neem die verklaring af in paragraafvorm.
2	Moenie die slagoffer voorsê nie - dit moet sy of haar eie verklaring wees. (Moet nooit leidende vrae stel nie.)
3	Volle name (nooiensvan, indien van toepassing) <ul style="list-style-type: none"> - Ouderdom en geboortedatum - Identiteitsnommer - Beroep - Huis- en posadres - Telefoonnommer en kode - Plek van werk, indien van toepassing - Selfoonnommer - Faksnommer
4	Besonderhede van gebeure wat die voorval vooraf-geloopt het. (Dit sal afhang van die omstandighede en daar sal in sommige gevalle meer inligting wees as in ander.)
5	Beskryf die misdaadtoneel voor die aanval.
6	Beskryf die slagoffer se kleredrag, asook die slagoffer volledig (dit kan die forensiese identifikasie van hulp wees).
7	Beskryf die ander slagoffers (indien daar meer as een slagoffer betrokke was).
8	Dag en datum. Spesifiseer die dag van die week.
9	Verkry uitsluitel oor die tyd - hoe het die slagoffer geweet hoe laat dit was?
10	Beskryf, indien moontlik, enige roete wat die slagoffer voor die aanval geneem het.
11	Getuie - enige bekend aan die slagoffer, beskryf ander getuies en meld hulle name (indien moontlik), getuies kan die slagoffer met die verdagte verbind.

Item	Besonderhede
12	Hoe die verdagte die slagoffer benader het.
13	Hoe die verdagte beheer oor die slagoffer behou het.
14	Indien dwangmiddels gebruik is, het die verdagte dit saam met hom of haar gebring of het dit aan die slagoffer behoort?
15	Wapens, ens. wat gebruik, vertoon en vermeld is.
16	Presiese woorde wat die verdagte gebruik het. Gebruik direkte rede.
17	Presiese woorde wat die slagoffer teenoor die verdagte geuiter het. Gebruik direkte rede.
18	Indien daar meer as een verdagte is, identifiseer elkeen kortliks deur een of ander onderskeidende kenmerk, soos 'n snor, merk aan die gesig, kleur van 'n hemp.
19	Besonderhede van enigiets wat die verdagte op die toneel agtergelaat het.
20	Beskryf enigiets wat die verdagte aangeraak het.
21	Het die verdagte 'n ontsnappingsroete gereed gehad voor die aanval?
22	Beskryf die slagoffer se gemoedstoestand gedurende die voorval. Wat het die slagoffer gedink of gevoel ten opsigte van elke gebeurtenis wat plaasgevind het?
23	Dreigemente wat deur die verdagte gemaak is - presiese taal.
24	Het die slagoffer enige weerstand gebied? Sluit redes vir weerstand of geen weerstand in.
25	Indien die slagoffer weerstand gebied het, verduidelik die verdagte se reaksie daarop (spraak, gesigsuitdrukings, fisiese reaksie).
26	Het die verdagte die slagoffer in enige bepaalde fisiese posisie ingedwing?
27	Het die verdagte foto's van die slagoffer geneem?
28	Beskryf indien en hoe klere verwyder is en deur wie, asook in watter volgorde - waar die klere neergesit of gelaat is.
29	Is die slagoffer gedwing om enige bepaalde kledingstuk aan te trek?
30	Is hierdie artikels deur die verdagte na die toneel gebring?
31	Id enige klere deur die verdagte gesteel?

Item	Besonderhede
32	Het die verdagte die slagoffer gedwing om enige bepaalde woorde of sinne tydens die aanval te gebruik?
33	Beskryf die seksuele aanranding volledig. Beskryf die daad. Het die slagoffer enige keuse gehad?
	<p>Oorweeg:</p> <p>Aanraking Waar en deur wie; Slagoffer deur verdagte Verdagte deur slagoffer.</p> <p>Soen Verdagte deur slagoffer Slagoffer deur verdagte.</p>
	Gebruik van instrumente Vreemde voorwerpe gebruik of in vagina, anus, ens geplaas.
	<p>Vingerpenetrasie In vagina of anus</p> <p>Fetisjisme Spesifieke aantrekking/versoek vir bepaalde voorwerp (klere/parfuum/baba-olie)</p> <p>Afloerdery Loer 'n spesifieke daad af (bv verdagte kyk hoe slagoffer masturbeer)</p> <p>Cunnilingus Mond op vagina</p> <p>Seksuele sadisme Slaan, brand, slaan met 'n sweep, byt, draai borste, versmoring (verstrengel) totdat die slagoffer bewusteloos is, pynlike aanhouding (vasgebind)</p> <p>Annullingus Lek anus</p> <p>Urinering Urineer op slagoffer</p>
	<p>Ontlasting Ontlas menslike afskeiding (stoelgang) op slagoffer</p> <p>Bestialiteit Gedwing om seksuele daad met 'n dier uit te voer.</p>
34	As seksuele omgang plaasgevind het, beskryf presies hoe die slagoffer gevoel het (dwang, vrees, bedrieg)

Item	Besonderhede
35	Hoe die penis die vagina (of ander opening) gepenetreer het <ul style="list-style-type: none"> - posisie van liggame - posisie van hande - posisie van bene
36	Het die verdagte 'n ereksie gehad?
37	Is enige smeermiddel gebruik?
38	Was die verdagte besny?
39	Het die verdagte probleme ondervind om 'n ereksie te kry of dit te behou of het hy prematuur geëjakuleer?
40	Is die slagoffer gedwing om die verdagte met die hand te masturbeer sodat die verdagte sy ereksie kan behou of bereik?
41	Het die verdagte geëjakuleer? Hoe het die slagoffer geweet die verdagte het geëjakuleer?
42	Het die verdagte enigiets gebruik om sy penis af te vee na die misdryf gepleeg is?
43	Het die verdagte enigiets gedoen om te voorkom of te verhoed dat semen agtergelaat word, bv die slagoffer gedwing om te was, die slagoffer se skaamhare gekam, 'n kondoom gebruik?
44	Indien sneesdoekies gebruik is, wat het daarvan geword? Waar het dit vandaan gekom?

Item	Besonderhede
45	Indien orale seks plaasgevind het, het die slagoffer die semen uitgespoeg of vomeer? Indien wel, waar?
46	Het die verdagte die slagoffer aangesê of gedwing om enige dwelmmiddels of medikasie of alkohol te neem?
47	Was daar enige tekens van bloeding? Beskryf of dit op die slagoffer of die verdagte of die misdaadtoneel was.
48	Indien 'n aantal seksuele dade uitgevoer is, beskryf die presiese posisie waarin dit gepleeg is en die taal wat die verdagte voor, tydens en na hierdie dade gebruik het.

Item	Besonderhede
49	Enige bepaalde dreigemente wat aan die slagoffer gemaak is om nie die misdryf aan te meld nie. Die presiese woorde wat gebruik is, moet vermeld word.
50	Enige handeling of woorde wat gebruik is om te voorkom dat die slagoffer nie die verdagte moet herken nie.
51	Het die verdagte stappe gedoen om te voorkom dat hy of sy vingerafdrukke agterlaat.
52	Is enige eiendom van die slagoffer geneem om die verdagte te help om hom of haar weer op te spoor? Is dit gedoen in 'n poging om te voorkom dat die slagoffer die voorval aanmeld? Is dit spesifiek aan deur die verdagte genoem?
53	Het die verdagte voorgestel dat hulle weer moet ontmoet? Bespreek volledig.
54	Was die verdagte nuuskierig oor die slagoffer se lewe, familie of vorige verhoudings, seksueel of andersins?
55	Het die verdagte die slagoffer enigsins gekomplimenteer?
56	Het die verdagte verskoning gemaak vir wat hy gedoen het of om verskoning gevra?
57	Het die verdagte enige melding gemaak van die polisieprosedure?
58	Hoe is die aanval beëindig?
59	Hoe het die slagoffer die toneel verlaat?
60	Hoe het die verdagte die toneel verlaat? Was dit te voet, per motor of fiets?
61	Het die slagoffer vir enigiemand vertel en wanneer het hy of sy dit gedoen?
62	'n Volledige beskrywing van die verdagte(s) van kop tot tone.
63	Sluit 'n beskrywing in van die verdagte se klere. Dit mag nodig wees om te meld wat die verdagte nie aangehad het nie, bv 'n baadjie.
64	Het die verdagte 'n taal gepraat wat aan die slagoffer bekend is? Verduidelik.
65	Het die verdagte 'n aksent gehad? Verduidelik, indien moontlik.
66	Het die slagoffer die verdagte geken? Indien wel, meld besonderhede. Sal die slagoffer die verdagte kan uitken?
67	Hoe is die voorval by die Polisie aangemeld?

Item	Besonderhede
68	Toestemming van die slagoffer om die toneel of sy of haar eiendom te deursoek en om artikels as bewysstukke en vir forensiese ondersoek te verwyder.
69	Bespreek volledig alle eiendom waarop beslaggelê is, insluitende reeksnommers, kleure, grootte, identifikasiemerke.
70	Laat die slagoffer toe om enige eiendom wat deur die verdagte op die toneel agtergelaat is, formeel te identifiseer.
71	Beskryf al die beserings wat die slagoffer opgedoen het.
72	Sluit die feit in dat die slagoffer nie toestemming verleen het nie, selfs al is dit ooglopend.
73	Meld die afwesigheid van toestemming vir die verwydering van enige eiendom van die slagoffer deur die verdagte.
74	Is die slagoffer bereid om die hofverrigtinge by te woon?
75	Maak seker dat die slagoffer die verklaring deeglik deurlees en dat dit op al die regte plekke onderteken is.
76	Wanneer was die laaste keer wat die klaer seksuele omgang gehad het? Indien dit binne 72 uur voor die voorval was, word kontrolebloedmonsters van al die seksmaats benodig.
77	Meld dat die slagoffer toestemming verleen het dat op artikels beslaggelê kan word vir forensiese toetse en dat die slagoffer beseft dat die artikels tydens die forensiese ondersoek beskadig kan word.

AANHANGSEL F

**RIGLYNE TEN OPSIGTE VAN DIE NEEM VAN 'N
VERKLARING VAN 'N KINDERSLAGOFFER****1. Inleiding**

Die basiese beginsels rondom die verkryging van verklarings van kinders bly dieselfde as die beginsels wat geld vir volwasse slagoffers en getuies.

Die instruksies wat geld vir die neem van verklarings soos uiteengesit in Staande Orders 322, 327 en Staande Order (Algemeen) 18 van 1990 moet nagekom word.

Daar is egter 'n paar verskille aangaande die formaat en inhoud van verklarings van kinders. Dit word hieronder uiteengesit.

2. Algemene aspekte

- 'n Kind is 'n persoon onder die ouderdom van 18 jaar soos bepaal deur artikel 28 van die Grondwet.
- Dit is noodsaaklik dat daar, voor die neem van die verklaring, vasgestel word of die kind die eed of plegtige bevestiging verstaan. Dit word gewoonlik aanvaar dat 'n kind onder die ouderdom van 12 jaar nie die eed of plegtige bevestiging verstaan nie en dat 'n beëdigde of plegtig bevestigde verklaring nie van hom of haar geneem kan word nie. Slegs in uitsonderlike gevalle, waar 'n kind onder die ouderdom van 12 jaar is en die eed of plegtige bevestiging kan verduidelik aan die polisiebeampte wat die verklaring neem, mag sodanige verklaring beëdig of plegtig bevestig word.
- Indien 'n kind ouer as 12 jaar is, moet daar steeds vasgestel word of daardie kind die eed of plegtige bevestiging verstaan.
- In gevalle waar baie jong kinders (jonger as 7 jaar) betrokke is en hierdie kinders nie hulle name kan skryf of 'n merk kan maak nie, maar in staat is om 'n volledige uiteensetting te gee van wat met hulle gebeur het, moet die polisiebeampte wat die onderhoud met die kind voer, self 'n verklaring aflê oor die onderhoud wat met die kind gevoer is. Die ondersoeknotas wat tydens die onderhoud gemaak is, moet aan die verklaring van die polisiebeampte geheg word, ten einde die inhoud van die verklaring te ondersteun.
- Dit is nie altyd nodig, moontlik of raadsaam dat die ouer of voogd of bevoegde volwassene fisies teenwoordig moet wees terwyl die verklaring geneem word nie. Die howe verklaar steeds die verklaring van die kind

toelaatbaar, so lank as wat die ouer of voog of bevoegde volwassene bewus was van die inhoud daarvan en dit by wyse van 'n handtekening erken het.

- Indien die ouer, voog of bevoegde volwassene 'n volwasse getuie in die selfde saak is en die kind aandui dat hy of sy verkies om daardie volwasse getuie teenwoordig te hê tydens die neem van die verklaring, is dit noodsaaklik dat die verklaring van die volwasse getuie eers geneem moet word voor die verklaring van die kind om sodoende objektiwiteit te verseker en beïnvloeding te beperk.
- Indien die ouer, voog of bevoegde volwassene die beweerde oortreder is, mag die verklaring van die kind onder geen omstandighede in die teenwoordigheid van die beweerde oortreder geneem word nie.
- Elke bladsy van die verklaring moet deur die polisiebeampte wat die verklaring neem, die kind, die tolk en die ouer, voog of bevoegde volwassene geparafeer word (Staande Order 322 en 327).
- Alle korreksies moet in ooreenstemming met Staande Order 301.1 aangebring word en deur die polisiebeampte wat die verklaring geneem het, die kind en die ouer, voog of bevoegde volwassene geparafeer en dateer word.

3. Formaat en vereistes van verklarings van kinders

'n Verklaring word in 3 dele verdeel:

- 'n Aanhef
- Inhoud
- Einde

3.1 Aanhef tot die verklaring

- In die meeste gevalle waarby kinders betrokke is, sal die verklaring nie beëdig of plegtig bevestig word nie.
- Die volgende moet op die eerste lyn van die verklaring verskyn:
 - Die kind se volle name en van.
 - Dui aan of die verklaring beëdig of plegtig bevestig word of nie een van twee nie.
 - Die taal wat die kind praat (dit stel die aanklaer in staat om reëlins te tref vir die toepaslike tolk en tussenganger by die verhoor).
 - Voorbeeld:
JOSEPH THABANG RICHIE verklaar in Afrikaans / Engels / Zulu / Sepedi
- Die volgende moet in die aanhef (paragraaf 1) vermeld word:
 - Identiteitsnommer of geboortedatum van die kind.

- Volledige woonadres van die kind.
- Selfoonnommer van die kind.
- Telefoonnommer van woning en kontakbesonderhede van die ouer of voog.
- Naam van die kind se skool.
- Fisiese adres van die kind se skool.
- Die graad waarin die kind is.
- Die naam van die kind se onderwyser of onderwyseres.

3.2 Inhoud van verklaring

- Alvorens daar met die skryf van die verklaring begin word tydens die onderhoud, moet die polisiebeampte vasstel of die kind weet wat die verskil is tussen die waarheid en 'n leuen of nie. Dit kan gedoen word deur byvoorbeeld die volgende vrae aan die kind se stel:

Waarheid	Leuen
<i>Daar is televisiestelle in Suid-Afrika</i>	<i>Daar is geen televisiestelle in Suid-Afrika nie</i>
<i>Die son skyn in die dag</i>	<i>Die son skyn nie in die dag nie</i>
<i>Jy kan 'n potlood gebruik om 'n prentjie te teken</i>	<i>Jy gebruik 'n potlood om 'n boom te plant</i>

- Wanneer dit vasgestel is, sal paragraaf 2 van die verklaring die volgende bevat:
Ek ken die verskil tussen reg en verkeerd. Ek weet wat dit beteken om die waarheid te praat. Wat ek nou gaan sê, is die waarheid.
- Die presiese woorde wat die kind gebruik, moet aangeteken word om egtheid en oorspronklikheid te verseker. Die volgende kan as voorbeelde gebruik word:

Woorde van kind	Volwasse vertaling
<i>Die oom het my geslaan</i>	<i>Mnr Nel het my aangerand</i>
<i>Die stoute man het sy toti in my blommetjie gesit</i>	<i>Mnr Ndlovu het sy penis in my vagina gedruk</i>
<i>Hy het sy wee-wee in my wee-wee gesit</i>	<i>Mnr Rodricks het my verkrag</i>

- Sorg moet geneem word om nie die taal wat die kind gebruik in volwasse taal te "vertaal" nie, byvoorbeeld die betekenis van "toti" en "blommetjie"

mag onder **geen** omstandighede in hakkies na die kind se woorde neergeskryf word nie. Daar moet in gedagte gehou word dat die verdediging geregtig is daarop om 'n afskrif van die kind se verklaring te versoek. Die verdediging kan die kind kruisondervra oor die terminologie wat in die kind se verklaring gebruik is. Dit kan tot ontslag in die hof lei.

- 'n Verklaring moet gemaak word deur die polisiebeampte of die ouer, voog of bevoegde volwassene waarin die woorde, wat deur die kind gebruik is, verduidelik word.
- Daar moet moeite gedoen word om die kind se verklaring in 'n verstaanbare, kronologiese volgorde aan te teken, aangesien kinders dikwels nie na die gebeure in volgorde verwys nie. Dit is derhalwe raadsaam dat die polisiebeampte wat die verklaring van die kind neem, omvattende notas maak tydens die onderhoud voordat daar begin word met die neerskryf van die verklaring. Polisiebeamptes moet verwys na die module oor ondersoekende onderhoudvoering van kinders ten einde dit te begryp en in die praktyk toe te pas.

3.3 Einde van verklaring

- Wanneer die verklaring afgelê is, moet die hele verklaring aan die kind gelees word en die kind moet die geleentheid gegun word om enige regstellings, veranderings of toevoegings te maak.
- Die kind moet versoek word om sy of haar naam neer te skryf of sy of haar merk te maak op die volgende lyntjie na die laaste woord van die verklaring.
- Indien die dienste van 'n tolk gebruik word, word daar van die tolk vereis om die vertaling op die volgende wyse te verduidelik:
Vertaal van Zulu na English en omgekeerd
- Die tolk moet dan die sertifikaat onderteken.
- Die ouer, voog of bevoegde volwassene van die kind moet dan die verklaring op die volgende wyse endosseer:
Verklaring is in my teenwoordigheid geneem. Ek het die inhoud daarvan gelees.
- Die ouer, voog of bevoegde volwassene onderteken die verklaring en endosseer die datum, tyd en plek onder sy of haar handtekening.
- Die polisiebeampte wat die verklaring geneem het, endosseer dit op die volgende wyse:
Bovermelde verklaring is deur my geneem in die teenwoordigheid van die ouer, voog of bevoegde volwassene.

- Die polisiebeampte se handtekening word daarop aangebring en die datum, tyd en plek onder sy of haar handtekening geëndosseer.

4. Voorbeeld van 'n verklaring van 'n kind

JOSEPH THABANG RICHIE verklaar in Afrikaans:

1.

Ek is 'n 9 jarige seun en ek is op 1 April 1999 gebore. EK woon te Alphaweg 123, Windsor Park, Pretoria. My huistelefoonnommer is 012 393 1234. My ma se selfoonnommer is 083 123 4567 en my pa se selfoonnommer is 082 123 7654. Ek is 'n skolier in graad 3 aan Windsor Park Laerskool, Betaweg 456, Windsor Park, Pretoria. Ek is in Me Dhlamini se klas. My huistaal is isiZulu.

2.

Ek weet wat die verskil is tussen reg en verkeerd. Ek weet wat dit beteken om die waarheid te praat. Wat ek nou gaan sê, is die waarheid.

3.

Op Maandag, 6 November 2008, het ek na skool na my oom John se huis gegaan. Ek gaan gewoonlik elke dag daarheen na skool. Ek weet nie wat sy adres is nie, maar hy woon naby my skool.

4.

Nadat ek middagete gehad het, het oom John vir my gesê om te gaan verklee. Terwyl ek in die badkamer besig was om my klere uit te trek, het oom John in die badkamer ingekom. Ek het daar gestaan in my onderbroek en hy het gevra hoe my dag by die skool was. Hy het op die toilet gesit met al sy klere aan en my gevra om op sy skoot te kom sit. Ek het op sy skoot gesit en hom van my dag by die skool vertel.

5.

Oom John het toe begin om my op my mond te soen. Hy het sy tong in my mond gedruk. Ek het probeer om van sy skoot af te spring, maar ek kon nie want hy het my te styf vasgehou. Oom John het toe sy hand in my onderbroek gedruk en met my toti begin speel. Ek het hom gevra om te stop, maar hy het gesê dat as hy 'n rukkie langer aanhou, sal ek daarvan hou. Ek was bang en het nie geweet wat om te doen nie en het begin huil.

6.

Op daardie oomblik het ek my tannie Elizabeth se motor in die oprit gehoor. Oom John het my van sy skoot afgegooi en gesê ek moet aantrek. Hy het gesê dat dit wat gebeur het, ons geheim is en ek moet vir niemand daarvan vertel nie. Hy het belowe om vir my vir Kersfees 'n nuwe fiets te koop.

7.

Terwyl ek besig was om aan te trek, het my tannie Elizabeth in die badkamer ingekom. Sy het gesien dat ek gehuil het en het gevra wat verkeerd was. Ek het weer begin huil en haar vertel wat gebeur het. My tannie het niks vir my gesê nie, sy het my net huis toe geneem. Toe ons by my huis aankom, het my tannie en ouers my na my kamer toe gestuur en in die sitkamer gepraat. Ek het nooit enigiemand, anders as my tannie, vertel wat met my gebeur het nie.

XXXXXXXXXX

(Kind skryf sy of haar naam of maak sy of haar merk)

Bovermelde verklaring is deur my van Zulu na Engels en terug na Zulu vertaal.

XXXXXXXXXX

(Handtekening van tolk)

Verklaring is in my teenwoordigheid geneem. Ek het die inhoud daarvan gelees.

XXXXXXXXXX

(Handtekening van ouer, voog of bevoegde volwassene)

Pretoria
2008-11-17
11:20

Bovermelde verklaring is deur my geneem in die teenwoordigheid van die moeder, Mev JS Richie.

XXXXXXXXXX

(Handtekening van polisiebeampte)

Pretoria
2008-11-17
11:23

5. Gevolgtrekking

Die neem van 'n verklaring van 'n kind bly 'n uitdaging en vereis gespesialiseerde vaardigheid. Onderzoekbeamptes moet hierdie taak met empatie en ywer benader. Verklarings wat op die korrekte wyse verkry is, verseker dat geregtigheid seëvier en dat kinders as slagoffers bemagtig word.

AANHANGSEL G**REGISTER TEN OPSIGTE VAN AANSOEKE VIR
VERPLIGTE MIV-TOETSE**

Die volgende inligting in verband met elke aansoek vir 'n MIV-toets moet aangeteken word:

- (a) Die MAS/MR-nommer;
- (b) Die datum van die aansoek;
- (c) die volle name, geboortedatum, identiteitsnommer, adres en kontakbesonderhede van die slagoffer;
- (d) indien die aansoek gebring is deur 'n belanghebbende persoon wat namens die slagoffer optree, die volle name, geboortedatum, identiteitsnommer, adres en kontakbesonderhede van daardie belanghebbende persoon en die verhouding tussen die slagoffer en die belanghebbende persoon;
- (e) die volle name, geboortedatum, identiteitsnommer, adres en kontakbesonderhede van die beweerde oortreder;
- (f) volledige besonderhede van die beweerde seksuele misdryf;
- (g) die datum waarop die bevel vir die MIV-toetsing gemaak is;
- (h) of die aansoek deur die landdros toegestaan of van die hand gewys is;
- (i) of 'n lasbrief vir arrestasie uitgereik is;
- (j) die landdroshof en besonderhede van die landdros wat die aansoek oorweeg het;
- (k) indien die aansoek toegestaan is, die datum waarop en naam van die gesondheidsinstelling waar die bevel uitgevoer is; en
- (l) waar die verseëelde rekord gehou word van die toetsuitslae van sake waarin 'n ondersoekbeamppte aansoek gedoen het.

SOUTH AFRICAN POLICE SERVICE

SAPD 580(a)
SUID-AFRIKAANSE POLISIEDIENS

KENNISGEWING AAN 'N SLAGOFFER VAN BESKIKBARE DIENSTE

Artikel 28(3) van die Wysigingswet op die Strafreg (Seksuele Misdryf en Verwante Aangeleenthede), 2007 (Wet No. 32 van 2007)

(Die lid, by wie 'n klagte van 'n seksuele misdryf gelê word, moet hierdie vorm aan die slagoffer van die beweerde misdryf of 'n belanghebbende persoon oorhandig.)

Die doel van hierdie Vorm is om die slagoffer van die beweerde seksuele misdryf te voorsien van inligting en, in besonder, van die besonderhede van die dienste wat beskikbaar is in verband met die ontvangs van Na-blootstellingsprofilakse (PEP) vir moontlike MIV-infeksie en vir die MIV-toetsing van die beweerde seks-oortreder.

Nota:

Ingevolge artikel 27 van die Wet, is 'n "belanghebbende persoon" enige persoon wat 'n wesenlike belang in die welstand van 'n slagoffer het, insluitend 'n gade, permanente lewensmaat van dieselfde of teenoorgestelde geslag, ouer, voog, familielid, sorggewer, kurator, berader, geneesheer, gesondheidsorgvoorsiener, maatskaplike werker of die onderwyser of onderwyseres van so 'n slagoffer. 'n Belanghebbende persoon kan namens die slagoffer aansoek doen vir die dienste waarna in hierdie Vorm verwys word.

Wat is die MIV infeksie?

MIV verwys na 'n infeksie deur die verworwe immuniteitsgebreksindroom-virus. MIV vernietig belangrike selle wat die immuniteitstelsel beheer en ondersteun. As gevolg daarvan word die liggaam se natuurlike weerstandmeganismes verswak en vind die liggaam dit moeilik om weerstand te bied teen enige siekte. Die meeste mense wat besmet is met MIV ontwikkel uiteindelik VIGS en sterf omdat hulle liggame nie langer enige weerstand kan bied teen siektes soos tuberkulose, longontsteking en breinvliesontsteking nie. Besmetting met MIV het derhalwe ernstige gevolge vir u as individu. Daar is tans geen geneesmiddel vir MIV/VIGS nie.

Hoe word MIV oorgedra?

MIV word op drie verskillende wyses oorgedra:

- tydens seksuele omgang;
- gedurende 'n bloedoortapping waar MIV-besmette bloed direk in die liggaam oorgetap word; en
- van 'n moeder na 'n fetus gedurende swangerskap, geboorte of tydens borsvoeding.

Kan ek gedurende die pleging van 'n seksuele misdryf aan MIV blootgestel word?

Ja, indien u in kontak gekom het met die bloed, semen of vaginale vloeistof van die oortreder. Byvoorbeeld, indien u vaginaal of anaal verkrag is en die semen van die oortreder u liggaam binnegekom het, sou u aan MIV blootgestel kon gewees het.

Wat is PEP?

PEP (Na-blootstellingsprofilakse) verwys na antiretrovirale terapie wat toegedien word om die moontlikheid te verminder dat 'n persoon, na blootstelling aan die virus, met HIV besmet word. Die behandeling behels gewoonlik die toediening van 'n groep medisyne (of sekere medisyne alleen) wat MIV teëwerk. Dit is

belangrik dat PEP so gou as moontlik, maar binne 72 uur na die beweerde seksuele misdryf plaasgevind het, toegedien word. Die toediening is gratis en vind plaas by 'n openbare gesondheidsinstelling wat deur die Minister van Gesondheid aangewys is. 'n Lys van gesondheidsinstellings binne 'n redelike afstand van die polisiestasie waar die klagte aangemeld is, word by hierdie Kennisgewing aangeheg. U sal ook daar gratis mediese advies ontvang ten opsigte van die toediening van PEP voordat dit toegedien word. U moet toestem tot die toediening van PEP.

Kan ek ander persone in gevaar stel van MIV-besmetting weens my moontlike blootstelling daaraan?

U kan nie MIV oordra by wyse van daaglikse kontak met ander persone, soos met omhelsing, 'n handdruk of deur voedsel, water of eetgereedskap te deel nie. Aangesien MIV egter, onder andere, deur seksuele omgang oorgedra word, kan u moontlik besmet wees weens die beweerde seksuele misdryf en kan u, as gevolg daarvan, u seksmaat besmet. U behoort derhalwe veilige seks te beoefen totdat u seker is dat u nie besmet is nie. Indien u swanger is, kan u MIV aan u ongeboore baba oordra. Indien u borsvoed, kan u ook u baba blootstel aan die risiko van besmetting met MIV. ***U moet kundige advies (soos uiteengesit aan die einde van hierdie Kennisgewing) bekom oor die hantering van die gevolge van die risiko van besmetting van uself, u seksmaat en ander.***

Wat van ander seksueel oordraagbare infeksies?

Tydens die pleging van 'n seksuele misdryf, kan die slagoffer ook blootgestel word aan ander seksueel oordraagbare infeksies. Alle ander seksueel oordraagbare siektes kan doeltreffend behandel word sonder ernstige gevolge vir die gesondheid van die slagoffer. U kan gratis mediese advies kry by die gesondheidsinstelling in verband met seksueel oordraagbare siektes, die simptome waarna u moet oplet en wat om te doen indien u vermoed dat u moontlik so 'n siekte opgedoen het.

Hoe hanteer ek my moontlike blootstelling aan MIV tydens die beweerde seksuele misdryf?

U kan by 'n landdros aansoek doen dat die beweerde oortreder vir MIV getoets word en die uitslae van sy of haar toetse sal aan u bekend gemaak word. Indien u bewus is van die MIV-status van die beweerde seks-oortreder, kan dit aan u gemoedsrus gee en u in 'n beter posisie plaas om te besluit of u medikasie moet neem om die risiko van MIV besmetting te voorkom of te verminder en wat u kan doen om u seksmaat en ander teen MIV besmetting te beskerm. ***Kundige mediese advies kan nodig wees om die gevolge van die risiko van besmetting aan uself, u seksmaat en ander te hanteer. Die toetsuitslag van 'n verpligte MIV-toets mag nie betroubaar wees nie omdat die beweerde oortreder in die venstertydperk mag wees terwyl hy of sy vir MIV getoets word. Dit beteken dat die toetsuitslag mag wys dat die beweerde oortreder negatief toets, terwyl hy of sy inderdaad MIV positief is. U moet derhalwe met 'n deskundige praat voordat u enige mediese of leefstyl besluite neem op grond van die toetsuitslag. U moet verder ook in ag neem dat 'n MIV-positiewe toetsuitslag nie noodwendig beteken dat die virus tydens die pleging van die seksuele misdryf aan u oorgedra is nie.***

Dit is in u eie beste belang om vir MIV getoets te word wanneer u gereed voel om dit te doen. Maak intussen seker dat u veilige seks beoefen.

Hoe doen ek aansoek vir die MIV-toetsing van die beweerde seks-oortreder?

- U moet die pleging van die seksuele misdryf aanmeld by die polisiestasie naaste aan waar die misdryf gepleeg is. Die Polisie sal die saak ondersoek.
- U mag onmiddellik daarna aansoek doen vir die MIV-toetsing van die beweerde seks-oortreder, of die ondersoekbeampte inlig dat u aansoek wil doen vir die MIV-toetsing van die beweerde oortreder.
- U kan 'n aansoekvorm by die polisiestasie kry wat u moet voltooi om aansoek te doen sodat die beweerde oortreder getoets word.
- Wanneer u die aansoekvorm voltooi en onderteken het, kan u dit aan die ondersoekbeampte

oorhandig.

Wie sal my aansoek oorweeg?

Die ondersoekbeampte wat verantwoordelik is om die beweerde seksuele misdryf te ondersoek, sal u aansoek aan 'n landdros voorlê. Die landdros sal die aansoek gedurende hofure in sy of haar kantoor oorweeg. Die landdros kan aanvullende getuienis, mondelings of by wyse van 'n beëdigde verklaring vereis, en kan ook die beweerde oortreder ondervra voordat 'n besluit geneem word. Die ondersoekbeampte sal u van die uitslag van u aansoek inlig.

Wat sal gebeur indien die landdros beveel dat die beweerde oortreder vir MIV getoets moet word?

Die ondersoekbeampte sal verseker dat twee bloedmonsters van die liggaam van die beweerde oortreder terselfdertyd geneem en vir MIV getoets word.

Wie sal betaal vir die MIV-toetsing?

Die Staat. Dit hou geen koste vir u in nie.

Hoe sal ek van die uitslag van die MIV-toets ingelig word?

Wanneer die uitslae beskikbaar is, sal die ondersoekbeampte 'n verseëelde koevert aan u oorhandig wat die uitslag van die MIV -toets bevat, asook inligting oor waar u bystand kan verkry oor die hantering van die uitslae en die gevolge daarvan.

Kan ek die MIV-status van die beweerde oortreder aan ander persone openbaar?

Die MIV-toetsuitslae kan slegs bekend gemaak word aan die slagoffer of die belanghebbende persoon wat vir die verpligte MIV-toetsing aansoek gedoen het, die beweerde oortreder, die ondersoekbeampte en, waar van toepassing, die staatsaanklaer of enige ander persoon wat van die toetsuitslae kennis moet neem vir doeleindes van siviele verrigtinge of 'n hofbevel.

Vir watter tydperk kan ek aansoek doen vir die MIV -toetsing van die beweerde seks-oortreder?

U moet binne 90 dae na die beweerde seksuele misdryf gepleeg is, aansoek doen. Die 90 dae tydperk word 'n venstertydperk genoem, wat beteken dat as die toets daarna uitgevoer word en positief is, die beweerde oortreder na die pleging van die misdryf MIV kon opgedoen het. Onthou dat, selfs al word die toets binne die 90 dae uitgevoer, 'n negatiewe uitslag nie noodwendig betroubaar is nie omdat die beweerde oortreder in die venstertydperk is en inderwaarheid positief mag wees. Dit word derhalwe aanbeveel dat, indien u besluit om aansoek te doen dat die beweerde oortreder vir MIV getoets word, u dit so gou as moontlik na die pleging van die beweerde seksuele misdryf te doen. Dit bly egter in u eie belang om uself vir MIV te laat toets.

Is daar enige diensorganisasies wat berading en ondersteuning kan verskaf?

Daar is verskeie private en openbare fasiliteite wat u kan help om die implikasies van die MIV-toetsuitslae te hanteer. Sommige van hierdie dienste is gratis, terwyl ander betaling van 'n fooi mag vereis. Dit sluit in:

- Privaat mediese en maatskaplike fasiliteite (bv. 'n algemene mediese praktisyn of sielkundige).
- Openbare mediese en maatskaplike fasiliteite, met inbegrip van —

- Life Line	- Rape Crisis
- Child Line	- FAMSA
- Kinderbeskermingsorganisasies	- Departemente van Maatskaplike Ontwikkeling
- Plaaslike Staatshospitale en Klinieke	- Plaaslike VIGS diensorganisasies

Die kontakbesonderhede van bovermelde diensverskaffers is in die telefoongids en by die ondersoekbeampte beskikbaar.

SOUTH AFRICAN POLICE SERVICE

SAPD 580(b)
SUID-AFRIKAANSE POLISIEDIENS

AANSOEK DEUR SLAGOFFER OF BELANGHEBBENDE PERSOON VIR DIE MIV-TOETSING VAN DIE BEWEERDE OORTREDER

Artikel 30 van die Wysigingswet op die Strafwet (Seksuele Misdrywe en Verwante Aangeleenthede), 2007
(Wet No. 32 van 2007)

LEES ASSEBLIEF DIE VOLGENDE NOTAS VOOR U DIE AANSOEKVORM VOLTOOI:

- (1) Ingevolge die Wet, kan die slagoffer van 'n seksuele misdryf, of 'n belanghebbende persoon wat namens die slagoffer optree, aansoek doen vir die MIV-toetsing van die beweerde oortreder van die seksuele misdryf. Die Wet bepaal dat 'n *belanghebbende persoon*, enige persoon is wat 'n wesenlike belang in die welstand van 'n slagoffer het, insluitend 'n gade, permanente lewensmaat van dieselfde of teenoorgestelde geslag, ouer, voog, familielid, sorggewer, kurator, berader, geneesheer, gesondheidsorgvoorsiener, maatskaplike werker of onderwyser of onderwyseres van so 'n slagoffer is.
- (2) Indien die aansoek gedoen word deur 'n belanghebbende persoon (soos wat hierbo uiteengesit is), moet die aansoek gedoen word met die skriftelike toestemming van die slagoffer, tensy die slagoffer —
 - jonger as 14 jaar is;
 - verstandelik gestremd is;
 - bewusteloos is;
 - 'n persoon is ten opsigte van wie 'n kurator deur die hof aangestel is; of
 - 'n persoon is wat, volgens die hof, nie in staat is om die nodige toestemming te kan gee nie.
 Waar toepaslik, moet die skriftelike toestemming van die slagoffer aan die aansoekvorm geheg word.
- (3) Indien u bystand benodig met die voltooiing van die aansoekvorm, kan u die ondersoekbeampte versoek om u behulpsaam te wees.

IN DIE LANDDROSHOF VIR DIE DISTRIK VAN

GEHOU TE

SAAK NO:

AANSOEK

Aan die klerk van die hof,

Neem kennis dat (die slagoffer*/belanghebbende persoon*) ingevolge artikel 30 van die Wet, by hierdie Hof aansoek doen vir 'n bevel —

- (a) dat die beweerde seks-oortreder, hieronder beskryf, vir MIV getoets word*; en
- (b) dat die uitslae van die MIV-toets aan (die slagoffer*/belanghebbende persoon*) en aan die beweerde oortreder* bekend gemaak word; of
- (c) dat die uitslag van die MIV-toets van die beweerde oortreder, wat reeds by wyse van 'n aansoek deur die ondersoekbeampte, soos beoog in artikel 32 van die Wet, bekom is, aan (die slagoffer*/belanghebbende persoon*) bekend gemaak word.

*Skrap wat nie toepaslik is nie

DEEL A: VERKLARING DEUR SLAGOFFER OF BELANGHEBBENDE PERSOON WAT NAMENS SLAGOFFER OPTREE

1. BESONDERHEDE VAN SLAGOFFER

Volle name en van:

Dui enige ander van aan:

Geboortedatum:

Ouderdom:

Identiteitsnommer /paspoortnommer:

2. BESONDERHEDE VAN BELANGHEBBENDE PERSOON, INDIEN TOEPASLIK (*Sien nota (1) hierbo*)

Volle name en van:

Geboortedatum:

Identiteitsnommer /paspoortnommer:

Verhouding met slagoffer (bv ouer):

Indien die aansoeker nie die eggenoot, permanente lewensmaat van dieselfde of teenoorgestelde geslag of die ouer van die slagoffer is nie, meld die rede waarom aansoek namens die slagoffer gedoen word:

.....

3. SKRIFTELIKE TOESTEMMING VAN SLAGOFFER INDIEN AANSOEK GEDOEN WORD DEUR BELANGHEBBENDE PERSOON (*Sien nota (2) hierbo*)

(a) Is die skriftelike toestemming van die slagoffer verkry? Indien wel, heg toestemming aan hierdie vorm*

(b) Die skriftelike toestemming van die slagoffer word nie vereis nie indien die slagoffer* —

- jonger as 14 jaar is;
 - verstandelik gestremd is;
 - bewusteloos is;
 - 'n persoon is ten opsigte van wie 'n kurator deur die hof aangestel is; of
 - nie in staat is om die nodige toestemming te verleen omdat (verskaf redes):
-

*Skrap wat nie toepaslik is nie

4. BESONDERHEDE VAN BEWEERDE SEKSUELE MISDRYF EN MOONTLIKE BLOOTSTELLING AAN DIE LIGGAAMSVLOEISTOWWE VAN DIE OORTREDER

(Moet deur die slagoffer of die belanghebbende persoon, wat namens hom of haar optree, of deur die ondersoekbeampte voltooi word)

(a) Datum, tyd en plek waar die beweerde seksuele misdryf gepleeg is:

(b) Verduidelik waarom u glo dat u blootgestel is aan die liggaamsvloeistowwe (semen, bloed, vaginale vloeistof) van die beweerde oortreder:

.....

 (Heg 'n afskrif van die J 88 of mediese verslag in, indien dit beskikbaar is.)

'n Aansoek vir die MIV-toetsing van die beweerde oortreder kan slegs gedoen word indien die beweerde misdryf binne 72 uur na die pleging daarvan aangemeld is by —

(i) die Suid-Afrikaanse Polisiediens*; of

(ii) 'n aangewese gesondheidsinstelling*, en

binne 'n tydperk van 90 dae vanaf die datum waarop die misdryf na bewering gepleeg is.

*Skrap wat nie toepaslik is nie

***5. BESONDERHEDE VAN AANSOEK WAT REEDS DEUR DIE ONDERSOEKBEAMPTTE INGEVOLGE ARTIKEL 32 VAN DIE WET GEMAAK IS, INDIEN TOEPASLIK**

Saak / MAS / MR nommer:

Datum van aansoek:

Besonderhede van landdros wat aansoek toegestaan het:

Naam van ondersoekbeampte:

Kontakbesonderhede van ondersoekbeampte:

Meld waar die addisionele afskrif van toetsuitslag gehou word:

*Skrap wat nie toepaslik is nie

6. BEËDIGDE VERKLARING / PLEGTIGE VERKLARING DEUR SLAGOFFER OF BELANGHEBBENDE PERSOON NAMENS SLAGOFFER (Moet deur Vredesbeampte / Kommissaris van Ede voltooi word)

Ek, (slagoffer of belanghebbende persoon) verklaar hiermee dat bovermelde inligting na die beste van my wete waar en korrek is.

Bogenoemde verklaring is gemaak deur my op die plek, datum en tyd soos aangedui.

- * Ek is vertrouwd met die inhoud van hierdie verklaring en begryp dit.
 Ek het geen beswaar teen die aflegging van die voorgeskrewe eed nie.
 Ek beskou die voorgeskrewe eed as bindend vir my gewete.

OF

- * Ek verklaar plegtig dat die inhoud van hierdie verklaring waar is..

.....
HANDTEKENING: SLAGOFFER / BELANGHEBBENDE PERSOON PLEK

.....
DATUM

*Skrap wat nie toepaslik is nie

Ek sertifiseer dat die verklaarder erken dat hy / sy* vertrouwd is met die inhoud van hierdie verklaring en dit begryp. Die verklaring is voor my beëdig / bevestig*, en die verklaarder se handtekening is in my teenwoordigheid daarop aangebring.

GETEKEN EN BEËDIG / BEVESTIG* IN MY TEENWOORDIGHEID OP HIERDIE DIE DAG VAN TE EN OM (TYD).

VREDESBEAMPTE / KOMMISSARIS VAN EDE

Volle name:

Hoedanigheid

Area van aanstelling:

Besigheidsadres:

**Skrap wat nie toepaslik is nie*

DEEL B: BEWEERDE OORTREDER

1. BESONDERHEDE VAN BEWEERDE OORTREDER *(Moet deur die ondersoekbeampte voltooi word)*

'n Klagte in verband met 'n beweerde seksuele misdryf is deur die slagoffer, wie se besonderhede in DEEL A vermeld word, gelê teen die beweerde oortreder wie se besonderhede hieronder verskyn.

Volle name en van:

Geboortedatum:

Ouderdom:

Identiteitsnommer / paspoortnommer:

Woonadres/Tydlike adres:

Telefoonnommer:

Selfoonnommer:

MAS/MR no:

Misdryf waarvan aangekla word:

Die beweerde oortreder word aangehou / is op borgtog vrygelaat? *(Skrap wat nie toepaslik is nie)*

Indien die beweerde oortreder aangehou word, vermeld die plek waar hy of sy aangehou word:

Indien die beweerde oortreder op borgtog vrygelaat is, vermeld die borgvoorwaardes:

6. BEËDIGDE VERKLARING /PLEGTIGE VERKLARING DEUR ONDERSOEKBEAMPTE

Ek,, (die ondersoekbeampte)

met Persal nommer verklaar hiermee dat bovermelde inligting na die beste van my wete waar en korrek is.

Bogenoemde verklaring is gemaak deur my op die plek, datum en tyd soos aangedui.

- * Ek is vertrouwd met die inhoud van hierdie verklaring en begryp dit.
Ek het geen beswaar teen die aflegging van die voorgeskrewe eed nie.
Ek beskou die voorgeskrewe eed as bindend vir my gewete.

OF

- * Ek bevestig opreg dat die inhoud van hierdie verklaring waar is..

.....
HANDTEKENING VAN ONDERSOEKBEAMPTE

.....
PLEK

.....
DATUM

**Skrap wat nie toepaslik is nie*

Ek sertifiseer dat die verklaarder erken dat hy / sy* vertrouwd is met die inhoud van hierdie verklaring en dit begryp. Die verklaring is voor my beëdig / bevestig*, en die verklaarder se handtekening is in my teenwoordigheid aangebring.

GETEKEN EN BEËDIG / BEVESTIG* IN MY TEENWOORDIGHEID OP HIERDIE DIE DAG VAN
..... TE..... EN OM (TYD).

.....
VREDESBEAMPTE /KOMMISSARIS VAN EDE

Volle name:

Hoedanigheid

Area van aanstelling:

Besigheidsadres:

**Skrap wat nie toepaslik is nie*

Neem asseblief kennis: Die Wet plaas streng beperkinge op die omstandighede waarin die beweerde oortreder van 'n seksuele misdryf, sonder sy of haar toestemming, aan 'n verpligte MIV-toets onderwerp mag word. Die Wet laat dit slegs toe om die slagoffers van seksuele misdrywe by te staan. Indien u nie die slagoffer van 'n seksuele misdryf is nie, of u nie namens die slagoffer van 'n seksuele misdryf optree nie en hierdie prosedure misbruik om die MIV-status van 'n persoon kwaadwilliglik te bepaal, kan u vervolgd en aan 'n misdryf skuldig bevind word en by skuldigbevinding tot 'n boete of gevangenisstraf vir 'n tydperk van hoogstens drie jaar gevonnisd word. 'n Siviele eis vir skadevergoeding mag ook teen u ingestel word.

SOUTH AFRICAN POLICE SERVICE

SUID-AFRIKAANSE POLISIEDIENS
SAPD 580(c)

AANSOEK DEUR ONDERSOEKBEAMPTTE VIR DIE MIV-TOETSING VAN DIE BEWEERDE OORTREDER

Artikel 32 van die Wysigingswet op die Strafwet (Seksuele Misdrywe en Verwante Aangeleenthede), 2007
(Wet No. 32 van 2007)

Nota:

Hierdie aansoekvorm moet deur die ondersoekbeampte voltooi word. Die voltooide vorm moet in 'n verseëelde koevert, wat as "Confidential/ Vertroulik" gemerk is, met die MAS / MR-nommer en naam en rang van die ondersoekbeampte daarop aangeteken, geplaas word. Die koevert moet aan die klerk van die hof oorhandig word.

IN DIE LANDDROSHOF VIR DIE DISTRIK VAN
GEHOUTE
SAAKNO. :

1. AANSOEK

Aan die klerk van die hof,
Neem kennis dat (die ondersoekbeampte)
ingevolge artikel 32 van die Wet, by hierdie Hof aansoek doen vir 'n bevel —

- (a) dat die beweerde seks-oortreder, hieronder beskryf, vir MIV getoets word; of
(b) dat die uitslag van die MIV -toets van die beweerde oortreder, wat reeds bekom is by wyse van 'n aansoek deur die slagoffer of belanghebbende persoon wat namens die slagoffer opgetree het, soos beoog in artikel 30 van die Wet, beskikbaar gemaak word aan —
- (i)(die ondersoekbeampte); en / of
(ii)
(die aanklaer wat die uitslag benodig vir doeleindes van die vervolging van die betrokke saak of enige ander hofverrigtinge, soos beoog in artikel 32(1)(b) van die Wet.)

2. BESONDERHEDE VAN SLAGOFFER

Volle name en van:
Dui enige ander van aan:
Geboortedatum:
Ouderdom:
Identiteitsnommer / paspoortnommer:

3. BESONDERHEDE VAN BEWEERDE OORTREDER

Volle name en van:
Dui enige ander van aan:
Geboortedatum:
Ouderdom:
Identiteitsnommer / paspoortnommer:

4. GRONDE VIR DIE AANSOEK

Op sterkte van inligting verkry onder eed of by wyse van plegtige verklaring, waarin daar beweer word dat 'n seksuele misdryf of 'n misdryf soos beskryf in artikel 27 van die Wet deur die beweerde oortreder gepleeg is, word die aansoek op die volgende gronde baseer:.....

.....

5. BESONDERHEDE VAN AANSOEK WAT REEDS INGEVOLGE ARTIKEL 30 VAN DIE WET DEUR DIE SLAGOFFER / BELANGHEBBENDE PERSOON GEDOEN IS*

Datum van aansoek:

Landdroskantoor waar aansoek toegestaan is:

Waar word toetsuitslae gehou?

**Skrap wat nie toepaslik is nie*

6. BEËDIGDE VERKLARING /PLEGTIGE VERKLARING DEUR ONDERSOEKBEAMPTE

Ek, (die ondersoekbeampte) met Persal nommer verklaar hiermee dat bovermelde inligting na die beste van my wete waar en korrek is.

Bogenoemde verklaring is gemaak deur my op die plek, datum en tyd soos aangedui.

- * Ek is vertrou met die inhoud van hierdie verklaring en begryp dit.
 Ek het geen beswaar teen die aflegging van die voorgeskrewe eed nie.
 Ek beskou die voorgeskrewe eed as bindend vir my gewete.

OF

- * Ek bevestig opreg dat die inhoud van hierdie verklaring waar is.

**Skrap wat nie toepaslik is nie*

.....
HANDTEKENING VAN ONDERSOEKBEAMPTE

.....
PLEK

.....
DATUM

Ek sertifiseer dat die verklaarder erken dat hy* / sy* vertrou is met die inhoud van hierdie verklaring en dit begryp. Die verklaring is voor my beëdig* / bevestig*, en die verklaarder se handtekening is in my teenwoordigheid daarop aangebring.

GETEKEN EN BEËDIG / BEVESTIG* IN MY TEENWOORDIGHEID OP HIERDIE DIE DAG
 VAN TE EN OM (TYD).

.....
VREDESBEAMPTE /KOMMISSARIS VAN EDE

Volle name:

Hoedanigheid:

Area van aanstelling:

Besigheidsadres:

.....
**Skrap wat nie toepaslik is nie*

SOUTH AFRICAN POLICE SERVICE

SAPD 580(d)
SUID-AFRIKAANSE POLISIEDIENS

KENNISGEWING AAN BEWEERDE OORTREDER TEN OPSIGTE VAN 'N BEVEL VIR MIV-TOETSING

Artikel 31(5)(b) van die Wysigingswet op die Strafwet (Seksuele Misdrywe en Verwante Aangeleenthede), 2007 (Wet No. 32 van 2007)

IN DIE LANDDROSHOF VIR DIE DISTRIK VAN
 GEHOU TE
 SAAKNO:

(Moet deur die ondersoekbeampte aan die beweerde oortreder oorhandig word)

Aan:
 (die beweerde oortreder) wat aangekla word van die misdryf van

teen (die slagoffer).

Die doel van hierdie Kennisgewing is om u in te lig dat die voormelde hof 'n bevel uitgereik het dat u, sonder u toestemming, vir MIV getoets word en die uitslag van die toets openbaar gemaak word aan die slagoffer of 'n belanghebbende persoon wat namens die slagoffer optree en, waar toepaslik, aan die aanklaer wat verantwoordelik is vir u vervolging of enige ander verwante hofverrigtinge.

Wat is die MIV-infeksie?

MIV verwys na 'n infeksie met die menslike immuno-gebreksvirus. MIV vernietig belangrike selle wat die immuunstelsel beheer en ondersteun. As gevolg daarvan kan die liggaam se natuurlike beskermingsmeganismes nie weerstand teen siektes bied nie. Die meeste mense wat met MIV besmet is, ontwikkel uiteindelik VIGS en sterf aangesien hul liggame nie meer enige weerstand teen siektes soos TB, longontsteking en breinvliesontsteking kan bied nie. Besmetting met MIV het derhalwe ernstige gevolge vir u as individu. Daar is tans geen geneesmiddel vir MIV / VIGS nie.

Hoe word MIV oorgedra?

MIV word op drie maniere oorgedra:

- tydens seksuele omgang;
- wanneer MIV-besmette bloed direk in die liggaam oorgetap word; en
- vanaf 'n moeder na kind gedurende swangerskap, geboorte of tydens borsvoeding.

Kan MIV oorgedra word tydens 'n seksuele misdryf?

Ja. Indien daar enige blootstelling aan HIV-besmette bloed, semen of vaginale vloeistowwe tydens die beweerde misdryf is, kan MIV oorgedra word.

Hoekom moet ek vir MIV getoets word?

U kon die slagoffer aan MIV blootgestel het tydens die beweerde seksuele misdryf of misdryf, soos in artikel 27 van die Wet omskryf, waarvan u aangekla word. (Artikel 27 van die Wet omskryf 'n "seksuele misdryf" as 'n seksuele misdryf waarin die slagoffer aan die liggaamsvog van die beweerde oortreder blootgestel kon word en 'n "misdryf" word omskryf as 'n misdryf, behalwe 'n seksuele misdryf, ten opsigte waarvan die MIV-status van die beweerde oortreder relevant kan wees vir doeleindes van ondersoek en vervolging.) In die lig van die ernstige gevolge van MIV-besmetting en slagoffers se vrees om met MIV besmet te word, is die reg

aan hulle verleen om aansoek te doen vir die MIV-toetsing van hul beweerde oortreders en vir die bekendmaking van die toetsuitslae. Die ondersoekbeampte kan ook aansoek doen om u vir MIV te laat toets.

Hoe sal kennis aangaande my MIV-status die beweerde slagoffer help?

Die uitslag van die toets kan hom of haar help —

- om te besluit om mediese behandeling te ontvang wat duur is en ernstige newe-effekte het, maar wat kan verhoed dat hy of sy die virus opdoen;
- om stappe te neem om te verhoed dat die virus verder deur hom of haar oorgedra word aan ander mense (byvoorbeeld die slagoffer se seksmaat, of aan haar baba as sy verwagting is of borsvoed); en
- om die slagoffer gemoedsrus te gee aangaande sy of haar moontlike blootstelling aan MIV gedurende die seksuele misdryf.

Wie het die bevel verleen dat ek vir MIV getoets word?

'n Landdros van die landdroskantoor in die distrik waar u na bewering die seksuele misdryf of misdryf gepleeg het, het die bevel verleen.

Op watter grondslag is die hofbevel verleen?

Die landdros het die bevel verleen na oorweging van getuienis onder eed deur die persoon wat aansoek gedoen het dat u vir MIV getoets word en deur die ondersoekbeampte. Die landdros is op 'n *prima facie* - grondslag oortuig dat —

- u 'n seksuele misdryf of misdryf gepleeg het teen die slagoffer wat aansoek gedoen het dat u vir MIV getoets word, of namens wie aansoek gedoen is;
- die slagoffer in die loop van die betrokke misdryf aan u liggaamsvog (semen, bloed of vaginale vloeistowwe) blootgestel kon gewees het; en
- nie meer as 90 kalenderdae verloop het sedert die datum van die beweerde misdryf nie.

U moet kennis neem dat die bestaan van *prima facie*-getuienis teen u nie beteken dat indien die strafszaak teen u op verhoor gaan, u skuldig bevind gaan word aan die misdryf nie. Die Staat sal steeds bo redelike twyfel moet bewys dat u die misdryf, waarvan u aangekla word, gepleeg het. *Prima facie* getuienis word slegs gebruik vir die aansoek om u, sonder u toestemming, vir MIV te toets.

Kan ek weier dat my bloedmonsters vir MIV getoets word?

Nee. Dit is 'n hofbevel. Die landdros kan ook 'n lasbrief vir u inhegtenisneming uitreik indien daar rede is om te glo dat u nakoming van die bevel sal vermy of reeds vermy het. Indien u versuim of weier om die bevel na te kom of nakoming vermy, is u skuldig aan 'n misdryf en by skuldigbevinding strafbaar met 'n boete of gevangenisstraf vir 'n tydperk van hoogstens drie jaar.

Hoe word ek vir MIV getoets?

Die ondersoekbeampte sal u na 'n geregistreerde mediese praktisyn of verpleër of verpleegster neem wat by dieselfde geleentheid twee bloedmonsters van u sal neem. Die ondersoekbeampte sal die behoorlik geïdentifiseerde monsters na 'n aangewese openbare gesondheidsinstelling neem waar dit vir MIV getoets sal word.

Wie betaal vir die MIV-toets?

Die Staat. Dit hou geen koste vir u in nie.

Sal ek in kennis gestel word van die uitslag van die MIV-toets?

Ja. Die ondersoekbeampte sal verseker dat u die MIV-toetsuitslag ontvang, tesame met inligting oor waar u hulp kan ontvang om die uitslag en die implikasies daarvan te verstaan.

Wat indien die klag teen my 'n valse klag is?

Enige persoon wat kwaadwillig 'n klagte by die Suid-Afrikaanse Polisie diens ten opsigte van 'n beweerde seksuele misdryf aanmeld om ingevolge artikel 30(1) van die Wet, 'n aansoek te bring om die MIV-status van enige persoon vas te stel, is skuldig aan 'n misdryf en by skuldigbevinding strafbaar met 'n boete of met gevangenisstraf vir 'n tydperk van hoogstens drie jaar.

Sal die toetsuitslag aan ander persone bekend gemaak word?

Die MIV-toetsuitslae mag slegs bekend gemaak word aan die slagoffer of die belanghebbende persoon wat vir u verpligte MIV-toetsing aansoek gedoen het, uself (as die beweerde oortreder), die ondersoekbeampte, en waar van toepassing, die staatsaanklaer of enige ander persoon wat van die toetsuitslae kennis moet neem vir doeleindes van siviele verrigtinge of 'n hofbevel.

Sal die toetsuitslag in die verhoor teen my gebruik word?

Ja. Artikel 34 van die Wet bepaal dat die uitslag van 'n MIV-toets as getuie gebruik kan word in enige daaropvolgende siviele verrigtinge in verband met die seksuele misdryf of om die ondersoekbeampte in staat te stel om dit as getuie in strafregtelike verrigtinge te gebruik.

Hoe raak my MIV-status ander persone?

U MIV-status het nie slegs ernstige gevolge vir u beweerde slagoffer nie, maar ook vir u eie gesondheid en die gesondheid van ander (byvoorbeeld u seksmaat of baba). Elke persoon het 'n verantwoordelikheid om te verseker dat hy of sy nie ander persone blootstel aan die risiko om met MIV besmet te word nie. Indien u MIV-positief is, is dit belangrik dat u advies, hulp en inligting oor behandeling kry en oor hoe om uself en ander persone teen MIV-infeksie te beskerm.

Is daar enige diensorganisasies wat berading en ondersteuning kan voorsien?

Daar is verskeie private en openbare instellings wat u kan help om die implikasies van die MIV-toetsuitslae te hanteer. Sommige van hierdie dienste is gratis, terwyl ander betaling van 'n fooi mag eis. Dit sluit in:

- Privaat mediese en maatskaplike fasiliteite (bv. 'n algemene mediese praktisyn of sielkundige).
- Openbare mediese en maatskaplike fasiliteite, met inbegrip van —

- Life Line	- Rape Crisis
- Child Line	- FAMSA
- Kinderbeskermingsorganisasies	- Departemente van Maatskaplike Ontwikkeling
- Plaaslike Staatshospitale en Klinieke	- Plaaslike VIGS diensorganisasies

Die kontakbesonderhede van bovermelde diensverskaffers is in die telefoongids, by die ondersoekbeampte en by Korrektiewe Dienste beskikbaar.

SOUTH AFRICAN POLICE SERVICE

SAPD 580(e)
SUID-AFRIKAANSE POLISIEDIENS

KENNISGEWING MET INLIGTING OOR DIE VERTROULIKHEID VAN EN HANTERING VAN UITSLAG VAN MIV-TOETS

*Artikel 33(1)(e) van die Wysigingswet op die Strafwet (Seksuele Misdrywe en Verwante Aangeleenthede), 2007
(Wet No. 32 van 2007)*

Nota:

- (1) Die Kennisgewing moet oorhandig word aan —
 - (a) die slagoffer of belanghebbende persoon wat namens die slagoffer optree en wat aansoek gedoen het dat die beweerde oortreder vir MIV getoets word; en
 - (b) die beweerde oortreder wat vir MIV getoets is.
- (2) Die doel van die Kennisgewing is om die partye vermeld in (1) hierbo, van inligting te voorsien oor die vertroulikheid en oor hoe om die inligting oor die uitslag van 'n verpligte MIV-toets te hanteer.

Hoe sal ek ingelig word van die MIV-toets uitslag van die beweerde oortreder?

Die uitslae van die MIV-toets van die beweerde oortreder sal in 'n verseëelde koevert, gemerk as "Confidential/Vertroulik", aan u beskikbaar gestel word.

Wat sal die verseëelde koevert bevat?

Die verseëelde koevert sal 'n dokument bevat wat voltooi is deur 'n persoon verbonde aan die gesondheidsinstelling wat die MIV-toets op die bloedmonsters van die beweerde oortreder uitgevoer het. Die vorm sal verklaar of die beweerde oortreder die volgende getoets het:

- positief vir MIV; of
- negatief vir MIV.

Indien ek die slagoffer is, kan ek die MIV-status van die beweerde oortreder aan ander persone openbaar?

U mag die MIV-toetsuitslae nie op 'n kwaadwillige of grof nalatige wyse bekend maak aan enige persoon anders anders as die beweerde oortreder, die ondersoekbeampte en die staatsaanklaer of enige ander persoon wat van die toetsuitslae kennis moet neem vir doeleindes van siviele verrigtinge of 'n hofbevel.

Wat moet ek met die uitslag van die MIV-toets doen?

U moet bystand van 'n kundige kry om die implikasies van die uitslag te verstaan en hoe om die uitslag te hanteer, ongeag of die toetsuitslag positief of negatief is. Kundige bystand sal u help om —

- die toetsuitslag te verstaan;
- die onmiddellike emosionele reaksies en bekommernisse te hanteer;
- te verstaan hoe die uitslag u gesondheid en die gesondheid van ander (soos u seksmaat) gaan beïnvloed;
- die behoefte aan sosiale en mediese sorg te bepaal; en
- die behoefte om die toetsuitslag aan ander bekend te maak, te bespreek.

Diensorganisasies wat berading en ondersteuning kan verskaf

Daar is verskeie private en openbare instellings wat u kan help om die implikasies van die MIV-toetsuitslae te hanteer. Sommige van hierdie dienste is gratis, terwyl ander betaling van 'n fooi mag vereis. Dit sluit in:

- Privaat mediese en maatskaplike fasiliteite (bv. 'n algemene mediese praktisyn of sielkundige).
- Openbare mediese en maatskaplike instellings, met inbegrip van —
 - Life Line
 - Child Line
 - Kinderbeskermingsorganisasies
 - Plaaslike Staatshospitale en Klinieke
 - Rape Crisis
 - FAMSA
 - Departemente van Maatskaplike Ontwikkeling
 - Plaaslike VIGS diensorganisasies

Die kontakbesonderhede van bovermelde diensverskaffers is in die telefoongids en by die ondersoekbeampte beskikbaar.

Indien u, nadat u die Kennisgewing gelees het, iets nie verstaan nie, kan u die ondersoekbeampte, een van die diensverskaffers wat hierbo vermeld is, of 'n maatskaplike werker van die Departement van Korrektiewe Dienste kontak vir bystand.

SOUTH AFRICAN POLICE SERVICE

SUID-AFRIKAANSE POLISIEDIENS

**AANSOEK VIR 'N LASBRIEF VIR ARRESTASIE***Artikel 33(3) van die Wysigingswet op die Strafreg (Seksuele Misdrywe en Verwante Aangeleenthede), 2007 (Wet No. 32 van 2007)*

IN DIE LANDDROSHOF VIR DIE DISTRIK VAN

GEHOU TE

Saakno. :

1. AANSOEK

Ek, (Persalnommer) (rang)

..... (die

ondersoekbeampte se naam en van), doen hiermee, ingevolge artikel 33(3) van die Wet, aansoek by die

Landdros,

om 'n lasbrief uit te reik vir die arrestasie van die beweerde oortreder soos hieronder vermeld, –

*(a) aangesien daar gronde is om te glo dat hy of sy die nakoming van 'n bevel kan vermy; of

*(b) reeds die nakoming van 'n bevel vermy het,

soos beoog in artikel 31(3) of artikel 32(3) van die Wet.

2. BESONDERHEDE VAN BEWEEERDE OORTREDER WAT AANGEKLA WORD VAN DIE PLEGING VAN 'N SEKSUELE MISDRYF OF MISDRYF

Volle name en van:

Dui enige ander van aan:

Geboortedatum:

Ouderdom:

Identiteitsnommer / paspoortnommer:

Woonadres / Tydelike adres:

.....

* Die oortreder is nie gearresteer vir die beweerde seksuele misdryf of misdryf nie.

* Die oortreder is vrygelaat op borgtog, onderhewig aan die volgende borgvoorwaardes:

.....

.....

.....

.....

.....

* Skrap wat nie toepaslik is nie

3. BEVEL VIR MIV-TOETSING SOOS BEOOG IN ARTIKEL 31(3) OF ARTIKEL 32(3) VAN DIE WET

Die bevel soos beoog is artikel 31(3) of artikel 32(3) van die Wet —

*(a) is verleen op (datum). 'n Afskrif van die bevel is hierby aangeheg.

*(b) word gelyktydig hiermee voor aansoek gedoen.

* Skrap wat nie toepaslik is nie.

4. GRONDE VIR DIE AANSOEK

Die aansoek word op die volgende gronde gebring:

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

Bogenoemde verklaring is gemaak deur my op die plek, datum en tyd soos hieronder aangedui.

- * Ek is vertrouwd met die inhoud van hierdie verklaring en begryp dit.
 Ek het geen beswaar teen die aflegging van die voorgeskrewe eed nie.
 Ek beskou die voorgeskrewe eed as bindend op my gewete.

OF

- * Ek bevestig plegtig dat die inhoud van hierdie verklaring waar is.
- * *Skrap wat nie toepaslik is nie.*

.....
HANDTEKENING VAN ONDERSOEKBEAMPTE PLEK

.....
DATUM

Ek sertifiseer dat die verklaarder erken dat hy* / sy* vertrouwd is met die inhoud van hierdie verklaring en dit begryp. Die verklaring is voor my beëdig* / bevestig*, en die verklaarder se handtekening is in my teenwoordigheid daarop aangebring.

GETEKEN EN BEËDIG* / BEVESTIG* IN MY TEENWOORDIGHEID OP HIERDIE DIE
DAG VAN TE EN OM:..... (TYD).

.....
VREDESBEAMPTE /KOMMISSARIS VAN EDE

Volle name:
Hoedanigheid
Area van aanstelling:
Besigheidsadres:

**Skrap wat nie toepaslik is nie.*

SOUTH AFRICAN POLICE SERVICE

SAPD 580(g)
SUID-AFRIKAANSE POLISIEDIENS

AANSOEK OM TOEGANG TOT DIE MIV-TOETSUITSLAG VAN DIE BEWEERDE SEKS-OORTREDER

Ek, (aanklaer
se naam en van) verbonde aan die (hof) doen
hiermee aansoek by (rang)
..... (naam en van van die ondersoekbeampte) in die
saak van (naam van
beweerde seksuele oortreder) om toegang te kry tot die uitslag van die MIV-toets van die beweerde oortreder.

Ek is verantwoordelik om die vervolging van die beweerde oortreder vir die pleging van die seksuele misdryf
of ander hofverrigtinge te behartig.

.....
HANDTEKENING VAN AANKLAER

.....
DATUM

Ek, (Persal nommer) (rang)
..... (naam en van van
ondersoekbeampte) het die uitslag van die MIV-toets van die beweerde oortreder aan die aanklaer hierbo
vermeld, oorhandig.

.....
HANDTEKENING VAN ONDERSOEKBEAMPTE

.....
DATUM

Notas aan the ondersoekbeampte:

- (1) Hierdie aansoek moet in die dossier geliasseer word.
- (2) 'n Toepaslike inskrywing moet in die ondersoekdagboek van die dossier gemaak word en u moet die aanklaer versoek om, as ontvangserkenning van die rekord, by die inskrywing te teken.