STANDARD OPERATING PROCEDURES
for the
EFFECTIVE MANAGEMENT
of
SEXUAL AND GENDER BASED VIOLENCE
by
COURT USERS' COMMITTEES IN KENYA

2026



NATIONAL COUNCIL ON THE ADMINISTRATION OF JUSTICE
(NCAJ)

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NCAJ
A unified justice sector that
serves the people

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The preparation of these Standard Operating Procedures was supported by:

Equality Now

MANDATE

The National Council on Administration of Justice (NCAJ) is established under the Judicial Service Act, Cap 8A, as a high-level body mandated to ensure a coordinated, efficient, effective and collaborative approach to the administration of justice, and reform of the Kenya's justice system.



VISION

A coordinated and cohesive justice sector serving the people in Kenya.



MISSION

To ensure a coordinated and consultative approach in the administration of justice by bringing together key actors to collectively develop and pursue reform priorities and strategies.



VALUES

- Accountability
- Consultation
- Public Service
- Constitutionalism
- Interdependence
- Innovation



FOREWORD

Kenya's justice system plays a pivotal role in upholding the rule of law and protecting human rights. It strives to ensure that all persons, including victims and survivors of Sexual and Gender-Based Violence (SGBV), access justice in a timely, dignified and rights-respecting manner. To support a coordinated and effective response to SGBV, the National Council on the Administration of Justice (NCAJ) has developed *Standard Operating Procedures (SOPs) for the Effective Management of Sexual and Gender-Based Violence by Court Users' Committees (CUCs).*

Aligned with the *NCAJ Strategic Plan 2026-2030* and the *People-Centred Justice Strategic Guiding Framework for Kenya's Justice Sector*, these SOPs advance a coordinated and consultative approach to the administration of justice in Kenya. They mark a significant step toward entrenching a survivor-centred approach that is responsive to the needs and lived realities of SGBV victims and survivors.

Proper handling of SGBV incidents and cases requires strengthened coordination, response, and partnership among justice system actors. This process covers first response, investigation, prosecution, adjudication, witness protection, survivor protection, legal representation, correction, rehabilitation, and other justice delivery services.

Historically, weak coordination, response and partnership have led to delayed justice on SGBV cases. These SOPs will address these challenges and safeguard victims and survivors' rights. They will also support the realisation of prompt, dignified, compassionate and trauma-free access to justice for survivors.

I urge all justice sector agencies to use these SOPs to protect SGBV victims and ensure prompt justice. Safeguarding victims and survivors' rights will strengthen public trust in the justice system.

Hon. Justice Martha K. Koome, EGH
Chief Justice of the Republic of Kenya &
Chairperson, National Council on the Administration of Justice



ACKNOWLEDGEMENTS

The National Council on the Administration of Justice (NCAJ) is mandated to ensure a coordinated, efficient, effective and consultative approach to the administration of justice in Kenya, and to spearhead reforms. As part of the reform agenda, NCAJ has developed *Standard Operating Procedures (SOPs) for the Effective Management of Sexual and Gender-Based Violence by Court Users' Committees (CUCs)* to guide the efficient and effective handling of SGBV cases by CUCs, and advance a survivor-centred approach.

I commend the Council Members and all stakeholders for their contribution to the development of these SOPs. Their dedication and collective effort underscore the strength of collaboration in delivering justice that protects survivors' rights and dignity, and upholds the rule of law.

My sincere appreciation goes to Hon Justice Alfred Mabeya, Chairperson of the NCAJ Standing Committee on Court Users, for his leadership in the development process for the SOPs. Special thanks go to all members of the Standing Committee for their immense and exemplary technical contribution to the SOPs.

The contribution by Dr Moses Marang'a, the Executive Director of NCAJ, Ms Sylvia Yiantet, the Head of CUCs' Department at NCAJ, Ms Angelica Omondi and Ms Esther Omanga, both Programmes' Officers at NCAJ, for their coordination of the development process, and immense technical inputs to the SOPs. . I also appreciate Mr Eliud Githua for the graphic design.

Special appreciation goes to members of various CUCs for their feedback that was pivotal in enriching the SOPs. Their field experience and insights were invaluable in shaping these SOPs into a practical and responsive tool.

I thank Equality Now for its technical and financial partnership with the NCAJ in developing these SOPs.

By strengthening coordination among justice actors, these SOPs will empower victims of SGBV to timely access justice and ensure their voices are heard and respected.

Hon. Winfridah B. Mokaya, CBS
Secretary, National Council on the Administration of Justice

ABBREVIATIONS AND ACRONYMS

CUCs	Court Users' Committees
MDAs	Ministries, Departments and Agencies
NPS	National Police Service
ODPP	Office of Director of Public Prosecutions
SGBV	Sexual and gender-based violence
SOPs	Standard Operating Procedures

OPERATIONAL DEFINITIONS OF TERMS AND CONCEPTS

Concerned/Relevant agency refers to any agency that is directly interested in the subject matter of an ongoing investigation.

Sexual and Gender Based Violence is violence committed against a person because of his or her gender.

Survivor/Victim means any individual who suffers injury, harm or loss as a direct result of the commission of an offence, whether physical, sexual, psychological, or economic abuse directed at them because of their gender.

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EXECUTIVE SUMMARY

Sexual and Gender-Based Violence (SGBV) is a human rights violation requiring quick and sustained intervention by justice system actors. It also calls for ongoing legal, policy, and administrative reforms. These *Standard Operating Procedures (SOPs) for the Effective Management of Sexual and Gender-Based Violence by Court Users' Committees (CUCs)* are part of NCAJ's reforms to address the challenge of SGBV.

The primary objectives of the SOPs are to provide a framework for CUCs to efficiently and effectively handle SGBV cases. They also aim to foster effective collaboration, coordination and information sharing in the investigation and adjudication of SGBV offenses. In addition, they aim to enhance accountability in the handling and management of SGBV cases at the local level and to support capacity-building of CUC members.

The SOPs are anchored in the principles of professionalism and integrity, transparency and accountability, confidentiality, patriotism and nationalism, efficiency, teamwork and inclusivity. They provide a referral pathway that emphasizes a survivor-centered approach, confidentiality and safety, informed consent, empathy and objectivity. Additionally, the SOPs are expected to guide the entrenchment of the best interests of survivors of SGBV.

The SOPs have provided six broad procedures. These are information sharing, confidentiality and security of information, data protection obligations, investigations and arrests, adjudication, and enforcement. For each, other specific and detailed procedures are provided.

To ensure effective management of SGBV cases, several crucial enablers have also been provided. These are enhanced community engagement, respect for human rights, capacity building and enhanced engagement of schools. In addition, measures to strengthen international cooperation, harmonise internal procedures, and establish monitoring mechanisms have been put in place.

With full implementation of these SOPs, the justice sector will be more responsive to the rights, needs and realities of survivors of SGBV.

Hon. Mr. Justice Alfred Mabeya, FCIArb, EBS, MBS
Chairperson, NCAJ Standing Committee on Court Users

PART I: BACKGROUND

1.1 Introduction

The process of handling a criminal case from the occurrence of the incident, reporting, up to the ultimate adjudication involves several key stages: initial reporting, investigation, arrest, charging, arraignment, trial, verdict and sentencing where guilt is established. The process may, at times, be affected by interlocutory applications based on issues of fact, evidence or law that may need to be addressed prior to the ultimate determination.

The specific understanding and details of the response to be adopted often vary from one institution to another based on the legal framework, institutional mandates and capabilities. This may lead to delayed justice for victims and survivors of crime, including Sexual and Gender-Based Violence (SGBV).

The adoption of a cohesive, efficient and effective survivor-based approach to the investigation, prosecution and adjudication of SGBV, therefore, becomes imperative where actors are not only aware of what their mandate is but operate in an environment that is deliberate about fusing capabilities and putting the survivor first.

These Standard Operating Procedures are intended to be used by Court Users' Committees (CUCs) across Kenya in a manner that offers predictability and encourages efficiency, peer accountability, and access to information, whilst remaining relevant notwithstanding the specific issues that may be informed by geographical, cultural and institutional nuances.

The SOPs take a trauma-based approach to the assistance given to survivors by CUCs and criminal justice actors as the survivors go through the various stages of the criminal justice process, with specific attention given to the survivors' physical as well as mental health in the immediate, middle and long term.

The SOPs require that time becomes a critical component of decision-making in any action that is taken, and actors are encouraged to respond as quickly as they reasonably can to forestall any interference with witnesses and any action that may stand in the fair administration of justice.

Court Users' Committees and criminal justice actors are required to cooperate with each other during the, reporting of the crime, investigation, arrest, charging, arraignment and plea taking, trial, sentencing and appeal. These SOPs are structured in line with these stages.

These SOPs are survivor-centric and not offence-centric and are offered to be used across the country, notwithstanding the types and /or prevalence of offences in any specific region. They focus on the survivor in the position they find themselves.

1.2 Normative and Legal Framework Anchorage

The SOPs draw from different international legal and normative frameworks. Some of the notable ones includes:

1) The Convention on the Elimination of all Forms of Discrimination Against Women.
2) The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa.
3) Sustainable Development Goals.
4) The Convention on the Political Rights of Women.
5) The International Covenant on Civil and Political Rights.
6) The International Covenant on Economic, Social and Cultural Rights.
7) The Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.
8) The Universal Declaration of Human Rights.
9) Recommendations of the Committee on the Elimination of Discrimination Against Women.
10) The Beijing Platform for Action.
11) UN General Assembly Resolution on Crime Prevention and Criminal Justice Measures to Eliminate Violence against Women.

The SOPs have also been informed by different laws. Some of the notable ones includes:

1) The Constitution of Kenya.
2) The Criminal Procedure Code, Cap 75.
3) The Penal Code, Cap 63.
4) The Sexual Offences Act, Cap 63A.
5) The Victim Protection Act, Cap 79A.
6) The Persons Deprived of Liberty Act, Cap 90A.
7) The Children Act, Cap 141.
8) The Evidence Act, Cap 80.
9) The Fair Administrative Action Act, CAP 7L.
10) The National Police Service Act, Cap 84
11) The ODPP Act, Cap 6B.
12) Witness Protection Act, Cap 79.
13) The Data Protection Act, Cap 411C.
14) The HIV and AIDS Prevention and Control Act, Cap 246A.
15) The Judicature Act, Cap 8.
16) The Mutual Legal Assistance Act, Cap 75A.
17) The Protection Against Domestic Violence Act, Cap 151.
18) Computer Misuse and Cyber Crime Act, Cap 79C.
19) Counter Trafficking in Person Act, Cap 61.

1.3 Objectives of the Standard Operating Procedures

The main objective of the SOPs is to establish a structured and professional approach for cooperation, collaboration and coordination amongst justice sector actors in handling SGBV cases. More specifically, the SOPs seek to achieve the following specific objectives: -

1) Provide a framework for efficient and effective handling of SGBV cases by CUCs.
2) Foster effective collaboration, coordination and information sharing in the investigation and adjudication of SGBV offences.
3) Enhance accountability in the investigation and adjudication of SGBV cases.
4) Support the capacity building of CUCs' members on effective handling of SGBV.

1.4 Guiding Principles for the CUCs in Using the SOPs

In using the SOPs, the CUCs will be guided by the following key principles:

1) Responsiveness
2) Inclusivity
3) Efficiency
4) Confidentiality
5) Professionalism and integrity
6) Transparency and accountability
7) Patriotism and nationalism.
8) Collaboration and Teamwork

1.5 The Referral Pathway On Handling of SGBV

A referral pathway refers to a structured process that connects victims/survivors of SGBV to essential services, key among them healthcare, psychological support, case management, legal assistance and safety. A good pathway emphasises the adoption of a victim/survivor-centred approach, ensuring victims/survivors can make informed decisions about their needs and are treated with dignity, confidentiality, respect and without being judged.

The process involves the initial response, an assessment of needs, obtaining informed consent/ assent (for minors) for any referrals under a coordinated approach with clear guidelines on the institution/individual in charge.

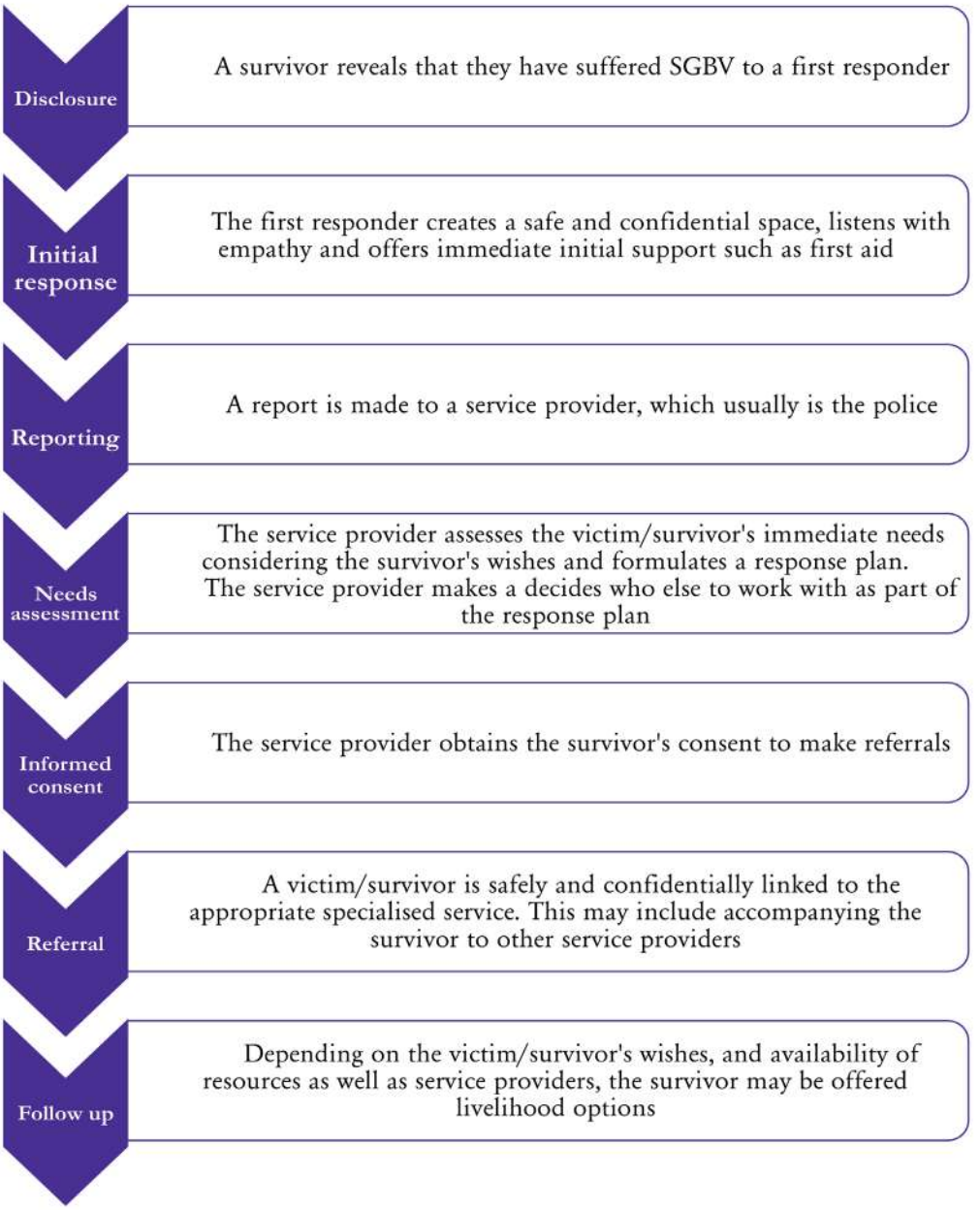
In addition to the principles highlighted in Section 1.4 above, the following requirements are essential to support the referral pathway:

1) *Victim/Survivor-centred approach*: Their needs, wishes, and decisions are paramount, and they must actively participate throughout the process.
2) *Confidentiality and Safety:* At all times, a victims'/survivor's personal information must be protected.
3) *Informed consent/assent:* Survivors must give informed consent/ assent before any information is shared or referrals made.
4) *Empathy and objectivity*: Responders and responses must be supportive, patient and non-judgmental. A conducive environment must be provided that makes it easier f.or survivors to disclose their experiences
5) *Effective Coordination*: Facilitate coordination and collaboration between both state and non-state actors and service providers to ensure a timely, efficient and effective response.

Typically, the following services would be offered under a referral pathway:

1) *Healthcare:* Immediate medical care, including responses to any physical and mental abuse as well as prevention and/or treatment of any injuries or diseases.
2) *Psychosocial support*: Psychological first aid, counselling and mental health services to help survivors cope with trauma, all the way from rescue, during trial and post-conviction.
3) *Case management*: A holistic approach involving an assessment of the survivor's needs and coordinating services across different actors and service providers
4) *Safety and security*: These include services that relate to safe shelters/location, protection and safety measures, both immediate and subsequent. These services include access to safe shelters, protective accommodation, and both immediate and long-term safety measures for survivors. Safe houses should be clearly established, adequately supported, and linked to referral systems, with responsibility shared across national government, county governments, the judiciary, and civil society actors, rather than being left to counties alone.
5) *Legal & Justice-related services*: Information on legal rights, provision of legal assistance & services and all necessary support in the pursuit of justice.
6) *Social-economic empowerment*: Where necessary, support for skill development, capacity building and resources to assist survivors gain financial independence post the act/omission constituting SGBV

The broad areas of referral pathway are highlighted as follows:



1.6 General Obligations to Cooperate and Collaborate

Subject to any written laws where applicable, CUCs have a general obligation to collaborate and cooperate in the investigation, prosecution and adjudication of SGBV and related crimes. Each member agency will perform its mandate and functions as prescribed in the respective primary legislation and will have such powers as set out therein, but in a manner that fosters unity and is driven by a victim/survivor-centred approach.

Without prejudice to the generality of the aforementioned, and subject to any primary legislation:

1) All Justice Sector Agencies have a general obligation to collaborate, cooperate and coordinate in investigating, prosecuting, support including at the pretrial stage, arrests and detainment of suspects pursuant to their enabling legislation.
2) Agencies and the public have a general duty to cooperate with the National Police Service (NPS) in the investigations in accordance with the law.
3) Organisations have a duty to disclose to each other all material facts and information collected during an investigation that may reasonably be expected to assist the prosecution or defence of SGBV cases crimes.
4) Supervisory bodies have, in accordance with their mandates, the obligation to take administrative and enforcement measures against suspicious activity, which may include suspicious financial transactions that may have a bearing on SGBV.
5) The Judiciary has a duty to conduct trials within the shortest possible time and in cognizance of the state of the victim/survivor, the need to avoid re-traumatisation of witnesses in court and placing the needs of the survivors first.
6) The Judiciary has a duty to hear and conclude SGBV cases promptly, while safeguarding the well-being of survivors, preventing re-traumatisation of witnesses, and prioritising their best interests. Compensation applications under the Protection Against Domestic Violence Act should be treated as substantive hearings, concluded within six months, and handled in line with jurisdictional requirements using the prescribed forms.
7) Courts may proceed in the absence of the accused where necessary and issue protective or compensatory orders, especially for children.
8) Alternative Dispute Resolution mechanisms are not applicable in SGBV matters, and survivors are entitled to constitutional remedies and protection without being subjected to reconciliation processes that undermine justice.
9) Law enforcement agencies, supervisory bodies and other relevant authorities have a general duty to cooperate, and, where appropriate, coordinate with each other concerning the implementation of SOPs, policies and activities to combat SGBV.
10) The CUCs will ensure and maintain diversity in membership in a manner that promotes inclusivity.

    CUCs will observe strict adherence to existing laws as well as obligations under any treaties and instruments to which Kenya is a state party.

PART II: STANDARD OPERATING PROCEDURES

SOP 1: Information Sharing

1. Information

Organisations within the CUCs may share any type of existing information or data, appraised, processed and analysed or not, that could be used in an investigation to detect, prevent or investigate SGBV and related offences. Such information includes:

a) Information on records or files kept by law enforcement agencies;
b) Information kept in records or files by other organisations, to which law enforcement agencies have access, either directly or indirectly;
c) Any other information or data, appraised, processed and analysed or not, that has been obtained within the framework of a criminal investigation.

2. General Obligation

To enhance information sharing, organisations will collaborate, cooperate and coordinate with each other to mutually exchange information on SGBV. The objective is to leverage resources and expertise while improving the ability to prevent, detect, and effectively investigate and prosecute SGBV. The CUCS, to that end, will ensure mutual exchange and mutual sharing of information.

3. Focal Points

a) Each agency and/or organisation will, in accordance with its internal procedures, designate a focal point for efficient sharing and exchange of SGBV information. The designated focal point will form part of the Gender Justice Sub-Committee, or Gender Justice CUC where it is in existent. The CUC will maintain a directory of all focal points and heads of agencies/organizations including their contacts, for correspondence.
b) The focal point will be the responsible liaison person for expediting receipt of information and response to requests for information among the CUC members.
c) Agencies will share with each other the name and designation of the focal point of their agency.

4. Modalities for information sharing

a) Information may be requested for the purpose of prevention, detection, or investigation of an offence under the existing criminal laws where the requesting agency has reasons to believe that the requested agency is in custody of such information.
b) A request for information will specify: -
    i. The nature of the information requested.
    ii. The purpose of the information.

c) Upon receipt of a request for information and evaluating the nature and purpose of the information requested, an agency may: -
   i. Share such information without delay to the requesting agency.
   ii. Decline such a request to share information and provide reasons for doing so in accordance with the guidelines on information sharing as outlined in SOP 1(8) (Delay and Refusal).

a) Organisations will retain control of the information shared with any requesting agency. In accordance with SOP 2, an agency may put security safeguards on any information shared to a requesting agency.

b) In conducting investigations, the lead agency will ensure that all concerned agencies involved in the investigations and are provided access to relevant information from the beginning of any such investigation, through the course of the investigations, and up to the end.

c) Without prejudice to the above SOPs, the agency having custody of relevant information will, without being so requested, provide to the concerned agency, information in case there are factual reasons to believe that the information could assist in the discharge of the mandate of the concerned agency or organisations.

d) The provision of information will be limited to what is deemed relevant and necessary for the successful detection, prevention or investigation of the crime or criminal activity in question.

e) Information obtained pursuant to these SOPs will only be used for such specified purposes for which the information was obtained.

f) If, in the course of utilising information obtained under these SOPs, an agency discovers facts that may be relevant to other investigations not within its mandate, such agency will notify the agency that provided the information in the first instance and refer such discoveries to the relevant agency.

g) To further facilitate the sharing of information, agencies may enter into Non-Disclosure Agreements (NDAs). Where NDAs are used, they will also indicate their legal and practical implications, define information considered confidential, the types of information it will cover, as well as identify consequences for violation of the NDA.

5. Feedback Mechanisms

a) The agencies represented in the CUCs will share feedback with each other from time to time. The sharing of feedback will not be left to the quarterly (or whichever frequency of) meetings and will respond to the urgency of the feedback given and/or sought.

b) Agencies will, without delay, refer cases where another agency is the concerned agency, and the concerned agency will periodically provide up-to-date information on the progress and steps taken.

6. Sharing information with third parties

a) An agency will not share information obtained from another agency with a third party without the authorisation of the agency which provided such information.

b) No information relating to the investigation and prosecution of SGBV offences obtained under these SOPs will be disclosed to any third party, including the media, without prior authorisation. At all times, the identities of children involved in the cases will be protected.

7. Timeliness

a) Timeliness in sharing information is a crucial factor in enabling actors to act promptly.

b) Information requested will be provided without delay, and, to the furthest possible extent, within the timeframe requested. If information cannot be provided within the requested timeframe, the requested agency/organisation, having received a request for information, will indicate the timeframe within which it can be provided. Such an indication will be communicated immediately.

c) Considering the nature of SGBV cases, and adopting a survivor-centred approach, all state and non-state actors will ensure that they have procedures in place to enable them to respond within at most 24 hours to requests for information where the requesting actor indicates that it is carrying out an investigation on a suspected case of SGBV.

d) Where the requesting agency indicates that it wishes to have the information urgently, the requested agency will use its best endeavours to respond quickly to the request.

8. Delay and Refusal

a) Without prejudice to the above, if the requested agency considers that there are circumstances which may cause a significant delay in complying with the request, it will promptly inform the requesting agency of such circumstances.

b) A request for information under these SOPs may be denied in any of the following circumstances

   i. Where the requested information is not in the custody or control of the agency requested to provide such information;

   ii. Where there is a high likelihood that granting such information may jeopardise the success of an ongoing investigation and/or prosecution;

   iii. Where the information requested is clearly disproportionate or irrelevant with regard to the purposes for which it has been requested;

   iv. Where the sharing of the requested information may prejudice national security.

c) Such reason(s) for denial under (b) above will be clearly communicated to the requesting agency promptly.

SOP 2: Confidentiality and Security of Information

1. Organisations will, in accordance with legislation, regulations or any internal working procedures, safeguard the confidentiality of all provided information determined as confidential or classified.
2. Each organisation will take reasonable measures to ensure that information shared in accordance with these SOPs is safeguarded.
3. Organisations will take reasonable measures to prevent unauthorized use or disclosure of confidential information.
4. Organisations should put in place measures to ensure information security, especially with respect to information that is shared amongst themselves. Agencies are specifically encouraged to consider adopting established models for secure information sharing. For purposes of information security, organisations should put in place measures for limiting access to information, especially that which may prejudice investigations or endanger a survivor's wellbeing.
5. Organisations will take measures to ensure that any new developments in modes of sharing and exchanging information are accompanied by effective measures for the security of information.
6. While security of information is central, it should not be used to unreasonably inhibit the sharing and exchange of crucial information needed in the investigation and prosecution of SGBV.

SOP 3: Data Protection Obligations

1. Each organisation will ensure the information obtained under these SOPs is collected, processed and secured as provided for under the Data Protection legislation in force at the time.
2. In interactions with each other, agencies will at all times adhere to data protection policies and principles whenever there is inter-agency sharing of data.
3. The processing of personal data will be as provided for in the Data Protection Act.

SOP 4: Investigations and Arrests

1. General Roles and Obligations in Investigations

a) In accordance with the National Police Service Act, NPS, will be the lead agency in investigating suspected cases of SGBV.

b) Notwithstanding the above, any other Ministries, Departments and Agencies (MDA) may, in pursuance of its mandate, conduct and complement investigations into aspects of SGBV and/or offences incidental to SGBV financing and dissemination.

c) Investigations under these SOPs will be prosecution-guided. That means that as much as possible, the investigators will consult the Office of Director of Public Prosecutions (ODPP), including:
    i. When the investigating officer is considering building an evidential case relating to (a) above;
    ii. Suspect against whom there is some information about them;
    iii. When an arrest is being contemplated;
    iv. When any ancillary application is being contemplated, e.g. Search Warrants (Financial transactions, Premises, preservation orders); detention order; restraint of assets, etc;
    v. In any other case where such advice may be needed as soon as practicable.
d) Concerned agencies with a common interest in an investigation may form *ad hoc* joint investigation teams, whenever necessary to do so, in consultation with prosecution and the NPS.
e) A joint investigation team will be composed of personnel from the relevant agencies and organisations and may determine roles/mandates, the mode of its working and aspects of investigations to focus on.
f) Where a joint investigation team has been formed, it will periodically submit reports to the principals of agencies and organisations involved on its operations and progress.

2. Pre-Arrest Conference

Where an arrest is being contemplated, the prosecuting agency or joint investigation team and the investigating officer will ensure that a pre-arrest conference is held as soon as possible after notification from the investigating officer.

The Prosecutor will offer the required advice that may include:

a) Possible offences to charge;
b) Lines of inquiry to take, including investigations into financing, aiding and abetting and any sort of enabling;
c) Admissibility of evidence;
d) Potential need for expert evidence;
e) Possible legal applications, e.g. restraint of assets or applications for mobile phone data and other records;
f) Identification of issues and applications relevant to witness protection and public interest immunity;
g) How to obtain evidence from outside Kenya, e.g. where the suspect is at large (police to police requests, cooperation under the East African Community Treaty, Mutual Legal Assistance, etc);
h) Extradition and repatriation;
i) How evidence should be presented in court, including how it will be handled and preserved until then (including adherence to chain of custody requirements);

j) Whether any parallel financial investigations in addition to SGBV should be pursued;

k) Evidential and legal requirements of a proposed investigative technique;

i. Setting a timetable for disclosure of evidence and subsequent meetings to review in complex cases;
ii. That the prosecutor and the investigating officer will ensure that they regularly confer for the purpose of discussing the progress of investigations;
iii. Consideration of bail and or any other applications.

3. Arrest

a) Any police officer or other agency, mandated by law, may apprehend a suspect of SGBV crimes pursuant to the Constitution or any other written law.
b) Upon arrest of a suspect, the arresting officer will comply with all the Constitutional provisions, especially on the Bill of Rights.

4. Interviews

a) When conducting an interview, all efforts will be made to have interviews and/or statements recorded by the appropriate officer in a conducive/enabling environment
b) All agencies will endeavour to safeguard the victims/survivor's wellbeing and avoid re-victimization.
c) If any confession is to be relied upon, it must have been obtained in accordance with the Evidence Act and rules made thereunder or any rules in force at the time.
d) The investigating officer and prosecutors will review information gathered during interviews and make appropriate recommendations on charging and next steps.
e) Where the investigation is multi-pronged, the lead agency will consult with other relevant agencies/organisations on lines of inquiry to pursue and possible charges to prefer against a suspect.
f) In case the information gathered does not satisfy the requirements for charging, the ODPP will recommend conditional or unconditional release of the suspect, and advice on actions to be taken by the agencies.

SOP 5: Adjudication

1. Decision to Charge

a) The decision to charge will be made with due regard to the policy documents in use by the ODPP.

b) All decisions to charge must satisfy the Evidential test as well as the Public Interest test while considering any and all aggravating and mitigating factors as stipulated in the Guidelines for Prosecutors.

c) Where it becomes apparent that a decision to prosecute will not be made without undue delay and/or at the risk of the suspect or exhibit(s) fleeing, the ODPP will make a decision on the steps to take which may include charging for non-SGBV offences, application in court for custodial orders, the lines of investigations to pursue, administrative interventions and preservation orders for exhibits.

d) In deciding to charge, the Prosecutor will consider:

   i. Possible offences to charge;
   ii. Admissibility of evidence;
   iii. Potential need for expert evidence;
   iv. Possible legal applications, e.g. restraint of assets or applications for mobile phone data and other records;
   v. Identification of issues and applications relevant to witness protection and public interest immunity;
   vi. How to obtain evidence from outside Kenya, e.g. where the suspect is at large (police to police requests, cooperation under the EAC Treaty, Mutual Legal Assistance, etc);
   vii. Extradition and repatriation;
   viii. How evidence should be presented in court, including how it will be handled and preserved until then (including adherence to chain of custody requirements);
   ix. Whether any parallel financial investigations in addition to SGBV should be pursued;
   x. Setting a timetable for disclosure of evidence and subsequent meetings to review in complex cases;
   xi. Consideration of bail and or any other applications.

e) The NPS will pursue all possible leads to secure samples for analysis within the shortest possible time, prior to the ODPP making the decision to charge, and will document the investigative steps related to any samples collected and document these in the file forwarded to the ODPP for review.

2. Pre-trial Release on Bail/Bond

a) The ODPP will adequately prepare for a bail hearing by seeking all the relevant information about the suspect from the investigating officer and all other relevant organisations.

b) Every request to object to the award of bail/bond will be accompanied by an affidavit from the (lead) investigator outlining, in detail, the reasons why bail/bond should not be granted, whether at the onset or throughout the trial.

c) In cases where the court may be persuaded to grant bail to suspects of SGBV offences, the prosecutor may request appropriate conditions for release, which may include supervision by the appropriate agency.

d) All concerned agencies may maintain open channels of communication with all suspects regarding their bail/bond status. This communication will take into consideration any outcomes of parallel investigations and/or subsequent charges, whether they relate to SGBV or not.

e) Probation and Aftercare Services will conduct a social inquiry and submit a report to the ODPP and the court outlining the suitability of the suspect to be admitted to bond/bail and the potential social impact of the suspect's release, including the possibility of witness interference, community and cultural biases and any attempts on extra judicial resolution of the dispute.

3. Adjudication

a) For victims/survivors who are minors, an assessment should be taken as to whether the survivor needs any protection from the court. The officers of the State Department for Children Services should open a protection and care file before the trial commences.

b) For adult victims/survivors, parties can approach the court seeking protection orders. The court is to be informed of the status of the survivor and whether they are in a position to testify or require doing so by way of affidavit.

c) The court needs to be informed in advance whether the survivor is a vulnerable witness and needs to testify through an intermediary

d) In the case of vulnerable persons (the elderly, expectant women and children), the court should be informed in good time to make special arrangements.

4. Trial

a) All preliminary reports relating to the survivor should be in the court file before the trial starts; these are based on the interlocutory applications.

b) All parties will ensure that they consider the victims/survivor's rights as well as their physical and mental health, and will refrain from any act or omission that re-traumatise them and make them re-live the experience.

c) Where the survivor is a minor, they will be treated with dignity, including by the opposing counsels during trial. Counsels will be expected to use language and demeanour, including tone, that is not aggressive but still elicits a response from the minor in court. All stakeholders will endeavour to promote a child-friendly environment.

d) In a case where a victim wishes to have an advocate watching brief, the same should be brought to the attention of the court at the earliest, and any issues the advocate holding brief wishes to channel to the court to be addressed through the Prosecutor.

e) The Court should hear the case on a priority basis.

f) Depending on the circumstances of the case, the court will take the evidence at the earliest opportunity

g) The court should embrace active case management.

h) The court should embrace child-friendly language and environment, undertake hearings in camera, through intermediaries and virtual hearings.

i) The defence counsel is to ensure they adopt sensitive and courteous language with victims/survivors.

j) The Prosecutor will undertake a pre–trial session with the victim and the witnesses in preparation for trial in accordance with the Rapid Reference Guide on The Prosecution of Sexual and Gender-Based Violence Cases in Kenya

k) Care will be taken to acquaint the victim/survivor with the court process and the legitimate expectation of this process. The Court will keep the survivor and intermediaries informed of every stage of the trial process. Both the minor and intermediary will be informed, beforehand, that the perpetrator will be in court on the day they tender their testimony. and the necessary protective measures will be put in place to safeguard the survivor.

l) Notwithstanding the day-to-day management of cause lists and the number of cases to be heard, courts will ensure that the survivors who are in court to testify take the shortest possible time in court and are not kept unnecessarily long awaiting their case to be called out or proceed. The court will work with the ODPP and the State Department for Children Services to ensure that the victim/survivor is kept away from the public gallery until such time that they are needed in court to give *viva voce* evidence.

m) To the extent possible, the survivor/witness should be made comfortable and discreet and not stand out (for instance, a child sitting in court in a school uniform). The Court should establish safe spaces for survivors in the court premises.

n) All actors within the CUCs, including defence counsel, will endeavour to ensure that the survivor testifies as quickly as possible and preferably not more than 14 (fourteen) days after the ordeal, or as soon as is practically reasonable. The Court should endeavour to hold the pre-trial conference on the same day as the arraignment to ensure efficient case management and timely disposal of the case.

o) The Victim Impact Assessment Report should be available before sentencing. Hybrid court sessions should be adopted so as to minimize unnecessary adjournments and costs and guarantee expeditious disposal of cases, e.g. expert witnesses like medics, government analysts, can testify virtually before different courts on the same day.

p) The Court is to consider the pre–sentence report.

q) The Prosecution is to make submissions on sentencing.

r) Where possible, the ODPP should liaise with the Court administrator in advance to share the expected witness costs to facilitate prompt reimbursement.

s) Witnesses should be bonded at least 14 days before the hearing.

5. Emerging issues

a) Investigators will be alive to the emergence of technology-facilitated sexual and gender-based violence and its prevalence and adopt investigative techniques that respond to this effectively and efficiently., including obtaining court orders to access digital records in appropriate cases

b) The CUCs will consider and organise training opportunities to better prepare themselves for prevention and responses to offences in this arena.

c) All justice actors will endeavour to offer responses to technology-facilitated SGBV in a manner that also considers the digital rights and identity of the survivor and offer viable options and solutions that may include civil reliefs and compensation.

d) The application of this section of the SOPs will also apply to any new areas of investigation and practice that may emerge after their adoption.

SOP 6: Enforcement

1. Freezing, Seizure, and Recovery of Property

a) Where there is reason to believe that property is being used for the commission of a crime or is proceeds of crime, and the relevant statute provides for forfeiture, the ODPP will apply for preservation and forfeiture orders.

b) Upon conviction, the ODPP will apply to the court for forfeiture of any property and instrumentalities used in the commission of such acts.

c) Relevant Ministries, Departments and Agencies (MDAs) and organisations have a duty to implement the freezing order issued without delay and to ensure that no funds and other assets are made available, directly or indirectly, to or for the benefit of any person or entity.

2. Role of County Governments

a) County governments will establish and maintain safe shelters for survivors of SGBV.

b) County governments will provide free medical treatment to survivors of SGBV.

c) County governments will provide Post Rape Care forms free of charge and ensure their medical officers fill the forms free of charge and attend court.

PART III: CRUCIAL ENABLERS FOR EFFECTIVE MANAGEMENT OF SGBV CASES

1. Community Engagement

a) Notwithstanding any other provision under any written law, all organisations represented in the CUCs may conduct community engagement and, in particular:

   i. Adopt mechanisms for engaging with the community including channels for receiving reports on suspicious activities and harmful cultural practices from the community.
   ii. Engage in active dialogue and sensitization with communities on aspects affecting the protection of survivors of SGBV and the importance of criminal justice responses to the vice.
   iii. Positively engage through various media platforms and develop good relations with the mainstream media, which plays an important role in helping organisations communicate more effectively with the public at large and with minority groups.
   iv. Enhance the capacity of community policing systems, and where necessary, they will train the community on SGBV, its effects on the community and individuals within it.
   v. Approach community engagement as a holistic and long-term strategy.
   vi. Build assessment tools for evaluating the success of community engagement and identifying areas for improvement.

b) Community engagement will be conducted across both conventional and social media, and generally adopt a language and tone that is versatile, relatable and has a wide reach.

2. Respect for Human Rights

a) All MDAs will promote and protect human rights and the rule of law in exercising their mandate.
b) Where during investigation, or inter-agency interactions, certain rights are to be limited, the concerned actors will ensure that the same is done in accordance with any limitations as provided for in the Constitution or any other law.
c) A suspect/accused person has the right to a fair administrative process and a fair trial in conformity with the provisions of the Constitution and all attendant documents.
d) All accused persons have the right to be presumed innocent until proven guilty.
e) Subject to any implementation shortcomings and/or resource availability, regard will be given to the rights of inter-sex individuals to seek the full protection of the law and not to have their rights violated at any stage of investigation, prosecution or investigation, including any physical restraint and movement.

3. Witnesses and Survivor/Victim Protection

a) Investigators and prosecutors will liaise with the relevant organisations to ensure that appropriate measures for identifying vulnerable survivors/victims at an early stage are in place to ensure that they are provided with support in accordance with the Witness Protection Act, insofar as it is applicable.

b) In dealing with witnesses and survivors/victims, the prosecutor in consultation with investigative organisations, may seek in-court protective measures.

c) The Judiciary in collaboration with other agencies will accord the survivor all in court protective measures available at its disposal by law and practice.

d) Survivors and any other victims will be provided with prompt and continuous psychosocial support by the relevant agency, informed of their rights to participate in the trial, to seek redress and provided with updates on the progress of the investigation and prosecution, regardless of whether they are giving evidence or not.

e) At the sentencing stage, the ODPP is encouraged to liaise with the relevant organisations and the experts in the field to submit victim impact statements, which will include the environmental, economic, social, legal and compliance impact of the offence. All agencies so approached will give their full cooperation.

4. School Administration and Management

a) In line with all existing policies, school heads will allow and ensure that any survivor who falls pregnant because of defilement is able to continue with their education before and after giving birth.

b) No survivor will be stigmatised or ostracised due to the fact that they are survivors of SGBV, and in concert with institutions offering psycho-social support, school heads will ensure compliance with the survivor's needs taking precedence.

c) School heads, including teachers who become aware of SGBV have a duty to and will report to law enforcement of their discovery. Failure to do so may make them complicit and the ODPP will be at liberty to consider whether this inaction constitutes aiding and abetting the commission of an offence.

5. Capacity Building

a) CUCs will regularly identify and map out training needs and gaps during their interactions and recommend or organise training to improve their capacity and capabilities. All training must include trauma-informed and survivor-centred approaches.

b) Any agency may organise regular training and seminars involving participants from different organisations.

c) Organisations will endeavour to undertake training on contemporary issues, emerging technologies and ICT as well as the evolving nature of the means used in the commission and transmission of SGBV.

6. International Cooperation

a) Organisations may, to the extent that Kenyan laws and obligations as state parties to international instruments allow, engage in mutual international cooperation to procure evidence, extradite suspects, secure witnesses, and generally assist or get assistance in investigations.
b) This international cooperation may be formal or informal in accordance with the laid-down protocols.
c) Agencies will ensure that the sharing of information with foreign organisations and authorities is consistent with the interests of the Republic of Kenya and national security interests.

7. Monitoring, Evaluation and Reporting

a) Have a Gender Justice Sub-committee that meets quarterly to monitor data, trends and areas of concern within the jurisdiction.
b) The Committee then reports to the Main CUC and gives strategies for handling the challenges highlighted for adoption by the Main CUCs.
c) Formulate a workplan indicating activities and resources required for the Gender Justice CUC, and ensure quarterly monitoring and reporting.
d) Protection and Care file opened for all Children affected by SGBV for monitoring progress.
e) Care and Support Files to be opened for Adult Survivors for monitoring progress on areas of support including, psychosocial and other welfare issues.
f) The Application for Case and Support file for adults should be made by the investigating officer at the Gender Desk
g) Care and Support Form to be filled by the Investigating Officer at the reporting Station
h) Monitoring of Case and Support to be done by the County Gender Office.
i) County Gender Officers to be members of Gender Justice CUCs.
j) Develop a mechanism of receiving feedback from the members of the public and promptly address the concerns, mobilize resources towards implementation of the SOPs.
k) Engage and Sensitize the public through community engagements on these SOPs and the need to report SGBV cases e.g. in community in open days, dialogue days, barazas.
l) Encourage the social and cultural angle when sensitising communities on SGBV.

8. Implementation Mechanisms

a) The heads of the justice sector agencies will oversee the implementation of these SOPs.
b) The heads will assess on annual basis their agencies compliance with the SOPs and address the compliance and implementation challenges faced.
c) Notwithstanding the above, any agency head may call for a meeting on any matters arising regarding compliance with these SOPs.
d) The NCAJ standing committee on CUCs will, in collaboration with other justice sector players, coordinate the implementation of these SOPs.
e) In case of a dispute between agencies in the interpretation of these SOPs, or on the performance of an obligation under these SOPs, the matter will be referred to the NCAJ.

9. Harmonisation of Internal Procedures and Other Agreements

a) Organisations undertake to harmonize their internal procedures and practices relating to what is covered herein to be in harmony with these SOPs.
b) These SOPs will be complementary to existing mechanisms of collaboration, so far as such mechanisms are consistent with these SOPs on matters addressed herein.
c) Without prejudice to the above, organisations may continue to use MOUs or NDAs in force when these SOPs are adopted insofar as those MOUs or NDAs allow the objectives of these SOPs to be extended or enlarged and help to simplify or facilitate further the procedures for collaboration, cooperation and coordination falling within the scope of these SOPs.
d) Organisations may also conclude new MOUs or NDAs after these SOPs have come into force insofar as such MOUs or NDAs allow the objectives of these SOPs to be extended or enlarged and help to simplify or facilitate further the procedures for collaboration, cooperation and coordination falling within the scope of these SOPs.

NATIONAL COUNCIL ON THE ADMINISTRATION OF JUSTICE
NCAJ
A unified justice sector that
serves the people

STANDARD OPERATING PROCEDURES FOR THE EFFECTIVE MANAGEMENT OF SEXUAL AND GENDER BASED VIOLENCE BY COURT USERS' COMMITTEES IN KENYA

2026

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