



COURT SUPPORT

**THERE IS
NO FORCE
EQUAL
TO A WOMAN
DETERMINED
TO RISE**
~W.E.B Du Bo

CONTACT US

Rape Crisis Centre Address
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PORT ELIZABETH
RAPE CRISIS
— CENTRE —

If a complainant has not been to a doctor, the police office should arrange it. After the medical examination of the complainant the Medical doctor should record his findings on the prescribed J88 form. The J88 should be filed in the docket by the Police Officer. DNA samples are later requested, the investigating of officers should arrange that it is taken and sent for analysis.

If at this stage there is enough evidence under oath to implicate and connect a suspect with the offence, therefore the SAPS should make an arrest.

WHEN DOES THE ACCUSED APPEAR IN COURT?

The accused should appear in court within 48 hours of the arrest. The prosecutor determines whether the investigation has been completed, and if not, what further needs to be done by the investigating officer.

The prosecutor in conjunction with the investigating officer will make a decision regarding bail for the accused. However, the final decision regarding bail is in the hands of the magistrate.

The prosecutor decides that there is prima facie case against the accused, a charge sheet will be completed and the accused will appear in court.

Court prosecutor will peruse the docket and decide whether the docket contains evidence to proceed with a criminal case against the accused. These role players include the magistrate, the prosecutor, the accused and his or her attorney, a court orderly, interpreter if needed and witness, if the case is at trial stage.

WHEN DOES A VICTIM/SURVIVORS APPEAR IN COURT?

When the investigation in a case has been completed a trial date will be determined and only then would the complaint testify.

The investigating officer will then subpoena the complainant and all other witnesses to attend court at a set date to testify.

When the complainant arrives at court she/he must inform the prosecutor of their presence.

Before the trial proceeds, the prosecutor should let the complainant read their statement to refresh their memory, and consult regarding the case and testimony.

During this time the prosecutor will prepare the complainant for the procedure in court, eg. seating arrangements etc.

The complainant should also address all concerns and questions they have with the prosecutor at this stage.

WHAT ROLE DOES A WITNESS PLAY?

A state witness who has made a statement to the SAPS can be called to testify on behalf of the complainant, about his/her account of the incident, during the trial.

After testifying a state witness may be subject to cross-examination by the defense.

WHAT IS NECESSARY FOR THE VICTIM/SURVIVOR TO BE A GOOD WITNESS IN COURT?

A complainant should know the contents of their statement which was made to the SAPS. They should read the statements in the docket and consult with the prosecutor before testifying.

In court a complainant should answer all queries truthfully and not fabricate evidence. Rather tell the court you are not sure or that you do not remember.

WHAT ROLE DOES THE PROSECUTOR PLAY?

The prosecutor represents the state's case on behalf of the complainant to the court. This is done by means of calling witnesses to testify and handing in documentary evidence.

The prosecutor should at all times act in the interest of the complainant and protect the complainant and all the state witnesses in court.

WHAT ROLE DOES THE DEFENCE ATTORNEY PLAY?

The defence attorney appears on behalf of the accused. The attorney will at all times and at all cost protect the interest of the accused. The defence attorney will present the case of the accused (defence case), by way of leading the evidence of the accused and his witnesses. The defence attorney may cross-examine all the state witnesses after they have testified.

WHAT IS THE ROLE OF THE MAGISTRATE

The magistrate is the presiding officer in court. It is the duty of the magistrate to listen to all the evidence presented by both state and the defense, and to ensure that the rules of the procedure evidence are adhered to. At the end of the trial, the magistrate will evaluate all the evidence before the court and give judgement. The magistrate can either find an accused not guilty and acquit them or find an accused guilty and convict them. If an accused is found guilty the court will pass sentence. Before judgement and sentencing stage respectively, the prosecutor and the defense attorney will have an opportunity to address the court. If an accused is undefended the court/magistrate will ensure that their rights are protected during the trial.

HOW TO MONITOR AND INTERPRET THE FINDINGS OF THE MAGISTRATE

Only after the complainant witnesses have testified can they sit in court and follow the proceedings. It is crucial for the complainant to follow the proceedings and listen to the judgement of the court. During judgement the magistrate will summarise and evaluate the evidence of each witness. After evaluating all the evidence, the magistrate will give his/her findings and reasons therefore.

REASONS FOR REMANDS

Reasons for remanding a case can range from having to complete an outstanding investigation, the absence of the accused, the absence of the defense attorney, to a witness required at the court etc.

HOW LONG SHOULD A CASE BE ON THE COURT ROLE?

It is not possible to attach a time frame as to when a case will be finalised. However, it is ideal to finalise a case as soon as possible i.e. while the incident is still fresh in the memory of the witnesses, and for the complainant to get closure.

WHAT IS THE ROLE OF THE SOUTH AFRICAN POLICE SERVICES (SAPS)

To take the statement of the woman (complainant), who has been raped or sexually assaulted, as she intends to lay a charge.

WHAT HAPPENS AT THE POLICE STATION

A complainant will be interviewed and her statement will be taken. All information i.e. the names and contact details of all the relevant witnesses will be given.

An Investigating Officer will then be assigned to the Case and is to take statements from all relevant witnesses present/available to investigate the case.