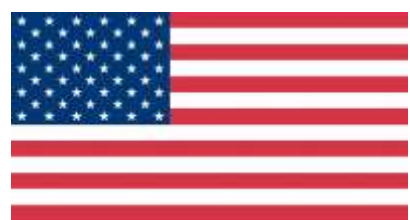


Standard Operating Procedure for Integrated Assistance to Victims of Trafficking



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Acronyms

AFU	Asset Forfeiture Unit	DoH	Department of Health
BCEA	Basic Conditions of Employment Act	DoJCD	Department of Justice & Constitutional Development
CPO	Child Protection Organisation	DPCI (Hawks)	Directorate for Priority Crime Investigation
CAS	Crime Administration System	DPP	Director of Public Prosecution
CSC	Community Service Centre	DSD	Department of Social Development
CSEC	Commercial Sexual Exploitation of Children	ESSA	Employment Services of South Africa
CYCC	Child and Youth Care Centre	FCS	Family Violence, Child Protection and Sexual Offences (SAPS Investigations)
DBE	Department of Basic Education	IDP	Individual Development Plan
DEL	Department of Employment and Labour	IO	Investigating Officer
DHA	Department of Home Affairs	IOM	International Organization for Migration
DIRCO	Department of International Relations and Cooperation	ISS	International Social Service

IVA	Integrated Victim Assistance	RRT	Rapid Response Task Team
MEC	Member of the Executive Council	SADC	Southern African Development Community
MLA	Mutual Legal Assistance	SAPS	South African Police Service
NGO	Non-Governmental Organisation	SARS	South African Revenue Service
NICTIP	National Inter-sectoral Committee on Trafficking in Persons	SOM	Smuggling of Migrants
NPA	National Prosecuting Authority	SOP	Standard Operating Procedure
NPF	Prevention and Combating of Trafficking in Persons National Policy Framework (2019)	SPA	Strategic Plan of Action
OCSE	Online Child Sexual Exploitation	SVoT	Suspected of being a Victim of Trafficking
OWP	Office for Witness Protection	TCC	Thuthuzela Care Centre
POA	Plan of Action	TIP	Trafficking in Persons
POCA	Prevention of Organised Crime Act	TIP Act	Prevention and Combating of Trafficking in Persons Act
PTT	Provincial Task Team	VIR	Victim Impact Report

VIS Victim Impact Statement

VoT Victim of Trafficking

Definitions

The definitions provided are taken from the following sources, unless indicated otherwise:

- 1 Prevention and Combating of Trafficking in Persons Act, 7 of 2013
- 2 Children's Act, 38 of 2005
- 3 Basic Conditions of Employment Act, 75 of 1997
- 4 Immigration Act, 13 of 2002
- 5 Criminal Law (Sexual Offences and Related Matters) Amendment Act, 32 of 2007
- 6 Committee on the Rights of the Child, General Comment No. 6 (2005): Treatment of Unaccompanied and Separated Children outside their Country of Origin. Articles 7& 8
- 7 United Nations Protocol against the Smuggling of Migrants by Land, Air and Sea (2000)
- 8 White Paper on International Migration (2018)
- 9 Model Law against Trafficking in Persons (2009)
- 10 Department of Justice and Constitutional Development (n.d.)

Abuse of vulnerability¹

Abuse of vulnerability means any abuse that leads a person to believe that he/she has no reasonable alternative but to submit to exploitation, and includes but is not limited to, taking advantage of the vulnerabilities of that person resulting from:

- (a) the person having entered the country or remained in the Republic illegally or without proper documentation;
- (b) pregnancy;
- (c) any disability of the person;
- (d) addiction to the use of any dependence-producing substance;
- (e) being a child;

- (f) social circumstances; or
- (g) economic circumstances.

Accredited organisation¹

An organisation, including a government institution, accredited in terms of section 24 of the TiP Act to provide services to adult victims of trafficking.

Asylum seeker⁸

A person who seeks safety from persecution or serious harm in a country other than his/her own and awaits a decision on the application for refugee status.

Body part¹

Body part, for purposes of the TiP Act, means any blood product, embryo, gamete, gonad, oocyte, zygote, organ or tissue as defined in the National Health Act, 61 of 2003.

Child²

A person under the age of 18 years.

Child in need of care and protection²

- (1) A child is in need of care and protection if the child—
 - (a) has been abandoned or orphaned and is without any visible means of support;
 - (b) displays behaviour which cannot be controlled by the parent or care-giver;
 - (c) lives or works on the streets or begs for a living;
 - (d) is addicted to a dependence-producing substance and is without any support to obtain treatment for such dependency;
 - (e) has been exploited or lives in circumstances that expose the child to exploitation;

- (f) lives in or is exposed to circumstances which may seriously harm that child's physical, mental or social well-being;
 - (g) may be at risk if returned to the custody of the parent, guardian or care-giver of the child as there is reason to believe that he or she will live in or be exposed to circumstances which may seriously harm the physical, mental or social well-being of the child;
 - (h) is in a state of physical or mental neglect; or
 - (i) is being maltreated, abused, deliberately neglected or degraded by a parent, a care-giver, a person who has parental responsibilities and rights or a family member of the child or by a person under whose control the child is.
- (2) A child found in the following circumstances may be a child in need of care and protection and must be referred for investigation by a designated social worker—
- (a) a child who is a victim of child labour; and
 - (b) a child in a child-headed household.

Children's Act, S150

Child labour ^{2 & 3}

Means work by a child which:

- (a) is exploitative, hazardous or otherwise inappropriate for a person of that age; and
- (b) places at risk the child's well-being, education, physical or mental health, or spiritual, moral, emotional or social development.

It is a criminal offence to employ a child under 15 years of age and children under 18 may not be employed to do work inappropriate for their age or that places them at risk.

Child labour and the exploitation of children²

- (1) No person may-
 - (a) use, procure or offer a child for slavery or practices similar to slavery, including but not limited to debt bondage, servitude and serfdom, or forced or compulsory labour or provision of services.
 - (b) use, procure, offer or employ a child for trafficking.
 - (c) use, procure or offer a child or attempt to do so for the commission of any offence listed in Schedule 1 or Schedule 2 of the Criminal Procedure Act, 51 of 1977; or
 - (d) use, procure, offer or employ a child for child labour.
- (2) A social worker or social service professional who becomes aware of-
 - (a) any instance of a contravention of subsection (1) must report it to a police official; and
 - (b) any instance of child labour or a contravention of the provisions of the Basic Conditions of Employment Act, 1997 (Act 75 of 1997) must report it to the Department of [Employment and] Labour.

Child pornography⁵

Means any image, however created, or any description or presentation of a person, real or simulated, who is, or who is depicted or described or presented as being, under the age of 18 years, of an explicit or sexual nature, whether such image or description or presentation is intended to stimulate erotic or aesthetic feelings or not, including any such image or description of such person—

- (a) engaged in an act that constitutes a sexual offence;

- (b) engaged in an act of sexual penetration;
- (c) engaged in an act of sexual violation;
- (d) engaged in an act of self-masturbation;
- (e) displaying the genital organs of such person in a state of arousal or stimulation;
- (f) unduly displaying the genital organs or anus of such person;
- (g) displaying any form of stimulation of a sexual nature of such person's breasts;
- (h) engaged in sexually suggestive or lewd acts;
- (i) engaged in or as the subject of sadistic or masochistic acts of a sexual nature;
- (j) engaged in any conduct or activity characteristically associated with sexual intercourse;
- (k) showing or describing such person—
 - i. participating in, or assisting or facilitating another person to participate in; or
 - ii. being in the presence of another person who commits or in any other manner being involved in, any act contemplated in paragraphs (a) to (j); or
- (l) showing or describing the body, or parts of the body, of such person in a manner or in circumstances which, within the context, violate or offend the sexual integrity or dignity of that person or any category of persons under 18 or is capable of being used for the purposes of violating or offending the sexual integrity or dignity of that person, any person or group or categories of persons.

Child and Youth Care Centre (CYCC)²

A child and youth care centre is a facility for the provision of residential care to more than six children outside the child's family environment in accordance with a residential care programme suited for the children in the facility. It must be registered

and adhere to national norms and standards

Children's Act S158(3)(a), 191(1), 194, 197

Coercion⁹

The use or threat of violent, non-violent or psychological force intended to cause a person to believe that failure to comply with demands would result in serious harm to themselves or another.

Commercial sexual exploitation of children (CSEC)²

- (a) the procurement of a child to perform sexual activities for financial or other reward, including acts of prostitution or pornography, irrespective of whether that reward is claimed by, payable to or shared with the procurer, the child, the parent or care-giver of the child, or any other person; or
- (b) trafficking in a child for use in sexual activities, including prostitution or pornography.

Debt bondage¹

The involuntary status or condition where personal services, or the personal services of another person under his or her control are promised as security for a claimed/actual debt. The key characteristics of debt bondage are that the actual/claimed debt demanded is excessive compared to its reasonable assessment; the length and nature of services are not limited and defined; or the value of the services is not applied to pay off the claimed/actual debt.

Designated social worker²

A social worker in the service of the Department or a provincial department of social development; a designated child protection organisation; or a municipality.

Exploitation¹

This includes, but is not limited to, all forms of slavery or practices similar to slavery, sexual exploitation, servitude, forced labour, child labour, the removal of body

parts, or the impregnation of a female person against her will for the purpose of selling her child when the child is born (Section 4(1)). This includes adoption as well as forced marriage for the purpose of exploitation (Section 4(2)).

Exploitation, in relation to a child²

includes–

- (a) all forms of slavery or practices similar to slavery, including debt bondage or forced marriage;
- (b) sexual exploitation;
- (c) servitude;
- (d) forced labour or services;
- (e) child labour prohibited in terms of section 141; and
- (f) the removal of body parts.

Forced labour¹

Labour or services of a person obtained or maintained–

- (a) without the consent of that person; and
- (b) through threats or perceived threats of harm, the use of force, intimidation or other forms of coercion, or physical restraint to that person or another person.

Forced marriage¹

A marriage concluded without the consent of each of the parties to the marriage.

Foreigner¹

A person who is not a citizen or permanent resident of the Republic.

Note that this is different to how a foreigner is defined in the Immigration Act, 13 of 2002.

Grooming

Grooming is when someone builds an emotional connection with a child to gain their trust for the purposes of sexual abuse, sexual exploitation or trafficking.

National Society for the Prevention of Cruelty to Children, n.d.

Illegal foreigner⁴

A foreigner who is in South Africa in contravention of the Immigration Act, 13 of 2002 and includes a prohibited person.

Immigration officer⁴

An officer appointed by the Director-General to perform the functions of either the permitting office, port of entry or inspectorate as contemplated in this Act; (Definition of “immigration officer” substituted by section 2(d) of Act 13 of 2011).

Letter of recognition¹

A formal written recognition that an adult person is a VoT issued in terms of section 19 (10).

MEC¹

The Member of the Executive Council of a province to whom the powers and functions relating to social development in that province have been assigned by the Premier of that province.

National Director of Public Prosecutions¹

The person referred to in section 179 (1)(a) of the Constitution of the Republic of South Africa, 1996, and appointed in terms of section 10 of the National Prosecuting Authority Act, 32 of 1998.

Online violation¹⁰

Intentional and repeated violence and aggression perpetrated through electronic devices or technology. This is perpetrated on a specific individual or group that results in discomfort or harm. Online violations include cyber bullying, cyber violence, cyber aggression, internet bullying, electronic bullying, internet harassment, online harassment, sexting, sexual solicitation and exposure to pornography.

Police official¹

A member of the South African Police Service as outlined in the South African Police Service Act, 68 of 1995.

Pornography⁵

Means any image, however created, or any description of a person, real or simulated, who is 18 years or older, of an explicit or sexual nature that is intended to stimulate erotic feelings, including any such image or description of such person-

- (a) engaged in an act that constitutes a sexual offence;
- (b) engaged in an act of sexual penetration;
- (c) engaged in an act of sexual violation;
- (d) engaged in an act of self-masturbation;
- (e) displaying the genital organs of such person in a state of arousal or stimulation;
- (f) unduly displaying the genital organs or anus of such person;
- (g) displaying any form of stimulation of a sexual nature of the female breasts;
- (h) engaged in sexually suggestive or lewd acts;
- (i) engaged in or as the subject of sadistic or masochistic acts of a sexual nature;
- (j) engaged in any conduct or activity characteristically associated with sexual intercourse; or
showing or describing the body, or parts of the body, of that person in a manner or in circumstances which, within the context, violate or offend the sexual integrity or dignity of that person or any other person or is capable of being used for the purposes of violating or offending the sexual integrity or dignity of that person or any other person.

Port of Entry⁴

A place, designated by the Minister of Home Affairs, where all persons must report to an immigration officer before entering or leaving the country.

Protective custody¹

The detention or confinement of a person by the South African Police Service for the purpose of protecting that person in any

place which is used for the reception, detention or confinement of a person who is in custody of the South African Police Service and includes all land, buildings and premises adjacent to that place and used in connection therewith.

Removal of body parts¹

The removal of or trade in any body part in contravention of any law.

Separated children⁶

Children who are separated from both parents, or from their previous legal or customary primary care-giver, but not necessarily from other relatives. These may, therefore, include children accompanied by other adult family members.

Servitude¹

A condition in which the labour or services of a person are provided or obtained through threats of harm to that person or another person, or through any scheme, plan or pattern intended to cause the person to believe that, if the person does not perform the labour or services in question, that person or another person would suffer harm.

Sexual exploitation¹

The commission of-

- (a) any sexual offence referred to in the Criminal Law (Sexual Offences and Related Matters) Amendment Act, or
- (b) any offence of a sexual nature in any law.

Slavery¹

Reducing a person by any means to a state of submitting to the control of another person, as if that other person were the owner of that person.

Smuggling of migrants (SOM)⁷

- (a) "Smuggling of migrants" shall mean the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the

person is not a national or a permanent resident;

- (b) "Illegal entry" shall mean crossing borders without complying with the necessary requirements for legal entry into the receiving State.

Standard Operating Procedures

Or SOP, is an established or prescribed method for relevant stakeholder to follow in specific situations to achieve a specific outcome. The aim of a SOP is to ensure a consistent response that is in line with the regulatory framework.

Stockholm Syndrome

A situation where the victim does not know the captor before captivity. The victim closely identifies with or develops an emotional attachment to his/her captor/perpetrator and their cause.

van der Westhuizen, A. (2019a)

Trauma bonding

A situation where a victim and perpetrator are known to each other. The emotional attachment (bond) is exploited by the perpetrator. The 2 structural features of trauma bonding are:

- power imbalances (that are exploited by the perpetrator), and
- intermittent abuse followed by positive behaviour (that keeps the victim in the cycle of abuse).

Trauma bonding is possible in TiP if the VoT has a long-term relationship with the trafficker.

van der Westhuizen, A. (2019b)

Temporary safe care (in relation to a child)²

Care of a child in an approved Child and Youth Care Centre, shelter or private home or any other place, where the child can safely be accommodated pending a decision or court order concerning the placement of the child, but excludes care of a child in a prison or police cell.

Temporary safe care (in relation to adults)¹

Care of an adult person suspected of being a VoT in a shelter, private home or any other place approved by the Director-General of Social Development, where that person can be accommodated safely pending the placement of that person in an accredited organisation.

Trafficking in Person (TiP)¹

Any person who delivers, recruits, transports transfers, harbours, sells exchanges, leases or receives another person within or across the borders of the Republic by means of threat or harm, the use of force, abuse of vulnerability, fraud, deception, abduction, kidnapping, abuse of power, the direct or indirect giving or receiving of payments, benefits, compensation or rewards to obtain the consent of a person having control or authority over another person commits the offence of trafficking in persons. This also includes adoption and forced marriage for the purpose of sexual exploitation. Also known as human trafficking.

Unaccompanied children⁶

Children who have been separated from both parents and other relatives and are not being cared for by an adult who, by law or custom, is responsible for doing so.

Victim of Trafficking¹

- A child who is found to be a victim of trafficking after an assessment in terms of section 18(6) of the Act; and
- An adult person who has been issued with a letter of recognition as provided for in section 19(10) of the Act.

Victim Empowerment Programme

An integrated government programme that aims to acknowledge and address the needs of victims of crime (under the National Policy Guidelines for Victim Empowerment).

1. Introduction

1.1 What is Trafficking in Persons?

Almost every country in the world is affected by Trafficking in Persons (TiP). Human trafficking is a business where human beings are bought and sold in order to make a profit. It is based on the principles of demand and supply. Where there is a demand for cheap labour, commercial sex workers, body parts or organs, etc., you will find criminals looking to supply this demand.

TiP is when a person is kidnapped or fooled by a trafficker into believing that there is a better life in a place away from their home. They are sold, bought and exploited for profit. Traffickers make money from selling people, or from using the forced labour or services of the person. Every year, thousands of men, women and children are recruited or taken from their country or place of origin to be exploited by traffickers for forced labour, sexual exploitation, removal of organs / body parts, etc.

Trafficking is a serious crime. Victims of trafficking (VoT), can be of any age, race, gender, or nationality. They are often treated in an inhumane way, with all their basic human rights taken away. This makes them puppets in the hands of the traffickers. VoTs are often people who are in vulnerable situations that traffickers take advantage of. This could include people with psychological or emotional vulnerabilities, people facing economic hardship, people who do not have an effective social safety net, victims of natural disasters, or people caught within political conflicts. People who are well placed in life may also fall prey to traffickers. Through violence, manipulation, or false promises (of well-paying jobs, good education, health

assistance or romantic relationships) traffickers lure (attract) victims into exploitation.

TiP is a silent and hidden crime, especially with regards children. Victims often do not ask for help. This is because they fear the traffickers or law enforcement, or cannot easily get help in a language they understand. Many victims are so traumatised they may not see themselves as victims.

1.2 How TiP, slavery, forced labour and smuggling of migrants are connected¹

TiP, contemporary forms of slavery, and forced labour are known to be closely related although they are not identical in terms of the law. The following is an overview of how to differentiate between these crimes, and smuggling.

The crime of **Trafficking in Persons** involves 3 elements, (1) act (i.e. the recruitment, transportation, transfer, harbouring or receipt of persons), (2) means (i.e. by threat, the use of force or coercion), and (3) purpose (i.e. for the purpose of exploitation. This could include for labour, sexual, slavery etc.). For adults, all 3 elements must be present for it to be considered as TiP. For children, only 2 elements, the act and the purpose must be present for it to be considered as TiP.

Slavery is linked to TiP because of the exploitative conditions in which victims are kept. TiP includes the involuntary transfer of people for exploitative purposes – like sexual exploitation and forced labour.

Forced labour is about getting work or services from a person using threats, violence, intimidation, or coercion. In forced labour, the 2 elements of means

¹ SADC (2017) Revised SADC Strategic Plan of Action on combating Trafficking in

Persons, especially women and children (2016-2019)

and purpose are evident, but the act may be missing.

Finally, **smuggling of migrants (SOM)**, is related to TiP, but has 3 key differences. These are:

Act: SOM is a transnational crime, whereas TiP can take place within a country's national borders. In SOM, the act is a crime against the state (not the individual).

Means: In SOM, people can be smuggled voluntarily or willingly, without threat, the use of force or coercion.

Purpose: Although TiP has to involve the exploitation of others, SOM only requires that the perpetrator benefits financially from the smuggling.

1.3 Indicators of TiP²

General indicators

General observations of SVoT	Through interaction with SVoT
<ul style="list-style-type: none"> ▪ Signs that they feel that they cannot leave ▪ Fear or anxiety ▪ Injuries (e.g. from assault, chains/binds) ▪ Distrustful of authorities ▪ Does not know the local language ▪ Does not know their home or work address ▪ Allows others to speak for them when addressed directly ▪ Dependence ▪ Fear of revealing their immigration status ▪ Acts as if being instructed by someone else ▪ Unable to negotiate working conditions ▪ Receives little to no payment ▪ Unable to communicate freely with others ▪ Thinks that they are bonded by debt ▪ Limited contact with family/people outside their immediate environment ▪ Acted on the basis of false promises 	<ul style="list-style-type: none"> ▪ Cannot leave their work environment ▪ Movements are controlled ▪ Working against their will ▪ Violence or threats of violence (against themselves or against loved ones) ▪ Threats of being handed over to police/authorities ▪ Travel documents or identity documents held by someone else ▪ False identity or travel documents ▪ Location likely to be used for exploiting people (e.g. illegal mines, farms, brothels, etc.) ▪ Forced to work under certain conditions ▪ Disciplined through punishment ▪ Poor/substandard accommodations ▪ Working to pay back transport fees to destination (or other debt, e.g. accommodation, food, etc.) ▪ Excessively long hours ▪ No days off

² Retrieved from https://www.unodc.org/documents/human-trafficking/HT_indicators_E_LOWRES.pdf

Indicators for a trafficked child

You may observe the following in the case of child who has been trafficked:

General observations of SVoT	Other indicators
<ul style="list-style-type: none"> ▪ Does not have access to their parents or guardians ▪ Looks intimidated and do not behave in a way typical of children their age ▪ Does not have friends of a similar age (except in their workplace) ▪ Does not have access to education ▪ Does not have free time / time to play ▪ Lives apart from others in the home ▪ Is given only leftovers to eat ▪ Is engaged in work that is unsuitable for children ▪ Is unaccompanied by adults while travelling ▪ Is travelling in a group with people who are not relatives 	<ul style="list-style-type: none"> ▪ Child-sized clothing typically worn for doing manual or sex work found ▪ Toys, beds and children's clothing found in inappropriate places such as brothels and factories ▪ An adult claiming that they "found" an unaccompanied child ▪ Unaccompanied children found carrying telephone numbers for calling taxis ▪ Evidence of illegal adoption ▪ Indicators of abuse (e.g. goes missing/truant, secretive, experimenting with drugs/alcohol, unexplained money/gifts, associating with older people/grooming)

Indicators of domestic servitude

General observations
<ul style="list-style-type: none"> ▪ Lives with a family ▪ Does not eat with the rest of the family ▪ Does not have private space ▪ Sleeps in a shared or inappropriate space ▪ Never or rarely leaves the house for social reasons ▪ Never leaves the house without their employer ▪ Is given only leftovers to eat ▪ Is subjected to insults, abuse, threats or violence ▪ Is reported missing by their employer even though they are still living in their employer's house

Indicators of sexual exploitation

General observations	Other indicators
<ul style="list-style-type: none"> ▪ Is within the age group typical of sex workers in the location and the market ▪ Moves between or works in various locations 	<ul style="list-style-type: none"> ▪ Evidence that: <ul style="list-style-type: none"> ○ they cannot refuse unprotected and/or violent sex ○ they have been bought and sold

General observations	Other indicators
<ul style="list-style-type: none"> ▪ Is escorted to and from work and other outside activities ▪ Has tattoos or other marks indicating “ownership” by their exploiters ▪ Works long hours or has few days off ▪ Sleeps where they work ▪ Lives or travels in a group; may live or travel with other women who do not speak the same language ▪ Has very few items of clothing ▪ Has clothes that are mostly the kind typically worn for doing sex work ▪ Only know how to say sex-related words in the local language or in the language of the client group ▪ Has no cash of their own ▪ Is not in possession of their own identity/travel documents 	<ul style="list-style-type: none"> ○ they and other women are under the control of others

Indicators of labour exploitation

General observations	Other indicators
<ul style="list-style-type: none"> ▪ Lives where they work and seldom leaves ▪ Lives in groups ▪ Lives in dilapidated or unsuitable housing, such as in farm or factory buildings ▪ Does not have suitable work clothing e.g. no protective equipment or warm clothing ▪ Is given only leftovers to eat ▪ Cannot access to their earnings ▪ Has no labour contract or fake papers ▪ Works long hours ▪ Depends on their employer for a range of necessities e.g. work, transport, accommodation, etc. ▪ Has no choice of accommodation ▪ Is restricted from moving freely/is confined, kept on the work premises and/or cannot leave work premises without an escort ▪ Is disciplined through fines 	<ul style="list-style-type: none"> ▪ Abuse of vulnerability ▪ Restricted movement ▪ Identity/travel documents taken away ▪ Wages are withheld ▪ Exploitative/abusive working and living conditions

General observations	Other indicators
<ul style="list-style-type: none"> ▪ Is controlled through insults, abuse, threats or violence ▪ Lacks basic training and professional licences for the work they perform 	

1.4 South African Development Community guiding principles³

South Africa, as a Member State of the South African Development Community (SADC), is guided by the following principles in combating TiP:

1. **Human rights** - TiP is a crime that deprives people of their human right. In our work we must prioritise and respect the human rights of those suspected of being Victims of Trafficking (SVoT) and those who are assessed as Victims of Trafficking (VoT).
2. **Gender-sensitive approach** – Our anti-trafficking strategies must address the concern of gender-based discrimination and violence, while promoting equality for women and men. This is important for the protection of vulnerable groups. Women and children are most vulnerable to sexual exploitation and domestic servitude, while men are vulnerable to labour-intensive exploitation.
3. **Rights of children** - Children are seen as especially vulnerable to exploitation, neglect and abuse. To ensure their safety and protection, Member States must make provision for resources, skills and contributions needed in the development of children.
4. **Peace and security** – This is a prerequisite to 'establishing a climate conducive to social and economic development'. Thus, our work in

combating TiP must include preventative measures that eliminate all forms of crime that undermine the safety and security of any country.

5. **Inclusion and participation** – This principle is about the creation of inclusive conditions for equal opportunity for all people to participate as a valuable member of society in the social, economic, political and decision-making processes.
6. **Criminalisation of TiP** – This is required to enforce anti-TiP efforts. This requires Member States to have legislative frameworks in place to prosecute perpetrators and respond to TiP incidents. Member States must work together in the prevention and prosecution of TiP perpetrators.
7. **Sustainability** – This requires coherent practices amongst Member States. The aim is to generate effective and efficient anti-TiP responses and ensure long-lasting results.
8. **Interstate-cooperation** - The combating of TiP is a multi-sectoral approach that includes origin, transit and destination countries. Collaborative efforts will ensure that perpetrators are punished, and victims are protected.
9. **Ownership** – The SADC Member States and Secretariat share ownership and responsibility for the implementation of the revised Strategic Plan of Action (SPA).

³ SADC (2017) Revised SADC Strategic Plan of Action on Combating Trafficking in Persons, especially women and children (2016-2019), p.15-16.

2. Standard Operating Procedure for Integrated Victim Centred Approach to Assistance

2.1 Background

The Integrated Victim approach to Assistance (IVA) aims to create a unified network of relevant stakeholders working together to fight Trafficking in Persons (TiP). These stakeholders operate at different levels and in different capacities to provide holistic assistance to Victims of Trafficking (VoT). This Standard Operating Procedure (SOP) is a reference tool for government departments and other stakeholders. It aims to provide guidance for identifying suspected VoT (SVoT) and providing assistance to them within their respective legislative mandates.

2.2 Purpose

The SOP aims to:

- adopt a victim centred approach, that focuses on the protection of the rights of VoT. The VoT is the centre of all assistance offered;
- ensure appropriate protection, care and attention is provided to VoT;
- prevent secondary victimisation of VoT;
- provide appropriate steps for preventing re-trafficking;
- outline the roles and responsibilities of role-players;
- provide prompt and effective law enforcement; and
- facilitate the conviction of perpetrators of TiP and their accomplices.

2.3 Scope

This SOP is a reference guide for all stakeholders involved in TiP cases. It provides an overview of the procedures to follow in identifying,

referring, assessing, investigating, and managing TiP cases. For a detailed understanding of the law, the reader is advised to refer to the *Prevention and Combating of Trafficking in Persons Act, 7 of 2013* and the *Prevention and Combating of Trafficking in Persons National Policy Framework, 2019*, together with the generic TiP material and department specific TiP training material.

2.4 Regulatory framework

Note that the laws, regulations, directives and national instructions that support anti-trafficking are listed under the custodian (upholders) department. These guide all departments in the management of TiP cases. The laws are listed in alphabetical order.

International

- A. Abolition of Forced Labour Convention (1957)
- B. Domestic Workers Convention (2011)
- C. Forced Labour Convention (1930)
- D. Minimum Age Convention (1973)
- E. Slavery Convention (1926)
- F. Hague Convention of the Civil Aspects of International Child Abduction (1996)
- G. United Nations Convention on the Rights of the Child (1979)
- H. United Nations Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography (2000)
- I. United Nations Protocol Against the Smuggling of Migrants by Land, Sea and Air (2000)
- J. United Nations Protocol to Prevent Suppress and Punish Trafficking in Persons, Especially Women and Children (2000)

K. Worst Forms of Child Labour Convention (1999)

National

- A. Constitution of the Republic of South Africa, 108 of 1996
- B. Criminal Law (Sexual Offences and Related Matters) Amendment Act, 32 of 2007 as amended
- C. Directives in terms of section 66(2)(a) and (c) of Criminal Law (Sexual Offences and related matters) Amendment Act, 2007
- D. Directives in Terms of section 44(1)(a) of the Prevention and Combating of Trafficking in Persons Act, 2013 (Act No. 7 of 2013)
- E. Directives in Terms of section 44(6) of the Prevention and Combating of Trafficking in Persons Act, 2013 (Act No. 7 of 2013)
- F. Films and Publication Act, 65 of 1996 as amended
- G. Prevention and Combating of Corrupt Activities Act, 12 of 2004
- H. Prevention and Combating of Torture of Persons Act, 13 of 2013
- I. Prevention and Combating of Trafficking in Persons Act, 7 of 2013
- J. Prevention and Combating of Trafficking in Persons National Policy Framework, 2019
- K. Prevention of Organised Crime Act (POCA), 121 of 1998 as amended

Departmental legislation and regulations

The laws are listed under the department that is the custodian of the law.

DEL

- A. Basic Conditions of Employment Act, 75 of 1997 as amended
- B. Employment Services Act, 4 of 2014
- C. Labour Relations Act, 66 of 1995 as amended
- D. National Minimum Wage Act, 9 of 2018
- E. Occupational Health and Safety Act, 85 of 1993 as amended
- F. Unemployment Insurance Act, 63 of 2001
- G. Unemployment Insurance Contributions Act, 4 of 2002

DHA

- A. Immigration Act, 13 of 2002
- B. Refugees Act, 130 of 1998
- C. South African Citizenship Act, 88 of 1995

DoJCD / NPA

See National legislation. The following also applies:

- A. Criminal Law (Sexual Offences and Related Matters) Amendment Act, 32 of 2007 as amended
- B. Child Justice Act, 75 of 2008
- C. Domestic Violence Act, 116 of 1998
- D. Directives issued in terms of section 44(8) of the Prevention and Combating of Trafficking in Persons Act, 2013 (Act No. 7 of 2013)
- E. Directives issued in terms of section 66(2)(a) and (c) of the Criminal Law (Sexual Offences and related matters) Amendment Act, 2007 (Act 32 of 2007)
- F. Sexual Offences Act, 23 of 1957

DoH

- A. Mental Health Care Act, 17 of 2002
- B. National Health Act, 61 of 2003
- C. National Health Act, 61 of 2003 Norms and Standards Regulations Applicable to Different Categories of Health Establishments (SA, 2018)
- D. National Health Act, 61 of 2003. Regulations Regarding the Rendering of Clinical Forensic Medicine Services (SA, 2012)
- E. National Health Act, 61 of 2003: Regulations Regarding the General Control of Human Bodies, Tissue, Blood, Blood Products and Gametes: Amendment (SA, 2017)
- F. National Health Act, 61 of 2003: Regulations Regarding the General Control of Human Bodies, Tissue, Blood, Blood Products and Gametes (SA, 2012)

DSD

- A. Children's Act, 38 of 2005 as amended
- B. Regulations under section 43(3) of the Prevention and Combating of Trafficking in Persons Act (Act No. 7 of 2013) (SA, 2015)

SAPS

- A. National Instruction 2 of 2002: Search and seizure
- B. National Instruction 2 of 2012: Victim empowerment
- C. National Instruction 3 of 2008: Sexual offences
- D. National Instruction 3 of 2010: Care and protection of children
- E. National Instruction 4 of 2015: Prevention and combating of Trafficking in Persons
- F. South African Police Service Act, 68 of 1995
- G. South African Police Service Amendment Act, 10 of 2012
- H. South African Police Service Amendment Act, 41 of 1997
- I. South African Police Service Amendment Act, 57 of 2008

Other acts

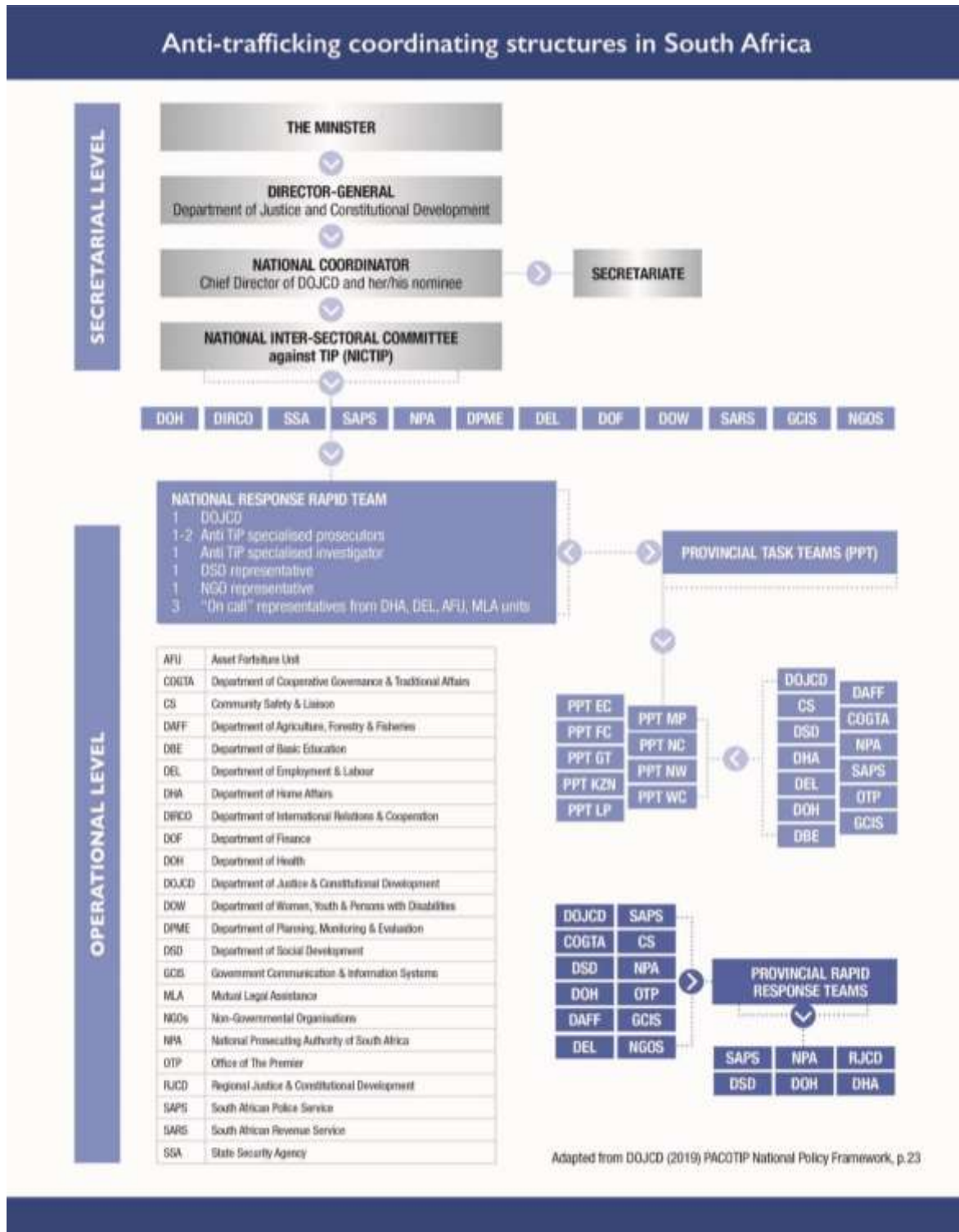
- A. Merchant Shipping Act, 57 of 1951
- B. Minerals Amendment Act, 103 of 1993

2.5 Roles & responsibilities

All stakeholders must work with each other to develop an effective and comprehensive protection structure for victims of trafficking (VoT). This will ensure successful arrests, prosecution and convictions.

The NPF (2019) sets up the anti-trafficking coordinating structure. The purpose is to ensure a coordinated response across departments and civil society.

See the diagram on the Anti-trafficking coordinating structures in South Africa for details on this:



2.6 Role-players

An integrated victim centred approach to assistance maximises the potential for a successful response to the crime of TiP.

Typically involved

The following role-players are typically involved in responding to specific TiP cases:

- Department of Health (DoH);
- Department of Justice and Constitutional Development (DoJCD);
- Department of Social Development (DSD);
- Local government/ municipalities;
- National Prosecuting Authority (NPA);
- NGOs, Faith Based Organisations and Civil Society;
- South African Police Service (DPCI – HAWKS/FCS/General Detectives and INTERPOL).

These role-players are supported by:

- National Intersectoral Committee against TiP (NICTIP);
- National Rapid Response Team (NRRT);
- Provincial Task Team (PTT); and
- Rapid Response Task Team (RRTT).

May be involved

These departments/agencies may be involved, based on the circumstances of each TiP case.

- Asset Forfeiture Unit (AFU);
- Department of Basic Education (DBE);
- Department of Employment and Labour (DEL);
- Department of Home Affairs (DHA);
- Department of International Relations and Cooperation (DIRCO);
- Film and Publications Board;
- Office for Witness Protection (OWP);
- South African Revenue Service (SARS);

- etc. – refer to the Anti-trafficking coordinating structures in South Africa diagram for a list.

2.7 Referral

VoT are referred to the following departments/agencies for services in the short, medium and long-term:

- DEL;
- DHA;
- DoH;
- DSD and within DSD;
- ISS (International Social Service);
- ISS SA (International Social Service South Africa);
- Mutual Legal Assistance (MLA); and
- NGOs.

3. The Prevention and Combating of Trafficking in Persons Act

3.1 Introduction

The *Prevention and Combating of Trafficking in Persons Act, 7 of 2013* was passed and, except for section 15, 16 and 31(2)(b)(ii), came into operation on 9 August 2015. This Act is the first law that addresses Trafficking in Persons (TiP) in South Africa. The Act:

- establishes the offence of TiP and other related offences;
- creates penalties for TiP;
- provides for protection and assistance to VoT; and
- provides for the return and repatriation of foreign VoT.

3.2 Definition of TiP

Trafficking in Persons is defined in terms of the TiP Act Section 1, 4(1) and 4(2) as:

Act (What happened)

Any person who:

- (a) delivers, recruits, transports, transfers, harbours, sells, exchanges, leases or receives another person within or across the borders of the Republic; or
- (b) adopts a child, facilitated or secured through legal or illegal means; or
- (c) concludes a forced marriage with another person within or across the borders of the Republic.

S4(1) and (2)

Means (How it happened)

By means of:

- (a) a threat of harm;
- (b) the threat or use of force or other forms of coercion;
- (c) the abuse of vulnerability;
- (d) fraud;

- (e) deception;
- (f) abduction;
- (g) kidnapping;
- (h) the abuse of power;
- (i) the direct or indirect giving or receiving of payments or benefits to obtain the consent of a person having control or authority over another person; or
- (j) the direct or indirect giving or receiving of payments, compensation, rewards, benefits or any other advantage, aimed at either the person or an immediate family member of that person or any other person in close relationship to that person, for the purpose of any form or manner of exploitation is guilty of the offence of trafficking in persons.

S4(1)(a)

Purpose (Why it happened)

For the purpose of any form or manner of exploitation, is guilty of the offence of TiP. Exploitation includes, but is not limited to:

- (a) all forms of slavery or practices similar to slavery;
- (b) sexual exploitation;
- (c) servitude;
- (d) forced labour;
- (e) child labour as defined in section 141 of the Children's Act;
- (f) the removal of body parts; or
- (g) the impregnation of a female person against her will for the purpose of selling her child when the child is born.

S1

As well as:

- (a) the adoption of a child (legal or illegal) for the purpose of exploitation of that child; and
- (b) forced marriage with another person for the purpose of exploitation.

S4(2)

In proving cases of TiP, the elements differ for adults and children. In each case these must be proven. These are discussed in 3.4 and 3.5.

3.3 Importance of victim identification

It is important to identify VoT for the following key reasons:

Safety & security

- Protect the VoT against further threat of harm and danger.
- Avoid wrongfully detaining and/or deporting VoT.

Health and psycho-social needs

- Assess and respond to the physical, and psychological needs of the VoT.

This is done through the provision of medical assistance, substance abuse treatment and psycho-social support and care for VoT.

Prosecution

- Gather key evidence of TiP and/or organised criminal activity taking place from VoT.
- Collect valuable witness information in uncovering the operations of the traffickers and their accomplices.
- Seize assets of traffickers and their accomplices to prevent further/ongoing criminal activity.

Data & information

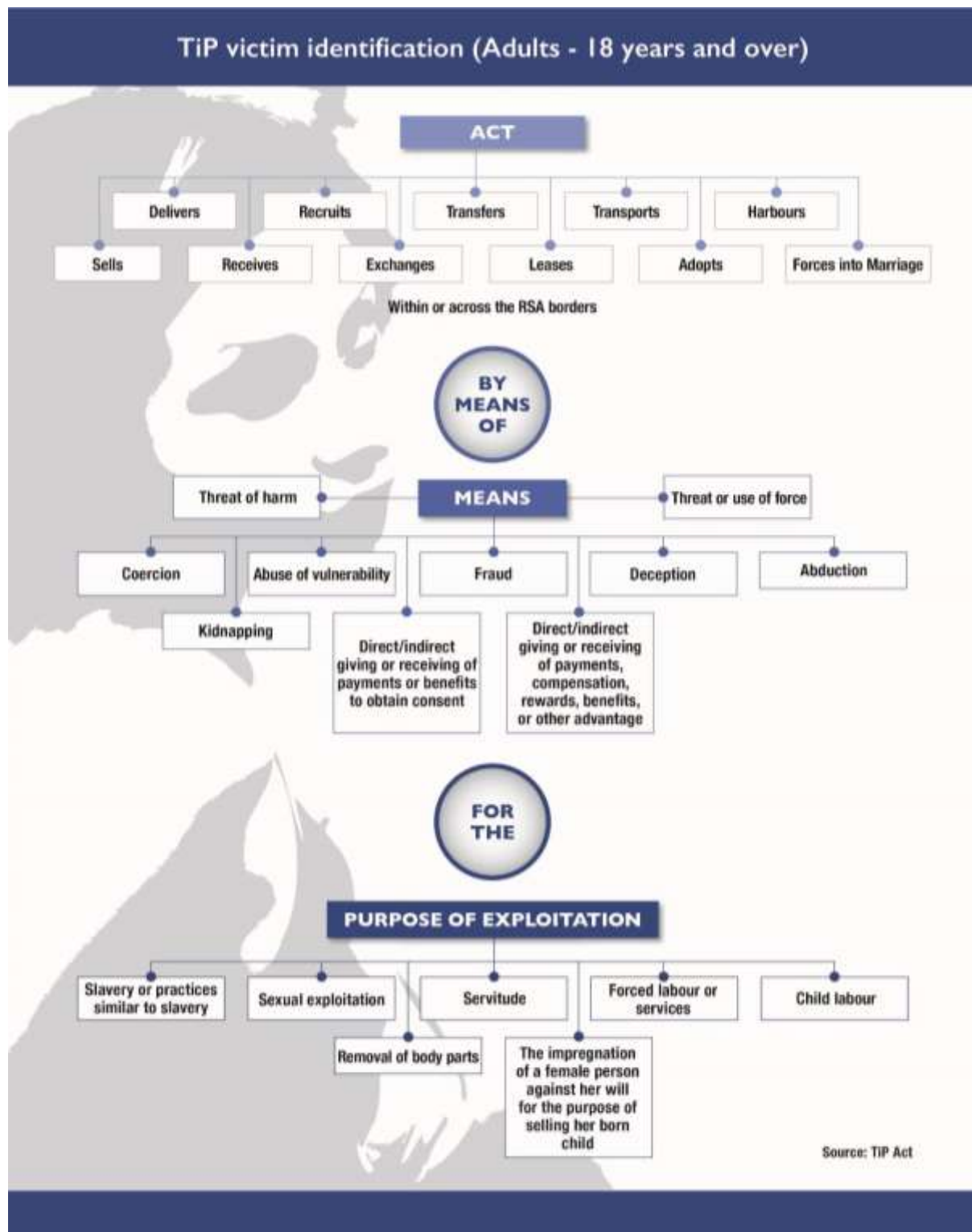
- Collect data that informs anti-trafficking policy and intervention efforts.
- Monitor and evaluate TiP prevention, protection, prosecution, and partnership.

3.4 Victim identification for Adults

In proving TiP for adults, the 3 elements – act (what happened), means (how it happened) and purpose (why did it happen) - must be proven.

However, deception, coercion, abuse of power or vulnerability and threats (means) nullifies the 'consent' given by the VoT to go with, remain with, or comply with the traffickers' demands. In these circumstances, even if consent is given, it cannot be used as a defence by the trafficker.

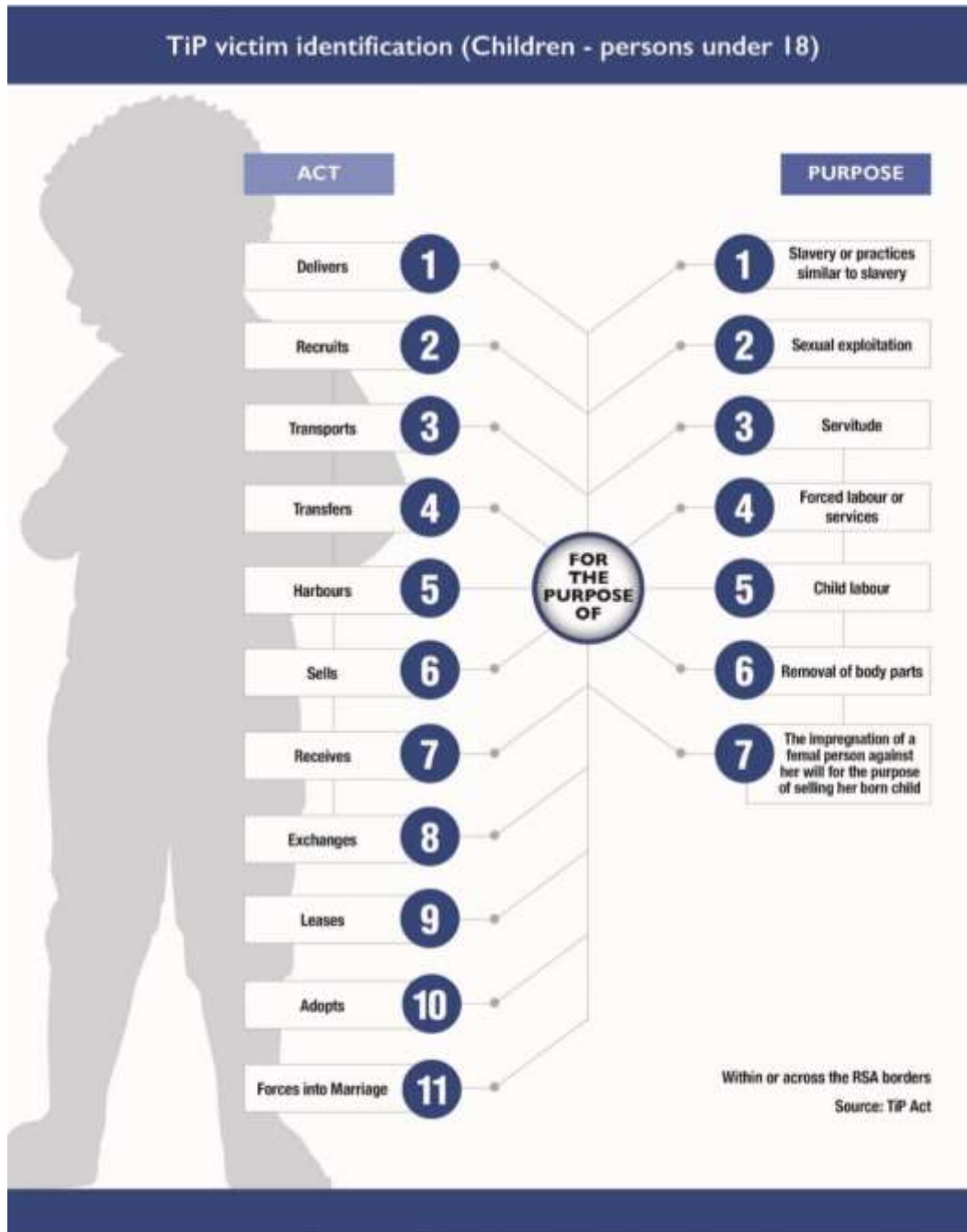
If the perpetrator has been apprehended before the victim has been exploited, it will still be a trafficking case if it can be shown that there was intention to exploit (see TiP Act S11).



3.5 Victim identification for Children

For children, only 2 elements must be proven for TiP – that is act and purpose

(TiP Act, S11(1)(a)). However, should the evidence for means be available, this will assist in the prosecution of traffickers and their accomplices.⁴



⁴ The practice of 'ukuthwala' with children is considered to be exploitative and non-consensual. The practice of 'ukuthwala' with adults is possible and is not exploitative

as long as there is consent between the adults.

4. The Standard Operating Procedure for TiP

4.1 Introduction

This section provides:

- A write up and diagram (see page 28) that provides an overview of the process for managing TiP cases;
- A flow chart and accompanying write up (Standard Operating Procedure) that shows the activities, role-players and forms to use in managing adult TiP cases. This will help you manage adult TiP cases efficiently and effectively (see 4.3 and 4.4);
- A flow chart and accompanying write up (Standard Operating Procedure) for managing child cases of TiP. This will help you manage child TiP cases efficiently and effectively (see 4.3 and 4.5).

4.2 Overview

Refer to the Overview: Care and management of victims of trafficking diagram that follows on page 28.

Identify and report

This is about the identification of people suspected of being victims of trafficking (SVoT) / basic screening and reporting to SAPS.

With children, **everyone** has an **obligation to report** child SVoT in terms of Section 18 of the TiP Act and Section 110 of the Children's Act. With adults, this can be done by ordinary citizens and **must** be done by any official / government department who comes into **contact** with the adult SVoT during the **course of the execution of their duties**.

Refer

SAPS must refer the case to the DSD for assessment and inform DPCI, NPA and the RRT.

Extract and/or protect

During this process, SAPS will evaluate the risk to the SVoT (this includes both safety and health).

If safety risks are identified, SAPS will determine the course of action. This could include extraction and/or witness protection, supported by the NPA.

The SVoT is often placed in temporary safe care.

SAPS refer the SVoT to relevant departments/organisations. This **must** include referral to:

- A social worker (adults) or designated social worker (children) for assessment of the status of the SVoT;

and referral (with informed consent) to:

- DoH for medical examination and care

and, referral to:

- Accredited NGOs for temporary safe care; and
- DHA if the SVoT is a foreign national and a visa is required.

Investigate

This is about SAPS gathering evidence for the prosecution of traffickers and their accomplices.

This starts with an initial interview with the SVoT by SAPS.

If it is not a case of TiP for forced labour and is a non-compliance labour case, DEL will lead the investigation.

Assess

A designated social worker assesses whether the SVoT is a VoT or not.

For **children**, this is done through the **Children's Court**. A designated social worker will issue a report to the Children's Court stating that this is a **child in need of care and protection** (as per the Children's Act, 38 of 2005). If the court finds that the child is in need of care and protection, then they will issue a court order. For foreign child VoT this grants them leave to remain in the Republic.

For **adults**, **assessment** is done by a **social worker**. Once confirmed, the adult VoT is issued with a letter of recognition. This may be withdrawn at any stage.

If the adult SVoT is not confirmed as a VoT, they are referred to other departments/organisations as required.

The adult SVoT has the **right to appeal** the decision if not found to be a VoT.

Care and management

This is about providing ongoing care and support services to VoT, whether they agree to assist law enforcement with investigation and prosecution or not.

Various role-players provide services to VoT. The services offered to VoT are based on a needs analysis and development of an Individual Development Plan (IDP). The aim is to provide:

- safe accommodation of adult VoT in accredited organisations and child VoT in Child Protection Organisations / Child and Youth Care Centre (CYCCs);
- ongoing psycho-social support;
- health care;
- legal assistance as and when required; and
- skills development for reintegration.

Prosecute

This is about the prosecution of traffickers and their accomplices. The NPA leads the prosecution, supported by relevant departments/organisations and expert witnesses.

Compensate and sentence

This is about requesting compensation for the VoT and for the State. The NPA will lead the request for compensation, alongside the conviction and sentencing of traffickers and their accomplices.

DSD completes a Victim Impact Report (VIR) and the Court Preparation Office completes a Victim Impact Statement (VIS) to assist with compensation for the VoT.

This process may be supported by other relevant departments depending on the case. For example, DEL will request compensation for TiP for labour exploitation purposes.

Return/Repatriate

This is about the safe and voluntary return of VoT to their place of origin/ community of origin.

DSD will lead this process with the support of DIRCO, DSD (ISS), DHA and NGOs. The supporting departments required depend on whether the VoT is a citizen/permanent resident or a foreign national.

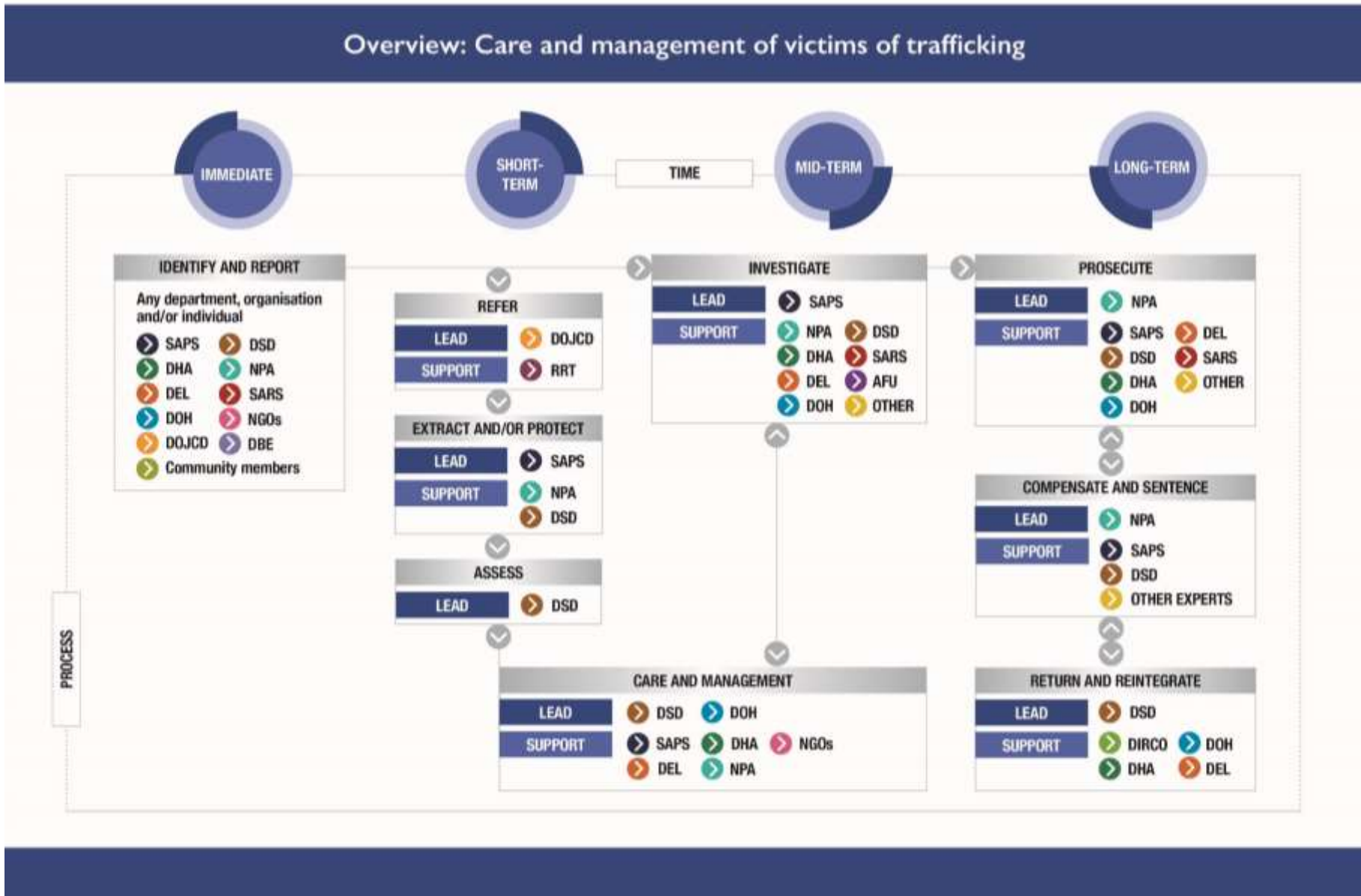
All children are escorted by an adult with the authorisation of the Director General: DSD

If VoT have received healthcare, a discharge summary is provided by DoH to ensure ongoing care.

Reintegrate

This is about ensuring reintegration into their community/place of origin. The focus is on social and economic participation in the community/place of origin.

This may include accessing of social grants, etc.



4.3 TIP Standard Operating Procedure Forms

Forms

The forms are listed below under the relevant department owner/user, and include a link to where they can be accessed (where applicable).

DHA Forms

Form 8: DHA-1738: Application for visa to temporarily sojourn in the Republic

<https://www.vfsglobal.com/southafrica/kenya/pdf/DHA-1738-FORM.pdf>

Form 23: DHA 1721: Notice by immigration officer to person to appear before the Director-General

DoH Forms

The following DoJCD forms are completed by DoH:

J88: Report on a medico-legal examination by a health care practitioner

<http://www.justice.gov.za/forms/other/J088.pdf>

J772: Form 07 – Medical report and age assessment of child in terms of section 48(2) of the Children's Act, 2005 (Act No. 38 of 2005)

<http://www.justice.gov.za/forms/child/J772.pdf>

DSD Forms

Form 1: Reporting of a child suspected to be a VoT or Form 22

Form 2: Notification of placing victim of trafficking at an accredited organisation or in temporary safe care

Form 3: Assessment whether adult person is a victim of trafficking

Form 4: Letter of recognition as a victim of trafficking

Form 5: Appeal to the MEC against decision of the provincial head of social development regarding the non-issuing, withdrawal of a letter of recognition as a victim of trafficking and rejection of an application for financial assistance

Form 6: Application for condonation for late lodging of appeal

Form 7: Application for accreditation of organisation to provide services to adult victim of trafficking

Form 8: Certificate of accreditation of organisation that provides care and support services to victims of human trafficking

Form 9: Granting certificate of accreditation, accreditation to provide temporary safe care, reinstatement of accreditation or renewal of accreditation

Form 10: 90 days written notice of termination of services notice of accredited organisation's intention to withdraw or terminate services to victim of trafficking

Form 11: 90 days written notice of termination of services acknowledgement of receipt of notification of an accredited organisation's intention to withdraw or terminate the provision of services to victims of human trafficking

Form 12: Collection of information on victims of trafficking

Form 13: Assessment of the needs of a suspected victim of trafficking

Form 14: Referral of illegal foreign national to Department of Home Affairs

Access Forms 1-14 here:

http://www.gpwonline.co.za/Gazettes/Gazettes/39318_23-10_SocialDevelopment.pdf

Form 22: Reporting of abuse or deliberate neglect of child

https://www.westerncape.gov.za/assets/departments/social-development/children_s_act_amendment_general_regulations_regarding_children_2012.pdf

Form 36: Interim authority for placement of child in temporary safe care

https://www.gov.za/sites/default/files/gcis_document/201409/gg31165nn780pg3-388complete.pdf

Form 48: Application for the registration / conditional registration / renewal of the registration of a child and youth care centre

https://www.westerncape.gov.za/assets/departments/social-development/general_regulations_regarding_children_2010_forms.pdf

DoJCD / NPA Forms

J88: Report on a medico-legal examination by a health care practitioner

<http://www.justice.gov.za/forms/other/J088.pdf>

J186: Form 1: Reporting statement

<http://www.justice.gov.za/forms/tip/TIP-J186-Form1.pdf>

J240: Form 2: Oath of Affirmation

<http://www.justice.gov.za/forms/tip/TIP-J240-Form2.pdf>

J309: Referral of accused persons in terms of section 22(2)(b) of the Prevention and Combating of Trafficking in Persons Act, 2013 (Act 7 of 2013)

<http://www.justice.gov.za/forms/tip/TIP-J309-Regulations.pdf>

J772: Form 07 – Medical report and age assessment of child in terms of section 48(2) of the Children's Act, 2005 (Act No. 38 of 2005)

<http://www.justice.gov.za/forms/child/J772.pdf>

SAPS Forms

Annexure C: Screening interview form

SAPS308: Permission for medical examination

SAPS581(a): Notice of removal and interim placement of child(ren) in temporary safe care

SAPS581(b): Notification in terms of Section 110(4), 150(2) or 152(3) of the Children's Act, 38 of 2005 (to have the perpetrator removed)

SAPS611: Notification of placing a Victim of Trafficking at an accredited organization or in temporary safe care

SAPS611(a): Request to be taken into protective custody

SAPS611(b): Request for issuing, extension or withdrawal of visitor's visa

4.4 Procedure for Adult VoT

Read the written procedure below in conjunction with the adult process flow chart diagram (on page 40).

Key: for reading the written procedure for adult VoT.



Number on 'Adult process' flow chart diagram.

- **Bold:** role-player.
- Underline: legislation, regulations, national instructions, directives and forms.

1	<p>Identify VoT</p> <p>Identification of person suspected of being a victim of trafficking (SVoT) is done by SAPS. <u>SAPS Annexure C</u>. This includes evaluating information around TiP indicators.</p>
2	<p>Report</p> <p>Any person who knows or ought reasonably to have known or suspected that an adult person they come into contact with during the execution of duties, is a TiP victim, must immediately report that knowledge or suspicion to a police official for investigation (<u>TiP Act, S19 (1) (a)</u>).</p>
	<p>Note: NPA to report SVoT to DSD using <u>Regulations Relating to Prosecutor's Referral of Suspected Victims of Trafficking in Persons - Annexure Part A</u>.</p>

2a	<p>Screening and threat analysis</p>
2a	<p>SAPS conduct an initial screening and threat assessment.</p> <ul style="list-style-type: none"> ▪ Questions must be asked to determine if it is a TiP case (SAPS National Instruction 4 of 2015). ▪ Complete screening interview form: SAPS Annexure C. ▪ Suspected TiP case – Yes or No?
2b	<p>Inform</p> <ul style="list-style-type: none"> ▪ If YES, it is a suspected TiP case, inform relevant departments (that is, DSD, DoH, DHA) (SAPS National Instruction 4 of 2015) and inform: <ul style="list-style-type: none"> ▪ CSC commander → Detective Branch Commander → DPCI Coordinator for TiP; ▪ Rapid Response Task Team (RRTT) – to decide who and how to respond. This may be a set up as a project; and ▪ NPA.
	<ul style="list-style-type: none"> ▪ If NO, (not a suspected TiP case) refer to relevant department(s) for support and/or repatriation.
3	<p>Respond</p> <p>Investigation takes place over the short, medium and long-term and is informed by the TiP case.</p>
	<p>SAPS must record all the steps taken in the investigation diary (SAPS 5) of the docket.</p>
3a	<p>Urgent medical attention</p> <p>The SVoT may require urgent medical attention. Refer to Step 4 / 4a below for the steps, role-players and forms.</p>
	<p>Note: The investigation process is ongoing – short, medium and long-term. This could include Prosecutor led investigation and/or Detective.</p>
3b	<p>Urgency and threat assessment</p> <p>SAPS conduct a preliminary investigation (NPA, RRTT and DSD) to evaluate urgency of the case and whether there is any threat to the SVoT's life. That is, whether the SVoT may be harmed or killed.</p>
	<ul style="list-style-type: none"> ▪ If YES, there is threat of harm or danger to the life of the SVoT, then SAPS plan the extraction/removal of the SVoT(s). ▪ If NO, there is no threat of harm or danger to the life of the SVoT, then SAPS develop a Plan of Action (POA) or DPCI develop a project-based investigation.
4	<p>Refer</p> <p>SAPS refer the SVoT to:</p> <ol style="list-style-type: none"> 1. DoH for medical examination; 2. Temporary safe care;

	<p>3. DSD for assessment of status; and</p> <p>4. DHA if the SVoT is a foreign national.</p> <p>Each of these steps is outlined below.</p>
4a	<p>Referral to DoH</p> <p>This is to ensure that the immediate health needs of SVoT are met and to gather evidence related to the potential criminal activity.</p> <p>SAPS are responsible for transporting the SVoT to a hospital or clinic.</p> <p>SVoT may be transported to TCC's, however, they fall under NPA and not DoH, and should not be used for urgent medical assistance.</p> <p>A forensic medical examination is done as soon as possible by DoH. It must be conducted in cases of sexual exploitation and should be considered in all other types of cases of exploitation.</p> <p>SAPS obtain SVoT/VoT consent to conduct forensic medical examination.</p> <p>If SVoT/VoT consents then:</p> <ul style="list-style-type: none"> ▪ SAPS complete SAPS 308 (Permission for medical examination) in terms of Criminal Procedures Act, S212(4). ▪ SAPS supply Form J88, J772/Form 7 (if age assessment is required) and evidence collection kit to health care professional. ▪ SAPS advise DoH on samples required. ▪ If sexual contact is less than 72 hours prior, then obtain samples from persons who were in sexual contact with the VoT (if possible). <p>Assign medical practitioner/ health care professional (DoH).</p> <ul style="list-style-type: none"> ▪ DoH first obtain consent prior to examination. ▪ DoH conduct clinical forensic examination. ▪ DoH complete J88 (medical report) and/or J772/Form 7 and these must be returned to SAPS Investigating Officer. ▪ Mark samples clearly (refer to SAPS National Instruction 4 of 2015). ▪ SAPS send samples to Forensic Science Lab within 7 days (refer to SAPS National Instruction 4 of 2015 for further details). ▪ DoH to advise whether medical referral of the SVoT for psychological assessment and/or substance abuse treatment, etc., is required. <p>Note: Communication must be established between DoH health care practitioner, SAPS Investigating Officer and place of safety.</p> <p style="text-align: center;">AND</p>

4b	Initial placement/Temporary safety
	The SVoT may be placed in a 72-hour facility for further assessment.
	SAPS inform Nodal Point and DSD to ensure temporary placement . If there is a potential threat, then placement in Witness Protection.
	<ul style="list-style-type: none"> ▪ For temporary safety – SAPS to complete SAPS 611 (DSD: Form 2): Notification of placing victim of trafficking at an accredited organisation or in temporary safe care) OR ▪ SAPS to complete SAPS 611(a): Request to be taken into protective custody or Witness Protection Program if threat of harm or danger is present (SAPS IO / DPCI Coordinator).
	<ul style="list-style-type: none"> ▪ SAPS IO/ DPCI Coordinator: <ul style="list-style-type: none"> ▪ faxes SAPS 611 OR SAPS 611(a) to DSD provincial representative and obtains acknowledgement of receipt; and ▪ makes enquiries about temporary safety (in consultation with DSD) or protective custody if there is a threat to safety. DSD should advise on the most suitable accredited shelter taking into consideration the safety risks shared by the SAPS.
	AND MIGHT INCLUDE
4c	Assess status
	Foreign nationals are provided with the opportunity to remain in the country for a period of reflection and recovery. VoT have the same rights as South African citizens. Note: The steps below are an interim measure as Section 15, Section 16 and Section 31(2) of the TIP Act are not in force.
	If VoT is a foreign national, verify country of origin with the VoT and then refer to embassy.
	SAPS will refer foreign national VoT on SAPS 611(b) to DHA .
	Foreign national VoT to complete DHA Form 8: Application for visa to temporarily sojourn in the Republic/DHA-1738 .
	DHA to issue DHA Form 23/DHA 1721 where applicable.
	AND
5	Assess
	SAPS refer to DSD for assessment
	A social worker is responsible for assessing whether the SVoT is a VoT or not.
	<ul style="list-style-type: none"> ▪ Screening/assessment, includes an in-depth interview and completion of DSD Form 3.
	<ul style="list-style-type: none"> ▪ A decision regarding the status of the SVoT is made by DSD/ social worker.

<p>5a</p>	<p>Yes (A VoT)</p> <ul style="list-style-type: none"> If YES, the person is a VoT, DSD issues a letter of recognition using DSD Form 4. This is issued through the DSD provincial office.
<p>5b</p>	<p>No (Not a VoT)</p> <ul style="list-style-type: none"> If NO, the person is not a VoT, they are referred to the relevant department or NGO. If the person is a foreign national, then refer to DHA using DSD Form 14. The person may appeal the decision regarding their status. This is done using DSD Form 5. If the person does not appeal the decision around their status in the required time, they may lodge a late application. This is done using DSD Form 6, together with DSD Form 5.
	<p>If the referral came through the NPA, DSD must complete and return Regulations Relating to Prosecutor's Referral of Suspected Victims of Trafficking in Persons - Annexure Part B to the NPA regardless of the outcome of the assessment.</p>
<p>6</p>	<p>Review threat assessment</p> <p>SAPS reviews the threat assessment and permanent placement is based on this assessment.</p> <p>The placement of VoT is based on whether it is:</p> <ul style="list-style-type: none"> 6a safe: place with an accredited organisation; or 6b not safe: place in witness protection. <p>Each of these placements are discussed below.</p>
	<p>If safe, then permanent placement of VoT in Place of Safety</p>
<p>6a</p>	<p>Place of safety</p> <p>Placement with an accredited organisation</p>
	<p>Accredited organisations are registered to provide services to VoT. They must comply with norms and standards as set out by DSD and are monitored by DSD.</p>
	<p>SAPS must supply SAPS 611 in placing VoT with an accredited organisation.</p>
	<p>The accredited organisation must draw up a plan using DSD Form 13 to:</p> <ul style="list-style-type: none"> address the immediate, and reasonable future needs of the VoT; include an exit plan; and the plan must take account of the views of the VoT. VoT must feel relaxed, respected, welcomed and cared for in an accredited shelter as this is part of the rehabilitation process. VoT has a right to information on the progress of his or her case and both the IO and prosecutor should ensure that they receive this information on a regular basis. <p>TiP Act S28 (1) & (2).</p>

	Accredited organisations complete data collection form (DSD Form 12: Collection of information on Victims of Trafficking).
	<ul style="list-style-type: none"> Return DSD Form 12 to DSD National Office.
	OR
	If not safe, then placement in witness protection
6b	Witness protection (OWP - NPA) Witness protection is provided to any person who is or may be required to give evidence or who has given evidence if it is evaluated that their life is in danger (Witness Protection Act, 112 of 1998).
7	Cooperation The VoT may decide: 7a to cooperate with SAPS and the NPA ; or 7b not to cooperate with SAPS and the NPA . Each of these decisions are discussed below.
7a	Yes (Cooperation) If the VoT decides to cooperate with law enforcement : (see SAPS National Instruction 4 of 2015 for details) then further investigation takes place. Refer to Step 8.
	OR
7b	No (Unwilling to cooperate) If the VoT decides not to cooperate with law enforcement :
	<ul style="list-style-type: none"> SAPS to open an enquiry. SAPS to investigate further. The VoT is provided with services (DSD, accredited organisations). Assess safety for return (DSD/ISS) (see later – Return/ repatriate and reintegrate – for details of this). Refer to Step 11.
8	Investigate <ul style="list-style-type: none"> SAPS takes statement. SAPS establish that there is sufficient evidence of TiP.
8a	Yes (Sufficient evidence of TiP) <ul style="list-style-type: none"> SAPS open a docket. Note: do not include the address where the VoT is placed in temporary safe care or accredited organisation on function 8.1.1.1. SAPS continues to investigate.

	<ul style="list-style-type: none"> ▪ SAPS register the case on the Crime Administration System (CAS).
	<ul style="list-style-type: none"> ▪ SAPS inform relevant role-players.
	<ul style="list-style-type: none"> ▪ SAPS conduct investigation. This may be prosecutor guided.
	OR
8b	<p>No (Insufficient evidence of TiP)</p> <ul style="list-style-type: none"> ▪ If there is insufficient evidence of TiP then no TiP case is opened. Note: there may be evidence of other criminal activity.
9	<p>Court preparation</p> <p>Court preparation is led by the NPA.</p>
	<ul style="list-style-type: none"> ▪ The following are other role-players in preparing VoT for court: <ul style="list-style-type: none"> ▪ Court preparation officer; ▪ DSD; ▪ Social workers.
9a	<p>Victim Impact report</p> <ul style="list-style-type: none"> ▪ The DSD / social worker is responsible for the preparation of the Victim Impact Report.
9b	<p>Victim Impact statement</p> <ul style="list-style-type: none"> ▪ The Court preparation officer is responsible for the preparation of the Victim Impact Statement.
9	<p>Court procedure</p> <p>This is done in terms of the Criminal Procedure Act, Section 153, 154, 158 and 170(A).</p>
	<p>The following are additional role-players that may be required in court:</p> <ul style="list-style-type: none"> ▪ DEL (if labour matter); ▪ SAPS; ▪ And others identified as supporting the prosecution of the trafficker and their accomplices.
10	<p>Court outcome</p> <p>Trafficker</p>
10a	<p>The alleged trafficker may be released or convicted and sentenced.</p> <p>Conviction and sentencing</p>
	<p>When traffickers and their accomplices are convicted and sentenced, it is important to notify authorities:</p> <ul style="list-style-type: none"> ▪ If a foreign national, DHA to withdraw status, place the individual(s) on a stop list and advise relevant authorities.

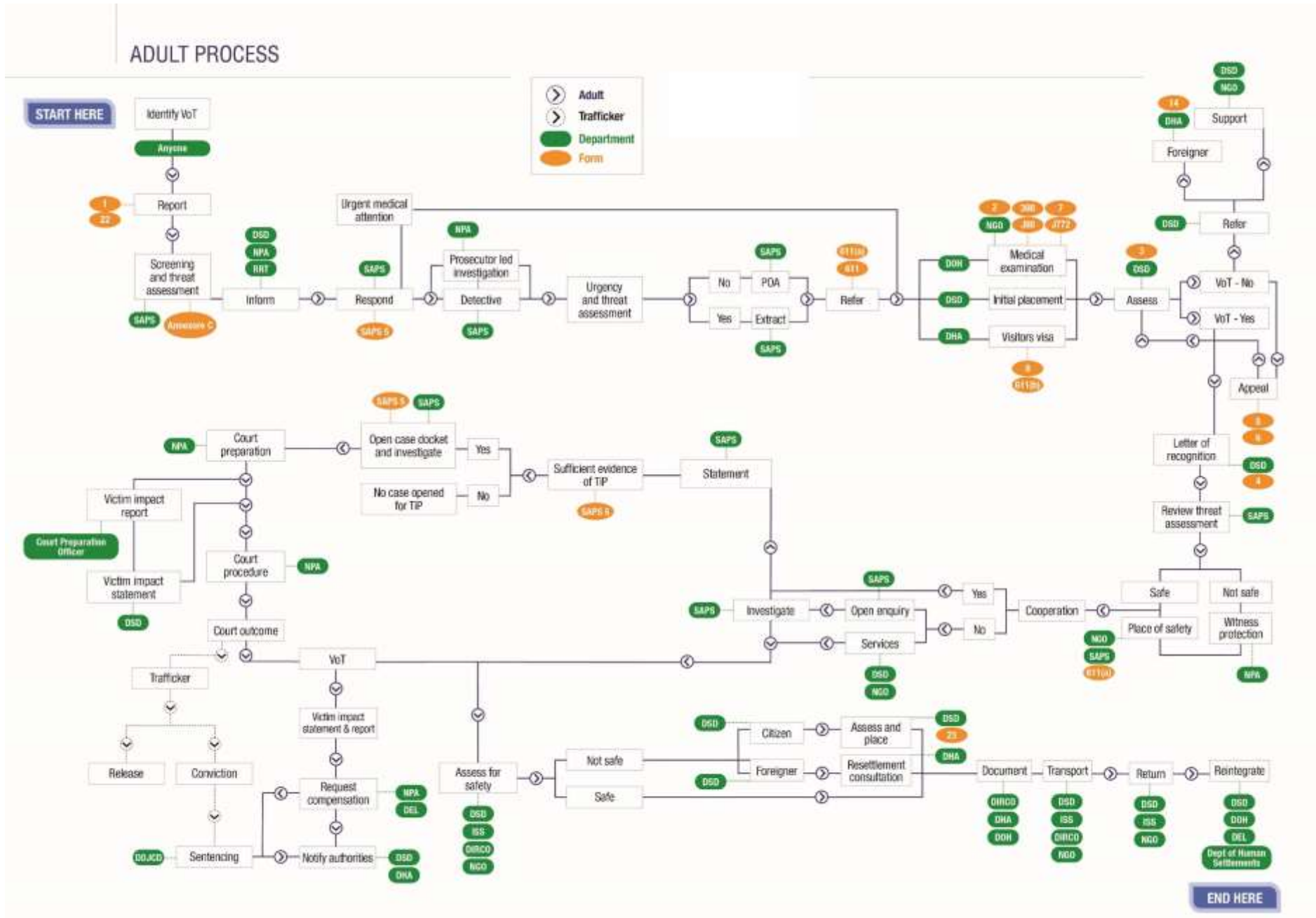
	<ul style="list-style-type: none"> If the trafficker and their accomplices are convicted of crimes against children, they should be placed on the National Register (in terms of the Children's Act) through the NPA and DSD.
	<ul style="list-style-type: none"> The court may find the person unsuitable to work with children, if convicted of murder, attempted murder, rape, indecent assault or assault with the intent to do grievous bodily harm or by reason of mental illness or mental defect. This finding is not dependent upon a finding of guilty or innocent in the criminal trial of that person (Children's Act, S120 (4) (a) & (b), and (6)).
	<ul style="list-style-type: none"> If the trafficker and their accomplices are convicted of TiP for the purpose of sexual exploitation or any sexual offences, their names must be entered into the National Register (in terms of the Criminal Law (Sexual Offences and Related Matters) Act, 32 of 1997).
10 b	<p>VoT</p> <p>The NPA uses the Victim Impact Report (compiled by DSD) gathered by a social worker/DSD and a Victim Impact Statement provided by the court preparation officer to support the request for compensation.</p> <ul style="list-style-type: none"> The DPCI must provide information for compensation (SAPS National Instruction 4 of 2015). Other departments/agencies may be required to provide information regarding compensation.
11	<p>Return</p> <p>Return and repatriation of VoT is led by DSD with the support of relevant departments, organisations and agencies. This is a voluntary process.</p>
12	<p>Assess for safety</p> <p>An assessment of the level of safety to return the VoT to their place or community of origin is led by DSD. The process and role-players vary depending on whether the person is a citizen or a foreign national. There are 3 types of return/repatriation of adult VoT:</p> <ol style="list-style-type: none"> Return of South African citizen VoT internally; Return of South African citizen VoT to South Africa; or Repatriation of foreign national VoT from South Africa.
12 a	<p>Citizen</p> <p>Internal return (TiP Act S34)</p> <p>VoT can be transferred to an accredited organisation closer to home from where a suitable family member can be identified. Regional/District/Local Area Office of DSD will play the role of liaison between VoT and the identified family. VoT can also travel directly from accredited organisations in the province where they were identified to the identified family in their province.</p> <ul style="list-style-type: none"> Accredited organisations assess the level of safety to return to the community/place of origin. This includes:

	<ul style="list-style-type: none"> ▪ finding suitable family members who are willing to assist the VoT (TiP Act S34(2)(a)). The Regional/District/Local Area Office of the DSD will liaise between the VoT and identified family. ▪ transferring the VoT to an accredited shelter closer to home from where a suitable family member can be identified.
	<ul style="list-style-type: none"> ▪ If it is assessed as safe for return, then the VoT is returned to community/place of origin. <ul style="list-style-type: none"> ▪ This may include providing financial assistance for transport of the VoT (TiP Act S34(2)(b)). ▪ The VoT may travel directly from the original accredited organisation to his/her identified family or, as indicated above, to an accredited organisation whilst a suitable family member is identified.
	<ul style="list-style-type: none"> ▪ If not safe, assist VoT in finding an alternative place to return to.
	<ul style="list-style-type: none"> ▪ DoH must issue a discharge summary for VoT to take to the local clinic.
	<ul style="list-style-type: none"> ▪ DEL to place VoT on the Employment Services of South Africa (ESSA) database as a job seeker, as long as there is no criminal record.
	OR
	Return to South Africa (TiP Act S33)
	The return of South African VoT to South Africa is the responsibility of DIRCO , DSD and DHA .
	<ul style="list-style-type: none"> ▪ DIRCO, in cooperation with DSD, must assess the safety for return of the VoT to South Africa.
	<ul style="list-style-type: none"> ▪ DSD must: <ul style="list-style-type: none"> ▪ request the family circumstances report from ISS. If the returning country is not an ISS affiliate, then request for family tracing must be made through DIRCO and a report issued to them (to allow for return to SA); ▪ trace the family and evaluate the family circumstances (if ready to accept the person); ▪ if assessed as unsafe, seek an alternative rather than return to family.
	<ul style="list-style-type: none"> ▪ DIRCO must facilitate the return of the VoT to South Africa.
	<ul style="list-style-type: none"> ▪ The DHA is responsible (TiP Act S33(b)) for: <ul style="list-style-type: none"> ▪ issuing of travel documents or authorisations as required to return to South Africa; ▪ taking measures to ensure the safe reception of the person at a South African port of entry; ▪ verifying, on request, whether VoT are citizens or permanent residents of South Africa; and ▪ referring VoT to the provincial Department of Social Development

	<ul style="list-style-type: none"> ▪ DEL to place VoT on the Employment Services of South Africa (ESSA) database as job seekers as long as there is no criminal record.
	OR
12 b	Foreigner
	Repatriation from South Africa (<u>TiP Act S31-32</u>)
	<p>S31 of the TiP Act is not in force at present. The repatriation of foreign VoT from South Africa is the responsibility of the DSD, ISS and DHA. Note: voluntary repatriation is possible for the VoT.</p>
	<ul style="list-style-type: none"> ▪ The DSD (through ISS) must take reasonable steps to find suitable family members, organisations or institutions that can assist VoT in their own country.
	<ul style="list-style-type: none"> ▪ The DSD must inform the DHA of any reception arrangements.
	<ul style="list-style-type: none"> ▪ The DHA must give due consideration to the safety of the VoT during the process, and in the country to which they are being repatriated as well as whether they may be harmed or killed before being returned. Note: This section of the TiP Act is not in force at present. Currently this is done through embassies and international agencies.
	<ul style="list-style-type: none"> ▪ If it is considered unsafe to return the VoT, the VoT may look at other resettlement options in consultation with the DHA.

The Adult Process flow chart diagram on the following page gives an overview of the steps to follow from start to end for adults. It includes the following:

- key steps in the process,
- key role-players; and
- forms.



4.5 Procedure for Child VoT

Read the written procedure below in conjunction with the 'Child process' flow chart diagram (on page 56).

Key: for reading the written procedure for child VoT.



Number on 'Child process' flow chart diagram.

- **Bold:** role-player.
- Underline: legislation, regulations, national instructions, directives and forms.

1	<p>Identify VoT</p> <p>Identification of a child suspected of being a victim of trafficking (SVoT) can be done by anyone. This includes basic screening around indicators (see Section 1.2)</p>
2	<p>Report</p> <p>Any person or child protection organisation who knows or ought reasonably to have known or suspected that a child is a TIP victim must immediately report that knowledge or suspicion to a designated social worker or police official for investigation (<u>TiP Act, S18 (1) (a) and (b)</u>).</p> <p>SAPS must report and deal with a child in terms of the <u>Children's Act, S110(4) and Section 150</u> as a child in need of care and protection. The focus is on ensuring the safety and well-being of the child by removing the child from the exploitative environment.</p> <ul style="list-style-type: none"> ▪ SAPS must deal with the child in terms of <u>SAPS National Instruction 3 of 2010</u>. ▪ SAPS officials must act in accordance with <u>SAPS National Instruction 3 of 2010, paragraph 11</u>. ▪ Questions must be asked to determine if it is a TiP case (<u>SAPS National Instruction 4 of 2015</u>). <p>SAPS or a designated social worker must complete the screening interview form (where possible) using <u>SAPS Annexure C (National Instruction 4 of 2015)</u>.</p> <p>Note: NPA to report a child SVoT within the criminal justice system to DSD using <u>Regulations Relating to Prosecutor's Referral of Suspected Victims of Trafficking in Persons - Annexure Part A</u>.</p>
2a	<p>Screening and threat analysis</p> <p>SAPS evaluate if suspected TiP case – Yes or No? Questions must be asked to determine if it is a TiP case (<u>SAPS National Instruction 4 of 2015</u>).</p>

<p>2b</p>	<p>Inform</p>
	<ul style="list-style-type: none"> ▪ If YES, it is a suspected TiP case, refer to relevant department (that is, DSD, DoH, FCS Unit) and inform: <ul style="list-style-type: none"> ○ CSC commander; ○ DPCI Coordinator for TiP; ○ Rapid Response Task Team (RRTT) – to decide who and how to respond. This may be a set up as a project; and ○ NPA.
	<ul style="list-style-type: none"> ▪ If NO, refer to DSD/child protection organisation.
<p>3</p>	<p>Remove</p>
	<p>SAPS must regard a child in terms of the Children's Act, S110(4) as a child in need of care and protection. The focus is on ensuring the safety and well-being of the child by removing the child from the exploitative environment.</p> <ul style="list-style-type: none"> ▪ SAPS must deal with the child in terms of SAPS National Instruction 3 of 2010. ▪ SAPS officials must act in accordance with SAPS National Instruction 3 of 2010, paragraph 11.
	<p>Investigate</p>
	<p>Investigation takes place over the short, medium and long-term and how this takes place is informed by the specific TiP case.</p>
	<p>SAPS must record all the steps taken in the investigation diary (SAPS 5) of the docket.</p>
<p>4</p>	<p>Refer</p>
	<p>SAPS refer the SVoT:</p> <p>4a Initial placement: Temporary safe care with a designated child protection organisation;</p> <p>4b DoH for medical examination; and</p> <p>5 DSD for assessment of status.</p> <p>Each of these are discussed below.</p>
<p>4a</p>	<p>Initial placement - Temporary safe care</p>
	<p>SAPS inform Nodal Point and DSD to ensure temporary placement. If there is a potential threat, then placement in Witness Protection.</p>
	<p>SAPS to complete SAPS 581(a) (Notice of removal and interim placement of child(ren) in temporary safe care) in triplicate. This form is also known as DSD Form 36.</p>
	<p>SAPS to issue copy of SAPS 581(a) to the person accepting the child in temporary safe care (DSD).</p>

	SAPS to hand original copy of SAPS 581 (a) to parent, guardian or care-giver of the child (if readily traced).
	SAPS to make an affidavit stating reason for removing the child without a court order.
	Refer to National Instruction 4 of 2015 for detailed instructions on steps to follow.
	AND
4b	Medical examination - Referral to DoH
	This is to ensure that the immediate health needs of the child(ren) are met and to gather evidence related to the potential criminal activity.
	SAPS is responsible for transporting the child(ren) to a hospital or clinic.
	SVoT may be transported to TCC's, however, they fall under NPA and not DoH, and should not be used for urgent medical assistance.
	A forensic medical examination is done as soon as possible by DoH . It must be conducted in cases of sexual exploitation and should be considered in all other types of cases of exploitation.
	SAPS obtain SVoT/VoT consent to conduct forensic medical examination.
	If SVoT/VoT consents:
	<ul style="list-style-type: none"> ▪ SAPS complete SAPS 308 (Permission for medical examination) in terms of the Criminal Procedures Act, S212(4). If the child is accompanied by an adult, parent or relative, consent is sought through them. Note: it should be established whether this adult has parental responsibilities and rights over the child and/or is related to the child.
	<ul style="list-style-type: none"> ▪ SAPS supply Form J88, J772/Form 7 (if age assessment is required) and the evidence collection kit to health care professional.
	<ul style="list-style-type: none"> ▪ SAPS advise DoH on samples required.
	<ul style="list-style-type: none"> ▪ If sexual contact is less than 72 hours prior, then obtain samples from persons who were in sexual contact with the VoT (if possible).
	<ul style="list-style-type: none"> ▪ Assign medical practitioner/ health care professional (DoH).
	<ul style="list-style-type: none"> ▪ DoH conduct clinical forensic examination.
	<ul style="list-style-type: none"> ▪ DoH complete J88 (medical report) and/or J772/Form 7 (age assessment). These must be returned to SAPS Investigating Officer (refer to SAPS National Instruction 4 of 2015). <ul style="list-style-type: none"> ○ Note: With age assessment, assume the youngest age.
	<ul style="list-style-type: none"> ▪ Mark samples clearly (refer to SAPS National Instruction 4 of 2015).

	<ul style="list-style-type: none"> ▪ SAPS send samples to Forensic Science Lab within 7 days (refer to SAPS National Instruction 4 of 2015).
	<ul style="list-style-type: none"> ▪ DoH to advise whether medical referral of the individual for psychological assessment and/or substance abuse treatment, etc., is required.
	<p>Note: Communication must be established between DoH health care practitioner, SAPS Investigating Officer and place of safety.</p>
	AND
5	Assess
	SAPS always refers a child to DSD for assessment
	A designated social worker is responsible for the investigation of the immediate circumstances to determine if the child is in need of care and protection (and a SVoT or VoT) or not.
	<ul style="list-style-type: none"> ▪ Screening/assessment is done in terms of the Children's Act, S7. This includes an in-depth assessment.
	<ul style="list-style-type: none"> ▪ Within 90 days of this investigation, the designated social worker must submit/present a report to the Children's Court detailing the findings of their assessment and investigation.
6	Court decides – child in need of care and protection
	The court will determine if the child(ren) is in need of care and protection .
6a	Yes (child in need of care and protection)
	<ul style="list-style-type: none"> ▪ If YES, the child is in need of care and protection, the court will provide a court order placing the child in care for the duration of the court order.
	<ul style="list-style-type: none"> ▪ A foreign child in need of care and protection is granted leave to remain for the duration of the court order.
	<ul style="list-style-type: none"> ▪ A copy of the court order must be handed to the investigating police official and the prosecutor dealing with the matter.
	OR
6b	No (child not in need of care and protection)
	<ul style="list-style-type: none"> ▪ If NO, the child is not a VoT, and there is evidence of neglect, abuse or exploitation, they must continue to be treated as a child in need of care and protection and appropriate measures taken.
	AND
	<ul style="list-style-type: none"> ▪ If the referral came through the NPA, DSD must complete and return Regulations Relating to Prosecutor's Referral of

	Suspected Victims of Trafficking in Persons - Annexure Part B to the NPA . This is regardless of the outcome of the assessment.
7	Child Protection Organisation
	The placement of the child in safe care can either be with: <ol style="list-style-type: none"> 1. A designated child protection organisation; or 2. Designated Child and Youth Care Centre
	Placement with a designated child protection organisation or Child and Youth Care Centre
	Registered child protection organisations are granted authority to provide services to children. They must comply with norms and standards as set out by DSD and are monitored by DSD.
	<ul style="list-style-type: none"> ▪ There may be circumstances when the child is accompanied by an adult. The adult may be the parent/guardian or claim to be the parent/guardian. It is necessary to establish whether the child and adult are related or not. DSD must evaluate the risks for the child – as the adult may/may not be their parent or guardian and may be escorting the child to a trafficking destination. ▪ The designated social worker must conduct separate interviews with the adult and child to determine if they are related or not. <ul style="list-style-type: none"> ○ If the child and adult are related, then written consent must be obtained for the child to be removed. This is done using Form 1/Form 36. ○ If the child and adult are unrelated, then no written consent is required to remove the child.
	SAPS must supply SAPS Form 581(a) (DSD Form 36) in placing child VoT with a designated child protection organisation .
	J767/Form 2 is used to bring a matter to court in terms of the Children's Act (S53).
	<ul style="list-style-type: none"> ▪ The designated child protection organisation/CYCC must draw up a plan (DSD Form 13) to: <ul style="list-style-type: none"> ○ address the immediate, and reasonable future needs of the child; ○ include an exit plan; and ○ the plan must take account of the views of the VoT. TiP Act S28 (1) & (2).
	<ul style="list-style-type: none"> ▪ Designated child protection organisations complete data collection form (Collection of information on Victims of Trafficking – DSD Form 12).
	<ul style="list-style-type: none"> ▪ Data is returned using DSD Form 12 to DSD National Office on a quarterly basis.

	Foreigner/Citizen
	If the child is a foreign national, the Court has decided that they are a child in need of care and protection . As such, the child has leave to remain for the duration of the court order.
8	Statement
	<ul style="list-style-type: none"> ▪ SAPS establish that there is sufficient evidence of TiP.
8a	Yes (Sufficient evidence)
	<ul style="list-style-type: none"> ▪ SAPS open a docket. Note: Do not include the address where the VoT is placed in a Child Protection Organisation on function 8.1.1.1.
	<ul style="list-style-type: none"> ▪ SAPS register the case on CAS.
	<ul style="list-style-type: none"> ▪ SAPS inform relevant role-players.
	<ul style="list-style-type: none"> ▪ SAPS conduct investigation. This may be prosecutor guided.
	OR
8b	No (Insufficient evidence)
	<ul style="list-style-type: none"> ▪ No case opened for TiP. <p>Note: This does not mean another type of case is not opened based on the evidence.</p>
	<p>The prosecution of the trafficker and their accomplices is led by the NPA. This includes:</p> <ol style="list-style-type: none"> 1. Court preparation; 2. Court procedure / prosecution; 3. Court outcome <ol style="list-style-type: none"> a. For the trafficker b. For the Victim of Trafficking <p>Each of these are dealt with below.</p>
9	Court preparation
	<ul style="list-style-type: none"> ▪ The following are key role-players in preparing the VoT for court: <ul style="list-style-type: none"> ▪ NPA as lead; ▪ Court preparation officer; ▪ DSD; ▪ Designated social workers.
9a	Victim Impact Statement
	<ul style="list-style-type: none"> ▪ The court preparation officer is responsible for the preparation of the Victim Impact Statement.

9b	<p>Victim Impact Report</p> <ul style="list-style-type: none"> The DSD/designated social worker is responsible for the preparation of the Victim Impact Report.
10	<p>Court procedure</p> <ul style="list-style-type: none"> This is done in terms of the Criminal Procedure Act, S153, 154, 158 and 170A. The following are additional role-players that may be required in court: <ul style="list-style-type: none"> DEL (if labour matter); SAPS; along with others identified as supporting the prosecution of the trafficker and their accomplices.
	<ul style="list-style-type: none"> Evidence as to whether a person is unsuitable to work with children may be heard in the course of, or at the end of proceedings (Children's Act, S120 (1) & (3)).
10a	<p>Trafficker</p> <p>The outcome of court proceedings is either:</p> <ul style="list-style-type: none"> Release Conviction (and sentencing)
	<p>Conviction and sentencing</p>
	<ul style="list-style-type: none"> The following is used by the NPA to support conviction and sentencing: <ul style="list-style-type: none"> A Victim Impact Report (compiled by DSD) is gathered by a designated social worker/DSD. A Victim Impact Statement is provided by the court preparation officer.
	<p>Notify authorities</p>
	<ul style="list-style-type: none"> When traffickers and their accomplices are convicted and sentenced: <ul style="list-style-type: none"> If a foreign national, DHA to withdraw status, place the individual(s) on a stop list and advise relevant authorities.
	<ul style="list-style-type: none"> If the trafficker and their accomplices are convicted of crimes against children, they should be placed on the National Register (in terms of the Children's Act) through the NPA and DSD.
	<ul style="list-style-type: none"> The court may find the person unsuitable to work with children, if convicted of murder, attempted murder, rape, indecent assault or assault with the intent to do grievous bodily harm or by reason of mental illness or mental defect. This finding is not dependent upon a finding of guilty or

	innocent in the criminal trial of that person (Children's Act, S120 (4) (a) & (b) , and (6)).
	<ul style="list-style-type: none"> If the trafficker and their accomplices are convicted of TIP for the purpose of sexual exploitation or any sexual offences, their names must be entered into the National Register (in terms of the Criminal Law (Sexual Offences and Related Matters) Act, 32 of 1997).
10 b	Victim of Trafficking (VoT)
	Request for compensation
	<ul style="list-style-type: none"> The request for compensation (for VoT and the State) is led by the NPA (TiP Act S29-30).
	<ul style="list-style-type: none"> The following are required by the NPA to support compensation for the VoT: <ul style="list-style-type: none"> A Victim Impact Report (compiled by DSD) as gathered by a designated social worker/DSD under 'Court preparation'. A Victim Impact Statement is provided by the court preparation officer as gathered under 'Court preparation'. The DPCI must provide information for compensation (SAPS National Instruction 4 of 2015). Other departments/agencies may be required to provide information regarding compensation.
11	Assess for safety
	<p>The return of a child to their place or community of origin is led by DSD. There are 3 types of return/repatriation for child VoT:</p> <ol style="list-style-type: none"> Return of South African child VoT internally; Return of South African child VoT to South Africa; or Repatriation of foreign national child VoT from South Africa.
	<p>The Children's Court may:</p> <ul style="list-style-type: none"> suspend parental responsibilities and rights of the parent, guardian or other person; and place the child in temporary safe care (Children's Act S152) if they believe the parent, guardian or any other person who has parental responsibilities and rights has trafficked the child (TiP Act S36). This is pending an inquiry by the Children's Court. Parent/guardian involvement is based on whether they are guilty of an offence (or not) and if they are able to bear travel costs.
	Assess for safety - Internal return
	The DSD plays a key role in the return of a South African child internally (within and between provinces).
	The DSD must assess the level of safety to return to the community/place of origin.

	The outcome of the assessment - safety to return is made. Refer to Not Safe (to return) or Safe (to return) below for Internal return.
	OR
	Assess for safety - Return to South Africa (TiP Act S33)
	The return of a South African child VoT to South Africa is the responsibility of DIRCO, DSD (ISS) and DHA .
	On receipt of a referral from a foreign country, ISS SA refers the matter to the local DSD provincial representative .
	Government officials to follow the protocol and procedures prescribed by the ISS General Secretariat.
	ISS, DIRCO and DHA to assess and establish the level of safety to return to the community/place of origin.
	<ul style="list-style-type: none"> ▪ DSD must: <ul style="list-style-type: none"> ▪ request the family circumstances report from ISS. If the returning country is not an ISS affiliate, then request for family tracing must be made through DIRCO and a report issued to them (to allow for return to SA); and ▪ trace the family and evaluate the family circumstances (if ready to accept the person).
	The outcome of the assessment - safety to return is made. Refer to Not Safe (to return) or Safe (to return) below for Return to South Africa.
	OR
	Assess for safety - Repatriation from South Africa (TiP Act S31-32 and 35)
	S31 of the TiP Act is not in force at present. The repatriation of child VoT from South Africa is the responsibility of the DSD (and ISS).
	<ul style="list-style-type: none"> ▪ DSD may not repatriate a foreign child who is a VoT to his/her country of origin or country from where he/she has been trafficked without giving due consideration to the: <ul style="list-style-type: none"> ▪ best interests of the child (Children's Act S7); ▪ safety of the child during the repatriation process; ▪ availability and suitability of care arrangements; ▪ safety of the child in the country to which they will be repatriated; and ▪ possibility that the child might be harmed or killed (TiP Act S31(1)).
	DSD must refer the child to ISS to assess if it is in the best interests of the child and safe for the child to be repatriated to their country of origin.
	ISS to identify suitable family members willing to assist the child, or organisations that assist child VoT.

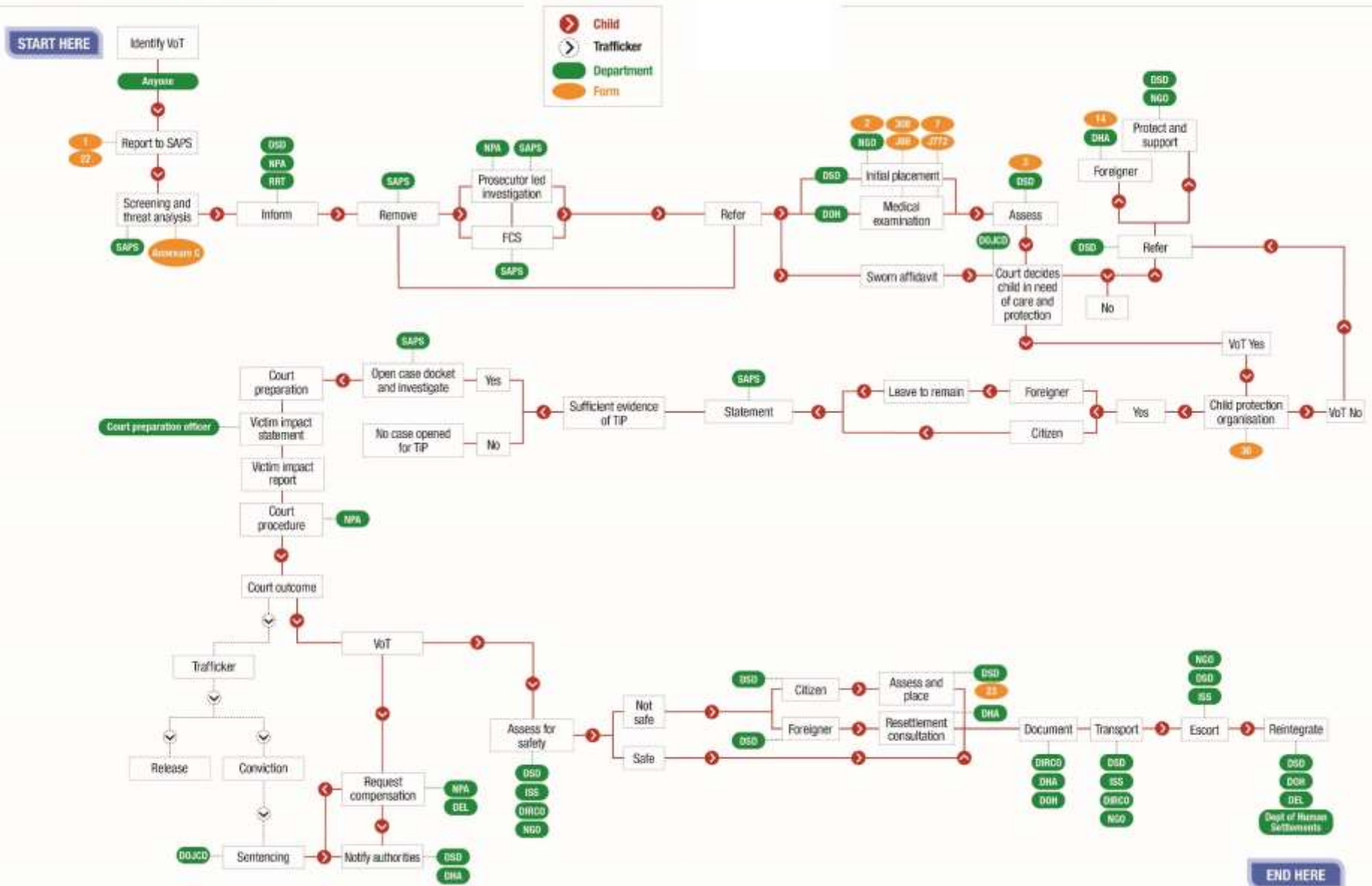
	The outcome of the assessment - safety to return is made. Refer to Not Safe (to return) or Safe (to return) below for Repatriation from South Africa.
	Not safe (to return)
	If the necessary authorities have determined that it is not safe to return, the following action is taken: <ul style="list-style-type: none"> ▪ Internal return ▪ Return to South Africa ▪ Repatriation from South Africa
	Not safe - Internal return
	<ul style="list-style-type: none"> ▪ If it is assessed that it is not safe for the child to return, DSD must find an alternative placement.
	OR
	Not safe - Return to South Africa (<u>TiP Act S33</u>)
	<ul style="list-style-type: none"> ▪ If it is assessed as not safe, seek an alternative rather than return to family.
	OR
	Not safe - Repatriation from South Africa (<u>TiP Act S31-32 and 35</u>)
	<ul style="list-style-type: none"> ▪ If it is assessed as not safe, the DSD, in consultation with ISS, will find a solution.
12	Safe to return
	Return and repatriation of VoT is led by DSD with the support of relevant departments, organisations and agencies. All children must be escorted by an adult.
	If the necessary authorities have determined that it is safe to return, the following action is taken: <ul style="list-style-type: none"> ▪ Internal return; or ▪ Return to South Africa; or ▪ Repatriation from South Africa.
	Safe to return - Internal return
	If it is assessed safe for return : <ul style="list-style-type: none"> ▪ DSD must arrange for the transport of the child; and ▪ authorise an adult to escort the child (<u>TiP Act S35(1)</u>). This escort could be a designated social worker, other DSD official, or the child's parent/guardian.
	<ul style="list-style-type: none"> ▪ DoH must issue a discharge summary for the child to take to the local clinic.

	OR
	Safe to return - Return to South Africa
	<p>If it is safe for return:</p> <ul style="list-style-type: none"> ▪ The child must be referred to a designated child protection organisation or provincial department of social development.
	OR
	Safe to return - Repatriation from South Africa (TiP Act S31-32 and 35)
	<p>If it is safe for return:</p> <ul style="list-style-type: none"> ▪ DSD must arrange for the transport of the child and authorise an adult to escort the child (TiP Act S35(1)). This could be a designated social worker, other DSD official, or the child's parent/guardian.

The 'Child Process' flow chart diagram on the following page gives an overview of the steps to follow from start to end for children. It includes the following:

- key steps in the process,
- key role-players; and
- forms.

CHILD PROCESS



5. Data & information

5.1 Record keeping

Record keeping is an important part of managing TiP cases.

However, note that it is an offence to (TiP Act S23):

- disclose information around the identity of a SVoT/VoT to an unauthorised person;
- disclose information around the place where the SVoT/VoT is accommodated or treated to an unauthorised person; or
- compromise the investigation of a TiP case.

This applies to all role-players involved in the management of TiP cases, and the collection and reporting of TiP data.

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5.2 Gathering data

The TiP Act requires various role-players to collect data (S41(1)(b) and S42).

Form 12: Collection of Information on Victims of Trafficking

This form is completed by accredited organisations that render services to VoT and returned to DSD National Office.

It is reported to DSD on a quarterly basis.

Refer to DoJCD for details on the data collection tool.

5.3 Review of procedures

The SOP is to be reviewed, at a minimum, every two years.

The SOP has been signed off by:

Designation:

Date of acceptance:

6. Contact details

The information below is subject to change. Contact the head office of specific departments for up-to-date details.

6.1 National contact details

Reporting SVoT

Police Services: Crime Stop Tip-off	0860 010 111
Police emergency number	10111
Human Trafficking	0800 222 777
Salvation Army	0800 073 728
Lifeline South Africa	0800 150 150
Child Line South Africa	0800 055 555
Gender based Violence Command Centre	0800 428 428 or send a 'please call me' to *120*7867#

6.2 Provincial contact details

Eastern Cape

DSD Victim Empowerment Management Team	Nozodwa Kobese (043) 605 5171/ (079) 693 2105/ (043) 605 5437/ (079) 683 2105 nozodwa.kobese@socdev.ecprov.gov.za Zoleka Mteto Director (082) 551 4038/ (086) 609 2991 Zoleka.Mteto@ecdsd.gov.za Beacon Hill Office Park Corner Hargreaves & Hockley Close King Williams Town 5600 P/B X0039 BISHO 5605
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SAPS
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Free State

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Gauteng

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	2000
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SAPS DPCI	Captain Madibo (071) 481 3522

KwaZulu-Natal

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Limpopo

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DSD

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Victim Empowerment
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8. Annexure A: Child Protection, Multi-Disciplinary Case Management Flow Chart
