

The report covers information on the total number of non-compliance cases by SAPS members and how the SAPS management is managing non-compliance across the country. It also provides information on members that have been recorded as domestic basis.

The CSPS is mandated in line with section 6 (1) (c, d, i) of the CSPS Act to monitor the SAPS compliance and implementation of the DVA and report to Parliament on a bi-annual

2. BACKGROUND

The purpose of this submission is to request the Secretary for Police Service to approve the report on the status of Domestic Violence Act (DVA) compliance by the SAPS for the period April – September 2020.

1. PURPOSE

TO:	MR. AP RAPEA SECRETARY FOR POLICE SERVICE
FROM:	MR. T. RAMARU CHIEF DIRECTOR: COM&E
DATE:	17 DECEMBER 2020
SUBJECT:	REPORT ON DVA COMPLIANCE BY THE SAPS FROM APRIL – SEPTEMBER 2020

SUBMISSION

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REPUBLIC OF SOUTH AFRICA

civilian secretariat
for police service



violence offenders and those that have reported to be victims of domestic violence as

reported by the SAPS.

3. RECOMMENDATION

It is recommended that the Secretary for Police Service approves the attached report.

MS A. XONGWANA
DEPUTY DIRECTOR: COMPLIANCE
Date: 17/12/2020

~~RECOMMENDED/NOT RECOMMENDED/RECOMMENDED WITH AMENDMENTS~~

MR. T. RAMARU
CHIEF DIRECTOR
CIVILIAN OVERSIGHT MONITORING AND EVALUATION
Date: 17/12/2020

COMMENTS:

~~APPROVED/NOT APPROVED/ APPROVED WITH AMENDMENTS~~

MR AP RAPEA
SECRETARY FOR POLICE SERVICE
Date: 22/12/2020

COMMENTS: We must recommend to the

Minister to write a letter raising

his concern regarding the number of

SAPS members who are the victims of

to request a report of disciplinary

taken against these members.



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CIVILIAN SECRETARIAT FOR POLICE SERVICE
2021-03-19
OF THE SECRETARY

50/03

ROUTE LIST FOR DOCUMENTATION

Reference:	DVA COMPLAINT	Date:	01 MARCH 2021
Enquiries:	Ms C. MSADA	Extension:	4630

**SUBJECT: DVA NON-COMPLIANCE COMPLAINT AGAINST TEMBA
POLICE STATION**

ROUTED TO		SIGNATURE	DATE FORWARDED	DATE RECEIVED	DATE FORWARDED	DATE RETURNED FROM CORRECTION	DATE FORWARDED	CAPACITY/ UNIT
MR T. RAMARU CHIEF DIRECTOR: OVERSIGHT MONITORING AND EVALUATION		<i>[Signature]</i>	10/03/21					
MS A. JOOSTE OFFICE MANAGER: OFFICE OF THE SECRETARY		<i>[Signature]</i>		10/03/2021				
MR A.P. RAPEA SECRETARY FOR POLICE SERVICE		<i>[Signature]</i>		15/03/21				

RETURN

ROUTED TO	SIGNATURE	DATE RECEIVED	DATE FORWARDED
UNIT/CHIEF DIRECTORATE MR T. RAMARU CHIEF DIRECTOR: OVERSIGHT MONITORING AND EVALUATION			

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Information note

TO:	MR A.P RAPEA SECRETARY FOR POLICE SERVICE
FROM:	MR T RAMARU CHIEF DIRECTOR: CIVILIAN OVERSIGHT MONITORING AND EVALUATION
DATE:	MARCH 1, 2021
SUBJECT:	INFORMATION NOTE ON COMPLAINT LODGED BY MR PHEOLE CALVIN MATLOU AGAINST TEMBA POLICE STATION

1. BACKGROUND

The Domestic Violence Act, 1998 (Act No.116 of 1998) herein referred to as DVA, is aimed at providing victims of domestic violence with the maximum protection from domestic abuse. A victim of domestic violence as defined in the DVA does not only refer to women or married people. The definition is extended to include any person who is in a domestic relationship with another through - marriage; a romantic or intimate relationship; sharing a place of residence; family ties; and parental responsibility, irrespective of gender and age.

To fully implement the DVA, a number of obligations are placed on the South African Police Service (SAPS) and other state departments with regard to implementation and the rendering of specific services for victims of domestic violence. These obligations are appended by consequences should the SAPS members fail to implement them properly. Section 18(4) (a) of the DVA makes it a misconduct, as contemplated in the SAPS Act, for a SAPS member to fail to comply with the obligation of the DVA or the National Instruction. According to this section, all the DVA

related cases identified as non-compliance by SAPS members should be reported to the Civilian Secretariat for Police Service (CSPS).

In line with the DVA, the CSPS is mandated by the Civilian Secretariat for Police Service Act, 2011 (Act No. 2 of 2011) to monitor and evaluate the SAPS' compliance with the DVA, and make recommendations to the police service on disciplinary procedures and measures with regard to non-compliance with the DVA. In light of the above mandate, on the 1st of February 2021 the CSPS received a DVA non-compliance complaint from Mr. Phetole Calvin Matlou alleging the following:

1. The investigating officer Mr. P.W. Serage with another police officer at Community Service Center (CSC) laughed at him when he came to the station to report a case of a contravention of a protection order and assault against his sister
2. The sister was not arrested after she assaulted him and contravened a protection order
3. The police officer at CSC refused to put into effect the existing protection order dated 2017 arguing that he needs to apply for another one
4. Lack of feedback regarding the case from the investigating officer

2. FINDINGS

It was for the above mentioned reasons that on the 22nd of February 2021 the CSPS met and engaged the Temba police station on the above allegations and through perusing of DVA registers, forms and the docket; it was found that:

- A case (CAS220/1/2020) with the charge of Assault GBH and malicious damage to property was opened on the 7th of November 2020 and the accused was arrested on the same day but released on warning to appear before court on the 10th of November 2020.
- The case was withdrawn at court due to insufficient evidence as there was no 88 or witnesses to the crime. The prosecutor consequently remarked that the complainant should get 88, apply for protection order and submit a quotation for the damaged property. However the complainant indicated that he was unable to get 88, accordingly the case cannot be put on the court roll.

- The police station has complied with some of the administrative requirements of how to handle a DVA case, i.e. proper filling and completion of 508a. However the 508b register did not reflect that there was an existing protection order dated 2017 and a contravention, as such a charge of contravention of a protection order in terms of DVA 116 of 1998 should have been added.
- The victim was not treated with dignity and respect when he came to report a case of a DVA.

3. ACTION TAKEN

The Civilian Oversight Monitoring and Evaluation has written a letter to the Tembisa Station Commander and recommended the following course of action to be taken based on the above findings:

1. Disciplinary actions be taken against the investigating officer PW Serage for failing to treat the victim with respect and dignity
2. Disciplinary actions to be taken against the police officer Sergeant Molale who was assisting the victim at the CSC for failure to use the existing protection and also for not adding the charge of a contravention of a protection order.
3. When the victim is in a position to produce a J88 the case should be reinstated
4. The police station to submit a written report to the CSPA within 10 days upon finalizing the investigation.



MR. T. RAMARU

CHIEF DIRECTOR: COM&E

Date 09/03/2021

MR A.P. RAPEA

SECRETARY FOR POLICE SERVICE

Date: 15/03/2021

Comments

we must write to the National Commission and copy the PC regarding this matter.

PC regarding this matter.

DOMESTIC VIOLENCE ACT (DVA) MONITORING REPORT

Report on the status of DVA implementation and compliance by the SAPS
from 1 April 2020 to September 2020.

**civilian secretariat
for police service**

Department:
Civilian Secretariat for Police Service
REPUBLIC OF SOUTH AFRICA



OFFICIAL SIGN-OFF

Submitted

MS. A. XONGWANA
DEPUTY DIRECTOR: COMPLIANCE
Date: 17/12/2020

Recommended

MR. T. RAMARU
CHIEF DIRECTOR: COM&E
Date: 17/12/2020

Approved

MR A.P. RAPEA
SECRETARY FOR POLICE SERVICE
Date: 22/12/2020

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ACRONYM	DESCRIPTION
CAS	Crime Administration System
CSC	Community Service Centre
CSPS	Civilian Secretariat for Police Service
DV	Domestic Violence
DVA	Domestic Violence Act No. 116 of 1998
FCA	Firearms Control Act No. 60 of 2000
NATIONAL INSTRUCTIONS	
SAPS	South African Police Service
SAPS 508	A form used to register DVA non-compliance complaints against members
DISCIPLINARY CODES	
DS1	Remedial steps after initial interview (not serious)
DS2	Verbal warning after initial interview (not serious)
DS3	Written warning (not serious)
DS4A	Departmental investigation (serious): still under investigation
DS4B	Departmental investigation (serious): guilty (state sentence)
DS4C	Departmental investigation (serious): not guilty
PROVINCES	
EC	Eastern Cape
FS	Free State
GP	Gauteng
KZN	Kwazulu-Natal
LP	Limpopo
MP	Mpumalanga
NC	Northern Cape
NW	North West
WC	Western Cape

1. INTRODUCTION

The Domestic Violence Act, 1998 (Act No. 116 of 1998) herein referred to as DVA, is aimed at providing victims of domestic violence with the maximum protection from domestic abuse. The definition of a victim of domestic violence, according to the DVA does not only refer to women or married people. A victim of domestic violence can be any person who is in a domestic relationship with another through - marriage; a romantic or intimate relationship; sharing a place of residence; family ties; and parental responsibility, irrespective of gender and age. The Domestic Violence Amendment Bill (2020) has further extended the definition of domestic violence to include elder abuse; coercive behaviour; controlling behaviour; and exposing or subjecting children to any form of domestic violence, like physical abuse, sexual abuse, verbal abuse and others.

In order to ensure full implementation of the DVA, a number of obligations are placed on the South African Police Service (SAPS) and other state departments with regard to rendering of specific services for victims of domestic violence. In terms of Section 18(4)(a) of the DVA, it is a misconduct, as contemplated in the SAPS Act, for a SAPS member to fail to comply with the obligations imposed by the DVA or the Domestic Violence National Instruction No 7 of 1999 (National Instruction). According to this section, the Civilian Secretariat for Police Service (CSPS) must be informed of all incidents of DVA non-compliance by SAPS members.

Additionally, as mandated by the Civilian Secretariat for Police Service CSPS Act, (No 2 of 2011), the CSPS has a responsibility to make recommendations to the police service on disciplinary procedures and measures with regard to non-compliance with the DVA. The CSPS is further mandated by the CSPS Act to monitor and evaluate the SAPS' compliance with the DVA and, as obligated by Sec 18(5)(c) of the DVA, to submit reports to Parliament on SAPS non-compliance with the DVA every six months.

This report will provide information on non-compliance by SAPS members during the period 01 April to 30 September 2020. Information provided by the SAPS for this period will be analysed to determine the number of non-compliances reported and disciplinary steps taken; number of members who were perpetrators of domestic

violence and how these were managed; and number of members who were reported as victims of domestic violence.

2. OBJECTIVE

The objective of the report is to provide information on the status and management of non-compliance by the SAPS management during the period April – September 2020.

3. SCOPE

Information contained in this report is based on data received from the SAPS regarding the total number of reported DVA non-compliances by SAPS members nationwide; data on members that are offenders and those that have been recorded as victims of domestic violence and how all these matters have been managed by the SAPS.

4. NON COMPLIANCE BY SAPS MEMBERS

According to section 18(4) (a) and (b) of the DVA, failure by SAPS members to comply with the duties or any obligations as imposed in the DVA and National Instruction constitutes misconduct. The Station Commander is expected to institute disciplinary action against such a member unless an exemption has been granted by the CSPS

In accordance with both section 18(5)(d) of the DVA and National Instruction, SAPS is obligated to submit consolidated return of non-compliance cases to the CSPS for submission to Parliament. The consolidated returns should include details of SAPS members who fail to comply by not fulfilling the administrative obligations (administrative non-compliance) as outlined in the National Instructions and in the DVA. Additionally, when a complaint from the public is received due to failure by a member to provide the required service as prescribed by both the DVA and the National Instructions (operational non-compliance), that information should also be captured in the consolidated return.

Table 1 below provides a breakdown of the number of members who were reported to have failed to comply with the DVA obligations across all provinces.

Even though the other provinces did not report any members who failed to comply, it has been observed over the years that there is no direct correlation between the number of non-compliances and proper implementation of the DVA at police station level. Findings based on various sources, such as independent research reports; and CSPS complaints reports point to the limited knowledge of community members on available complaints mechanism at police station level as the primary reason for the absence of non-compliance complaints. Moreover, taking into consideration the wide spread media reports of complaints, (which are not officially reported) by victims accusing the SAPS of non-compliance, this inference can be deemed to be true. It therefore raises a challenge for both the SAPS and the CSPS to enhance its information sharing and awareness programmes in order to ensure all members of the community are aware of the services they should expect from the police and what to do if they are not happy with the service received.

As reflected in Table 1 above, a total of 68 members failed to comply with the DVA and national instructions during the period April – September 2020. These members were reported from three (3) provinces which are FS; LP; and WC. The other six (6) provinces which are, with EC, GP, KZN, MP, NW and NC submitted a zero return on non-compliance. The highest number of non-compliances was reported in the WC with 46 members, followed by LP with 20 members and FS had two (2) members.

Categories	Apr'20	May'20	June'20	Jul'20	Aug'20	Sep'20	Total
EC	0	0	0	0	0	0	0
FS	0	1	0	0	0	1	2
GP	0	0	0	0	0	0	0
KZN	0	0	0	0	0	0	0
LP	2	2	7	4	5	0	20
MP	0	0	0	0	0	0	0
NC	0	0	0	0	0	0	0
NW	0	0	0	0	0	0	0
WC	15	2	3	16	8	2	46
Total number of complaints received	17	5	10	20	13	3	68

Table 1: Number of members who failed to comply with the DVA

This weakness in the SAPS systems can result in a compromised criminal justice process for the victim should they opt to open a criminal case. This is aggravated by

Administrative non-compliance continues to be a serious challenge for the SAPS with majority (57) of the reported non-compliances relating to this nature and the remaining 13 relating to operational non-compliance. The administrative non-compliances involve 48 cases of failure to complete SAPS 508a and 508b; six (6) cases of failure to record DV incidents in the OB or Pocket Book; and three (3) cases of failure to conduct first level inspection. Failure to fully comply with the administrative obligations like proper recording and filling raises a question in terms of the ability to effectively provide services to the complainants. Proper recording of reported incidents assists in the safekeeping of information relating to the reported incident which can be used in the court of law should the need arise.

Table 2 above illustrates the number of both administrative and operational non-compliances committed by SAPS members in the three (3) different provinces. It should be noted that the number of the actual cases is more than the number of members who failed to comply with DVA, and this is due to the fact that some of the members have committed more than one offence.

Categories	EC	FS	GP	KZN	LP	MP	NC	NW	WC	Total
Failure to complete SAPS 508(a) and 508(b)	0	2	0	0	20	0	0	0	26	48
Failure to record DV incidents in the Occurrence Book (OB) and in the Pocket book (SAPS 206)	0	1	0	0	0	0	0	0	5	6
Failure to conduct first level inspection	0	0	0	0	0	0	0	0	3	3
Failure to arrest the perpetrator	0	0	0	0	0	0	0	0	4	4
Failure to assist a complainant to open a case	0	0	0	0	0	0	0	0	3	3
Failure to serve a Protection Order	0	0	0	0	0	0	0	0	1	1
Failure to confiscate a firearm of a perpetrator	0	0	0	0	0	0	0	0	2	2
Failure to render a satisfactory service to the victim	0	0	0	0	0	0	0	0	3	3
Total number of complaints received	0	3	0	0	20	0	0	0	47	70

Table 2: Categories of non-compliance by SAPS members

Table 2 below reflects the number of actual non-compliances by SAPS members recorded during this reporting period.

Paragraph 13(1) of the National Instruction indicates that disciplinary proceedings must be instituted in line with the SAPS Discipline Regulations for any member who has failed to comply with any obligation as imposed in terms of the DVA or National Instructions. Should the Station Commander, after investigation, be convinced that the member involved should not be subjected to the disciplinary process, they need to submit an application for exemption to the Provincial Secretariats through the

of existing weaknesses within the first response to domestic violence. duty to assist with this process. These operational non-compliances are an indication or rape with a specification that it relates to domestic violence, and the police have the incident, it is captured on the CAS in terms of the actual incident, e.g. assault, murder. Therefore, if a victim opts to lay a criminal offence when reporting a domestic violence case can be registered in the Crime Administration System (CAS). domestic violence incident is not considered a criminal offence until there is a breach or violation of a Protection Order (in terms of Section 17 of the DVA) whereby a station, they have an option to lay a criminal charge should they wish to do so. A fair access to justice. When a victim reports a domestic violence incident at a police Equally, failure to assist a complainant to open a criminal case deprives the victim of some of the incidences that may result in death of victims if not attended to adequately. the perpetrator firearms were not seized and a protection order not served. These are safety of victims. For example, as reflected in table 2 above, there were cases where a protection order with one (1). Operational non-compliance can be detrimental to the three (3); failure to confiscate a perpetrator's firearm with two (2); and failure to serve open a criminal case with three (3); failure to render a satisfactory service to the victim, failure to arrest the perpetrator with four (4) cases; failure to assist a complainant to Out of the 13 reported operational non-compliances, the following were identified: not repeated.

the lack of quality control at station level. For instance, there were three (3) recorded cases of the failure by either the CSC or VISPOL commander to carry out the first level inspection as prescribed. In order to ensure that members at the CSC fully adhere to their obligations and are provided with proper guidance, first level inspections are crucial. Failure to conduct these deprives the frontline members of the opportunity to identify their mistakes, correct them and in the process learn so that the mistakes are

SAPS has a responsibility to prevent, combat and investigate crime; to maintain public order; to protect and secure the inhabitants of the Republic and their property; and to uphold and enforce the law. Despite having this responsibility to serve and protect, some SAPS members are found to be perpetrators of domestic violence. The DVA

5. SAPS MEMBERS AS OFFENDERS OF DV

that failed to comply.

managing non-compliance as disciplinary processes were initiated for all members. There appears to be some positive strides that SAPS is making in dealing and warning (DS2) for five (5) members; and written warning (DS3) for three (3) members. serious and steps taken ranged from remedial steps (DS1) for 24 members; verbal investigations are still pending. The remaining 32 incidents were considered non-misconduct that requires departmental investigation. The outcome of these still pending. There were 34 members subjected to DS4 A, which is a serious exemption that were made. Both applications were from the WC and the outcome is the 68 members with departmental steps taken and there were two (2) applications for the above mentioned non-compliances. Disciplinary proceedings were initiated for all Table 3 above shows the departmental steps taken by station commanders to address

Action taken	Number of members involved
DS1 Remedial steps after initial interview (not serious)	24
DS2 Verbal warning after initial interview (not serious)	5
DS3 Written warning (not serious)	3
DS4A Departmental Investigation (serious)	34
Application for exemption	2
Exemption granted	0
Total	68

Table 3: Disciplinary steps taken

steps taken against the identified members who failed to comply.

Provincial Commissioner's Office. Table 3 below provides information on disciplinary

requires that a domestic violence offender should be subjected to the same process irrespective of whether they are a police official or not.

Figure 1 below illustrates the total number of members that were reported to have been perpetrators of domestic violence across all police stations during the reporting period.

Figure 1: Members as offenders of DV



There was a total of 164 members that were reported to be offenders of domestic violence with the highest number of reported members in WC (91), followed by GP (27), KZN (17), FS (14) and the lowest numbers were in EC (7), NW (4), MP (3) and LP with one (1) member each. There was no reported case in the NC.

By virtue of being members of the SAPS, police officials who commit domestic violence offences are in violation of the SAPS code of conduct and should be subjected to disciplinary proceedings. The SAPS records do not provide an indication of whether there were any disciplinary proceedings initiated against these members or not. The number of members that commit acts of domestic violence is high and there is a need for an internal intervention by the SAPS management.

The DVA requires that dangerous weapons be seized from a person that committed an act of domestic violence. And furthermore, the Firearms Control Act (No 60 of 2000) (FCA), requires that an inquiry into fitness to possess a firearm be conducted for any

- 9.1. The SAPS should strengthen its management of non-compliance by members. In line with the SAPS disciplinary regulations, all members that are offenders of domestic violence should be subjected to disciplinary proceedings.
- 9.3. The SAPS management needs to develop control measures regarding access to firearms for members who have been reported as perpetrators of domestic violence.
- 9.4. Section 102 inquiries should be conducted for all members whose firearms have been seized in line with the FCA.
- 9.5. The SAPS needs to work jointly with the COPS to increase awareness on domestic violence response.

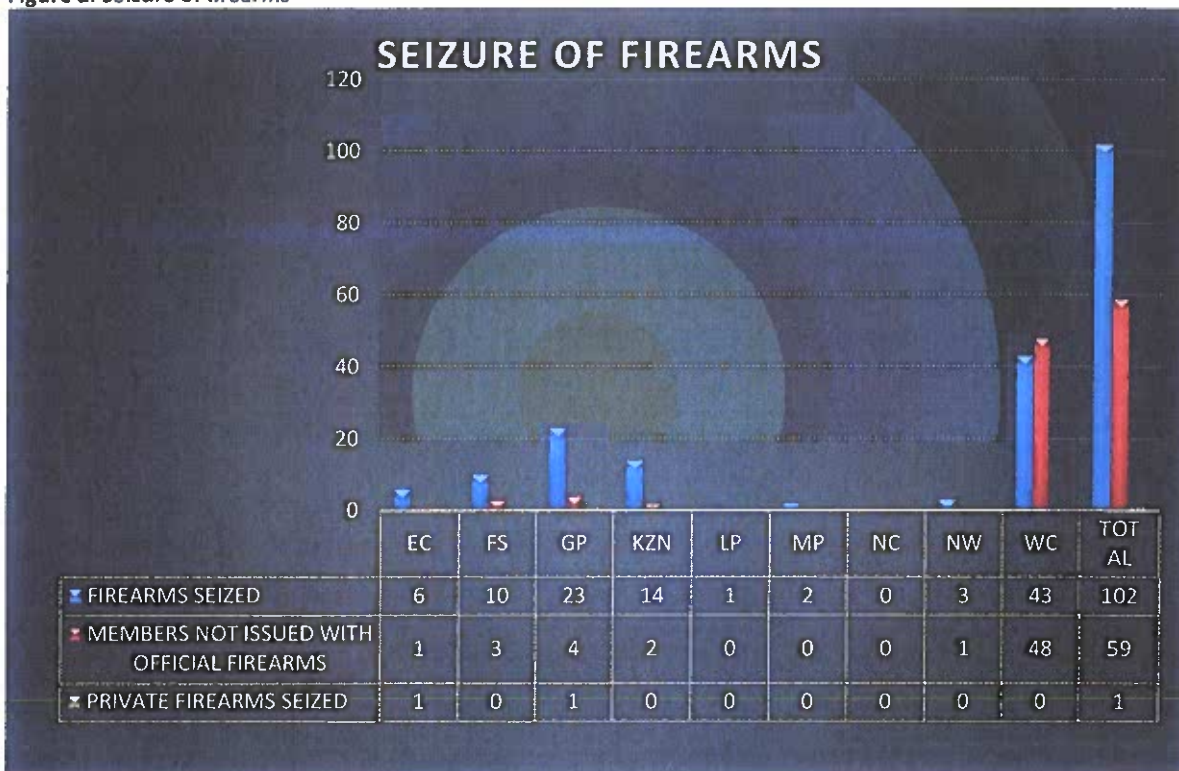
9. RECOMMENDATIONS

This is an area that requires control for members that have domestic violence cases reported against them.

In spite of the improvements made in relation to management of non-compliance by SAPS, there is still a lot of room for improvement. It is also important to increase community awareness on understanding their rights and responsibilities when reporting a domestic violence incident at a police station.

person found to be a perpetrator of domestic violence. Figure 2 below reflects the number of firearms seized from the 164 members.

Figure 2: Seizure of firearms



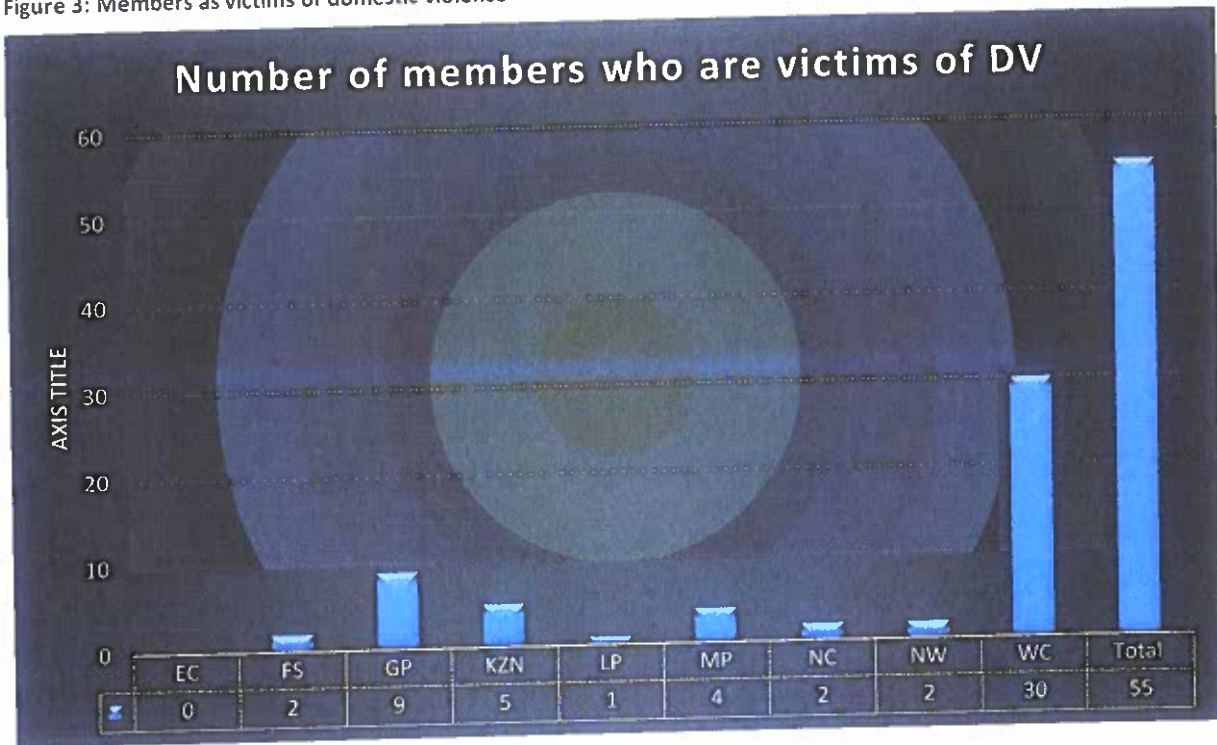
There were 103 firearms seized from the 164 members, as reflected in Figure 2 above. Out of this number, a total of 102 were official firearms allocated to members as part of the SAPS 108 inventory and one (1) firearm was a member's private firearm. WC with 43 members' firearms seized had the highest number followed by GP with 23, then KZN and FS with 14 and 10 respectively. The high number of firearms seized can be an indication that the SAPS is committed to protection of victims. This however needs to be combined with disciplinary proceedings and section 102 inquiries to ensure limited exposure of these members to firearms.

A total of 59 members were not issued with official firearms (SAPS 108) and three (3) members were declared unfit to possess firearms in terms of section 102 of the FCA.

6. MEMBERS AS VICTIMS OF DOMESTIC VIOLENCE

Police officials are not immune to the scourge of domestic violence and some members have been found to be victims. Figure 3 below reflects the number of members that were reported to be victims of domestic violence during the reporting period.

Figure 3: Members as victims of domestic violence



There were 55 members who have been reported as victims of domestic violence from eight (8) provinces, as reflected in Figure 3 above. Most of the members were reported in the WC with 30 members which was followed by the GP with nine (9) members; KZN with five (5) members; and MP with 4 members. The NC, NW, and FS provinces each reported two (2) members and LP one (1) member. EC did not report any members as victims of domestic violence. This again points out to the need to strengthen and improve the provision of the psychosocial support for police members.

7. DVA AWARENESS CAMPAIGNS

The CSPA undertook DVA awareness campaign during November and December 2020. The campaign falls out of the reporting period covered, however it is included in the report to highlight activities conducted by the CSPA to improve the monitoring of DVA implementation by the SAPS during the year 2020.

The main aim of the campaign was to increase awareness to communities on the expected role or response of the police when one is reporting a domestic violence incident. The campaign also sought to make communities aware of the intervention measures by the CSPA based on obligations imposed by section 18 of the DVA and section 6 of the CSPA Act. The campaign involved a radio interview by the Secretary

for Police Service on Radio 2000 and community activation sessions whereby pamphlets were distributed at identified hotspots within the targeted communities.

Community activation sessions were held in the following areas: Sebokeng (GP); Bloemspruit and Kopanong (FS); Bushbuckridge and Nelspruit (MP); Ikageng (NW); Kakamas (NC); Khayelitsha, Gugulethu, Phillipi and Delft (WC); and Tzaneen and Thohoyandou (LP). Sessions for EC and KZN had to be rescheduled due the high rise in number of Covid 19 infections in these areas.

Engagement with the communities highlighted the need for the CSPS and Provincial Secretariats to be more visible in the communities. There were community members who were assisted on the spot during the engagement session, e.g. in Bloemspruit and in Sebokeng where community members were taken to the police station to open criminal cases. The campaign also confirmed the view that the absence of recorded non-compliance complaints is not an indication of full compliance by the police. Some community members are not aware of the channels or mechanisms in place to lodge complaints against the police.

8. CONCLUSION

The SAPS has managed to institute disciplinary proceedings for all members that had failed to comply with the DVA and National Instructions during this reporting period. This is a positive step and an indication that the SAPS management takes non-compliance seriously. Despite this positive developments, it is evident that there are still gaps in the implementation of DVA at police station level. This is shown by the high number of administrative non-compliances as well as the operational non-compliances which are serious matters that can endanger the lives of the victims.

In terms of dealing with members that are perpetrators of domestic violence, the SAPS management complied with the DVA obligations aligned to the FCA and firearms of members involved were seized. It is however, concerning that there were no disciplinary proceedings instituted against members who committed acts of domestic violence and it is not clear whether the S102 inquiries were conducted for members whose firearms were seized. There are members who are not issued with SAPS 108 firearms, however, they are allowed to book a firearm when conducting operations.