

DOMESTIC VIOLENCE ACT (DVA) MONITORING REPORT

Report on the status of DVA implementation and compliance by the SAPS
from October 2019 to March 2020.




**civilian secretariat
for police service**

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TABLE OF CONTENTS

TABLE OF ACRONYMS	5
1. INTRODUCTION	6
2. OBJECTIVE	7
3. SCOPE	7
4. PREVALENCE OF DOMESTIC VIOLENCE (DV)	8
5. NON COMPLIANCE BY SAPS MEMBERS	9
5.1. <i>Non- Compliance report based on SAPS records</i>	9
5.2. <i>Non-Compliance report based on police station visits</i>	12
5.2.1. <i>Record keeping of non-compliance information</i>	12
5.2.2. <i>Non-compliance by members</i>	13
5.2.3. <i>Management of non-compliance by Station commanders</i>	15
6. MEMBERS AS OFFENDERS OF DOMESTIC VIOLENCE	17
6.1. <i>Members as offenders of domestic violence according to SAPS records</i>	18
6.2. <i>Members as offenders of domestic violence according to station visits</i>	19
7. MEMBERS AS VICTIMS OF DOMESTIC VIOLENCE	21
7.1. <i>Members as victims of domestic violence according to SAPS records</i>	21
7.2. <i>Members as victims of domestic violence according to station visits</i>	21
8. REGULATORY COMPLIANCE	22
8.1. <i>Inspections</i>	22
8.2. <i>Availability of private interviewing space</i>	25
8.3. <i>Availability and inspection of pocket books</i>	26
8.4. <i>Availability of female members</i>	27
9. SUPPORT SERVICES	28
10. CONCLUSION	30
11. RECOMMENDATIONS	32
12. ANNEXURES	33
ANNEXURE A: <i>LIST OF POLICE STATIONS VISITED</i>	33
ANNEXURE B: <i>POLICE STATIONS WITHOUT PRIVATE INTERVIEWING SPACE</i>	35
ANNEXURE C: <i>POLICE STATIONS WITH SOME MEMBERS WITHOUT POCKET BOOKS</i>	35
ANNEXURE D: <i>POLICE STATIONS THAT DO NOT HAVE FEMALE MEMBERS IN ALL SHIFTS</i>	35

TABLE OF FIGURES

Table 1: Summary of non-compliance based on SAPS records.....	10
Table 2: Departmental steps taken and outcomes	11
Table 3: Non-compliance by members	13
Table 4: Non-compliance reported at the CSPS.....	14
Table 5: Repeat non-compliance offender within a 1 year period	16
Table 6: Number of members who are alleged DV offenders according to SAPS records	18
Table 7: Number of members who are alleged DV offenders	20
Table 8: Number of members who are victims of DV according to SAPS records.....	21
Table 9: Number of members who are victims of DV according to station visits.....	22
Figure 1: Prevalence of Domestic Violence.....	8
Figure 2: Availability of record keeping files	12
Figure 3: Police stations with measures to deal with re-offending	16
Figure 4: Inspection of registers.....	23
Figure 5: Frequency of inspections	24
Figure 6: Availability of private interviewing space	25
Figure 7: Availability of pocket books	26
Figure 8: Availability of female members	27
Figure 9: Access to psycho-social services	28
Figure 10: Access to interpretation services	29

TABLE OF ACRONYMS

ACRONYM	DESCRIPTION
CSC	Community Service Centre
CSPS	Civilian Secretariat for Police Service
DV	Domestic Violence
DVA	Domestic Violence Act 116 /1998
EHWP	Employee Health and Wellness Programme
NATIONAL INSTRUCTIONS	DVA National Instruction No 7 of 1999
OB	Occurrence Book
PS	Provincial Secretariats
SAPS	South African Police Service
SAPS 508	A form used to register DVA non-compliance complaints against members
VFR	Victim Friendly Room
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. 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.

In fulfilling its main objective, the DVA places a number of obligations on the South African Police Service (SAPS) and other state departments with regard to its implementation and specific services that should be rendered to victims of domestic violence. These obligations are accompanied 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 who fail to comply with the obligation of the DVA or the National Instruction. According to this section, all cases of identified non-compliance by SAPS members should be reported to the Civilian Secretariat for Police Service (CSPS).

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. Furthermore, in line with Sec 18(5)(c) of the DVA, the CSPS is obligated to submit reports to Parliament on SAPS non-compliance with the DVA every six months. In putting this mandate to effect, the CSPS in collaboration with the Provincial Secretariats (PS) conducts police station monitoring visits in order to assess the compliance and implementation of DVA by the SAPS at police station level. The scope of the monitoring visits is focused on looking at both regulatory compliance and execution of the DVA by police stations.

During the 2018-19 financial year, the CSPS conducted a police station Census project which entailed monitoring all police stations in the country. During this period 1143 police stations were visited with the purpose of monitoring DVA compliance and implementation by SAPS members. A comprehensive baseline on SAPS performance was therefore developed and the improvement of performance in SAPS

implementation and compliance with the DVA will be measured against this baseline going forward.

In order to effectively monitor implementation of recommendations and measure improvement of performance by police stations, each province is required to select 25% of their police stations every year in between the Censuses and conduct follow up visits with the aim of monitoring non-compliance and implementation of recommendations. As part of this process an Improvement Plan based on the Census report findings is developed for each police stations identified and continuous monitoring of implementation is done.

2. OBJECTIVE

The objective of the report is to provide information on the status and management of non-compliance by the SAPS management and the findings on oversight visits conducted by the CSPS and PS to monitor implementation of census recommendations through development of improvement plans during the period October 2019 – March 2020.

3. SCOPE

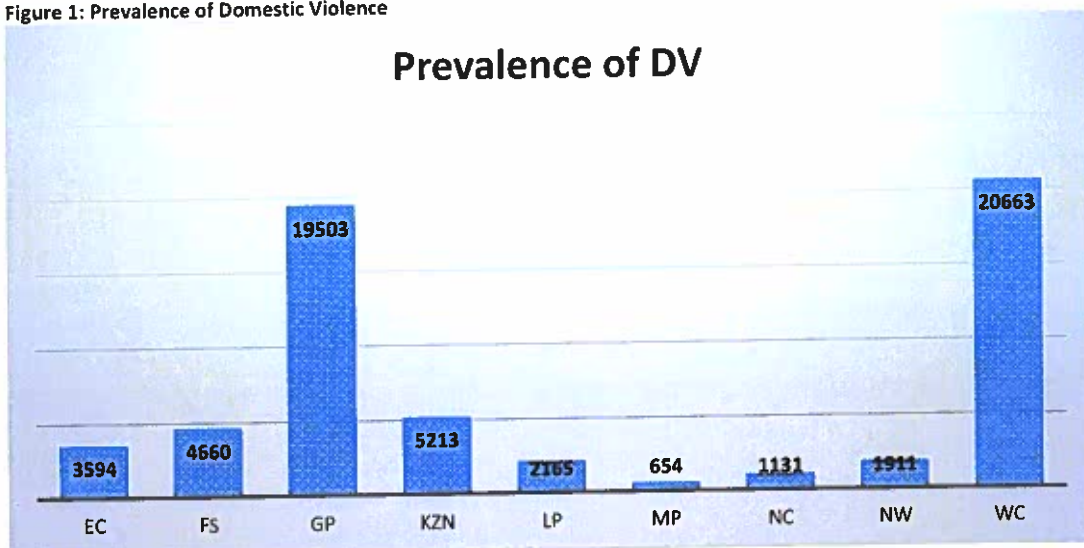
Information contained in this report is based on data received from the SAPS regarding the total number of domestic violence incidents reported countrywide; non-compliance by SAPS members; data on members that are offenders and those that have been recorded as victims of domestic violence and how all these matters have been managed by the SAPS. The reports further covers information based on findings from the 317 police stations (Annexure A) that were visited by the CSPS and PS between October 2019 and March 2020. The findings include data on non-compliance by SAPS members and how the SAPS management is managing non-compliance at police station level.

4. PREVALENCE OF DOMESTIC VIOLENCE (DV)

The scourge of domestic violence (DV) continues to be amongst the highest contributors to contact crime in the country, even though various studies indicate that it is highly under reported due to its nature, i.e. a crime that mostly happens behind closed doors and between people that are closely related. The numbers of DV incidents reported to the police can be influenced by a number of issues which include; the prevalence of cases in a particular community, and the level of trust in the police by the community, among others. For instance when communities are not confident in the police response they tend not to report cases as they feel nothing would be done¹.

According to SAPS reports, there were 59 494 cases of domestic violence reported across the country between October 2019 and March 2020.

Figure 1: Prevalence of Domestic Violence



The province that reported the highest number of cases as reflected in figure 1 above is WC with 20 663 followed by GP with 19 503 and KZN coming third with 5 213. MP was the province with the least number of cases reported with 654 cases. Looking at these figures, it can be deduced that an average of 9915 DV cases were reported in South Africa on a monthly basis during this six month period. Considering the noted concept of under reporting, the actual numbers of people exposed to DV might be much higher than those reflected above, which is a very concerning issue. This calls

¹Statistics South Africa, 2018 - In depth analysis of Victims of Crime Data Survey: Crimes against women in South Africa

for strengthening of the collaborative multi-disciplinary approach to fighting the scourge of DV; police alone cannot do it without the support and partnership of other role players, in particular members of the community.

This trend can also be likened to the number of SAPS top 30 identified police stations that reported high DV incidents during this period. WC has the highest number of police stations in the top 30 with 16 stations followed by GP with eight (8) police stations. Both the EC and FS have two (2) stations in the list and KZN and NW each have one (1) police station appearing in the top 30.

5. 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 CSPA².

In measuring the level of non-compliance by SAPS members, an analysis of records from the SAPS will be done and this is followed by non-compliance according to findings from the police station oversight visits and complaints reported to the CSPA.

5.1. Non- Compliance report based on SAPS records

The SAPS has a responsibility to submit a consolidated return of non-compliance cases to the CSPA for submission to Parliament as required by section 18(5)(d) of the DVA. SAPS members can fail to comply by not fulfilling the administrative obligations (administrative non-compliance) as outlined in the National Instructions and in the DVA and also when a complaint from the public (operational non-compliance) is received when a member fails to provide the required service as prescribed by both the DVA and the National Instructions.

Over the years, the most commonly identified non-compliance has been administrative non-compliance. Table 1 below provides a summary of reported non-compliance against SAPS members according to information received from the SAPS National Office.

² The DVA still refers to the ICD, however the mandate has been transferred to the CSPA in terms of the IPID Act (No 1 of 2011)

Table 1: Summary of non-compliance based on SAPS records

Categories	EC	FS	GP	KZN	LP	MP	NC	NW	WC	Total
Failure to complete SAPS 508(a) and 508(b)	0	27	0	0	37	0	0	1	51	116
Failure to record DV incidents in the Occurrence Book (OB) and in the Pocket book (SAPS 206)	0	6	0	0	0	0	0	0	0	6
Failure to conduct first level inspection	0	0	0	0	0	0	0	0	1	1
Total number of complaints received	0	33	0	0	37	0	0	1	52	123

As reflected in the above table, a total of 123 non-compliances were reported from four (4) provinces which are FS; LP; NW and WC. The other five (5) provinces which are, EC, GP, KZN, MP and NC submitted a zero return on non-compliance. The highest number of non-compliances was reported in the WC with 52 cases followed by LP with 37 and FS with 33 cases.

Administrative non-compliance continues to be a serious challenge for the SAPS with all the 123 reported non-compliances relating to this nature. The administrative non-compliances involve 116 cases of failure to complete SAPS 508a and 508b; and failure to record DV incidents in the OB or Pocket Book with six (6) incidents. 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.

This weakness in the SAPS systems therefore can result in a compromised criminal justice process against the victim should the victim opt to open a criminal case. A 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 domestic violence case can be registered in the CAS. When a complainant opts to lay a criminal offence when reporting a domestic violence incident, it is captured on the CAS in terms of the actual incident, e.g. assault, murder or rape with a specification that it relates to domestic violence.

There was one (1) recorded case 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 are adhering 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 from them so that they are not repeated.

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 Provincial Commissioner's Office.

Table 2: Departmental steps taken and outcomes

Categories	EC	FS	GP	KZN	LP	MP	NC	NW	WC	Total
DS1: Remedial Steps (after initial interview – Not serious)	0	15	0	0	37	0	0	1	18	71
DS2: Verbal warning (after initial interview)- Not serious	0	9	0	0	0	0	0	0	16	25
DS3 Written warning (Not serious)	0	3	0	0	0	0	0	0	1	4
DS4A: Departmental Investigation (Serious) Under investigation	0	4	0	0	0	0	0	0	15	19
DS4B: Departmental Investigation (Serious) : Guilty State Sentence	0	0	0	0	0	0	0	0	2	2
Total number of members	0	31	0	0	37	0	0	1	52	121

Table 2 above shows the departmental steps taken by station commanders to address the above mentioned non-compliances. Out of the 123 non-compliances recorded, there were 121 members involved, which indicates that two (2) members in the FS had more than one incident against them. Disciplinary proceedings were initiated for all the 121 members with departmental steps taken and there were no applications for exemption made. There were 21 members that were subjected to DS4 A&B, which is a serious misconduct that requires departmental investigation. The outcome of these investigations are still pending. The remaining 102 incidents were considered non-

serious and steps taken ranged from remedial steps (DS1), verbal warning (DS2), and written warning (DS3) with 71, 25 and 4 members respectively.

5.2. Non-Compliance report based on police station visits

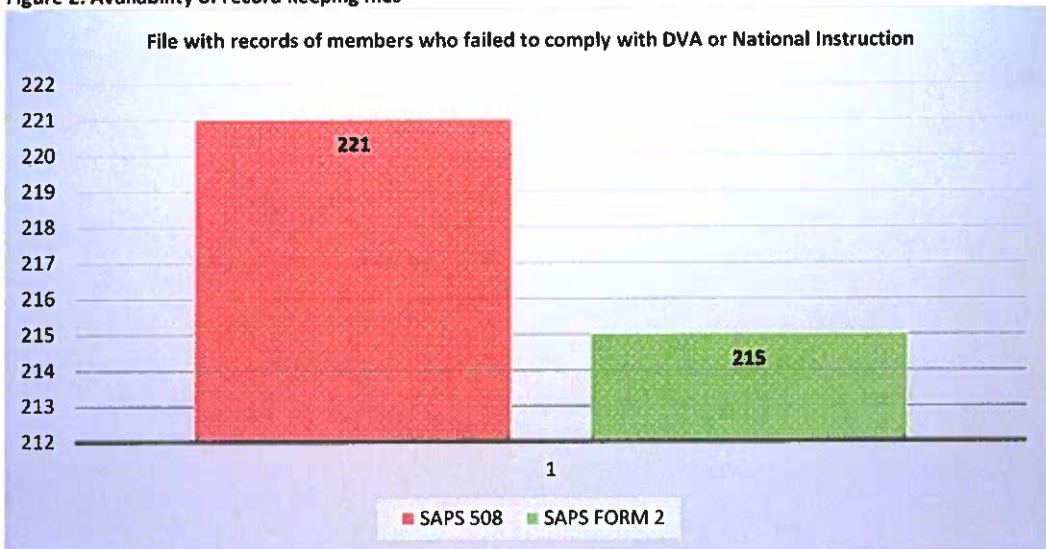
This section will discuss the level of non-compliances as found during police station oversight visits and how the police station management have managed these cases.

5.2.1. Record keeping of non-compliance information

In accordance with paragraph 14 of the National Instruction on Domestic Violence 07/1999 (National Instruction), the Station Commander is obliged to keep a record of the number of complaints received against members under his/her command for failing to comply with any of the obligations in terms of the DVA or the National Instruction. These records must be consolidated into a SAPS 508 form. In addition to the SAPS 508, the SAPS National Office developed a Form 2 which must be used to record the detailed information on the nature of non-compliance and steps taken per individual.

As depicted in figure 2 below, some of the police stations visited still do not keep the files with records of members that failed to comply with the DVA and National Instruction.

Figure 2: Availability of record keeping files



As reflected above, the SAPS 508 was found in 221 police stations and the Form 2 documents were found in 215 police stations. Despite having these record keeping documents in majority of the police stations, some were found to be without any

FS	KZN	LP	NC
Goedemoed	Emtsheni	Rankinsspass	Nieuwoudville
Hertzogville	Gamalakhe	Timyane	Pella
Hoopstad	Ixopo		Vloodsdrift
Vanstadensrus	Swartberg		Williston
	Winterton		

ANNEXURE D: POLICE STATIONS THAT DO NOT HAVE FEMALE MEMBERS IN ALL SHIFTS

EC	KZN	LP	NC
Fort Beaufort	Ibisi	Marble Hall	Kagisho
	Gamalakhe	Modderivier	Roossenekal
		Nebo	Nababeep

ANNEXURE C: POLICE STATIONS WITH SOME MEMBERS WITHOUT POCKET BOOKS

FS	KZN	NC	NW	WC
Odenaalsrus	Bulwer	Sutherland	Biesiesvlei	Behar
	Dudu		Cyferskull	
	Glendale		Ganyesa	
	Habisa		Groot marico	
	Howick		Leudoringstad	
	Ibisi		Makgobistad	
	Intsikeni		Reivilo	
	Ixopo			
	Kwandengazi			
	Nsuze			
	Swartberg			

ANNEXURE B: POLICE STATIONS WITHOUT PRIVATE INTERVIEWING SPACE