



civilian secretariat for police service

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Civilian Secretariat for Police Service
REPUBLIC OF SOUTH AFRICA

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SUBMISSION

TO:	MR AP RAPEA SECRETARY FOR POLICE SERVICE
FROM:	MR. T. RAMARU
DATE:	07 MARCH 2019
SUBJECT:	REPORT ON DVA NON-COMPLIANCE BY THE SAPS FROM APRIL – SEPTEMBER 2018

1. PURPOSE

The purpose of this submission is to request the Secretary for Police Service to approve the report on the status of DVA non - compliance by the SAPS for the period April – September 2018


2. BACKGROUND

The CSPA derives its mandate from Section 208 of the Constitution of the Republic of South Africa, 1996 which requires the Minister of Police to establish a Police Civilian Secretariat which operates directly under the Minister's direction and authority. The CSPA is mandated in line with section 6 (1) (c, d, i) of the CSPA Act to monitor the SAPS compliance and implementation of the DVA and report to Parliament on a bi-annual basis.

The report presents the status of members who failed to comply with the DVA during the reporting period. It further provides information on members who have been found to be offenders of domestic violence and those that have been reported to be victims of domestic violence.


3. RECOMMENDATION

It is therefore recommended that the Secretary for Police Service considers the attached report for approval and tabling to the Parliament of South Africa.



MS A. XONGWANA
DEPUTY DIRECTOR: COMPLIANCE
Date: 07/03/2019


RECOMMENDED/~~NOT~~ RECOMMENDED



MR T RAMARU
CHIEF DIRECTOR
CIVILIAN OVERSIGHT MONITORING AND EVALUATION
DATE: 08/03/2019

COMMENTS: _____

APPROVED/~~NOT~~ APPROVED



MR AP RAPEA
SECRETARY FOR POLICE SERVICE
Date: 17/03/2019
COMMENTS: _____

DOMESTIC VIOLENCE ACT (DVA) MONITORING REPORT

Report on the status of DVA implementation and compliance by the SAPS
from April 2018 – September 2018.

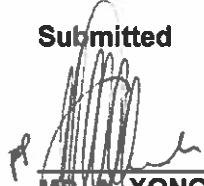


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for police service**

Department:
Civilian Secretariat for Police Service
REPUBLIC OF SOUTH AFRICA

OFFICIAL SIGN-OFF

Submitted



MS. D. XONGWANA
DEPUTY DIRECTOR: COMPLIANCE

Date: 07/03/2019

Supported



MR. T. RAMARU
CHIEF DIRECTOR: COM&E

Date: 08/03/2019

Approved



MR A.P. RAPEA
SECRETARY FOR POLICE SERVICE

Date: 17/03/2019

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TABLE OF ACRONYMS

ACRONYM	DESCRIPTION
CAS	Crime Administration System
CSC	Community Service Centre
CSPS	Civilian Secretariat for Police Service
DV	Domestic Violence
DVA	Domestic Violence Act 116 /1998
FCS	Family Violence, Child Protection and Sexual Offence
IPID	Independent Police Investigative Directorate
NATIONAL INSTRUCTIONS	DVA National Instruction No 7 of 1999
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
VISPOL	Visible Policing
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

1. INTRODUCTION

The Domestic Violence Act, 1998 (Act No.116 of 1998), herein referred to as the DVA, places a number of obligations on the SAPS with regard to implementation with the aim of providing victims of domestic violence with the “maximum protection” from domestic abuse. In terms of the DVA specific duties are prescribed to SAPS and other state departments. Amongst the obligations imposed by the DVA on the SAPS are the following:

- Development of National Instructions – which should serve as a guide to members on how to effectively respond to incidents of domestic violence
- Providing assistance to the complainants through among other things – assistance to get medical attention, referral to other service providers for psycho-social service and others
- Ensuring compliance with all the obligations of the DVA and the National Instructions.
- Reporting any complaints of non-compliance against the SAPS members to the Civilian Secretariat for Police (CSPS), as amended in terms of the IPID Act (No.1 of 2011).

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.

The Civilian Secretariat for Police Service (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 has, at both national and provincial level, established Compliance Forum which is aimed at improving reporting between the SAPS and the Secretariats. Additionally the CSPS with the assistance of the Provincial Secretariats 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 station.

2. OBJECTIVE

The objective of the report is to provide information on the management of non-compliance by the SAPS management and the provision of a victim friendly service by local police stations.

3. SCOPE

The report covers information on members that have failed to comply with the DVA and National Instructions as supplied by the SAPS. It also provides information on members that have been recorded as domestic violence offenders and those that have reported to be victims of domestic violence. The report covers the period, 01 April 2018 up to 30 September 2018.

4. LIMITATIONS

Information contained in this report is limited to the records that were received from the SAPS for the reporting period (April – September 2018). Information on number of disciplinary processes conducted for the reported non-compliances was not captured on the report submitted by the SAPS.

The CSPA initiated a census project to monitor all the 1147 police stations in the financial year 2018/19, in collaboration with provincial secretariat. The processing of the census data was finalised in the beginning of march 2019 and will thus be reported in the next DVA report.

5. NON COMPLIANCE

5.1. FAILURE BY MEMBERS TO COMPLY WITH THE DVA AND NATIONAL INSTRUCTIONS

In terms of the DVA, failure by SAPS members to comply with the duties as outlined in the DVA and National Instruction constitute misconduct. The Station Commander is

expected to institute disciplinary action against such a member unless an exemption has been granted by the CSPA¹. The National Instruction further requires the Station Commander to submit monthly returns of non-compliance cases received and to register such cases on the SAPS 508 Register.

5.1.1. Non- Compliance reports 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. Table 1 below provides a summary of reported non-compliance against SAPS members according to information received from the SAPS National Office.

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

NAME OF PROVINCE	TOTAL NUMBER OF NON –COMPLIANCE REPORTED
EASTERN CAPE	0
FREE STATE	27
GAUTENG	0
KWAZULU- NATAL	14
LIMPOPO	2
MPUMALANGA	3
NORTHERN CAPE	0
NORTH WEST	2
WESTERN CAPE	73
TOTAL	121

As reflected in table 1 above, a total of 121 non-compliances were reported from six provinces, with EC, GP and NC submitting a zero return on non-compliance. The highest number of non-compliances was reported in the WC with 73 cases, followed by the FS with 27 and KZN with 14.

Out of these 121 non-compliances, the following types were reported

Table 2: Nature of non-compliance complaints

NATURE OF COMPLAINTS	NUMBER OF COMPLAINTS
Failure to complete SAPS 508(a) and 508(b)	105
Failure to record DV incidents in the Occurrence Book /Pocket Book	8
Failure to do 1st level of inspection	1
Failure to arrest the perpetrator	2
Failure to open a case	2
Failure to file Protection Order	1
Failure to render a satisfactory service to the victim	2
Total	121

¹ Section 18 (4) (b) – Domestic Violence Act (116 of 1998)

Administrative non-compliance is a serious challenge for the SAPS with a total of 114 reported cases relating to this nature. Failure to fully comply with the administrative obligations like proper recording and filing raises a question in terms of the ability to effectively provide services to the complainants. A domestic violence incident is not considered a criminal offence until there is a breach or violation of a Protection Order whereby a domestic violence case can be registered in the CAS. Proper recording of recorded incidents therefore assist 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 should the victim opt to open a criminal case.

The last administrative non-compliance was 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.

The remaining seven (7) cases related to failure of the SAPS members to actually provide the required service to the victims. Out of this 7, there were two cases that related to failure to arrest a perpetrator and the other 2 that related to failure to open a case, 2 where the complainants were not satisfied by the service provided the SAPS members. Considering the scourge of violence in our country, these operational non-compliances do not reflect positively to SAPS response to domestic violence. The DVA National Instructions obliges all police members to fully provide assistance to victims of domestic violence.

All the seven (7) operational non-compliances were reported from the WC. Additionally, the WC also recorded the highest number of the administrative non-compliance with 64 cases. The WC adopted a zero tolerance to DVA non-compliance by SAPS members and this is reflected in the high levels of reporting from this province. However, even though the high reporting is appreciated, the province has not displayed what remedial actions are in place to reduce the high level of non-compliance. The anticipated outcome is to see the non-compliance cases going down

with more members fully complying based on the intervention put in place jointly by the SAPS and the Provincial Secretariat.

5.2. MEMBERS AS OFFENDERS OF DOMESTIC VIOLENCE

Despite having the responsibility to serve and protect, some SAPS members are found to be perpetrators of domestic violence. The DVA requires that a domestic violence offender should be subjected to the same process irrespective of whether they are a police official or not. Table 3 below reflects the number of members that were reported to have been offenders of domestic violence.

Table 3: Number of members who are offenders of DV

PROVINCE	NUMBER OF MEMBERS	NUMBER OF POLICE STATIONS
EC	7	5
FS	24	16
GP	4	3
KZN	15	9
LP	3	3
MP	0	0
NC	4	4
NW	3	3
WC	79	60
TOTAL	139	103

There was a total of 139 members that were reported to be offenders of domestic violence and these members were based in 103 police stations. WC had the highest number of reported members with 79 from 60 police stations. This was followed by the FS with 24 members from 16 police stations. There was no station in MP that reported any member to have been an offender during this reporting period.

The Firearms Control Act, 60 of 2000, stipulates that a person against which an incident of domestic violence has been reported, may be declared unfit to possess a firearm by the Registrar through the Sec 102 inquiry. This therefore implies that for every reported domestic violence incident, a section 102 inquiry must be conducted to determine a person's fitness to possess a firearm.

5.3. MEMBERS AS VICTIMS OF DOMESTIC VIOLENCE

Domestic violence is a problem which not only affects the underprivileged, poor and the unemployed, but cuts across races, occupational and social classes. Police officers are not immune to the scourge. Table 4 below reflects the number of members

that have been reported to be victims of domestic violence across all provinces during the reporting period.

Table 4: Number of members who are victims of DV

PROVINCE	NUMBER OF MEMBERS	NUMBER OF POLICE STATIONS
EC	3	3
FS	15	10
GP	2	2
KZN	2	1
LP	2	2
MP	0	0
NC	0	0
NW	2	2
WC	36	24
TOTAL	62	44

There was a total of 62 members that were reported to have been victims of domestic violence between 01 April and 30 September 2018, and these members were based in 44 police stations. WC had the highest number of members with 36 from 24 police stations and was followed by the FS with 15 members from 10 police stations. There was no station in MP and in NC that reported any member to have been a victim of domestic violence during this reporting period.

In a study conducted by Wetendorf (2007), where she explored the issue of women police officers as victims of domestic violence, the following was noted; “The hierarchical structure of the police profession requires unquestioning obedience and submission to authority—typically male authority—and requires female officers to remain conscious of their “place” in the organization. Insubordination is a serious offence, one that is sure to prompt swift and certain discipline. In an abusive relationship, the officer’s abuser demands unquestioning obedience and submission to his authority. He is likely to remind her that though she may wield the professional authority of a police officer on the job, she has no such status in their relationship. If she refuses to submit to his control, he feels justified in punishing her accordingly.”²

With this culture of the police institution and the stressful nature of policing, it is therefore not surprising to find police members who are victims of domestic violence. The main challenge for the SAPS, then becomes the ability and readiness to effectively respond and assist these members.

² Wetendorf D, (2007). Female Officers as Victims of Police-Perpetrated Domestic Violence

6. STATUS OF VICTIM FRIENDLY SERVICES

The Victim Empowerment National Instruction stipulates that every police station must have a Victim Friendly Room (VFR) to interview victims of crime in privacy. Should a police station not have a VFR, arrangements should be made to interview the victim in private, by using the interview cubicles or an available office³. This is part of the SAPS strategy to ensure a victim friendly service to all victims of gender based violence. The status of availability of VFR's is indicated in Table 5, below.

Table 5: Location of SAPS VFRs

Location of VFR	Total per category
Police stations	975
Satellite police stations	37
Contact points	1
International Airports	2
FCS Units	38
Railway police stations and coaches	4
Total per province	1057

A total of 1057 VFR's are available across the country. The SAPS has 176 Family violence, Child protection and Sexual offences (FCS) units nationally. Having only 38 VFR's based in these units is a reflection of the under resourcing trend which has been observed within these units. In 2018, there was a public outcry from the civil society around the poor resourcing of the FCS units which was triggered by the unavailability of rape kits in a number of units. The study conducted by the CSPS in 2014 also identified the poor resourcing of the FCS units as one of the challenges that seems to undermine their good performance in dealing with crimes against women and children.

Table 6, below reflects the availability of VFRs at police station level per province

Table 6: Availability of VFRs at police station level

Province	EC	FS	GP	KZN	LP	MP	NC	NW	WC	TOTAL
No. of Police Stations	196	110	142	184	103	89	91	83	150	1148
Police stations with VFR	153	80	135	153	85	82	70	67	150	975
Satellite police stations with VFR	0	10	2	1	1	1	1	0	21	37
Availability of VFR at police station level										1012

³ Section 8 (2&3) – Victim Empowerment National Instruction, No 2 of 2012

According to the table above, there are 173 police stations that do not have VFRs in the country. WC is the only province that has VFRs in all of its 150 police stations with an additional 21 based in satellite police stations. According to SAPS records, all police stations are able to offer a victim friendly service to all victims through use of alternative victim friendly spaces where there is no VFR. This assertion, however does not relieve the SAPS of its responsibility to ensure that all police stations have a functioning and well-resourced VFR.

7. CONCLUSION

SAPS Compliance with the DVA remains a challenge that requires attention of the management. There are provinces that are still either not reporting or under reporting on non-compliance, which makes it difficult to actually measure the scale of non-compliance. In the past years, the SAPS at National level had issued a number of directives and instructions in a bid to improve compliance by members at police station level. Amongst these is a directive that was issued in 2013 which emphasized that disciplinary steps must be taken against Station Commanders who fail to manage and monitor implementation of DVA in their respective station. Despite these initiatives, members continue to fail to fully comply with the DVA and National Instructions. This can be attributed to a challenge in monitoring the implementation of these national directives.

The number of members that are offenders of domestic violence raises a concern in terms of SAPS ability to effectively respond to domestic violence. A question can therefore be raised as to whether the SAPS have proper measures in place to deal with members that are offenders; are there serious consequences for these members and are there support systems to help identify and preventing perpetrating considering the nature and environment under which the police work.

Another area of concern is the number of members that are victims of domestic violence. A question that comes to mind is the ability of these member to effectively assist a victim of domestic violence without projecting their own fears and trauma, when they are placed at the CSC. This is an area that the SAPS needs to manage effectively.

Linked to the above is the issue of placement of these identified members (both offenders and victims). It becomes a double edged sword for the SAPS as removing these members from the CSC, considering the numbers, means further straining the already minimal resources. On the other hand, keeping them at the frontline may compromise service delivery due to the risk of projecting their own feelings to the domestic violence complainants.

8. RECOMMENDATIONS

- 8.1. Implementation of national directives on management of non-compliance by station commanders needs to be enforced.
- 8.2. The SAPS needs to develop a strategy or policy on managing / handling members that are offenders of domestic violence and those that are victims.
- 8.3. There needs to be serious consequences for members who are offenders as this is an area where the SAPS seems to be still doing very little.
- 8.4. A plan to provide VFRs for police stations that do not have must be shared with the CSPS.