

DOMESTIC VIOLENCE ACT (DVA) MONITORING REPORT
Assessment Report on the status of DVA compliance by the SAPS
from October 2023 to March 2024.



**civilian secretariat
for police service**

Department:
Civilian Secretariat for Police Service
REPUBLIC OF SOUTH AFRICA

OFFICIAL SIGN-OFF

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TABLE OF ACRONYMS

ACRONYM	DESCRIPTION
CSPS	Civilian Secretariat for Police Service
DVA	Domestic Violence Amendment Act 14 of 2021
FCA	Firearms Control Act, No 60 of 2000
NI	DVA National Instruction No 7 of 1999
SAPS	South African Police Service
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 (DVA) 116 of 1998 as amended by the Domestic Violence Amendment Act 14 of 2021 (hereinafter referred to as the Act) has been put in place to afford victims of violence in a domestic relationship with protection. The definition of a victim of domestic violence, according to the DVA does not only refer to women or married people. The definition is inclusive of 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 Act (2021) 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, spiritual abuse and others.

In ensuring full and proper implementation of the DVA, numerous obligations are placed by the DVA 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 have 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 fails to comply with the obligations placed by the DVA or the National Instruction on Domestic Violence. 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 Civilian Secretariat for Police Service Act, (No 2 of 2011), require the CSPS to monitor and evaluate the SAPS' compliance with the DVA and as obligated by Section 18(5)(c) of the DVA, to submit reports to Parliament on SAPS non-compliance with the DVA every six months. The CSPS is further mandated to make recommendations to the police service on disciplinary procedures and measures with regard to non-compliance with the DVA.

This report provides information on non-compliance by SAPS members during the period 01 October 2023 to 30 March 2024. The information provided was analysed in order to assess the number of non-compliances reported and disciplinary steps taken.

The management of members who were reported as perpetrators and victims of domestic violence was also assessed.

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 October 2023 – March 2024.

3. SCOPE

Information contained in this report is based on data received from the SAPS on the total number of reported DVA non-compliances by SAPS members, members that are offenders and members that are victims nationwide. The report also covers how these matters were managed by the SAPS. It is important to note that the CSPA's information on oversight will not be included as during the period under review police station Census was underway and the findings were documented in the Census report finalised at the end of the 2023/24 financial year.

4. FINDINGS

4.1 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 CSPA.

The first form of non-compliance is when SAPS members fail to comply with the DVA by not fulfilling the administrative obligations (administrative non-compliance) as outlined in the National Instructions and in the DVA. The second form of non-compliance is 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 Instruction. Police Stations need to ensure that such information is included in the consolidated monthly return. Table 1 below outlines the number of members who failed to comply with the DVA and the National Instruction.

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

Province	Oct' 23	Nov' 23	Dec' 23	Jan' 24	Feb' 24	Mar' 24	Total
Eastern Cape	0	0	0	0	0	0	0
Free State	0	1	10	8	1	3	23
Gauteng	1	0	0	0	0	0	1
KwaZulu-Natal	0	0	0	0	0	0	0
Limpopo	0	0	0	0	0	0	0
Mpumalanga	0	0	0	0	0	0	0
Northern Cape	0	0	0	0	0	0	0
North West	0	0	0	0	15	0	15
Western Cape	4	0	3	4	6	3	20
Total	5	1	13	12	22	6	59

As reflected on table 1 above, a total number of 59 members were reported to have failed to comply with the DVA and the National Instruction for the period October 2023 to March 2024. There has been an increase of eight (8) members as compared to the second semester of 2022/23 (October 2022-March 2023), where only 51 members were reported to have failed to comply with the obligations of the DVA and NI. This increase might be attributed to more stations being knowledgeable about the processes of reporting and dealing with non-compliance. This might further be attributed to the ongoing support (capacitation) given to the stations.

The 59 members were reported from four (4) provinces, namely FS, GP, NW and WC. The other five (5) provinces reported zero (0) non-compliance for the period under review. The highest number was reported in FS with 23 members, followed by WC with 20 and NW (15). The province with the least members reported was GP with only one (1) member. Even though some provinces reported zero for non-compliances, it does not really suggest that there is no non-compliance committed at police stations, because it has been an observation over the years through CSPS oversight visits and educational awareness campaigns that some stations are still not knowledgeable about the non-compliance processes and members of the public also do not know their rights about where and when to report when they did not receive a satisfactory service from a police station. This then calls for a collaborative intervention by both the SAPS and the CSPS to capacitate and strengthen stations on the non-compliance processes and to educate community members on their rights to a satisfactory service at a police station. Table 2 below illustrate the number and categories of non-compliance by SAPS members recorded during the period under review.

Table 2: Categories of non-compliance by SAPS members

Categories	EC	FS	GP	KZN	LP	MP	NC	NW	WC	Total
Failure to complete SAPS 508(a) and 508(b)	0	21	1	0	0	0	0	15	12	49
Failure to assist a complainant to open a case	0	1	0	0	0	0	0	0	0	1
Failure to serve a protection order	0	0	0	0	0	0	0	0	9	9
Failure to render a satisfactory service to the victim	0	2	0	0	0	0	0	0	0	2
Failure to report a DV incident where a member is involved	0	1	0	0	0	0	0	0	0	1
Total number of complaints received	0	25	1	0	0	0	0	15	21	62

Table 2 above illustrates the number of both the administrative and operational non-compliance committed by SAPS members in the four provinces. It should be noted that the number of complaints is more than the number of members because there was more than one (1) complaint against two (2) members in Free State and one (1) member in Western Cape. Hence there is a total number of 62 complaints against 59 members.

Administrative non-compliance continues to be a major challenge within the SAPS with majority (49) of the reported complaints relating to this nature of non-compliance and only 13 relating to operational non-compliance. Administrative non-compliance involves 49 cases of failure to complete SAPS 508(a) and 508(b). The 13 operational non-compliances reported, involves one (1) failure to assist a complainant to open a case, nine (9) cases of failure to serve a protection order, two (2) cases of failure to render a satisfactory service to the victim and one (1) case of failure to report a domestic violence incident where a member is involved. Operational non-compliance can be harmful to the safety of the victim as the provisions of the DVA might be the only escape from the abuse. Failing to serve a protection order, in particular an interim protection order which becomes effective once served can deprive the victim protection and opportunity to end abuse. Additionally, failure to assist a complainant to open a case and failure to render a satisfactory service denies the victim fair access

to justice. This operational non-compliance is a clear indication that there are still existing weaknesses within the SAPS's response to domestic violence.

Paragraph 17 (1) of the National Instruction states that "a failure by a member to comply with an obligation imposed in terms of the Act or National Instruction constitutes misconduct". Disciplinary proceedings must therefore be instituted in accordance with the Discipline Regulations against a member who fails to comply with an obligation imposed in terms of the Act or National Instruction. Should the station commander be convinced after investigation that the member involved should not be subjected to disciplinary processes, the commander must apply to the Civilian Secretariat for Police Service for an exemption through a report stating reasons for application of the exemption.

Table 3: Disciplinary steps taken

Categories	EC	FS	GP	KZN	LP	MP	NC	NW	WC	TOTAL
DS1: Remedial steps (after initial interview-not serious)	0	2	0	0	0	0	0	15	11	28
DS2: Verbal warning (after initial interview)- not serious	0	16	0	0	0	0	0	0	8	24
DS3 Written warning (not serious)	0	2	0	0	0	0	0	0	1	3
DS3A: Final written warning	0	2	0	0	0	0	0	0	0	2
DS4A: Departmental investigation (serious) under investigation	0	0	0	0	0	0	0	2	0	2
DS4B: Departmental investigation (serious): Guilty state sentence	0	0	0	0	0	0	0	0	0	0
DS4C: Departmental investigation (serious): Not Guilty	0	0	0	0	0	0	0	0	0	0
Application for exemption	0	0	0	0	0	0	0	0	0	0
Total	0	23	1	0	0	0	0	15	20	59

The table 3 above reflects the departmental steps taken by station commanders to address the above-mentioned non-compliances. Disciplinary proceedings were initiated for all 59 members reported for non-compliance with departmental steps taken; the table further shows that there was no application for exemption submitted. There were two (2) members who were subjected to DS4A which is a serious misconduct and requires departmental investigation. The remaining 57 were considered non serious and the steps ranged from DS1 which is remedial steps for 28 members, 24 members were subjected to DS2 which is verbal warning, three (3) were

subjected to DS3 which is written warning and two (2) were subjected to DS3A which is final written warning.

Despite DVA implementation challenges, the SAPS has improved on management of non-compliance as disciplinary action is initiated on all reported non-compliances and steps are taken. Similar to the same reporting period in 2022/2023 (October 2022-March 2023) where disciplinary proceedings were initiated, and steps were taken for all 54 reported non-compliances reported. This is an encouraging step and indication that SAPS management takes non-compliance seriously and this may influence or encourage members to comply with the obligations outlined in the Act and NI.

4.2 SAPS MEMBERS AS PERPETRATORS OF DV

SAPS is an institution responsible for protecting victims of domestic violence and the institution to which victimisation is formally disclosed. However, police officials are also exposed to domestic violence victimisation, perpetration and its consequences. The core objective of the SAPS as per Section 206 of the Constitution (Act 108 of 1996) is to prevent, fight and investigate crime, to maintain public order, to protect and secure the people of the Republic and their property, and to uphold and enforce the law. Despite having this responsibility to serve and protect, some SAPS members were 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. The figure 1 below shows the number of members reported as perpetrators of domestic violence in all provinces for the period under review.



Figure 1: Number of members who are alleged DV offenders

There were 232 members from 129 police stations who were reported to be perpetrators of domestic violence, with the highest number of members reported in FS (86), followed by WC (80) and GP (24). The provinces with the least members reported are NC (1), MP (2) and EC (5). Based on the SAPS records, there is no indication whether disciplinary proceedings were initiated against the reported members in line with SAPS disciplinary Regulations. With the continuous rise of members reported as perpetrators of domestic violence, it calls for SAPS management to intervene with the hope to curb the rapidly growing numbers. Disciplinary action taken against all perpetrators can serve as a deterrent to prospective offenders.

In dealing with members that are perpetrators of DV, the Firearms Control Act (FCA) 60 of 2000 requires a Section 102 inquiry to be held to determine the fitness of a domestic violence offender to carry a firearm.

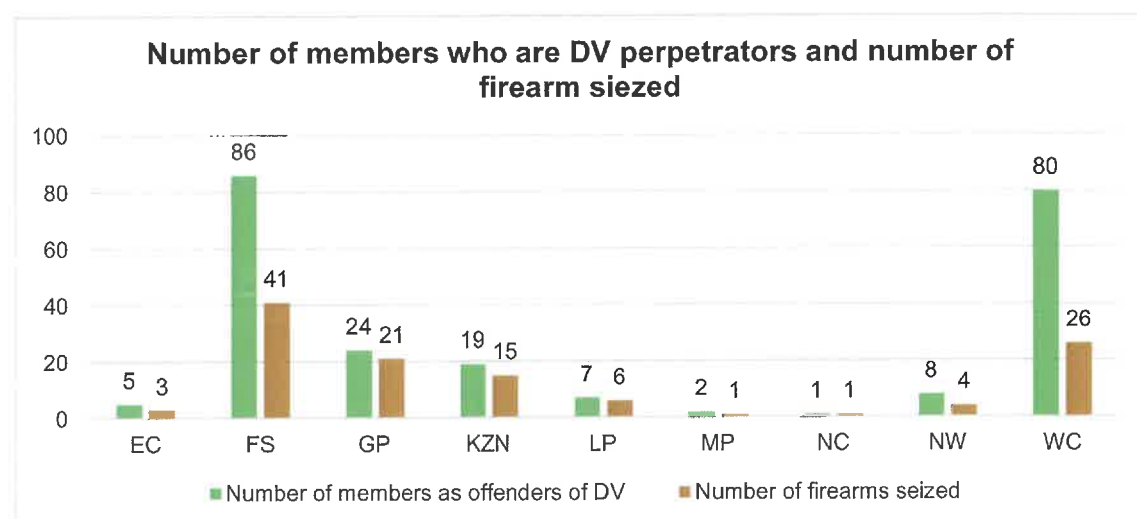


Figure 2: Firearms seized

There were 118 firearms seized from 232 members, as shown on the figure 2. A total of 109 firearms were allocated to members on their personal inventory (SAPS 108) and nine (09) firearms that were seized are owned privately by members. As reflected in figure 2, most firearms were seized in FS (41) followed by WC (26) and GP (21). Provinces with the least seized firearms are MP and NC with 1 each and, EC with 3. However, from the 118 firearms seized from the 232 members, there is no indication on whether a Section 102 was conducted. It should be noted that for the reporting period, 123 members were not in possession of SAPS personal inventory firearms (SAPS 108).

4.3 SAPS MEMBERS AS VICTIMS OF DOMESTIC VIOLENCE

Domestic violence is experienced across all age categories, ethnicity, occupation and gender in different ways, however exposure to and experience of domestic violence might differ from one occupation to the other. In policing, the exposure and experience might affect a person's perception and response to domestic violence. When police officers become victims, the line between protector and victim may create a unique set of barriers that may negatively affect those seeking assistance. Figure 3 below reflects the number of members that have been reported to be victims of domestic violence for the reporting period.

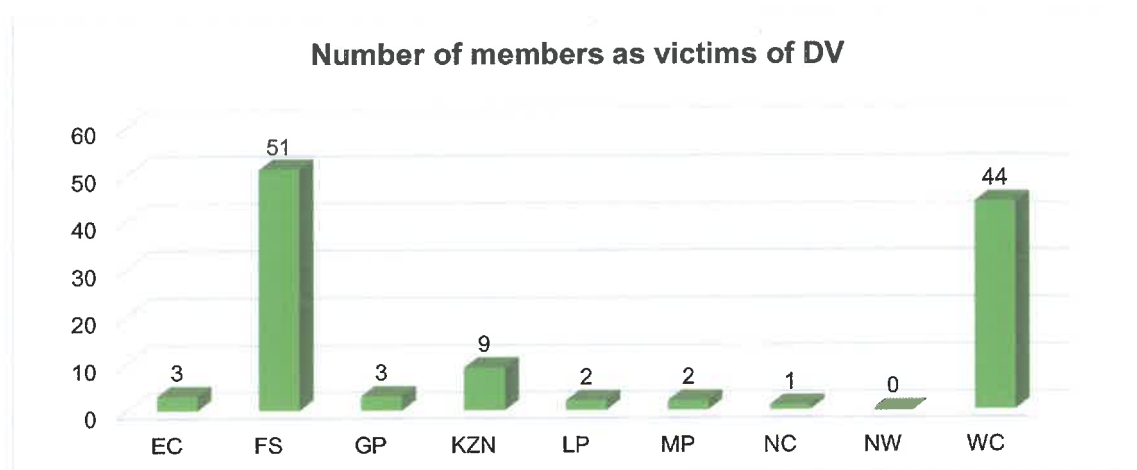


Figure 3: Number of members as victims of DV

There were 115 members who were reported to be victims of domestic violence from 66 police stations across all nine provinces. Majority of members were reported in FS (51), followed by WC (44) and KZN (9). The provinces with the least members reported as victims are NC (1), EC and GP with 3 each and LP and MP with (2) members each. There were no members reported as victims in NW province. The continuous rise and high reporting of members as victims of domestic violence is an indication that SAPS needs to strengthen the provision of psychosocial services through the available systems within the organisation and also to strengthen partnerships with external service providers in order to refer members who are not willing to participate in internal processes. There were 42 more members reported as victims during the current reporting period as compared to the same period in 2022/2023 with 73.

5. CONCLUSION

It is commendable that the SAPS has instituted disciplinary proceedings on all members who were reported to have failed to comply with the obligations of the DVA and NI for the period under review. This is positive effort and a clear indication that the SAPS management is making an effort to deal with non-compliance incidents reported. However, the growing numbers of non-compliance cases reported, points out that there are still weaknesses and gaps in the administrative implementation of the Act and NI. Of concern is that there are still instances where members fail to serve a protection order (Operational Non-compliance), this is a serious misconduct given that an interim protection order only becomes effective once served.

Of more concern, is the increasing number of members reported as offenders and victims of domestic violence. Regarding dealing with members as offenders, the SAPS fulfilled the obligations of the FCA as firearms of members reported were seized. However, there was no indication whether disciplinary proceedings were initiated against those members and whether Section 102 enquiry was conducted to determine the fitness of members to carry a firearm.

6. RECOMMENDATIONS

6.1 Stations to be capacitated on the requirements and implications of non-compliance.

6.2 SAPS visible policing to continue with capacity building at police station regarding the requirements of administrative and operational non-compliance.

6.3 SAPS to initiate disciplinary proceedings for every member reported as a perpetrator of domestic violence.

6.4 Section 102 should be conducted for all members whose firearms were seized, to fully comply with the FCA.

6.5 SAPS to strengthen the provision of psychosocial services to members reported as victims of domestic violence.