

**POLICE OFFICERS' EXPERIENCES OF POLICING  
DOMESTIC VIOLENCE IN THE WESTERN CAPE  
PROVINCE**

by

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## **DECLARATION**

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## ABSTRACT

Domestic violence is one of the most prevalent forms of violence that police officials encounter on a daily basis. The effects of domestic violence are far-reaching and long-lasting. Globally, the police function as “gatekeepers” in terms of domestic violence victims’ access to the criminal justice system. Intervening in domestic violence has become a controversial process, as domestic violence is a very complex issue, which has been compounded by misunderstandings, stereotyping and myths.

Since 1998, police officials in the South African Police Service (SAPS) are expected to promote redress and prevent crimes against women and children through multifaceted approaches, including the building of trust between police officials and citizens. Research reports indicate that victims of domestic violence are hesitant to approach SAPS for assistance, for various reasons. Police officers’ personal experiences of policing domestic violence are however largely unexplored.

Consequently, the goal of this research was to gain insight into the experiences and perceptions of frontline police officials, who have to provide maximum protection to victims of domestic abuse in terms of the Domestic Violence Act 116 of 1998. To achieve the goal and objectives of the study, a combination approach was followed, in which the qualitative research approach dominated and the quantitative approach was applied to a lesser degree. An exploratory study guided by a literature review and a phenomenological approach was conducted at seven (7) police stations in the Western Cape Province. Twenty-eight (28) frontline police officials’ subjective experiences and perceptions of their policing of domestic violence were determined through in-depth interviews based on a questionnaire.

Data were analysed by means of thematic analysis, and presented as narratives focusing on four major themes relating to the phenomenon under investigation.

The conclusions drawn from the study indicated that the pervasive police culture, lack of insight by some police officials, and their continuous adherence to an

outdated concept of domestic violence contribute to the weakening implementation of current domestic violence legislation, leaving police officials frustrated, hopeless and powerless to effect real change. The overall finding of the study is that, in practice, little has changed because of inconsistencies in the actions of the police and society as a whole in rejecting and condemning the brutalisation and intimidation of women and children. What is most unfortunate, however, is that SAPS has yet to accord the same weight to domestic violence in practice as it does to other violent crimes. In order for law enforcement to be effective, law reforms need to be accompanied by fundamental changes in attitudes, values and behaviours on the part of SAPS and all relevant role players, including the communities SAPS serves.

The study concludes with recommendations on how to improve police officials' ability to provide maximum protection to victims of domestic violence, as well as to provide programme developers and policy makers in SAPS with information on which to base policy decisions regarding training interventions and national instructions aimed at the policing of domestic violence.

## OPSOMMING

Huishoudelike geweld is een van die algemeenste vorme van geweld wat polisiebeamptes daaglik teëkom. Die gevolge van huishoudelike geweld is verreikend en langdurig. Wêreldwyd dien die polisie as “hekwagters” wat slagoffers van huishoudelike geweld se toegang tot die strafregstelsel betref. Ingryping in huishoudelike geweld is deesdae ’n omstrede proses, want huishoudelike geweld is ’n uiters komplekse saak wat deur misverstande, stereotipering en mites vererger word.

Sedert 1998 word daar van polisiebeamptes in die Suid-Afrikaanse Polisie (SAPD) verwag om deur middel van meervlakkige benaderings, onder meer die opbou van vertroue tussen polisiebeamptes en burgers, herstel te bevorder en misdaad teen vroue en kinders te voorkom. Navorsingsverslae toon dat die slagoffers van huishoudelike geweld om verskeie redes huiwerig is om die SAPD om hulp te nader. Tog is navorsing oor polisiebeamptes se persoonlike ervarings van die polisiëring van huishoudelike geweld baie skaars.

Hierdie navorsing was dus daarop toegespits om insig te bekom in die ervarings en opvattinge van frontlinie-polisiebeamptes, wat ingevolge die Wet op Huishoudelike Geweld 116 van 1998 maksimum beskerming aan slagoffers van huishoudelike geweld moet bied. Om die doel en oogmerke van die studie te bereik, is ’n kombinasie benadering gevolg waarin die kwalitatiewe navorsingsbenadering hoofsaaklik, en die kwantitatiewe benadering in ’n mindere mate, toegepas is. ’n Ondersoekende studie is aan die hand van ’n literatuuroorsig en ’n fenomenologiese benadering by sewe (7) polisiestasies in die provinsie Wes-Kaap onderneem. Agt-en-twintig (28) frontlinie-polisiebeamptes se subjektiewe ervarings van, en opvattinge oor, hul polisiëring van huishoudelike geweld is deur middel van diepte-onderhoude op grond van ’n vraelys bepaal.

Data is met behulp van tematiese analise ontleed en word aangebied as narratiewe wat oor vier hoofemas met betrekking tot die studieonderwerp handel.

Die gevolgtrekkings van die studie doen aan die hand dat die heersende polisiekuiluur, sommige polisiebeamptes se gebrek aan insig, en hul voortgesette navolging van 'n verouderde konsep van huishoudelike geweld tot die al hoe swakker toepassing van huidige wetgewing oor huishoudelike geweld lei. Dit laat polisiebeamptes gefrustreerd, moedeloos en magteloos om werklike verandering teweeg te bring. Die algehele bevinding van die studie is dat weinig in die praktyk verander het weens teenstrydigheid in die optrede van die polisie en die samelewing in die geheel om geweld en intimidasie teenoor vroue en kinders te verwerp en te veroordeel. Straks méér betreurenswaardig is dat die SAPD nog nie in die praktyk dieselfde gewig aan huishoudelike geweld as aan ander geweldsmisdade heg nie. Wetstoepassing sal slegs doeltreffend wees indien regshervorming gepaardgaan met grondliggende veranderinge in houdings, waardes en gedrag deur die SAPD en alle tersaaklike rolspelers, met inbegrip van die gemeenskappe wat deur die SAPD bedien word.

Die studie sluit af met aanbevelings oor hoe polisiebeamptes beter in staat gestel kan word om maksimum beskerming aan die slagoffers van huishoudelike geweld te bied, en oor die bemagtiging van programontwikkelaars en beleidskrywers in die SAPD met inligting as grondslag vir beleidsbesluite oor opleidingsintervensies en nasionale instruksies rakende die polisiëring van huishoudelike geweld.

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# CHAPTER 1

## INTRODUCTION AND BACKGROUND OF THE STUDY

This chapter introduces the milieu and importance of the study as well as the research methodology and approach adopted in this study. The sampling method, data collection, data analysis, data verification, ethical considerations and the limitations of the research will be discussed. An introduction of the chapters following is also presented.

### 1.1 RATIONALE FOR THE STUDY

Domestic violence is one of the most prevalent forms of violence that police officials have to deal with on a daily basis. Next to murder, attempted murder and rape, it is one of the four major crime challenges faced by the police in South Africa (Polsa Bulletin, 2003). What is however most unfortunate, is that the South African Police Service (SAPS), has yet to accord the same weight to domestic violence as they do to other violent crimes. Domestic violence is perpetuated by men and women and both genders are victims. Ammons (2005) however emphasise that the overwhelming majority of domestic violence is however committed by men against women. The South African Police Service Annual report for 2010-2011 indicated that women and children accounted for 100% of rape victims, 64, 2% of common assault victims, 83, 3% of indecent assault cases and 59% of contact crime. From these statistics one can infer that the current laws and policies designed to ensure adequate protection have not had the desired effect. As these types of abuse mostly happen in the privacy of the home, which is supposed to be a refuge for women and children, one has to concur with the claim made by a number of researchers (Danis & Lee, 2003; Stephens & McDonald, 2002; Sullivan & Hagan, 2005) that the abusive home environment is often one of society's most dangerous institutions. One can thus conclude that although hidden from public view, domestic violence places women and children at much greater risk in their home than any form of violence committed on the street.

Research studies (Polsa Bulletin, 2003; Singh, 2001; Victor-Zietsman, 2007) have produced differing and sometimes contradictory statistics, but all studies reinforce the impression that violence against women is endemic in South Africa. Official statistics in relation to the real incidence of domestic violence are notoriously difficult to establish largely because of under reporting. Organisations like Rape Crisis, Advice Desk for Abused Women, People Opposing Women Abuse (POWA) and Coordinated Action for Battered Women, however found that those incidents of domestic violence that do get reported, still greatly underestimate the extent of this phenomenon as only a small portion of this violence tends to get reported to the police. Another reason for the latter is that there is presently no specific criminal law for policing of domestic violence, thus it cannot be officially defined as a crime – instead incidents of domestic violence are included amongst other cases like common assault, attempted murder, assault with grievous bodily harm or pointing of a fire-arm. Although no specific statistics exist, reported incidents of domestic abuse are on the increase.

The effects of domestic violence are far reaching and long lasting (Barret & Wolfer, 2001). Beyond the monetary costs, children who grow up witnessing or experiencing family violence may suffer potentially detrimental consequences including anger, withdrawal symptoms and lack of social skills (Corcoran, Stephenson, Perryman & Allen, 2001). Children who are witnesses are also more susceptible to involvement in violent relationships when they are adults (Horton & Williamson, 1988; Jolin & Moose, 1997). Keeping in mind that more domestic violence incidents are committed by men against women, as well as the fact that the law enforcement field is still predominantly male presents both victims and the police with a dilemma of trust. Generally the police, as the first social institution to deal with incidents of domestic violence, have a fundamental role in assisting victims of domestic abuse to follow through on their decision to seek recourse for the abuse (Corcoran *et al.*, 2001; Glanz & Spiegel, 1996). The police not only represent state policy but also act as an important link to both the prosecution process and to the provision of victim services in a community. Thus, as “gatekeepers” to the criminal justice system, the SAPS play an important role in shaping victims’ initial experiences of it. Although, for many domestic violence victims, the police might be a last resort it is often the first point of

contact when the victim decides to take that first bold step towards seeking redress for the abuse.

In South Africa, law enforcement and social policies regarding the expected responses to domestic violence incidents have changed over the last few years. The Domestic Violence Act 116 of 1998 (Republic of South African Government Gazette No 19537, 1998) was adopted because of (i) international obligations and the obligations imposed by Chapter 2 of the Constitution (1996), (ii) the realisation that victims of domestic violence are amongst the most vulnerable members of society and the fact that the remedies previously available to victims of domestic violence have proved to be ineffective. The effectiveness of any Act however depends on how well it is implemented and whether it is possible to use it to the advantage of the vulnerable groups identified.

Since December 1999, SAPS members attended various training courses and workshops focussed on training regarding victim empowerment, the implementation of the Domestic Violence Act, No 116 of 1998, as well as the National Instructions regarding police duties in relation to the Act. This training was presented by in-house social workers, non-governmental organisations (NGOs) and functional police officers. These training initiatives aimed to ensure the effective implementation of the Domestic Violence Act, No 116 of 1998 (including the subsequent National Instructions) and the sensitising of police officials to the needs of domestic violence victims. Irrespective of changes in policy and the training efforts of the SAPS, incidents of reported domestic abuse however remains unacceptably high and victims who approach the police for help are reportedly dissatisfied with the attitudes and practice responses of police officers (Parencee, Artz & Moul, 2001).

Studies abroad (Corcoran *et al.*, 2001; Finkelhor, 1988; Gelles, 1999) have pointed out that intervening in domestic violence is a very complex and controversial process as the many potential needs of the victim may be beyond the scope of typical law enforcement tasks. This consequently necessitates multiple intervention approaches and strategies by police officers and external support networks such as social workers. In South Africa attempts have been made to put strategies in place to have

an integrated approach to support victims of domestic violence, but it seems that there are problems with the implementation thereof, specifically the cooperation between police officers and internal and external support networks (Artz, 1999).

The Consortium on Violence against Women has been monitoring the implementation of the Domestic Violence Act, No 116 of 1998 since April 2000. The overwhelming impression gained from the police and court personnel interviewed (during this monitoring process) is that police officers feel that they are expected to address domestic violence with no proper guidance, support or resources to do so (Parenzee *et al.*, 2001). Mayhall, Barker and Hunter (1995) held a similar view as they found that even though the police were expected (by society) to risk their lives, to discharge their duties, they received little support for such actions. It appears that the lack of support coupled with the trauma of having to deal with domestic violence on a daily basis, consequently resulted in feelings of helplessness and hopelessness among those who are expected to provide protection against violence.

Most of the literature describing police responses to incidents of domestic violence is critical of police practice. In particular, there is a widespread view that police officers are, for a variety of reasons, reluctant to arrest perpetrators (Dobash & Dobash, 1979; Field & Field, 1976; Patterson, 1979). There are a few studies of police responses to domestic violence in London that explicitly make police behaviour an empirical question (Berk & Loseke, 1981; Buzawa & Austin, 1993; Worden & Pollitz, 1984). These studies suggest that officers are more likely to arrest in cases of domestic assaults if the victim prefers it or if the abuser acts negatively towards police officers.

The few local research reports that give insight into the policing of domestic violence in South Africa (Padayachee, 1989; Pretorius, 1984; Van der Hoven, 1989) indicate a high level of dissatisfaction with police assistance and negativity towards the response of police officers. Since the 1980's there has been an increasing tendency amongst South African scholars to study domestic violence (Glanz & Spiegel, 1996) and much has been written in the past few years about the role and responses of the police in domestic violence (McKendrick & Hoffmann, 1990; Parenzee *et al.*, 2001).

These scholars however found that as far as empirical work is concerned, particularly with regard to police officers' personal experiences of policing domestic violence, this entire field is largely unexplored. Pretorius (1987), Padayachee (1989) and Parenzee *et al.* (2001) appealed to researchers to undertake thorough and in-depth investigations into the perceptions and experiences of police officers in addressing domestic violence, as few in-depth empirical studies have been undertaken to date.

## **1.2 PROBLEM STATEMENT AND FOCUS**

According to Grace (1995) the police in most countries traditionally handled domestic violence "disputes" as a personal and private family matter. However, since 1998 police officers in South Africa are expected to better help redress and prevent crimes against women and children through multifaceted approaches, including the building of trust between police officials and citizens. Even though law enforcement, social policies and police training regarding the expected response to domestic violence incidents have changed over the last years, the South African Police Service (SAPS) are continuously criticized by the public and the media for ineffective handling of domestic violence incidents and for placing a low priority on domestic violence calls (Parenzee & Smythe, 2003; Roosendaal, 2002; Smith & Nel, 2002; Vetten, 2005).

There is also a widespread belief and reports that victims of domestic violence are hesitant to approach the police for assistance as they allegedly have to relate their experiences to busy, indifferent and often judgmental law enforcement officials (Human Rights Watch/Africa, 1995). Allegations against South African police include poor response times to reported domestic violence incidents; reluctance to arrest the abuser; devaluing of victims; siding with abusers and undermining of the Domestic Violence Act (Parenzee & Smythe, 2003; Roosendaal, 2002; Smith & Nel, 2002; Vetten, 2005). This reported allegations and beliefs may be true in certain cases and false in others. Even if it has been grossly blown up, perceptions create an environment where victims believe they cannot trust the police system, which are supposed to protect them from further abuse.

Police officers on the other hand feel that they receive no proper guidance or support

from the leadership of the organisation (SAPS) or from communities they serve in the discharging of their duties – thus leaving them feeling hopeless, helpless and also employing “police alternatives” for dealing with domestic violence incidents. Parenzee *et al.* (2001) is of the opinion that criminal justice personnel (which include police officers) seem to be struggling to fulfil the tasks expected of them under the Domestic Violence Act, No. 116 of 1998.

An inquiry by the Parliamentary Monitoring Group, South Africa found that an audit of three hundred-and-nine police stations completed by the Independent Complaints Directorate (ICD) during the period January to December 2010 revealed that only twenty-six of the police stations audited were compliant with the Domestic Violence Act prescripts (Parliamentary Monitoring Group, 2010). Findings of the ICD included shortcomings in record keeping, unavailability of copies of the Domestic Violence Act, No. 116 of 1998 and National Instruction 7/1999 at police stations, insufficient training of police officers, poor record keeping, negative attitudes and poor commitment of police officers towards victims of domestic violence.

Over the last few years, a number of South African research studies (Artz, 1999; Singh, 2003; Smith & Nel, 2002; Vetten, 2007) as well as international research studies (Buzzawa & Austin, 1993; Logan, Shannon & Walker, 2006; Sinden & Stephens, 1999) have been embarked on in terms of police response to this phenomenon. Absent from the available South African literature on domestic violence are studies that analyse police descriptions of their own perceptions and experiences of attending to domestic violence incidents obtained through in-depth interviews with police officers. Instead, inferences about police interpretations of domestic violence have been drawn from international research studies of police practices and attitudes in terms of the policing of this phenomenon (Buzzawa & Austin, 1993; Logan *et al.*, 2006). These existing research reports reflect data collected through various methods and from other sources, including surveys of victims about their experiences with the police, content analysis of police records as well as surveys of the attitudes of police officers in dealing with domestic violence incidents. The necessary research that focuses on police officers’ definitions of domestic violence and its associated situation still needs to be explored.

According to Sinden and Stephens (1999) learning about the perceptions (and experiences) the police have of domestic violence is crucial for understanding their response to domestic violence incidents. The focus of the research study will be the in-depth exploration of police officers' experiences and perceptions of policing domestic violence.

### **1.3 THEORETICAL POINTS OF DEPARTURE**

No singular recognized causal theory for domestic violence could be found in literature. There are however a number of diverse theories explaining domestic violence. The main theories explaining the domestic violence phenomenon are social psychological theories, sociological theories and psychological theories (Lewis, 1999). These theories have distinct practical implications, as any intervention embarked on is influenced by the prevailing theoretical understanding of the determinants of the problem (Buzawa & Buzawa, 2003; Schoeman & Ferreira, 2002). In light of this, the existence of domestic violence will be explored against the background of the four most cited theories of partner abuse i.e. the Feminist theory, Culture of violence theory, Sex-role theory and the Inter-generational transmission theory. This is critical as the reasons identified for one partner's abuse, may differ from another partner's explanation of the causal factors of this phenomenon.

The Feminist theory is the most cited theory of abuse today and is the most widely used perspective in the treatment of battered women (Bograd, 1998). The Culture of violence theory, although similar to the feminist theory explanation, takes a broader approach to explaining partner abuse as it emphasizes the overwhelming acceptance of violence in society (McCall & Shields, 1986). The Sex-role theory (Walker, 1985) like the culture of violence theory, is very similar to feminist theory as it propose that traditional sex-role socialization has the effect of socializing girls to become victims and boys to become perpetrators of violence. The Inter-generational transmission theory emphasises the impact of violence observed or experienced during childhood on adulthood (Kempe, Silverman, Steele, Droegemueller & Silver, 1962; Milner, Robertson & Rogers, 1990; Sternberg, Lamb & Greenbaum, 1993). Although there are similarities in these theories there are also distinct differences for

explaining the existence and perpetuation of domestic violence in society today.

In light of the above, the Cycle of violence will also be used as a theoretical point of departure as it aims to provide a better understanding of the cyclical nature of abuse in domestic violence relationships.

The training of social workers, unlike that of police officers are uniquely designed to ensure that they understand and are able to intervene effectively in domestic violence situations, focussing on coping mechanisms, positive relationships and empowerment (Carlson, 1997). For the purposes of this study, the four most cited theories of partner abuse i.e. the Feminist theory, Culture of violence theory, Sex-role theory and the Inter-generational transmission theory as well as the Cycle of violence, different forms of abuse and the existing misconceptions will be used as the theoretical frame of reference for this study. These theoretical points of departure will be discussed in detail in Chapter 2.

#### **1.4 GOAL, OBJECTIVES AND RESEARCH QUESTION**

The goal of the research was to gain an understanding of the experiences and perceptions of frontline police officers, who have to serve and protect victims of domestic abuse in terms of the Domestic Violence Act, No. 116 of 1998.

To achieve this goal, the following objectives were formulated:

- To present a situational analysis of the nature and extent of domestic violence within a social context.
- To describe the response of the South African Police Service to domestic violence phenomenon within a historical context.
- To discuss service delivery to victims of domestic violence within a legislative context.
- To investigate the perceptions and experiences of frontline police officials in terms of their roles and responsibilities as stipulated in the Domestic Violence Act, No116 of 1998 as well as reflecting on the implication of these perceptions and experiences for capacity building of police officials and subsequent improved service delivery to victims of domestic violence.

The research question in this study is:

What are the subjective experiences and perceptions of frontline police officers regarding their service delivery to domestic violence victims as determined by the Domestic Violence Act, No. 116 of 1998?

## **1.5 RESEARCH APPROACH AND METHODOLOGY**

The following section aims to provide a description of the research methodology used in the investigation.

### **1.5.1 Literature review**

Fouché and Delport (2011:134) state that it is necessary to conduct a literature review in order to gain a clearer understanding of the nature and meaning of the research field. An extensive literature review of South African and international literature was conducted on the policing of domestic violence. The latter was embarked on in order to refine the research topic and to establish a frame of reference from which to proceed with the research and to form a basis for comparison of the research findings. Literature from a social work perspective as well as from related disciplines like industrial sociology, organisational theory, industrial and social psychology, organisational behaviour and management provided valuable insights. The purpose was to determine how other researchers have theorised and conceptualised the research issues, what they have found empirically and what instruments they have used (Mouton, 2001:6). In this way insight was gained into the relevant concepts and theories investigated in previous studies and these were applied selectively to avoid duplication. This enquiry can thus be described as deductive (Delport & De Vos, 2011:48).

The literature review in this study was an ongoing process that focussed on the following aspects: the nature of domestic violence, historical perspective of the policing of domestic violence and service delivery to victims of domestic violence. Local and international literature were utilised in order to gain a broader understanding of the research field. Articles, journals, books and audio visual material relevant to the subject were obtained from different sources. Numerous international and South African bibliographies were researched and these proved to be a valuable resource. As a qualitative approach was followed, the literature review

was utilised in the form of a literature control after the data were collected.

## **1.5.2 Research approach**

According to Leedy (1993) the research design provides the overall framework for collecting data and provides a format for the detailed steps in the study. Fouché and Delport (2011:73) emphasises that the research design must reflect a logical strategy for data collection. The research design is discussed here in order to indicate the research approach adopted in the execution of this study. The researcher opted to utilise a research design which will ensure (i) efficiency in that it will yield the knowledge sought; (ii) simplicity and cost effectiveness in the way the knowledge is acquired; and acceptance by all parties involved (participants and the SA Police Service). Creswell (2007:2) describes the term design as “...the entire process of research from conceptualising a problem to writing a narrative....”

### **1.5.2.1 Qualitative research**

A combination approach was followed wherein the qualitative research approach dominated and the quantitative approach was applied to a lesser degree. This was done as the researcher was interested in developing an in-depth understanding of police officers' experiences and perceptions of policing domestic violence and the meaning they make of that experience. Fouché and Delport (2011:65) state that in its broadest sense, the qualitative research paradigm focus on research that draws on participants' accounts of meaning, experience or perceptions and produces descriptive data in the participants own spoken or written words. Thus, by making use of in-depth interviews concerning their lived experiences, the researcher is enabled to “enter” the world of the participants. These in-depth interviews provide the researcher with an opportunity to identify the participants' beliefs and values that underlie the phenomenon. A phenomenological approach was thus adopted in the qualitative part of the study. Creswell (2003:15) describes the phenomenological approach as a methodology whereby the researcher, through various descriptions provided by participants in a research study is able to identify the “essence” of human experiences concerning a phenomenon. It can thus be inferred that through this phenomenological study attempts will be made to gain a better understanding of the perceptions, perspectives and understanding of frontline police officers in terms

of their experiences in the policing of domestic violence incidents. Fouché and Shurink (2011:316) and Whittaker (2009:9) state that phenomenology “...*aims to understand and interpret the meaning that subjects give to their everyday lives*”. This implies that the social phenomenon (domestic violence) will be explained through understanding the way that research participants make sense of their world.

Allan (1991) maintains that a core feature of any qualitative approach is that satisfactory explanations of social activities require a substantial appreciation of the perspectives, culture and “world views” of the participants. According to Burgess (1984) in qualitative studies, prominence is given to understanding the actions of participants as the basis of their active experience of the world and the ways in which their actions arise from and reflect back on experience. Henning (2004:3) elaborates that in qualitative, as in quantitative research, the researcher wants to know what happens, how it happens and why it happens. Studies of this type describe social reality (Cole, 1976). Thus, within these approaches the participants will be seen as individuals whose own frame of reference needs detailed investigation before their actions can be adequately interpreted and explained. In using qualitative methods, the aim is to discover, not test explanatory theories (Padgett, 1998).

Qualitative research produces descriptive data i.e. people’s own written or spoken words (Bogden & Taylor, 1975). According to Mouly (1978), by identifying present conditions and pointing to present needs, descriptive studies provide the researcher with information on which to base sound decisions. In this study, qualitative research methodologies were employed to describe and explain the perceptions and experiences of police officers in the Western Cape. Strauss and Corbin (1990) maintain that studies that attempt to uncover the nature of people’s experiences with a social phenomenon, naturally lend itself to qualitative types of research. Patton (1990) emphasises that the most effective strategy to ascertain the in-depth perspectives of others is through qualitative interviewing. Thus, the ways in which participants perceive their world and create meaning from their experiences, can best be tapped by a qualitative approach. In this study the quantitative approach was mainly applied in analysing the profile of participants as illustrated by the figures and

tables in Chapter 5 of this study.

### **1.5.3 Research design**

To achieve the goal and objectives of the study, an exploratory study was initially done. Babbie (2007:90) as well as Williams and Grinnell (1990:304) maintain that exploratory research can be conducted when a researcher is examining a new interest and desires a better understanding or higher level of knowledge of the subject at hand where little is known about the field of study. According to Arkava and Lane (1983:191) and Fouché and De Vos (2011:95) it is possible for a study to be exploratory at the outset and on completion of the assessment of empirical data the same study can be termed descriptive. In accordance with this statement and considering the lack of research on the personal experiences of police officers in terms of the policing of domestic violence in South Africa, this study can on completion be described as exploratory-descriptive.

#### **1.5.3.1 Population and sampling**

Strydom (2011:223) describes a population as the total set out of which individuals for the study is chosen. Neuman (2003:541) held a similar view as he defines a population as “...*the large group of many cases from which a researcher draws a sample*”. In this study, the population from where the sample was drawn is the total number of frontline police officers, who are responsible for the policing of domestic violence at the top five so called “gender based violent crime police stations” in the Western Cape. An additional two rural police stations in Southern Cape Region were also included in this study as the aforementioned five police stations were all situated in urban areas of the Western Cape Province. Denzin and Lincoln (2000:370) maintain that qualitative researchers seek out individuals, groups and settings where the specific processes being studied are most likely to occur. These stations were identified by the Provincial Police Commissioner of the Western Cape Province, as priority stations for the addressing of crimes against women and children because of the consistently high crime statistics.

A significant amount of theory indicates that researchers only have to observe or interview some of the people or phenomena involved in order to gain a usable idea

of the characteristics of the population (Arkava & Lane, 1983:157). The key reason for sampling is to obtain a valid, unbiased representation of the population. Thus, in line with qualitative studies, the sample size of this study is relatively small, compared to sample sizes in quantitative studies. Four (4) police officers from each of the seven identified police stations (i.e. a total of twenty-eight (28)) participants) were selected as the representative sample for the study. Mark (1996:107) states that the sample has to be very similar to the population from which it is drawn, in terms of the variables that are relevant to the study for it to be considered to be representative. Thus, it can be concluded that the sample needs to include phenomena that are representative of the whole in that it mirrors the population from which it is drawn.

The central characteristic of qualitative research is purposive sampling (Creswell, 2007:125). A particular case is chosen in purposive sampling because it embodies some aspects that are significant to the study (Strydom & Delpont, 2011:392). From this it can be inferred that participants are selected that can purposefully inform an understanding of the research problem of the study. In this kind of study, the qualitative researcher therefore rejects random or representative sampling for purposive or theoretical sampling. Lincoln and Guba (1985:202) elaborated on the differences between purposive sampling and conventional sampling. They stated:

*"It [purposive sampling] is based on informational, not statistical, considerations. Its purpose is to maximize information, not facilitate generalization. Its procedures are strikingly different too, and depend on the particular ebb and flow of information as the study is carried out rather than on priori considerations. Finally, the criterion invoked to determine when to stop sampling is informational redundancy, not statistical confidence level".*

By making use of purposive sampling, the researcher increases the scope or range of the data as well as the likelihood that multiple realities will be uncovered (Strydom & Delpont, 2011:392). In case study research, the question of how well a particular case was chosen for the sample is "...usually answered by assertion rather than evidence" (Bahr & Caplow, 1991:92). The particular cases chosen are justified as

important or relevant to the research rather than as representative. Thus in this study, a non-probability sampling procedure common in qualitative studies, was applied with purposive sampling and snowballing techniques being used to select participants. Purposive sampling was utilised as the researcher had predetermined criteria for the sources of data that would be suitable for the study (Grinnell & Unrau, 2008:153). The researcher thus used her own judgement, directed by the selection criteria for inclusion, to determine who amongst the available police officers at the identified police stations would be selected and included for the sample. The selection of participants was based on their role, experience and knowledge of the phenomenon. Strydom and Delpont (2011:327) advise researchers to “...*critically think about the parameters of the population before choosing a sample size*”. For this study a total of twenty-eight (28) police officers were identified, based on the following criteria for inclusion:

- completion of basic training;
- practical experience in policing of domestic violence incidents;
- geographical area of the communities they served; and
- availability of participants.

The snowball sampling technique (Strydom & Delpont, 2011:393) was used when some participants of the sample referred the researcher to other potential participants who were then approached by the researcher until the desired sample size of twenty-eight (28) participants was reached. In this way, specific individuals, with practical experience in the policing of the particular phenomenon have been identified for inclusion in this study. As indicated by Tutty, Rothery and Grinnell, (1996:82) data saturation was attained during the in-depth interviews of the twenty-eight (28) research participants.

#### **1.5.4 Method of data collection**

Data collection refers to the “how” part or more specifically, the procedures used to gather information from the sample population. Prior to initiating the research, permission to embark on this study was obtained from the office of the Provincial Commissioner (*Appendix 1*). The researcher began the data collection process by initiating contact via email with potential participants (frontline police officers) at

identified stations to invite suitable candidates to participate in the study (*Appendix 2*). During this initial contact phase, the researcher introduced herself to the potential participants and explained the purpose and methodology of the research study. In this way, the researcher facilitated the readiness of police officers to participate in the study. Appointments for interviews were set up and confirmed with potential participants. On the day of the scheduled interviews, participants were requested to sign a consent form and were informed about the confidential nature of the interviews and transcripts. Thus, written, uncoerced, informed consent was obtained from willing participants (*Appendix 3*). All interviews were audio taped, to enhance data collection. Padgett (1998) found that audio recordings allow the interviewer to concentrate on what is being said as it is more inclusive than note taking. Spradley (1979) and Ely, Anzul, Friedman, Garner and Steinmetz (1991) noted that interviewing cannot be divorced from observing interaction and noting what is happening while the researcher is in the field. In this study, in-depth interviewing will be primary and observation secondary.

The method of data collection was guided by the phenomenological approach as previously elaborated on in this chapter. The results of the study therefore reflect a general description of the phenomenon as seen through the eyes of those who have experienced it first-hand. The latter were attained mainly through naturalistic methods of study and the analysing of interviews and interactions with participants. The researcher collected large amounts of qualitative data mainly through in-depth interviews and participant observation. Strydom (2011:276) emphasise that the phenomenological approach is important in participant observation as the researcher tries to gain insight into the manifestations of reality. The primary research instrument used for data collection was an interview schedule. Face-to-face interviews were utilised because it has the following advantages as described by Van Vuuren and Maree (1999:281):

- Interviews normally have high response rates.
- In-depth information can be derived from semi-structured interviews and probing.
- Participants can ask for clarification if they are unclear or do not understand a question.



In-depth, face-to-face interviews were conducted to elicit the individual perspectives of frontline police officers. These interviews were used to extract information from the participants. In this way, the researcher sought to explore, describe and explain the nature of the experiences and perceptions of police officers regarding the policing of domestic violence from the point of view of police officers themselves and to determine the impact of these perceptions and experiences on their ability to provide maximum protection to victims of domestic violence. These interviews allowed the researcher to gain a better understanding of the closed world of police officers and the systems they function in. Patton (1990:278) stated “...*qualitative interviewing begins with the assumption that the perspective of others is meaningful, knowable, and able to be made explicit*”. The primary advantage of the interview is its flexibility, which permits the researcher to pursue leads that appear fruitful, to encourage elaboration of issues that need clarification from the participant or address questions which the participant has avoided and to clarify questions that the participant has misunderstood (Mouly, 1978). Thus, the interview allows the researcher to follow what may turn out to be very significant ideas. The latter statements clearly indicate that this type of in-depth study (of the perspectives of others), naturally lends itself to qualitative research.

Before interviewing began, this approach required the outlining of the issues that were to be explored with each participant (Patton, 1990). An in-depth exploration of available literature prepared the researcher to define concepts, identify issues and assess data. Bogden and Biklen (2007:169) found that reading through literature of the area being studied will enhance analysis. Thus emerging issues were developed into an interview guide, which served as a basic checklist during the interview to ensure that all relevant topics were covered (Cole, 1976; Patton, 1990). Thus, questions about each issue identified were included.

Three interviews were conducted during June 2011 as a pilot study in order to get a clear indication as to whether the selected procedure was the most suitable for the purposes of the investigation and also to amend the interview guide as needed. The interview guide was refined and expanded as a consequence of these pilot interviews. The participants, who formed part of the pilot study, discussed their

perceptions and experiences in more depth than originally anticipated. As a result these areas were expanded as an additional interview question was added and others were omitted as it was redundant. The interview schedule used to gather data from the twenty-eight (28) participants is included as *Appendix 4*. Findings of the pilot study were not included in the data analysis. The researcher proceeded with the interviews with participants who were willing to participate in the study.

All interviews were conducted according to the guidelines indicated by Greeff (2011:343). Prior to the interview, the researcher memorised the interview guide in order to allow her more time during the interview to concentrate more on what the participant was saying. Thus, she only occasionally monitored the coverage of the interview guide. Every effort was made by the researcher to secure a private venue to ensure a comfortable environment where participants could feel safe enough to share his/her experiences and perceptions. Participants were guided through the interview and the researcher did not necessarily ask every question on the schedule as this depended on the flow of the conversation. However, a watchful balance was maintained in order not to deviate too far from it. Broad open ended questions were used to engage participants in a conversation and to probe attitudes and perceptions of participants. In the interviews the researcher explored how prepared (psychologically and educationally) police officers were for the responsibility of providing maximum protection to victims of domestic violence. The thoughts, feelings and functioning of police officers, who participated in any form of domestic violence training provided by the SAPS, were also explored. In this way, the researcher attempted to uncover the present challenges police officers have to face, in the rendering of services (as well as ensuring of maximum protection) to victims of domestic abuse, in communities they serve. During the respective interviews, opportunity was provided to participants to ask questions regarding uncertainties or to express feelings resulting from the interview. As a registered social worker and skills development facilitator, the researcher was able to debrief participants where necessary.

Permission was requested from participants to tape record all interviews. An explanation was provided to them regarding the importance of this method of data collection for preventing misunderstanding and misinformation of data obtained. Patton (1990:347) stated that there is no substitute for the actual words spoken by interviewees. Thus, the tape recordings were subsequently transcribed verbatim into textual data after each interview to make it amenable to analysis. The twenty-eight (28) participants were interviewed over a period of seven months from December 2011 to June 2012. All interviews took place at the participants' station and each interview lasted for one (1) hour to an hour-and-a-half. Prior to the start of each interview session, the researcher reflected with the participants on the purpose of the study and emphasised their rights as participants in the study, specifically their right to withdraw from the study at any point. The face-to-face interview process facilitated rapport between the subjects and the interviewer allowing subjects to speak anonymously and at length about their experiences and perceptions of policing domestic violence. All interviews were conducted in English or Afrikaans to accommodate all participants as it was either their first or second language. In addition to the interview schedule, the researcher also observed non-verbal behaviours on the part of the participants in an attempt to monitor and determine whether what the participant was saying verbally was consistent with what they were saying non-verbally.

Hand-written field notes were kept relating to emotional responses, body language and voice tone of participants during interviews and observation for later reflection on the emerging themes. These notes included the researcher's personal thoughts, impressions and evaluations. The qualitative interview transcripts and field notes have been examined thoroughly for incidence of phenomenon. The nature of the data collection (as is the case in all qualitative research studies), was narrative and thematic rather than numerical and statistical. As a "thick description" of the data of the interviews was obtained during this research process, this study can also be viewed as descriptive.

### 1.5.5 Method of data analysis

Bogden and Biklen (2007:153) concisely sum up the process of data analysis as follows:

*“Data analysis is the process of systematically searching and arranging the interview transcripts that you accumulate to increase your own understanding of them and to enable you to present what you have discovered to others. Analysis involves working with data, organizing them, breaking them into manageable units, synthesizing them, searching for patterns, discovering what is important and what is to be learned and deciding what you will tell others”.*

Thus, data interpretation and analysis also involves making sense out of text, looking for patterns and integrating what different people have said.

The process of data analysis was only embarked on by the researcher once the data collection process reached the point of data saturation. Rubin and Rubin (1995) cited in Mouton (2001), found that data analysis begins during the interview process and the preliminary analysis suggests that the researcher should reformulate her questions to focus on the central themes as the interview progresses. Following the interview, the researcher undertakes a more detailed, formal analysis, where new themes and concepts are identified. Schurink, Fouché and De Vos (2011:397) describe data analysis as *“...the process of bringing order, structure and meaning to the mass of collected data...”* and describe it as *“...messy, ambiguous, time-consuming, creative and fascinating...”*.

The researcher analysed the data collected according to Tesch’s approach. Tesch (1990, in De Vos 2011) outlined the following principles for researchers to apply in qualitative analysis:

- Analysis need to occur parallel with data collection. This therefore needs to be an integrated process.
- Analysis has to be systematic and comprehensive.
- Analysis need to include a “reflective” activity that will result in analytical notes that guide the process.

- Data should be divided into relevant and meaningful units. Although data are segmented, it should remain whole. The analyst thus needs to concentrate on small “homogeneous” pieces of data at one time. However, the analysis process begins by reading all of the data to achieve a sense of the whole.
- Data segments should be categorized according to an organizing system. Topical categories need to be formed as a result of reading and examining the data. This process is inductive.
- The goal is to discern conceptual similarities, to refine the discriminative power of categories and to discover patterns. Thus, the main tool is comparison.
- Categories need to be developed from the data during the course of the analysis and has to be modified as new data are obtained. Thus, categories should remain flexible.
- The final goal of qualitative data analysis is the emergence of a larger, consolidated picture.

In light of the above principles and procedures outlined, the process applied by the researcher for qualitative data analysis, was to firstly, transcribe the tape-recorded interviews on the same day of completion of each interview or the following day to ensure that initial impressions were captured. The analysis of the data was then based on the process outlined by Ely *et al.* (1991). This process adopted by the researcher was as follows:

- (i) A study and re-study of raw data (transcriptions) was embarked on to familiarise herself with all data collected. Here the purpose was for the researcher to immerse herself into the elements of the interviews as a whole. Schurink *et al.* (2011:409) agree that reading the data over and over again is valuable and critical for developing detailed and personal knowledge.
- (ii) Initial impressions were noted on the transcripts. These notes assisted the research analyst in moving from the data to a more conceptual level. This was done by editing the notes after each interview.
- (iii) The researcher thoroughly perused one script at a time, noting the underlying meaning of the data. This step was repeated with the remaining scripts and a list of different potential topics were identified. Topics were sorted by dividing

transcribed data into tentative coding categories and themes. The codes were noted next to the relevant text on the scripts. Topics with similar themes were organised in columns reflecting major topics, unique topics and others. Certain words, phrases, patterns of behaviour and participants' way of thinking emerged. Grinnell and Unrau (2005:410) describe the identifying of salient themes, recurring ideas or patterns of belief that link people and settings together as the most intellectually challenged phase of data analysis. Developing a coding system involved the tedious process of searching through the data for regularities and patterns as well as topics the data covered. Marshall and Rossman (1999:154) emphasize that this can be a very challenging, complex, creative, ambiguous and enjoyable process.

By making use of interviewing techniques like probing and clarifying, the researcher tried to ensure that she understood what participants meant when they shared their subjective experiences (Greeff, 2011:343; Silverman, 2005:16). The researcher recorded these preliminary coding categories. The coding categories provided a means for the researcher to sort descriptive data so that the relevant material could be separated from the data. The use of coloured markers to note differing themes, sub-themes and categories assisted in the collating of the research findings. Whittaker (2009:94) describes a theme as "...*something important about the data in relation to the research question and represents some level of patterned response or meaning within the data set*". Themes were identified by looking at the overall goal and objectives of the study as well as the research question and regularities found in shared experiences of the participants.

- (iv) The coding categories and themes were refined by examining the results of steps (ii) and (iii) and returning to the database of step (i). Using this organizing scheme, any new categories that emerged, were coded in the same fashion.
- (v) The researcher grouped data under the still-tentative categories and revised the categories as follow:
  - Data within each category was reviewed for statements that was particularly revealing, expressive or stood out as potential themes.
  - Themes were listed on separate colour coded index cards for each

category identified.

- Grouping of similar or related statements using descriptive wording to categorize topics. Here, emerging patterns and central tendencies were also identified in order to get a general sense of the phenomenon being studied.
- (vi) Verbatim narratives were selected to link the raw data to the categories.
- (vii) The researcher studied the results of step (vi) and revised it where necessary. This was done to ensure the best fit between themes, sub-themes and categories (Schurink *et al.*, 2011:402).
- (viii) Theme statements were written for each participant by linking data in and across categories.
- (ix) Findings about each participant were integrated into the researcher's own interpretation of the data.
- (x) Findings were compared for commonalities, patterns, differences and uniqueness.

Data was analysed by means of thematic analysis also known as discourse analysis to present the findings of the study. The findings were analysed so that emergent themes regarding police officers' experiences and perceptions of policing domestic violence, could be used to identify their competency gaps and training needs. The researcher summarised and interpreted the findings in the research report by comparing it to existing research referred to in the literature review.

Lastly, the data was then presented in narratives focussing on each of the themes identified and its relation to the phenomenon under investigation. The themes, sub-themes and categories will be discussed in detail in Chapter 5 of this study. Recommendations with regard to the latter will be made to in-house social workers and other support services responsible for the development and capacity building of police officers in the South African Police Service, in order to ensure more effective and efficient service delivery with regard to domestic violence. These recommendations will be elaborated on in Chapter 6 of this study.

The above approach raises certain limitations in terms of the research design, data collection, data analysis and the researcher. These specific limitations of the study will be explored more fully in section 1.7 of this chapter.

### **1.5.6 Method of data verification**

Schurink *et al.* (2011:419) and Kretting (1990:214) emphasise that all research needs to answer to norms that reflect the criteria against which the trustworthiness of the study can be evaluated. These norms which include credibility, transferability, dependability and confirmability establish the “truth value” of the study i.e. its applicability, consistency and neutrality.

#### **1.5.6.1 Credibility/Authenticity**

The credibility of a qualitative study will determine the strength of the study. Credibility is regarded as the alternative to *internal validity*. An in-depth data description within the limitations of the population and theoretical framework is an indication of the validity of the study. It is therefore imperative that the parameters of the study be adequately stated by the researcher to place boundaries around the study. The parameters of the population (Chapter 1) and the theoretical frameworks (Chapter 2, 3 and 4) were set out clearly in the respective chapters and the data collected was described in detail (Chapter 5), which added to the credibility of the study. Schurink *et al.* (2011:419) state that credibility/authenticity is deemed to be the most important criteria.

Internal validity deals with how the researcher’s findings match reality. It addresses the concern of whether researchers are observing and measuring what they think they are measuring. Merriman (1998) emphasises that it is the researcher’s task to present an honest account of how informants view themselves and their experiences. Merriman (1998) identified six strategies for ensuring internal validity. The researcher applied three of these strategies. The first strategy was member checks where the researcher took data and interpretations back to the participants and enquired from them whether the results were plausible. The second strategy involved peer examination. The researcher asked colleagues to comment on the findings as they emerged. The third strategy dealt with the researcher bias. Here, the

researcher disclosed her personal life experience, particularly as it pertains to her experience and perceptions regarding providing assistance to victims of domestic violence.

### **1.5.6.2 Transferability**

Transferability is regarded as the alternative for *external validity or generalizability*. External validity is concerned with how generalizable the results of a study are (Merriman, 1998). This refers to the degree to which research findings could be transferred to other settings and populations. Lincoln and Guba (1985:288) suggest that researchers think about the 'transferability' of the results obtained from qualitative data. Merriman (1998) suggests three ways a researcher can improve the generalizability or transferability of findings:

- (i) provide a rich, thick description so that anyone interested in transferability has a basis of information to make this judgement;
- (ii) establish the generality of the case, that is, describe how typical an individual is compared with others in the same class, so that readers can make comparisons with their own situations; and
- (iii) conduct cross-case analysis, that is, analysis across multiple cases that builds an integrated framework.

This is where the researcher can return to the theoretical frameworks to indicate how data collection and analysis have been guided by concepts and models. In this way the theoretical parameters of the research are set. The findings of this study could to some extent be transferred to other research done on domestic violence. The recommendations made could also be useful to SAPS human resource professionals and the SAPS management cadre as well as external role-players like social workers.

### **1.5.6.3 Dependability**

Dependability is regarded as the alternative for *reliability* wherein attempts are made by the researcher to account for the changing conditions of the chosen phenomenon being researched. Merriman (1998:170) states that reliability in research designs is “...based on the assumption that there is a single reality which if studied repeatedly will give the same results”. Thus, reliability refers to the extent to which one’s findings can be replicated.

However, since qualitative research seeks to explain the world as those in the world see it; there are many interpretations of what is occurring and thus, no “benchmark by which one can take repeated measures and establish reliability in the traditional sense” (Merriman, 1998:170). Since reliability cannot be applied to qualitative research in the traditional sense, Lincoln and Guba (1985:288) suggest that the researcher focus on the “dependability” or “consistency” of the results obtained from qualitative data. The idea is that given the data collected, the results make sense – they are consistent and dependable. Merriman (1998) describe three techniques to ensure that results are dependable:

- (i) The investigator can explain the assumptions and theory behind the study, his/her position in terms of the group being studied, the basis for selecting informants and a description of them as well as the social context from which the data were collected;
- (ii) Triangulation; and
- (iii) Leaving an audit trail which means that the investigator describes in detail how data was collected, how categories were derived and how decisions were made so that other researchers can confirm the findings of the study by following the trail of the researcher.

The researcher used two of the above techniques i.e. (i) and (iii) to ensure reliability. The research was conducted at police stations in rural and urban areas. Even though appointments for interviews were set up with specific individuals beforehand, unpredicted conditions and additional work responsibilities at two of the police stations required that other respondents had to be identified at the respective police

stations. The goals and objectives of the study were however not affected by the changes and different conditions.

#### **1.5.6.4 Conformability**

Conformability is the alternative for *objectivity*. The conformability of a study implies that the findings of the research can be confirmed by another party. The verbatim responses indicated in Chapter 5 of this study reflect the exact words of participants without any amendments made by the researcher. The themes and sub-themes identified in this same chapter have a literature control indicating the level of conformity with previous research. All of the research participants were given the option of reading through their transcribed interviews and they were satisfied that it was a true reflection of the interview with them (Schurink *et al.*, 2011:421).

Glaser and Strauss (1967) state that objectivity is attained when the researcher is immersed in the world of the participant but is also detached enough to be able to think theoretically about it. It can thus be inferred that it becomes essential for the researcher to distance herself from her data in the report in order to avoid emphasising her own perceptions and opinions. As an employee of the South African Police Service, the researcher is immersed in the world of police officers. Even though the researcher is employed as a registered social worker in the Support Service environment and is not performing functional duties, she is a commissioned officer in the South African Police Service. In this dual role of researcher and police officer, objectivity issues were central when analysing and thinking theoretically about the data. Glaser (1978) maintains that the personal involvement of the researcher in the area under investigation does not necessarily hurt the objectivity of the study as the researcher's personal involvement can lead to a more complete understanding of the topic under consideration.

Objectivity of the findings was protected through a conscious effort to keep raw data carefully separated from the subjective interpretations of the researcher. All interviews were carefully recorded and transcribed verbatim. Memos were made during the period of data collection which monitored the researcher's personal reactions and subjectivity. The researcher systematically looked out for subjectivity

throughout the data collection process. Peshkin (1988) found that through this consciousness, the researcher can possibly escape the confusing biases that subjectivity causes, while attaining the singular perspective its special persuasions promise. Thus, knowing what the researcher was inclined to see and more importantly, not see, she was able to consciously attend particularly to those biases and escape their possible influence. This was attained by actively seeking evidence as ideas began to emerge and categories were formed. In addition, objectivity was ensured through the systematic inclusion of all data in the analysis and by consistently using and returning to the raw data, that is the participants' own words

## **1.6 ETHICAL CONSIDERATIONS**

Ethics is discussed in this chapter with the purpose of clarifying the ethical context within which the study was carried out. Ethics refer to the moral quality of a cause of action i.e. the guidelines and standards of behaviour employed by the researcher during the research process. Williams, Tutty and Grinnell (1995:30) emphasize that the ethical issues faced by researcher in social sciences are pervasive and complex as data should not be obtained at the expense of human beings. Presently, there is no specific ethical code in South Africa for social work researchers (Strydom, 2011:128). As a registered social worker, the researcher was however bound by the general Ethical Code advocated by the South African Council for Social Service Professions. The study was approved by the Ethical Committee of Stellenbosch University and the researcher has completed and handed in all necessary documentation. In light of the above, the elementary question is how ethical was the study.

The researcher considered the following ethical issues identified by Strydom (2011:115) in conducting the study.

### **1.6.1 Avoidance of harm to participants**

A key ethical rule of social research is that it must bring no harm to participants (Babbie 2007:27). Dane (1990:44) cautions that even though emotional discomfort (unlike physical discomfort) of subjects is often more difficult to predict and to determine, it has more far-reaching consequence for participants. Thus, the

researcher ensured that participants were thoroughly informed beforehand of the potential impact of the study. The aim and processes of the study was explained to police officers who participated in the study. They were also briefed about their rights as participants and this providing them with the opportunity to withdraw from the study at any time should they feel uncomfortable. Strydom (2011:115) states that an ethical obligation rests with the researcher to protect participants from physical and/or emotional harm.

### **1.6.2 Informed consent**

Informed consent is described by Thomas and Smith (2003:21) as “voluntary participation”. Obtaining written informed consent from each participant (prior to the interviews took place) was a necessary condition for participation in the study (Hakim, 2000:143). Participants were fully advised of the nature and the goal of the study as well as the interview process to be followed. Verbal consent was obtained from participants for the recording of the interviews. The need for audio recording was explained to eliminate anxiety of some interviewees. The latter ensured the full knowledge and cooperation of participants whilst simultaneously alleviating possible stress, aggression, opposition or insecurity of the participants. The need for accurate and complete information was emphasised by the researcher in order for participants to have a holistic understanding in order for him/her to make an informed decision regarding their possible participation. The researcher ensured that participants were legally and psychologically competent to give consent i.e. that they were of sound state of mind to make independent decisions (Babbie & Mouton, 2001:382). Voluntary participation of participant was a prerequisite for the successful outcome of the study therefore no participants were coerced into participation (Rubin & Babbie, 2005:71). Informed consent forms were handed to participants for completion only after they have been provided with the necessary information regarding the study and adequate opportunity was provided to ask questions before commencing with the investigation.

### **1.6.3 Confidentiality/Anonymity/Violation of privacy**

Yegidis and Weinbach (1996:34) state that it is imperative for researchers to remember the importance of safeguarding the privacy and identity of participants,

and to act with the necessary sensitivity where the privacy of participants is relevant. The researcher ensured confidentiality by keeping interviews anonymous. Strydom (2011:119) found that information collected anonymously ensures the privacy of participants. Participants were informed of limitations to this principle as well as the steps taken by the researcher to ensure that no breach of this principle will take place as advised by Morris (2006:246). All possible means to protect the privacy of participants were applied by the researcher. In this regard, the researcher only requested and recorded information needed for the study to achieve its purpose. All research data was stored in a safe place where participants' identities would not be revealed. This information was accessible to the researcher and the supervisor only as it was viewed as privileged information.

#### **1.6.4 Actions and competence of researcher**

An ethical obligation is placed on all researchers to ensure that they are competent, honest and skilled to undertake the proposed investigation (Walliman, 2006:148). The researcher's skills obtained in her capacity as social worker in the SA Police Service as well as her functions in the Support environment of the police ensured that through this exposure she had the necessary skills to undertake the investigation. Strydom (1993:11) cautioned researchers to make a thorough study beforehand to become sensitively aware of the values, norms and climate which exist in a community before embarking on the investigation. The researcher heeded the warning in order to ensure objectivity and restraint in making value judgements. All the possible risks and advantages of the investigation were assessed by the researcher and she assumed responsibility for honouring promises made to participants regarding confidentiality as cautioned by Strydom (2011:124).

#### **1.6.5 Release or publication of findings**

The researcher aimed to give due recognition to all collaborators and sources consulted. Subjects were informed of the findings in an objective manner without breaching confidentiality. Strydom (2011:126) states that by succeeding in this, an expression of gratitude is conveyed and recognition is given to participants for their participation in the study. In writing up the final research report every effort was made by the researcher to ensure that it contains all essential information and

reflects the accuracy, objectivity, unambiguity and clarity ethically required. A written copy of the general findings, protecting participants' anonymity will be made available to participants and colleagues responsible for the supervising and development of frontline police officials responsible for policing of domestic violence.

### **1.6.6 Debriefing of participants**

Strydom (2011:122) states that "*A research project must always be a learning experience for both participant and researcher*". Debriefing sessions have been identified as the ideal time to complete the learning experience which started when the participant agreed to participate in the study (Dane, 1990:45). The researcher ensured that provision was made for a debriefing session with the participant immediately after each interview session as the researcher was aware that participants may have uneasy feelings regarding their participation in the study and the outcome of the study or have unresolved issues regarding their policing of domestic violence. As a registered social worker who is also trained in trauma debriefing, the researcher ensured that participants felt supported and safe to verbalise any anxieties about the research process. Misperceptions that arose in the minds of participants were rectified in this way. Babbie (2007:475) found that through debriefing, problems generated by the research experience can be rectified.

### **1.6.7 Power relations**

The researcher was aware that her position of authority in the organisation might have an adverse effect on participants, thus she made every effort to ensure that participants did not feel threatened as she ensured that power was not abused by conducting ethically informed research.

## **1.7 LIMITATIONS OF THE STUDY**

The shortcomings of the study are explained here to highlight some of the challenges the researcher faced which might have affected the quality of the study.

### **1.7.1 Limitations of literature review**

The limited recent South African literature and availability of statistics and previous studies in the field of social work or related fields regarding the experiences and

perceptions of police officers in the policing of domestic violence in South Africa proved to be a challenge. Consequently, the body of literature reviewed, largely focussed on policing of domestic violence on an international level and in other subject fields.

### **1.7.2 Limitations of qualitative research and sampling method**

As this was a qualitative study, the sample size was fairly small, with only twenty-eight (28) participants being interviewed. Even though the target population from which the sample was drawn was limited, the sample can be seen to be representative of the target population. It should however be noted that although the sample is representative of functional members at priority stations in the Western Cape, it precludes generalization of the results to the total population beyond the Western Cape Province as priority status of stations differ depending on the specific priority crimes of the various provinces. Every effort has been made to obtain the maximum number of participants who fulfilled the specific criteria. The stations identified were extremely busy and the absenteeism rate very high consequently, this resulted in too few available members per shift. Mouton (1998) found that qualitative research may focus on an individual or small number of cases in its specific context of meanings and significance.

The research investigation would have been richer had the sample group also consisted of supervisors of participants who work with them on a daily basis. The latter was however beyond the scope of this study.

In immersing herself in the experiences of the participants during the qualitative research process, the researcher ensured strong construct validity. Mouton (1998) however states that because of the individual experience as well as the fact that these concepts form part of the world of meaning of the subject, their generalizability is usually limited. The interviews were time-consuming and tedious as participants often elaborated on “unnecessary” issues during the data collection process. The latter resulted in the researcher having to spend additional time transcribing the interviews and working through unnecessary data.



### **1.7.3 Limitations of data collection methodology**

By utilising in-depth face-to-face interviews, a vast amount of data was generated, which required the researcher to make specific choices in terms of what data to include or eliminate in the final analysis. A number of different themes were identified from the data collected but only themes deemed to be pertinent for the study were selected. Mouton (2001) found this selection of only specific themes to be a common challenge in the data collection process because of interviewer bias or the research selectivity effect.

### **1.7.4 Limitations of the researcher**

The researcher initially assumed that being a police officer in the SAPS and being known as the provincial skills development facilitator, suspicion and mistrust of the researcher by participants would to a large extent be minimised. The assumption was proven to be invalid as some participants were concerned that the researcher might somehow (in her capacity as a senior officer) compromise their anonymity in her routine interaction with their supervisors. To certain extent, this limitation initially inhibited the responses of three participants. These participants were worried that their honesty and negative criticisms regarding their experiences and perceptions of policing domestic violence would reflect badly on their station and might have negative implications for them as individuals. As participants were very apprehensive, the researcher took additional time to put them at ease by committing herself to ensuring the confidentiality of the research process.

The data collected was the subjective experiences and perceptions of police officials. The researcher was aware that the responses of some participants were at times clearly influenced by social desirability or acquiescence or avoidance of speaking about potentially problematic issues around their policing of domestic violence.

In order to neutralize these limitations every effort was made to research as much recent literature regarding this phenomenon as possible. Some of the available literature was utilised notwithstanding the fact that it was outdated as the researcher felt that it would bring credibility to the research process. A good rapport was

established with participants in order to motivate them to relax and trust the researcher. Every effort was made during the research process to remain objective.

## **1.8 DESIGN OF THE INVESTIGATION**

This research report is divided into **six (6) chapters**.

**Chapter 1** consists of an introduction which provides the background to the study. This comprises the rationale for the study, problem statement and focus as well as the goal and theoretical points of departure. Also included in this chapter is an explanation of the research approach and methodology adopted by the researcher.

**Chapter 2** contains a contextualized situational analysis of the nature and extent of domestic violence within a social context. Legislation relevant to domestic violence in South Africa is also discussed in this chapter. This information provides the background to the prevalence of this phenomenon in South Africa and the Western Cape Province.

**Chapter 3** focuses on the responses of the SA Police Service in the handling of domestic violence incidents within a historical context.

**Chapter 4** addresses service delivery of the SA Police Service to victims of domestic violence within a legislative context with special emphasis on the implementation of South African legislation and national police instructions.

**Chapter 5** contains an explanation of the empirical data. It includes an introduction and analysis of the collected data.

The conclusions and recommendations will be presented in **Chapter 6** and are based on the literature study as well as the results of the empirical study discussed in Chapter 1.

## 1.9 CONCLUSION

Chapter 1 provided insight into the motivation for the study as well as how the research was actually conducted. A literature and empirical study were undertaken in order to fully explore the perceptions and experiences of police officers who are responsible for policing domestic violence incidents at seven (7) “gender-based violent crime stations” in the Western Cape Province. In this way, the study provides programme developers and policy makers in the SA Police Service with information on which to base policy decisions regarding training interventions and national instructions regarding the policing of domestic violence by the SA Police Service.

The literature review and the empirical study expanded the researcher’s understanding and insight into the policing of domestic violence in the Western Cape Province. Through the use of in-depth interviews, the researcher attempted to explore, describe and explain the personal experiences and perceptions of police officers responsible for policing domestic violence incidents. The researcher used the open-ended, emergent quality of qualitative research in searching for patterns in the data in order to achieve the final goal of explaining the larger, consolidated picture. The overall findings of the study will be presented in Chapter 5 of this study.

Chapter 2 will focus on an in-depth explanation of relevant literature and legislation pertinent to the study.

## CHAPTER 2

### SITUATIONAL ANALYSIS OF DOMESTIC VIOLENCE

#### 2.1 INTRODUCTION

The Human Rights Watch World Report (1998) identified domestic violence as a leading cause of female injury in almost all countries in the world thus making it a human rights emergency, which is typically ignored by the state and only erratically punished. Several researchers (Damon, 2003; Flinck, Paavilainen & Asredt-Kurki, 2005; Vincent & Jouriles, 2002) agreed with this statement. The impact of domestic violence has serious consequences not only for battered women but also children within the battered relationship as well as for broader society. Although victims of domestic violence are certainly not limited to women, victims of domestic violence are predominantly women (Straus & Gelles, 1990). Domestic violence is about the power to control, subjugate and dominate as well as to violate the dignity and integrity of women and children. Domestic violence is distinguished from other forms of gender violence by the context in which it occurs (i.e. the domestic or private sphere) as well as the nature of the familial relationship between the abuser and the victim (Baker, Jaffe, Berkowitz & Berkman, 2002). Domestic violence is a pervasive and frequently lethal problem that challenges society at every level. Some researchers (Danis & Lee, 2003; Vincent & Jouriles, 2002) are of the opinion that the broader society suffers practically and morally by failing to prevent or minimise domestic violence incidents, thus allowing the continuation of a violent subculture that devalues women in general.

As discussed in Chapter 1, the goal of this study is to gain an understanding of the experiences and perceptions of frontline police officers who have to serve and protect victims of domestic abuse. For this, an in-depth literature study on domestic violence proved to be useful. This is also the first objective of this study, namely to present a situational analysis of the nature and extent of domestic violence within a social context. This chapter thus aims to (i) present a brief historical overview and situational analysis of the nature and extent of domestic violence in various contexts, i.e. global-, South African-, Western Cape Province- and Social work context

respectively; (ii) discuss legislation relevant to domestic violence in South Africa; (iii) examine four of the most cited theories of partner abuse and (iv) explore common misconceptions about domestic violence.

## **2.2 GLOBAL CONTEXT**

Violence against women and children is a universal phenomenon of staggering proportions and the seriousness of this phenomenon cannot be overstated (Heyzer, 2003). Although Oakley (1981) have recorded some exceptional societies in which violence towards women is virtually non-existent, research findings around the world indicate that domestic violence is a universal problem that daily affects millions of women of every age, race and class (LaFevre, 1999; Seager, 1997). Since the 1970's, women's rights activists in many western societies began to pursue an agenda of bringing criminal law to bear on intra-familial violence as women throughout the world experienced that they had little protection under the law. One aim of the latter was to open up the so-called "private sphere" of the family to increased state intervention (at least in principle) by establishing prohibitions and punishments for domestic violence.

During 1995, 189 governments (including South Africa) pledged to end practices and policies that engaged in, condoned or accepted violence against women and to find ways for women to win justice and redress. This pledge, made at the United Nations 4<sup>th</sup> World Conference on Women in Beijing, was an attempt to protect women at risk and to prevent violence. Thus, under international human rights law, governments around the globe have clear obligations to protect women from violence. Since then, many countries have started to address domestic violence as an issue of legal reform. More than forty-five countries in the world have specific legislation on domestic violence and a growing number of countries have instituted a national plan of action to end violence against women, as any form of violence against women is regarded internationally as a gross violation of human rights (Seager, 1997). Irrespective of the latter, only a few countries however recognise marital rape as a crime. The Human Rights Watch (1998:4) found that irrespective of the pledges made, more than 20% of women globally continued to experience varying degrees of domestic violence during their marriage.



At least one out of every five women around the world has been beaten, coerced into sex or otherwise abused in their lifetime by someone usually known to them (Blaser, 1998). A research study completed by the Human Rights Watch during 2000, in six different countries, i.e. Russia, United States of America, Jordan, Pakistan as well as South Africa, however found that irrespective of pledges made, the alarming rates of violence against women in these countries, continued to be fuelled by the indifference of state officials and the failure to seriously investigate and prosecute incidents of violence. This research, also found that throughout the world, women tended to feel and experience that they have limited protection under the law from domestic violence. Grace (1995) found that even in the countries where domestic violence has been criminalized, it continues to be treated by the police and judicial system as a private or family matter and as an issue for civil rather than criminal courts thus leaving victims of abuse feeling powerless. Heyzer (2003) is of the opinion that there is no country in the world, where women are safe from this type of violence.

Research indicates that police in many countries routinely ignore or dismiss complaints of domestic violence by refusing to believe the women's allegations or by failing to recognise the seriousness of the allegations (Fagan, 2012; Usdin, Christofides, Malepe & Maker, 2000). These biased attitudes often result in complainants being turned away; sometimes feeling intimidated or warned against filing of a complaint. In Pakistan, a government study showed that 42% of women accept violence as part of their fate, 30% felt too helpless to do anything about it, 19% have protested and only 4% have taken action against it (Khan, 2004:5). This author indicates that the police in many countries are often hostile or unsympathetic to battered women and ignorant of the legal remedies available to these women. Khan (2004) found that women are often not taken seriously or threatened when they do speak up. There is also a tendency in many countries not to arrest abusers or to drop charges against them because they believe the family, not the justice system should resolve the problem. Furthermore, the poor investigation and lack of concern for complaints, hampers prosecutors in the building of the case.

The rejection and scepticism, with which domestic violence complaints are handled globally, are major concerns as the police function as gatekeepers for women in terms of access to the criminal justice system. To date, few police departments globally, acknowledge the seriousness and magnitude of domestic violence through the implementation of practical strategies. The following research findings of the Human Rights Watch (2000) are indicative of the latter: In Peru, for example the police would jeopardise the safety of complainants by having them deliver a summons to their abusers who would in turn retaliate with another violent attack. In Pakistan, the police tend to pressurize victims to return to abusive situations rather than to file a complaint against the abuser. South African women of all races, continue to complain of mistreatment at the hands of police officers who have to take their statements. The aforementioned findings indicate that domestic violence continues to be perceived and treated globally, as a private family issue and not treated as a priority concern for the police.

### **2.3 SOUTH AFRICAN CONTEXT**

During 1997 and 1994 respectively, the Department of Justice and the Women's Bureau at the University of South Africa, estimated that one out of every four South African women is a survivor of domestic violence (Blaser, 1998). Statistics in the *Polsa Bulletin* (2003) reflect that one in every six women in South Africa is killed by an abusive partner. This high mortality rate is described as "just the tip of the iceberg" as the figure is suspected to be much worse. The history of domestic violence in South Africa is a record of cruelty, indifference and neglect, occasionally marked by flashes of legal and social reform (Vetten, 1998).

The social and political change over the past decade, have brought about severe changes in family life in South Africa (Bosman, 2003). The fact that today, both parents by necessity have to enter the labour market and the consequent absence of the traditional role of the mother as nurturer and father as breadwinner, has been identified by this author as the contributing factors to the present rise in family conflict. Other contributing factors include people crumbling under life's pressures, poverty, unemployment, lack of support structures and generally lack of love in their lives, which tend to spill over into bigger society (Robertson & Donaldson, 1997).

Research indicates that most men who are killed in South Africa die at the hands of strangers but a South African woman is killed every six days by her intimate partner (Victor-Zietsman, 2007). Today, the home of the South African family does not necessarily provide women and children sanctuary from the harshness of the outside world or provide them with a safe haven where they can find emotional security and protection. On the contrary, it is increasingly found that police officials are more often called upon to step in during domestic violence incidents as the weaker family members (such as the aged, minors, mentally- and/or physically challenged) are often at risk and at their most vulnerable in their homes where they are often deprived of the basic needs for safety and/or security (Robertson & Donaldson, 1997).

South Africa, as one of the founder countries to sign the Universal Declaration of Human Rights (Singh, 2001), is apart from its international commitment to eradicate and prevent all forms of violence against women, also a signatory to the Southern African Development Community Declaration on the prevention and eradication of violence against women and children. All South African government departments (including the SA Police Service) have thus committed themselves to the implementation of a National Action Plan for the prevention and eradication of violence against women and children.

South African research (Bollen, Artz, Vetten & Louw, 1999) found that even though domestic violence is a common phenomenon, many women are still too afraid and/or ashamed to speak out and report being abused for fear of further violence or because of social taboos that prohibit speaking out against what some communities and societies to a large extent still perceive as a private/personal issue. Jackson (1997) states, that the attachment of the term “domestic” to violence within homes, has allowed the State to shrug off its responsibility to protect all victims of domestic abuse and contributed to police officers not considering it to be a serious crime, thus consequently treated with apathy and insensitivity.

Domestic violence in South Africa has been identified as one of the most serious public health threats facing the country today. Despite the notoriously poor statistics, it has been estimated that between 22% and 35% of women who visit medical emergency rooms with broken bones, head injuries, stab wounds, gunshot wounds and internal injuries, are there as a result of domestic abuse (Victor-Zietsman, 2007:14). The endemic nature of the abuse of women in intimate relationships, is one of the scourges confronting South Africa, as it is only one of the acts of violence overwhelmingly experienced by women in South African society today (Singh, 2001). South Africa boasts one of the world's highest rates of reported domestic violence although the actual figures are difficult to obtain (Richards, 2002b). The gendered nature of domestic violence unfortunately manifests itself in the number of women being seriously injured and often killed by their intimate partners. These abuse incidents demonstrate the pervasive culture of male violence against women as well as the continued pervasion of sexism in our society today. Jewkes (2001) maintains that the roots of abuse lie in the patriarchal nature of society which essentially views women as inferior to men. This statement emphasizes the subordination of women in society as the cause of abuse and is also reflective of the feminist theory of partner abuse discussed in detail in section 2.5.1 of this chapter.

The scope and severity of domestic violence incidents in South Africa today, is a testament to the low status given to women in South African society as well as reflecting the level of violence prevalent in this society today. Jewkes, Penn-Kekana, Levin, Ratsaka and Schreiber (1999) report that in some areas in South Africa, almost a quarter of women who participated in community-based studies, indicated having been abused in their lifetimes by a current or ex-partner and that approximately half of them were affected by emotional or financial abuse. The latter leads one to question the validity of claims that South African women today, are in a more privileged position than they were ten years ago. Vogelmann and Simpson (1990) describe South African society in all its heterogeneity as an extremely violent society where levels of violence continue to increase rather than decrease. Thus it is no surprise that in this context, violence against women remains prevalent.

In general, South African research indicates violence in relationships to be so endemic that men and women often accept coercive and even violent sex as “normal” or unimportant and thus do not report it (Jewkes, 2001). This statement emphasizes that at the basis of abuse lays the overwhelming acceptance of violence in society and is indicative of the Culture of violence theory, which is elaborated on in section 2.6.2 of this chapter. Some South African women (not unlike their female counterparts in Pakistan) continue to live in abusive relationships as they do not define what they experience as violence or abuse because they have been socialized into accepting physical chastisement and thus consider it to be normal and inevitable (Gelles & Straus, 1998). Most violence, experienced by women, is socially, culturally and even legally condoned (LaFevre, 1999). Statistics outlining the gravity and magnitude of the incidence of the domestic violence in South Africa are often ambiguous and grossly underestimated (Blaser, 1998).

## **2.4 WESTERN CAPE CONTEXT**

The frequency and extent of domestic violence in the Western Cape Province, like the rest of South Africa, are currently based largely on police statistics, estimates by non-government organizations and victim surveys. These estimates are conservative and varied and do not reflect the true extent of this human rights violation, as the incidence is believed to be much more. Jewkes (in Vetten, 2005:2) found that in one survey of 1 306 women in three South Africa provinces, that 28% of women in Mpumalanga, 27% of women in the Eastern Cape and 19% of women in the Northern Province had been physically abused in their lifetimes by a partner. The same study found that 51% of women in the Eastern Cape, 50% in Mpumalanga and 40% in Northern Province were subjected to emotional and economic abuse. Abrahams, Jewkes and Laubscher (1999) in Vetten (2005:2) found that 40% of working men out of 1 394 men interviewed in a pilot study at three Cape Town municipalities, reported abusing their partners. A study during 1994 of 83 women, completed by Maconachie and Van Zyl found that 14% of them had experience sexual assault at the hands of their partners (Vetten, 2005:2). Currently, the real extent of sexual violence in South Africa is unknown. Blaser (1998) cautions that it is important to take into consideration the cumulative effect as well as the legitimacy and authority of the organisation and/or individual who provides the statistical

findings.

It is quite evident from the above statistics that irrespective of the international commitment made by the South African government, to eradicate and prevent all forms of violence in the country, the incidence of domestic violence is inexorably on the increase in the Western Cape Province. Serious interventions are thus required to protect women (especially teenagers) from further abuse as domestic violence continues to remain largely hidden, is widespread and has severe social consequences. A few non-governmental initiatives have been implemented in South Africa to try and redress this human rights violation. One such initiative was the establishment of a few domestic violence shelters throughout the country. It should however be emphasised that, South Africa still has more shelters for animals than it has for victims of violence (NICRO, 1997). Singh (2001) found that South Africa had only 100 shelters of varying sizes, countrywide to attend to a population of more than 45 million at the time. Of these shelters, sixteen (16) are available to victims of domestic violence in the Cape Metro Region.

## **2.5 SOCIAL WORK CONTEXT**

In the social work profession, social workers work with theories to explain phenomena. There are a number of diverse theories explaining domestic violence but no singular recognized causal theory. The latter results from the fact that the reasons indicated for one partner's abuse, often differ from another partner's explanation of the causal factors of this phenomenon. In light of the latter, the occurrence of domestic violence will be explored from various theories. It will also include a discussion on the cycle of violence; the different forms of abuse as indicated in the Domestic Violence Act, No. 116 of 1998; as well as an overview of existing misconceptions.

### **2.5.1 Theories on partner abuse**

The following section will elaborate on the four most cited theories of partner abuse namely the Feminist theory, Culture of violence theory, Sex-role theory and the Inter-generational transmission theory.



### **2.5.1.1 Feminist theory**

The feminist theory is the most cited theory of domestic violence and is the most widely used perspective in the treatment of battered women. Feminists, define wife abuse as a pattern that becomes more understandable only through the examination of the social context (Bograd, 1998). The feminist theory (i) emphasizes gender and power inequality; (ii) recognises that women in society (as it existed) have been subordinated and (iii) is committed to ending this subordination. The theory does not focus exclusively on the lives of women but includes the lives of men in comparison to the lives of women and is concerned with the interaction between the two genders. In analysing the occurrence of abuse, feminism focuses on societal messages that sanction the use of violence and aggression by men as well as the prescribed gender roles that dictate specific behaviour of men and women in intimate relationships (Pence & Paymar, 1993).

Saunders (1998) concurs with this theory as he emphasises that men use violence against their partners to maintain dominance within their relationships. The Feminist theory views the root causes of domestic violence as the outcome of living in a society that condones aggressive behaviours perpetrated by men while socialising women to be submissive. It is difficult to avoid interpreting domestic violence in South Africa in terms of pervasive gender inequality. Historically, patriarchal societies like South Africa, have given men the right to control women (and children) through abusive means if necessary (Steinmetz & Lucca, 1998). Institutionalisation of this inequality is still common in African customary law. For example, most African systems of customary law espouse that women are not regarded as sharing ownership of marital property or ownership of land, thus they are almost without recourse should the marriage be terminated. Dobash and Dobash (1979) claim that the Judeo-Christian heritage of society initiated and perpetuated the 'coercive control' of women. The sense of control prevalent in our society today opens the door for men to continue to dominate their female partners. Walker, Thyfault and Browne (1992) emphasize that little girls are often taught to adapt to the dominant (male) behaviour of society; moreover, once they reach adulthood and enter into an intimate relationship, these young women are expected to fulfil the roles of homemaker and mother and are dependent on their male partners for any sense of

security and well-being. Jewkes (2001) states that these young women, are often perceived as the possessions of their male partners, who are in need of being led and controlled. It can be concluded that this socialisation opens the door to abuse, as these women are never taught the necessary skills to prevent abuse from occurring. In this way, society causes women to acquire the very traits that make them vulnerable to abuse.

Nolet-Bos (1999) cautions that the feminist approach is limited for explaining abuse perpetrated by women as it explains the use of violence by women in the context of self-defence and retaliation for previous abuse thus denying that women can also get enraged without provocation in their relationships with their male counterparts. Lawson (2003) identified another limitation of the feminist theory when trying to explain violence in same-sex relationships as issues of power and control have also been noted as reasons for abuse in same-sex relationships. Advocates of the feminist theory do not see the issue of women abusing men as deserving of the same amount of attention or support.

In summary, feminist theorists view the struggle against domestic violence as one element of a broader context, the struggle for gender equality. They are of the opinion that domestic violence will persist unless the systematic inequality between men and women is addressed. Thus it can be inferred that ending this abuse, would require a basic restructuring of the power relations between men and women in society.

### ***2.5.1.2 Culture of violence theory***

The culture of violence theory, although similar to the feminist theory explanation, takes a broader approach. This theory emphasizes that at the base of many patterns of abuse like wife abuse, women-, child- or elder abuse, lays the overwhelming acceptance of violence in society. Part of the blame for domestic violence in modern Africa in general, is attributed to the colonial heritage and repressive practices of post-colonial regimes that continued the culture of violence by accepting violence as a way to resolve disputes. The post-Apartheid increase in violence against women in South Africa is an example of this continued culture of violence. McCall and Shields

(1986) state that cultural approval of violence in the larger society legitimate, inspire and reinforce the use of violence in the family. Thus, since violence is perceived in the outside world as a legitimate means to deal with problems or solve conflicts as they arise, one may use violence in the home as a means to deal with family problems in order to enforce compliance with one's wishes (Viano, 1992).

The culture of violence theory essentially claims that violence is relayed at all levels of society as a legitimate means to deal with problems. Consequently, some men may use violence as a means to deal with domestic problems as well as a means to resolve any conflicts that arise with their partners. Bandura (1973) noted that people do not have to be personally involved in the violent experience to be influenced by it as they learn equally well from hearing or reading about it. Straus, Gelles and Steinmetz (1980) and Russel (1984) maintain that society, the media and the law, tolerate, approve and support the use of violence through their inaction. Preventing partner abuse would thus require a restructuring of all cultural variables of society that enforce the use of violence.

### **2.5.1.3 Sex-role theory**

Sex-role theory, like the culture of violence theory, is very similar to feminist theory. Walker (1985) maintains that childhood sex-role socialization of women is conducive to wife battering. Thus traditional sex-role socialization has the effect of socializing girls to become victims and boys to become perpetrators of violence as (i) boys are often socialized to believe that males are the only gender who is supposed to display strength, be in control at all times and be the breadwinners and (ii) girls are taught to be passive, yield control to men and be the ones responsible for maintaining the marriage and performing domestic tasks. Boys are also taught to be the sexual aggressors in relationships and girls to be submissive. Baker *et al.* (2002) agree that children and adolescents learn from what they see modelled in their environment.

The traditional roles that men and women are ascribed in society because of their gender, places men in a position to become aggressors (abusers) and women the submissive (victim). The inevitable social changes emanating from globalisation catapulted South African societies into a transition from traditional cultures to modern

urbanisation. The inability of men in the modern economy to be the sole breadwinner and the need for women to enter the job market and still being expected to perform household duties in traditionally expected ways resulted in social dislocation. Many domestic violence incidents occur because of men's sense of threat because of social change. Thus, stopping this abuse would require the restructuring of the roles that men and women are ascribed by society or culture as well as restructuring of the socialization process that leads to the roles.

#### **2.5.1.4 Inter-generational transmission theory**

Kempe *et al.* (1962); Milner *et al.* (1990) and Sternberg *et al.* (1993) maintain that individuals who observed and/or experienced domestic violence as children, will in all likelihood, resort to violent actions toward their own partners and/or children during adulthood or experience the role of victim as an adult. It can thus be inferred that abusive behaviour is handed down from generation to generation as an acceptable norm for dealing with problems, resulting in a cycle of violence across generations as violence tend to beget violence. They also found that because of this exposure, these children learn that those who love them the most are those who have the right to hit or use forms of abuse, thus it is okay to abuse the ones you love. Research confirmed the existence of a link between physical abuse of children and domestic violence (Humphreys & Thiara, 2002).

Johnston (1998); Straus *et al.* (1980); Krause (1990) and Walker (1991) found that those male children who observed or experienced inter-parental abuse at the hands of their parent(s), are almost up to ten times more likely than sons of non-violent parents, to abuse their own partners as they have learnt first-hand how to use violence as an adult to communicate their needs. Likewise, Gelles (1976) found that one of the main factors related to a wife tolerating abuse from her husband, is the extent to which she was hit by her parents and /or teachers as a child. Thus the greater the exposure to violence as children, the more likely they are to accept victimisation as adults (Gelles, 1979). It can thus be concluded that children who witness or experience abuse at the hands of their parent(s) are more likely to have their own families where there are a greater frequency and severity of marital violence and less marital satisfaction.

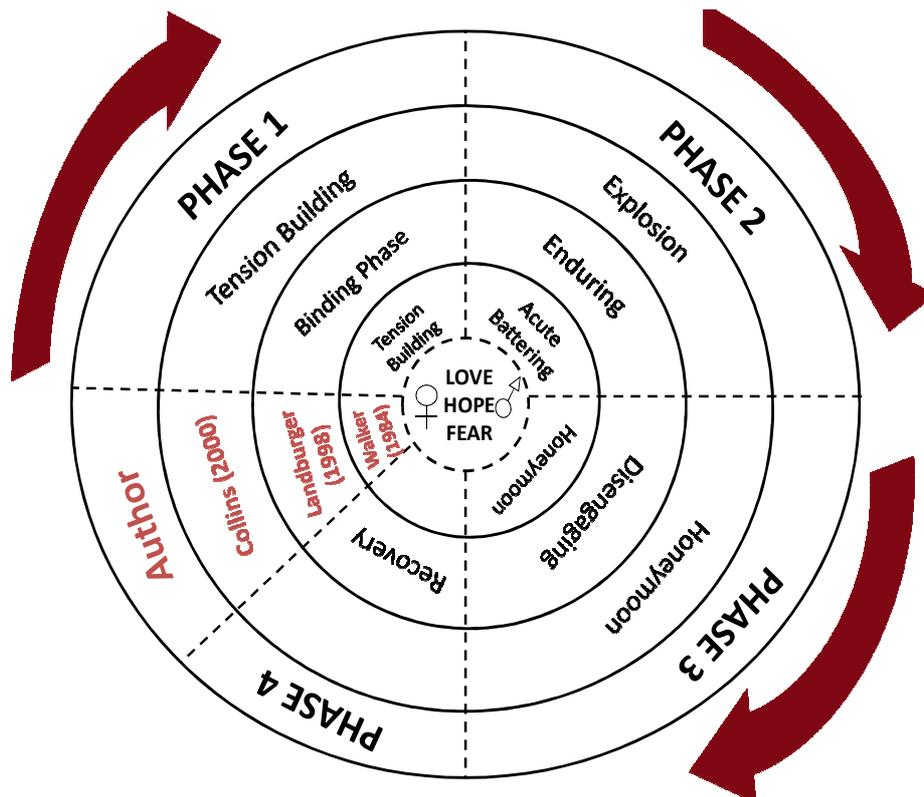
According to this theory, stopping domestic violence would thus require the elimination of physical and emotional punishment for children as well as inter-parental violence. Browne (1987) however found that in cases where women have never experienced violence, the sudden experience may result in shock and confusion. Although the victim may make deliberate efforts to change her behaviour to avoid further conflict, feelings of helplessness and depression may set in when this does not work. Thus, he argues that the assumption that how well women cope with abusive behaviour in adult life is primarily related to whether or not she has been exposed to violence as a child is greatly oversimplified and masks the much more important issue of how a victim of domestic violence explains the violence to herself.

The above theories have been explored to give a broader explanation for the existence of domestic violence in our society today. From these theories, it is clear that domestic violence does not only have one cause nor will a single cure be discovered. The causal situation that accounts for most incidents of abuse in South Africa today can be found in a combination of individual, cultural and social organizational factors, rather than by only one of these factors respectively (Witkin, 2001). Thus, it can be concluded that in most domestic violence incidents a combination of elements from two or more of the theories discussed, can be applicable in trying to understand the nature of the violent relationship as well as the victim's response to the abuse. Apart from the four theories discussed here, an appreciation of the debilitating cycle of violence, from which victims often find it increasingly difficult to escape, is essential for all those who render assistance to victims of abuse. The idea of the cycle of violence has become one of the most likely accepted explanations for the occurrence of domestic violence. It is thus important for every police officer, who is investigating a domestic violence incident and every prosecutor responsible for the prosecution of the case, to understand the "Cycle of violence" in abusive relationships. The latter is crucial, not only for a better understanding of the cyclical nature of domestic violence incidents but also to ensure that the appropriate intervention is provided. A brief overview will now follow of the phases of the cycle of violence from a culture of violence perspective as identified by

three different researchers (Collins, 2000; Landenburger, 1998; Walker, 1984). The culture of violence theory is applied here as it provides a broader understanding of the context within which victims of abuse must survive as well as their social environment in the Western Cape Province.

### 2.5.2 Cycle of violence

Researchers (Collins, 2000; Landenburger, 1998; Walker, 1984) agree that domestic violence is cyclical in nature and is an ongoing process that follows a set and predictable pattern. Thus, an act of domestic violence often signals the beginning of a debilitating cycle of violence which can lead to repeated offending and victimization that can eventually spiral into fatality. The conceptualisation of the cycle of violence as described by these three authors is presented in an integrated manner in figure 2.1 below.



**Figure 2.1: Cyclical nature of violence**

**Source:** Adjusted from Collins (2000), Landenburger (1998) and Walker (1984)

Historically, the identification of the cycle of violence by Walker during 1979 when she interviewed over 1500 abused women was instrumental in providing a better understanding of violence in relationships.

Walker (1984) and Collins (2000) both identified three phases in the cycle of violence. The first phase (tension-building phase) and the third phase (honeymoon phase) of these two researchers have been labelled the same and portray similar patterns of experience and behaviour by the victims and the abuser. Whereas Walker named her second phase the acute battering phase, Collins' second phase was labelled differently and named the explosion phase regardless of the similarities in the experiences of abused victims. Irrespective of the latter difference the two respective cycles have clear similarities. Landenburger (1998) however identified four phases in the cycle of violence, namely the binding phase, enduring phase, disengaging phase and recovering phase. Although distinct and labelled differently from that of Walker (1984) and Collins (2000) these four phases identified in Landenburger's cycle of violence seem to be closely related to that of Walker and Collins.

### ***2.5.2.1 Tension-building phase / Binding phase***

This phase portrays the beginning stages of abuse (Collins, 2000; Landenburger, 1998; Walker, 1984). The perpetrator often feels edgy, moody, is easily agitated, unpredictable, shows heightened anxiety and engages in minor abusive incidents. The victim feels like (s)he is "walking on egg shells" and begins to fear the abuser's edgy mood (Walker, 1984). The victim monitors the abuser's behaviour carefully and waits for the violence to explode. The victim feels escalating fear and tension as the abuser exerts power and increases control. The breaking of objects, verbal abuse and threats of violence often occur (Collins, 2000). This phase can result in feelings of powerlessness and fear (Landenburger, 1998) and could last for a couple of weeks or even years (Walker, 1984). The abuse is often a power play designed to show the victim "who is boss".

### ***2.5.2.2 Acute battering phase / Explosion phase / Enduring phase***

This is the stage where the built-up erupts into a violent outburst in the form of verbal, emotional and/or physical attack as well as sexual and economic abuse (Collins, 2000; Landenburger, 1998; Walker, 1984). The trigger is the excuse the abuser uses to lose control and act out against the victim (Walker, 1984). A trigger can be insignificant like dinner not being ready on time, noisy children, too little salt in food. The perpetrator displays destructive behaviour and often intimidates the victim by criticizing her accomplishments (Collins, 2000). Attacks on the integrity of the victim; belittling, cursing name calling and excessive possessiveness are common during this phase (Walker, 1984). The victim feels afraid and insecure and may be seriously injured. The battering incident may be brief or may go on for several days. When the explosion is over the victim may deny the seriousness of the injuries (Landenburger, 1998).

As the cycle progress, the battering can increase in severity over time and the cycle gets shorter thus making the abuse more frequent and it can become less difficult to break the cycle without external intervention. The period immediately following the explosion is a common time for the victim to seek help as victims are often in shock that the incident occurred or re-occurred. Inadequate police intervention can however result in an escalation of the abuse because of the anger of the perpetrator as the abuse become public knowledge and is not private any longer. Most victims however would try to rationalise or deny the violence by focussing on the more positive aspects of the relationship with the abuser. Periodic abuse and remorse or blaming of external factors by the victim, for example unemployment or alcohol often contributes to traumatic bonding of the victim to the perpetrator. As the violence becomes more acute, the victim might attempt to “endure” the abuse by covering up the violence or modifying her behaviour in an attempt to control the violence (Landenburger, 1998).

Some battered women may suffer from battered woman syndrome. This happens when the abuser succeeds in making them believe that they cannot control the violence, influence or escape it. They become helpless after a cycle of beatings (or other forms of abuse) which they have been unable to prevent. Consequently they

often tend to believe that the abuser is all powerful and nothing (not even the law) can protect them from the abuser. Batterers rarely feel guilty or sorry for their abusive behaviour. Even though they might periodically fear the idea that their partner might leave the relationship their guilt they might feel is often more about being caught and facing consequences for their abusive behaviour. Thus, they try to shift the responsibility for the abuse away from themselves by making the victim feel that (s)he is to blame and that (s)he would not survive without the abuser. Snow (1997) found that abusive partners make their victims develop “learned helplessness” in which the victim begins to believe their abuser’s claims that they are worthless, helpless and unable to survive on their own. This often leads to repeated victimisation and repeated offending behaviour which sometimes eventually spiral into fatality.

### **2.5.2.3 *Honeymoon phase / Disengaging phase***

After the abusive episode there is a period of remorse and guilt as the abuser feels sorry that the explosion has happened (Carnes, 1997). This phase is referred to as the *Honeymoon phase* (Collins, 2000; Walker, 1984) or *Disengaging phase* (Landenburger, 1998). During this period serious attempts are made by the abuser to keep the victim in the relationship. The perpetrator often tries to justify his actions by blaming the victim for losing his temper thus not taking any responsibility for his abusive actions. The perpetrator may act as if nothing has happened and also knows just what the victim wants to hear thus promising that it will never happen again. The victim feels to blame for the explosion and believes that the relationship with the abuser will improve if she can keep the peace. She hopes that the abuser will change the abusive behaviour. The relationship between the victim and abuser can be stable for a while as the abuser tries to live up to the promise that it will never happen again. The victim is showered with flowers and/or gifts. The victim often still loves the abuser and often feels the need to stay in the relationship as she clings to the hope that the abuser has really changed this time.

As the abusive cycle continues, the time periods between the various phases become shorter and the incidents become more violent as the honeymoon stage becomes non-existent. At this point the abuser has been fantasizing about abusing

the victim again and spent a lot of time on thinking about punishing the victim for perceived wrongs. Victims however usually only seek assistance from the police between the acute battering phase and the honeymoon period when they are particularly emotionally vulnerable.

Although some abusers never enter the honeymoon phase there might frequently be “honeymoon” stages in abusive relationship where the abuser becomes effusively receptive, attentive and accommodating. During this cycle, the abuser is thus alternately “kind” and abusive which results in confusion for the victim as the abuse continues irrespective of the promises made by the abuser. This manipulative behaviour often weakens the resolve of the victim to leave.

#### **2.5.2.4 Recovering phase**

Victims often return to their abusive partner on multiple occasions before they are in a position to leave the abusive relationship for good. Making the decision to leave the domestic violence relationship is often an agonising process for victims of abuse. The first step toward becoming a survivor is taken when the victim calls for assistance. The recovery phase is the period of initial adjustment after the survivor of domestic violence has left the abusive relationship. Recovering from domestic abuse is a step-by-step process (Landenburger, 1998). In the initial stages of recovery survivors often experience intense fear and anxiety; have nightmares and flashbacks; feelings of guilt and shame for allowing the abuse to occur and continue for as long as it did; feelings of grief and depression at the disappointment of a disastrous relationship. The primary focus of the survivor is survival and gaining new balance in her life with support from the police and other significant role-players. Although Walker (1984) and Collins (2000) made reference to the experiences of victims during their recovery period Landenburger (1998) placed special emphasis on this phase as the traumatic experience of dealing with domestic violence often makes it difficult for victims as well as those who have to provide assistance to them to believe that recovery from an abusive relationship is possible.

During all the phases, the victim can be in denial that anything is going to happen, that the abuse is happening and that it will re-occur again. The only way to break the “Cycle of Violence” is to derail it at an early stage of the abusive relationship. Jewkes (2001) states that it is only when victims are able to put a name to what is happening to them that they are able to take action and seek help. It is therefore important that victims of domestic violence develop an understanding of the “Cycle of Violence” in abusive relationships. Vogelmann and Eagle (1991) state that the cycle of violence can only be broken by making a concerted effort to create not only a non-sexist society but also one that is free of exploitation. Walker (1984) suggests that an alternative solution to breaking the cycle of violence is intense marital therapy. The latter statements indicate that various interventions should be considered when seeking redress in dealing with domestic violence.

The above phases of domestic violence confirm that even though domestic violence follows a predictable pattern not all domestic violence relationships “fit” the cycle as the honeymoon/reconciliation phase may in certain cases be absent. Every police officer, prosecutor and other relevant role-players responsible for providing any form of assistance to victims of domestic abuse should understand the “Cycle of Violence” in abusive relationships. Insight into the cyclical nature and predictable pattern of domestic violence will assist frontline police officials in determining the most appropriate intervention when attending to domestic violence incidents and could indirectly decrease their frustration in terms of the perceived inactions of victims of abuse.

A discussion of all the different forms of abuse in terms of the Domestic Violence Act, No. 116 of 1998 will now follow.

### **2.5.3 Forms of abuse**

Although researchers such as Bassuk, Dawson and Huntington (2005) and Danis and Lee (2003) found that domestic violence incidents generally manifest itself in physical, sexual, emotional and economic abuse, the Domestic Violence Act, No. 116 of 1998, however also widened the definition of abuse to include other abusive behaviours.

### **2.5.3.1 Emotional-, verbal- and psychological abuse**

In terms of the DVA of 1998, emotional abuse can be verbal or non-verbal and refers to any **pattern** of degrading, humiliating and/or demeaning behaviour (in public or private). This type of abuse tends to be persistent and corrosive in destroying the self-esteem and self-worth of the recipient. It can include the withholding of affection in an intimate relationship; making decisions about a partner's involvement in work/leisure activities or friendships, constant insults, name calling, ridicule, invasion of privacy; threats to children, pets or belongings of partners. It can also include repeated displays of obsessive jealousy or possessiveness in a way that invades the victim's privacy, freedom, security and/or integrity. Browne and Herbert (1997) and Sanderson (2008) found that emotional abuse occurred more frequently than physical abuse and is more difficult to detect but found that both forms of abuse are however equally destructive. Several researchers (Leiner, Compton, Houry & Kaslow, 2008; Scott-Tilley, Tilton & Sandel, 2010) agree that psychological abuse is often a precursor to physical abuse.

### **2.5.3.2 Physical abuse or assault**

The DVA of 1998 stipulates that physical abuse includes any **deliberate** act of physical assault that harms the recipient in any way. It can be controlled or impulsive acts of physical assaults that may range from pushing and slapping to punching, hitting shoving, biting, choking, burning, kicking, stabbing, shooting and acts or threats of physical violence which are designed to control, hurt or harm the victim. These assaults often result in physical as well as psychological injuries. Hagen (2001) found that women exposed to physical violence are also often being abused emotionally as they suffer severe emotional and mental distress. Habitual abusers will ensure that they inflict physical injury on body parts like the torso instead of the face of limbs to avoid leaving visible marks. An untimely death is often the result from physical injuries for women who are trapped in an abusive relationship (Sanderson, 2008).

### **2.5.3.3 Economic / Financial abuse**

Economic or financial abuse, in terms of the DVA of 1998 involves the **unreasonable** deprivation of economic or financial resources which the victim needs or is entitled to under law. Davhana-Maselesele, Myburgh and Poggenpoel (2009) found that women in their study were not allowed to make any financial decisions without the approval of their partners even if they had their own income as their partners controlled all their finances. Economic abuse also refers to any coercive act or limitation placed on an individual that has adverse economic implications for the victim and/or his/her dependents. This can include the withholding of rent payments for a shared residence, selling of shared property and household effects or accessing of joint bank accounts for personal reasons without consent of the victim; withholding of money needed for basic needs; the confiscation of all or part of the victim's wages or not allowing the victim to work thus forcing the victim to become dependent on the abuser for money, emotional support and survival. Pyles (2006) found that some women who may want to seek employment to improve their financial situation are often prevented from doing so by controlling partners.

### **2.5.3.4 Sexual abuse**

The DVA of 1998 specify that sexual abuse occurs when there is any **unwanted** physical invasion of an individual's body that is sexual in nature. Several studies (Chapleau, Oswald & Russel, 2007; Parenzee & Smythe, 2003) indicate women's compliance with what they perceived as their duty to perform certain sexual acts expected by their partners irrespective of their discomfort with these acts. This abuse refers to any sexual conduct that does not take the partners feelings into consideration and is aimed at humiliating, degrading or otherwise violating an individual's sexual integrity. It can range from touching and kissing to indecent assault, forced oral sex, force to perform prostitution or bestial acts as well as rape (including marital rape or unwanted sex forced on a victim by a spouse).

Parenzee and Smythe (2003) found that economic abuse and sexual abuse often go hand in hand with physical and emotional abuse but are not reported as frequently by victims of abuse. These researchers observed that a possible reason for victims

not mentioning the economic and sexual abuse could be an indication of their lack of knowledge of the different forms of abuse.

As previously indicated the scope of the definition of the conduct that qualifies as domestic violence was broadened in the DVA of 1998 to include more than the generally reported abusive behaviours discussed above. This was done to ensure extended protection in domestic relationships where the victim's safety, health or well-being continued to be in jeopardy. The DVA of 1998 unlike the PFVA of 1993 thus made allowance for the conviction of any abusive party who is deemed to be in a domestic relationship and commits the following acts of violence in terms of the Act.

#### **2.5.3.5 Stalking**

Stalking is described in the DVA of 1998 as a type of abuse that involves the **unwanted and repeated** following or keeping of the victim under constant surveillance. It can also include the constant demand to talk to the victims against their will.

#### **2.5.3.6 Damage to property**

Damage to property is portrayed in the DVA of 1998 as the **wilful** damaging or breaking of assets or anything of value belonging to the victim or in which the victim has a vested interest, for example the deflating of the victim's car tyres by the abuser.

#### **2.5.3.7 Unauthorised entry**

In terms of the DVA of 1998 this act of violence involves the entering of the home of the victim **without** his/her **consent** where the parties do not share the same home/residence.

#### **2.5.3.8 Intimidation**

Intimidation is described in the DVA of 1998 as any **verbal or written** death threats as well as **overt or covert behaviour** displayed by the respondent which results in the complainant being fearful. This form of abuse can include: displaying of

weapons, abusing pets and destroying property.

### **2.5.3.9 Harassment**

The DVA of 1998 stipulates that harassment involves a pattern of behaviour that causes complainant's to fear for their safety, and security. It can include the **repeated** receiving of **unwanted** phone calls, letters and emails by the victim. It can also include the continual frequenting of places where the victim happens to be.

From the above it is clear that domestic violence is a multi-dimensional phenomenon (Lewis, 1999) which involves various types of abuse. Oosthuizen and Wissing (2005) found that victims of abuse are often exposed to different forms of abuse that takes place over long periods of time. Thus it can be inferred that the above forms of abuse are not mutually exclusive and may occur in combination with one another. The wide range of abuse described in the DVA of 1998, has been referred to by the United Nations as a global epidemic that knows no geographical, cultural or linguistic boundaries and can affect anyone, irrespective of their cultural background, political or religious affiliation, social development or gender. Flynn (1990) and James (1999) state that when assessing domestic violence, often only physical acts of violence are measured without taking into consideration all other forms of violence that may be occurring. The latter results in victims being hesitant to seek recourse as some forms of domestic violence are often minimised or treated as less serious.

Another reason why victims are still hesitant and afraid to seek help from the police, family or friends, is because of existing prejudices and misconceptions held by society, regarding domestic violence which often result in secondary abuse of these victims. A discussion of these prejudices and misconceptions will now follow.

### **2.5.4 Misconceptions about domestic violence**

A number of misconceptions and myths regarding domestic violence continue to prevail in various communities as well as in the attitudes of police officers who are entrusted to effectively deal with domestic violence incidents. These myths are untruths and the product of misinformation as well as ignorance which may contribute to serious injuries or even the death of a victim. Victor-Zietsman (2007)

maintains that ignorance about domestic violence is the abused victim's enemy. Jackson (1997) is of the opinion that myths are often used to protect abusers of gender violence. Thus, in ensuring that victims of domestic abuse are provided with maximum protection, the existing myths, evident in the attitudes and behaviours of society today, need to be brought out into the open for honest debate in order to ensure proper redress for victims. Some of the most common misconceptions and myths upheld by certain members of society, will now be examined in the context of (i) society's values and (ii) the socio-political fact that men continuous to have a monopoly on power in the home as well as in society as a whole, whilst a number of South African women continue to be dependent on men for their livelihood. Negating facts will also be included to eradicate the existing misconceptions discussed here.

**MYTH 1:** Police intervention does not make much difference in the lives of victims of domestic violence.

**FACT:**

- Researchers (Ludsin & Vetten, 2005) found that a number of women, who participated in their research study, did not consider the police as a viable option for escaping their abusive situation. Parenzee *et al.* (2001) found that criminal justice personnel (which include police officers) seem to be struggling to fulfil their obligations as stipulated in the DVA. Police in many countries have been found to be unsympathetic to the plight of battered women and ignorant of legal remedies available for redress of domestic violence. This experience has resulted in many women being sceptical about police intervention and often complaining about their insensitivity and inadequacy (Sullivan & Hagen, 2005).
- Perception creates reality. Police intervention, can save a life and/or a family through effective, coordinated and professional intervention. Any intervention by a police officer in a domestic violence incident today, is crime prevention for tomorrow. Law enforcement and criminal justice initiatives that keep children from being exposed to violence help prevent later juvenile delinquency and a future generation of possible abusers.

**MYTH 2:** Police officers waste their time to assist victims of domestic violence, as they often withdraw charges against the abuser for their own gain.

**FACT:**

- Ashby (2003) states that it is not an unusual occurrence for the victims of abuse to want to withdraw charges after the state has completed their investigation and was ready to go to court. Thus, even though the arrest and removal of the abuser by the police will provide many victims with much needed “breathing space” and time to consider what action to take, they may not always wish to proceed with prosecution as it might not be in their best interest to do so. Parenzee *et al.* (2001) found that police officials generally tend to become frustrated with the continuous withdrawal of charges by victims as the recording of a domestic violence case requires a lot of paper work for record-keeping purposes.
- There are however various reasons of note why victims withdraw charges:
  - *Hope* and believe in the promises made by the abuser that he will change his violent tendencies;
  - *Fear* of imminent harm as the abuser threatens them or their loved ones with further violence or even death while waiting for the case to be finalised;
  - *Fear* of the ordeal of facing an uncertain outcome of court proceedings that might not be favourable;
  - *Fear* that they will not be able to cope alone as they are economically and/or emotionally dependant on the abuser;
  - *Fear* of rejection or ostracism by family/church/community thus they conform to family pressure or religious beliefs that compels victims to endure the abuse;
  - *Fear* of blame by family, health workers, police and justice officials that make victims feel that they are partly responsible for the abuse; and
  - Perceived *love* for the abuser and the need to keep her family together.
- The withdrawal of charges however not only reinforces the attitude of police officers that such cases are not worthy of serious attention but wastes the time of the court and the police. Jewkes (2001) found during her research amongst health professionals, dealing with victims of domestic abuse in Cape

Town, that solutions that may seem obvious and easy to professionals, are often not immediately perceived as the best options by victims. Thus, beyond the police officer's responsibility of providing information, completing the necessary documentation, providing practical assistance as needed and conveying the sentiment that abuse is unacceptable, the victim involved needs to be allowed to make her own decision without being judged.

**MYTH 3:** Domestic violence is not 'real violence' but a conflict in the private life of couple, which they should be allowed to resolve between themselves without interference from the police.

**FACT:**

- It is only recently that domestic violence has become an issue of international concern (Fineman, 1996; Gelles 1999). Traditionally, police officers and courts globally viewed "domestic disputes" as private family matters (Eigenberg, Scarborough & Kappeler, 1996; Ferratto, 2000). It can be inferred that the privacy traditionally granted to batterers encouraged their behaviour and further endangered the lives of victims of abuse. Battering became a crime and ceased to be a private/personal matter between two people when social activists succeeded in making it an issue for public concern and debate. Ludsin and Vetten (2005) are of the opinion that no matter how "mild" or severe the domestic violence incident, if violence is used to resolve conflict between partners, it should be viewed as a serious and a public issue. Domestic violence is everyone's concern as it impacts negatively on the family, community and the economy at large.

**MYTH 4:** If the victim wants the violence to stop, he/she will seek protection or leave the abuser.

**FACT:**

- In reality, many women are compelled to remain in abusive relationships because of various emotional and practical factors and somehow still manage

to cope (Makofane, 2002; Nordien, 2003). Violent relationships are often sustained through cultural inscription, psychological terror, threats of physical violence and economic dependence (Bradley, Nolan & Sutton, 1993). Some women are deterred from seeking alternatives because of the importance of family as a social institution. They desperately want their marriages to be successful and believe that the violence and the abuse will stop over time if they endure (Walker, 1984). They want their children to grow up with their father and feel responsible for keeping the family together. The traditional conditioning of females as nurturers and caregivers, prepare women well for placing the needs of their family above their own. It also results in them feeling inadequate, embarrassed and ashamed if they have to leave the abuser.

- Fear of the abuser's reaction should the victim seek recourse or attempt to withdraw from the relationship, also keeps the victim prisoner in the home. Battering does not always end when the victim leaves the abusive relationship (Walker *et al.*, 1992). Some of the most tragic assaults have been committed by former partners and ex-husbands, as those victims who managed to get away were traced by their partners and ended up experiencing increasing life threatening harassment and abuse (Mahoney, 1991). Burnett (2004), Raphael (2000) and Lees (2000) found that the risk of homicide seems to be higher during the first two (2) months after separation/ estrangement. Artz (2004), Matthews and Abrahams (2001) concur that the periods in which victims approached the police or courts for protection were often the most dangerous times wherein the domestic violence escalated.
- Baker *et al.* (2002) found that leaving is often better understood as a process rather than an event. Women who have been subjected to or threatened with violence by their partner, are often incapacitated by the violence itself as battering involves a pattern of chronic abuse in which the victims often lose all self-confidence and respect, feel trapped and even doubt their own sanity. While most battered women are not insane, many may suffer from battered woman syndrome, making it improbable that they would leave. Victims often also have the fear that no one will believe them and if they are believed, they fear their inability to cope on their own.

- Even though some women eventually make an effort to leave an abusive relationship to flee to a shelter for battered women, women often tend to stay in an abusive relationship for various reasons. Some of these reasons include: safety issues such as fear of revenge on their person or the lives of their loved ones (Mahoney, 1991), the impact of the abuse on the victim, for example loss of confidence and loss of faith in the police- and justice system whilst others continue to cling to the belief that their partner will follow through on his promise that he will change. Jewkes (2001) found in her research that the ability of victims to leave the abusive relationship is also strongly related to economic empowerment. All of these reasons can result in victims staying in an abusive relationship for up to fifteen years, before breaking the cycle of violence from which the victim finds it increasingly difficult to escape.
- Roy (1977) states that the combination of extreme dependence and violent control make the abuser a dangerous man to live with but an even more dangerous man to leave. Jewkes (2001) supports this statement and emphasises that when victims do try to take action or leave the abusive relationship, it is imperative that the necessary support structures are in place before they leave. Leaving an abusive relationship is thus best understood as a difficult process that takes time and can be life threatening to victims and children.

**MYTH 5:** Only a criminal, alcohol/substance abuser, mentally ill person or victim of abuse will batter his/her partner.

**FACT:**

- There is no “typical” batterer. Abusers come from all social and economic backgrounds, race and religions. Some abusers are alcohol/substance abusers, or have experienced the trauma of abuse during childhood (Summers & Hoffman, 2002), whilst others have not. Abusers do not as a rule, suffer from mental abnormality or defect. Whilst many abusers are often substance abusers, they will use their addiction as an excuse, just as a doctor or police officer who batters, may blame pressure on the job or an unemployed person may blame his/her joblessness. Some abusers become

intoxicated in order to act out their violent tendencies. Alcohol and drugs can however increase aggression in an already violent person (Snow, 1997; Summers & Hoffman, 2002). Fitzgerald (1999) found that women married to or living with heavy drinkers, is five times more likely to be abused by their partners than women who live with non-drinkers.

- It is extremely difficult to identify a batterer without living with him and being part of his private home (Singh, 2003). Batterers will present a very different image in public, appearing to be compassionate and caring of their partner whilst their private appearance is distinctly opposite (Wallace & Seymour, 1999). Walker (1984) describes batterers as having a Dr Jekyll and Mr Hyde personality as she found that they often display their violent side only to their partners, thereby reinforcing the victim's opinion that no one would believe that their partner is capable of violence.

**MYTH 6:** The victim of abuse must have provoked or initiated the violence in some way.

**FACT:**

- No one regardless of the kind of person it is, deserves to be beaten or "asks for it". Ferrato (2000) states it is a fallacy that women are looking for abuse or that they provoke it. Violence is the sole responsibility of the violent person. In our daily lives, we all experience trauma, stress, anger and fear but an abuser chooses to abuse as a way of dealing with his/her issues and/or pain.
- Provocation is an excuse that abusers often use in order to avoid taking responsibility for their behaviour (Collins, 2000; Landenburger, 1998; Walker, 1984). Abusers need to learn to deal with and channel their aggression by employing alternatives to violence. There is no excuse for abuse as abusers can control their violence but choose to control their victims instead. Everyone has the right to live without violence and be treated equally.

**MYTH 7:** Couple counselling will help end the abuse.

**FACT:**

- Couple counselling has not proven effective in ending abuse. It conveys the

message that the violence inflicted on the victim is the responsibility of both partners, whilst it is not. Walker (1984) identified marital counselling as an alternative solution towards breaking the cycle of violence. However, as long as the abuser is violent, it is unsafe and unhealthy for the victim to be with the abuser.

- The safest approach is for the couple to separate, as many abusers promise they will change but very few follow through. The most encouraging signs are when the abuser (i) accepts full responsibility for his actions, (ii) honestly examines all the ways in which he attempts to control and dominate his partner and (iii) sticks to a batterer programme, counselling or alternative programme and is violence free for at least one year.

**MYTH 8:** Only women are the victims of abuse and men the abusers.

**FACT:**

- Lewis (1999) found that although fewer men are abused by their female partners than women by their male counterparts, men are also victims of abuse. Most research however found that in all cultures, abusers are predominantly and primarily male and women are commonly the victims (Straus & Gelles, 1990; Tjaden & Thoennes, 2000). Women are however more likely to be injured in acts of intimate violence than men are because of their physical attributes (Gelles, 2001). There are however increasing research reports of instances where women initiate domestic violence (Flynn, 1990; James, 1999).
- During the 18th century, husbands who claimed to have been beaten by their wives have been looked upon with disdain and ridicule. The fact that men have historically been at the helm of power, does not automatically translate to the fact that all men and only men, would batter their partners in order to retain their socio-economic, educational and institutional place (Pearson, 1997). In South African society today, the situation is relatively unchanged as men are still looked upon as strong and expected to protect themselves especially if the abuser is a woman. The situation also becomes more complicated in homosexual and lesbian relationships. Victims of domestic violence however often also include males and females with special needs,

for example the elderly, physically or mentally challenged as well as children.

- Straus (1993) found that despite similar levels of violence initiated by men and women, violence perpetrated by men is usually more severe as men are six times more likely to inflict serious injury. When a relationship breaks up, the general finding is that the man will keep his job and freedom while the women will keep the children and the responsibility.

**MYTH 9:** Domestic violence is common amongst the poor and working class.

**FACT:**

- Research has shown that domestic violence affects women of all spheres of life and that abusers and victims come from all backgrounds. Vetten (2000) and Raphael (2000) found that being poor or unemployed can however make some women more vulnerable to abuse or victimisation than their middle and upper class counterparts, likewise researchers (Twala, 2004; Wiehe 1998) found that men of low income status are more inclined to abuse their partners than those of a higher income status.
- Various researchers (Lee, 2001; Pyles, 2006; Wallace & Seymour, 1999) found that domestic violence is often more likely to be perpetuated in homes where people live below the poverty line as poverty is a fuelling factor in domestic violence. In upper classes, violence is likely to be more hidden from public scrutiny than would be the case in poorer communities because the victims in more affluent communities may have more to lose by exposing their situation and they also have access to private sources should they need to use it.

**MYTH 10:** By abusing his/her partner, an abuser shows his/her love for their partner.

**FACT:**

- Abusers beat their partners to show their power and control within the relationship (Marais, 2002). Walker (1984) agrees with this fact but emphasise that this abuse of power is not a sign of love. Gullotta and McElhaney (1999) refer to domestic violence as a silent crime.

- Abuse of a partner indicates disrespect and degradation and the highest contempt for another human being. It reflects the unequal status in the relationship where the abuser has total power and control and a total disregard for the victim's human rights as enshrined in the South African Constitution.

**MYTH 11:** Domestic violence is a recent phenomenon.

**FACT:**

- Domestic violence has plagued marriages since before the 19<sup>th</sup> century (Glenn, 1984). In biblical times, religious-based subordination required women to be subservient to their husbands thus justifying the husband's right to use violence (Hammerton, 1992). Recent publicity may lead one to believe that domestic violence is on the increase but in fact, it has always been a hidden part of all communities. Today, women are tired of being victimized and are demanding that it becomes a public issue, a social problem in need of redress and eradication.

**MYTH 12:** Domestic violence does not affect everybody.

**FACT:**

- Domestic Violence is a universal problem of epidemic proportions (Heyzer, 2003). It is not a problem exclusively associated with one social, sexual or ethnic group. Statistics point a horrifying picture of social consequences for all. Research (Damon, 2003; Flinck *et al.*, 2005; Vincent & Jouriles, 2002) found that violence against women is a leading cause of female injury which can lead to death and incapacity amongst women of reproductive age and a greater cause of ill-health than traffic accidents and malaria combined.
- The economic cost is also considerable as it includes costs of emergency room visits, court action, law enforcement and the money lost to employers from reduced productivity and absenteeism. From this, it is clear that even though some women are affected more directly than others, domestic violence affects all sections of the community (male and female) on a micro as well as macro level because of the costs involved.

**MYTH 13:** Nobody can help abusers as they cannot change their behaviour.

**FACT:**

- Abusers are capable of personal transformation. Baker *et al.* (2002) state that abusers can change their behaviour if they acknowledge responsibility for the violence against their partners and are willing to participate in an intervention programme with an ongoing commitment to change.
- Many abusers can make extensive changes if certain conditions exist. Firstly, the abuser's environment needs to be non-violent, non-judgmental and respectful of vulnerable groups. Secondly, communities that establish and enforces consequences for continued acts of abuse must hold the abuser accountable for the violent behaviour. And thirdly, the abuser must be willing to work through a long process of counselling during which (s)he needs to be painfully honest with him/herself and take responsibility for his/her violent actions.

**MYTH 14:** Women who are abused by their partners often like it.

**FACT:**

- Snel, Rosenwald and Robey (1964) published the idea that it was a wife's masochistic personality that caused her to be abused by her husband thus implying that wives were abused because they derived pleasure from pain and thus wanted to be abused. Women are terrified and disgusted when their partners turn on them and this often lead to Post traumatic stress disorder (PTSD) which can manifest itself in suicidal thoughts (Bollen *et al.*, 1999). The 'masochist' label is often used in an irresponsible manner by uninformed or prejudiced individuals to explain the assaulted women's dilemma.
- Women often return to an abusive partner, not for the violence but in hope that she will succeed in stopping the violence. Applying this label to assaulted women is not only demeaning and disrespectful but is one more way of shifting the blame for abuse to the victim, for her/his abusive situation

and ignores the role and responsibilities of the abusive partner.

**MYTH 15:** Children who grow up in an abusive home, get used to it and learn to deal with the abuse.

**FACT:**

- Children who witness abuse of a parent or who have been victims of abuse themselves, have greater developmental delays and behavioural dysfunction in later years (Sykes & Symons-Moulton, 1990). Their self-esteem, self-worth and ability to trust are negatively affected by the instability in the home and they tend to learn to believe that it is acceptable for men to hit women; expression of feelings signifies weakness; do not talk about violence to family, friends, teachers, etc.; do not trust and do not feel. They tend to develop a blurred perception of what a “normal” romantic relationship or family entails (Summers & Hoffman, 2002).
- Although research indicates that many children have demonstrated a resilience to domestic violence by learning to cope with it in a number of constructive ways, not all children learn to “deal” with this form of abuse (Peled, 1993). Domestic violence devastates their young lives, fractures communities and stalls development especially if there is no one at hand to see to their psychological needs.

**MYTH 16:** If the abuser is a police officer, those who are tasked with protecting victims of abuse are reluctant to intervene because they know the officer.

**FACT:**

- Fagan (2012) makes the allegation that advocates for battered women are reluctant to become involved in domestic violence cases involving police officers for fear of alienating those they rely on for help in other abuse cases. Levinson (1997) and Lott (1995) state that this myth has merit as most police organisations tend to handle cases of police family violence informally, often without an official report or investigation. Should these instances occur, it is a contradiction of the DVA of 1998 and NI 7/1999. Any reluctance by those who have been tasked to ensure proper recourse for victims of domestic violence is committing an offence if they decide to ‘look the other way’.

Police officers are not only sworn to uphold the law but to abide by the law.

- When a complaint of domestic violence are made against a police officer and there is any doubt that the complaint will be handled effectively because the perpetrator is a police officer, the integrity of the police are at stake and this can undermine the effectiveness of the police if prescripts are not complied with. Police officers found guilty of domestic violence are often unlikely to be fired or arrested thus raising the concern that those tasked with enforcing the law cannot effectively police themselves.

In summary, victims of abuse often find themselves in an extremely volatile position that requires them to fight for survival as escape from the domestic violence relationship can become virtually impossible if support from external role-players is lacking. Domestic violence is not always clearly understood by all role-players responsible for providing assistance to victims of abuse and this result in the perpetuation of so many myths and misinformation as ignorance continuous to prevail. In order to bring about effective change, we need to become more concerned with the truth and collectively begin to eradicate myths that are misleading. The required attributes for any police officer, who is serious about the policing of domestic violence is that they need to be aware of their own prejudices, behaviour and attitudes and that they should be willing to make the necessary paradigm shift to ensure more effective policing of this phenomenon.

Police officers should also have an in-depth knowledge of the relevant legislation in order to ensure effective redress in terms of domestic abuse. Since 1994, a number of Bills have been enacted by Parliament in order to give effect to the new constitutional dispensation. The statutes that have a bearing on redress in terms of domestic violence in South Africa will now follow.

## **2.6 SOUTH AFRICAN LEGISLATION RELEVANT TO DOMESTIC VIOLENCE**

The inferior status ascribed to women originated around the 2<sup>nd</sup> and 3<sup>rd</sup> century before Christ, when Roman law governing domestic relations were introduced. Since

these laws made husbands responsible for their wives' actions, the law of "reasonable chastisement" was introduced (Vetten, 1998). This law granted husbands the right to physically punish their wives. This is a crucial piece of history for South Africa, as the last remnants of a South African husband's right to administer reasonable chastisement, finally disappeared during 1995, whilst rape within marriage was only criminalized during 1993.

Singh (2001) agrees that historically women have for years been on the receiving end of unjust laws promulgated by governments, supported by cultural and religious practices and enforced by organs of state, thus entrenching for women an inferior status. During the 19<sup>th</sup> century, there was a strong belief that the Bible supported women's submission and quotes from the Bible would often be used to defend such claims (Glenn, 1984). This religious-based subordination, suggested that for a woman to be virtuous and serve God, she had to follow the lead of her husband. These principles often resulted in husbands justifying their "right" to use violence to control their wives and in addition, these ideals created social tolerance of domestic assault (Hammerton, 1992). To refer to history again, women who killed their husbands were charged with "petty treason" whilst men who killed their wives were only guilty of ordinary murder (Vetten, 1998). The result was that women ironically often had to endure being burnt alive at the stake while men on the other hand were given the quicker death of being hanged. Traces of a distinction between crimes committed by females and males in an intimate relationship, are still evident in the way men and women are sentenced today (Dershowitz, 1994). The latter often illustrate the failure of society and its institutions to give maximum protection to women in violent relationships. Artz (1999) found that even when domestic violence is detected by the criminal justice system, the perpetrator frequently goes unpunished. To date, South African law does not make provision for domestic violence to be codified as a separate criminal offence. Instead it resorts under the crimes of assault or assault with intent to do grievous bodily harm.

Legislation relevant to domestic violence includes the:

- 1) Constitution of the Republic of South Africa, 1996 (Act 108 of 1996)
- 2) Recognition of Customary Marriages Act, 1998 (Act of 1998)

- 3) Childcare Act, 1983 (Act 74 of 1983) / Child Care Amendment Act, 1996 and Children's Amendment Act, 2010
- 4) Maintenance Act, 1998 (Act 74 of 1983)
- 5) Domestic Violence Act, 1998 (Act 116 of 1998)
- 6) Prevention of Family Violence Act, 1993 (Act 133 of 1993)

The above statutes will be described in more detail in the following section insofar as it relates to the redress of domestic violence in South Africa.

### **2.6.1 Constitution of the Republic of South Africa, 1996**

With the advent of democracy, the Constitution of South Africa (1996) has become the supreme law of the country and all laws have to abide by the principles set out in it. The interim Constitution of South Africa, Act 200 of 1993 and the Republic of South Africa Constitution Act 108 of 1996, recognised equality of the sexes and specifically forbade all forms of discrimination. The social and political changes during the past decade have resulted in South Africa becoming a secular, free and open society with the Constitution incorporating the Bill of Rights as the supreme law (Bosman, 2003). The South African Government is thus obligated by the Republic of South Africa Constitution, Act 108 of 1996 as well as international human rights legislation, to take action in terms of redress for victims of domestic violence. Thus, one of the goals of the Domestic Violence Act of 1998 is to protect women's constitutional rights to freedom and personal security. The right to life and the security of a person are deemed to be two of the most basic entitlements of the SA Constitution of 1996.

Remaining alive and being safe and secure however requires constant effort on the part of low income female survivors of domestic abuse. The clauses described in Table 2.1 below (as outlined in the Bill of Rights enshrined in the SA Constitution of 1996) can potentially be violated when acts of domestic violence are committed and relevant organs of the state in turn omit to give full effect to the implementation of the Domestic Violence Act, No. 116 of 1998.

**Table 2.1****Bill of Rights clauses potentially violated in domestic violence incidents**

<b>Section 9:</b>	the right to equality;
<b>Section 10:</b>	the right to human dignity;
<b>Section 11:</b>	the right to life;
<b>Section 12:</b>	the right to freedom and security (includes the right to be free from all forms of violence from both public and private sources);
<b>Section 13:</b>	the right not be subjected to slavery, servitude and forced labour;
<b>Section 14:</b>	the right to privacy (stalking contravenes this);
<b>Section 18:</b>	the right to freedom of association (abusers often control whom their partners befriend/spend time with);
<b>Section 21:</b>	the right of freedom of movement and residence (abusers often control where partners go or live);
<b>Section 27:</b>	the right to have access to health care, services, food, water and social security (this refers to the obligations of the state to provide medical- and mental healthcare to women as a result of violence, as well as providing assistance to destitute women who are unable to support themselves and their children when leaving the abusive relationship);
<b>Section 28:</b>	the right to be protected from maltreatment, neglect, degradation or abuse as well as the right to be provided with family/parental care or appropriate alternative care, when removed from the family environment;
<b>Section 34:</b>	the right to have access to courts.

The Bill of Rights, as contained in Chapter 2 of the Constitution, 1996 (Act No. 108 of 1996) entrenches the rights of every person in the country in terms of equality, freedom and security. It imposes a duty on the SA government (including the police) to take appropriate steps to ensure that the human rights of all persons are respected. In doing so the Constitution guarantees the rights contained in the Bill of Rights.

In view of the gendered nature of domestic violence, the right identified in Section 12 of the Constitution (1996) imposes a three-fold obligation on the state:

- Firstly, it requires that specific and appropriate measures be adopted to prevent domestic violence in all its forms and manifestations.

- Secondly, it requires that measures be put in place to minimise the secondary effects and impact of domestic violence, and
- Thirdly, it requires that any measures adopted are receptive to the plight of all victims of domestic violence.

The objectives of policing crime in terms of section 205 of the Constitution (1996) are to (i) prevent, combat and investigate crime; (ii) maintain public order; (iii) protect and secure all inhabitants of the RSA and their property; and (iv) uphold and enforce the law. However, in light of the above it is quite ironic that in a country with a long history of abuse under an apartheid regime, where men personally experienced what it felt like to be discriminated against and marginalised, they continue to inflict the same horror on their female counterparts denying them their rights irrespective of the statutes introduced to ensure a human rights culture for all.

### **2.6.2 Recognition of Customary Marriages Act, 1998**

The Recognition of Customary Marriages Act, No. 120 of 1998 extends full legal recognition to marriages entered into in accordance with customary law of traditional wives. It aims to improve the position of woman and children (within these marriages) by introducing measures which bring customary law in line with the new constitution and South Africa's international obligations regarding the prevention and eradication of all forms of violence against women and children.

All elements of discrimination against the customary legal tradition are removed, thus giving full recognition to customary marriages despite the potentially polygamous nature of such marriages in the context of indigenous law. The Act lays the foundation for a uniform code of marriage law that will be applicable to all South Africans.

### **2.6.3 Child Care Act, 1983 / Child Care Amendment Act, 1996 and Children's Amendment Act, 2010**

One of the most important provisions in the Domestic Violence Act, No. 116 of 1998, is that any form of maltreatment of children, must be reported in accordance with

Section 42 of the Child Care Act, No. 74 of 1983. This Child Care Act has however been repealed by section 313 of the Children's Act 38 of 2005 because of its limited scope and deficiencies. Subsequently a new Children's Amendment Act came into effect on 1 April 2010 which emphasizes the specific role of the State in the provision of social services to strengthen capacity of families and communities to more effectively care for and protect its children. Inherent in the vision of this new children's statute are the principles of enabling a child's growth and development within a family structure and protecting children in vulnerable situations like for example domestic violence. This new Act aligned children's legislation in South Africa with the United Nations Convention on the Rights of the Child (1989). In this way, the SA government took upon it the obligation to protect the right of children to special care and assistance because of their physical and mental immaturity.

The South African Law Commission responsible for reviewing the Child Care Act of 1983 made certain recommendation for the retaining of most of the provisions of this Act despite its deficiencies and limited scope. The retained provisions of the Child Care Act applicable to the domestic violence phenomenon include the following:

- *Removals in terms of section 11:*

In terms of section 11 of the Child Care Act of 1983, a children's court may still effect the removal of a child to place of safety if it is in the best interest of a child to be removed to a place of safety or the child has no parent or guardian.

- *Removals in terms of section 12:*

Section 12(1) of the Child Care Act of 1983, makes provision for any police official, social worker or authorised person to without a warrant, remove a child without parental consent to any place of safety, if he / she has reason to believe that the child is in need of care and that a delay in obtaining a warrant will be prejudicial to the safety and welfare of the child. The provisions of Form 4 (Annexure F) of the Regulations under the DVA of 1998, regarding the removal order, must also be complied with. This includes situations where a child: (a) has been or is likely to be physically harmed, including physical harm resulting from neglect; (b) has been or is likely to be sexually abused or exploited; or (c) is displaying behaviour that indicates severe emotional abuse.



The South African Law Commission however raised the concern that the present Form 4 procedure are being abused as a tendency seemed to have developed whereby the Form 4 procedure is being used in all cases, including non-emergencies. In light of the latter, the Commission recommended the following amendments to section 12 of the Child Care Act, 1983:

- The removal of a child without a warrant are only to take place in emergency situations and clearly defined circumstances;
- Officials who remove children without a warrant should be held accountable to the court;
- Where children are removed in non-emergency situations under the Form 4 process, the courts should report officials to their professional boards or superiors where appropriate;
- Authorised officers as well as social workers working for the State, and members of the South African Police Service remain the only persons who may remove a child without a warrant to a place of safety;
- Social workers in private practice be specifically excluded from the definition of “authorised officer” in section 1 of the Child Care Act, 1983.

In terms of the Child Care Amendment Act 96 of 1996, the primary ground for compulsory removal of a child was changed from having the parent declared “unfit” or “unable” to care for the child to the child being in need of care. Physical, emotional or sexual abuses as well as the maltreatment of a child by a parent/guardian constitute grounds for finding a child in need of care. The latter will thus constitute grounds for the removal of the child, in terms of section 14(4) (a) (vi) of the Child Care Act, 1983.

Where there are grounds for believing that it will be in the best interest of the child to be moved to a place of safety, the provisions of sections 11, 12 and 14 of the Child Care Act, 1983 need to be applied with due consideration of all applicable statutes.

#### **2.6.4 Maintenance Act, 1998**

The Maintenance Act, No. 99 of 1998 repeals the Maintenance Act of 1963. It heralds the start of a reform process in that it is designed to bring about a number of

improvements in terms of the maintenance system for example (i) core statutory guidelines, relating to the duty of support of parents in respect of their children, have been outlined and (ii) facilitating payment of maintenance as courts have now been enabled through this Act, to make out maintenance orders (including Garnishee orders and emolument attachment orders) in the absence of respondents in appropriate cases in terms of non-payment of maintenance.

### **2.6.5 Prevention of Family Violence Act, 1993**

Legislation in South Africa dealing specifically with domestic violence dates back to 1993 in the Prevention of Family Violence Act (PFVA) (113 of 1993). The said Act made provision for the granting of interdicts to deal with family violence. The PFVA of 1993 was the first piece of legislation to specifically address this phenomenon in South African society. This Act made marital rape a crime, which was a first for the entire African continent. The PFVA of 1993 was however very restrictive and insufficient to deal with the escalating problem of domestic violence in South Africa. The Act was flawed in that it was found to be unconstitutional and only covered a very narrow scope of relationships as only parties to a marriage could use this Act. Thus, this Act only made provision for the protection of married women and did not include protection for individuals who were abused by a partner with whom they have never lived or lesbian and gay couples. The PFVA of 1993 also did not have a clear definition of domestic violence which consequently resulted in a limited understanding of this phenomenon. The cost of service, should victims of abuse want to obtain an interdict, was very problematic for destitute complainants. This Act also made no provision for maintenance/custody orders and stipulated no procedure for the confiscation of firearms. Apart from the flaws identified, the police were not trained on the PFVA, which resulted in ignorance and different interpretations of the law by police officers. Gender activists criticised this law as inadequate and advocated for improved legislation. This legislation was also questioned by attorneys, who were of the opinion that the rights of men to a fair hearing were being violated by this Act. During February 1996, a project committee consisting of domestic violence experts were established to review the legislation in order to address the shortcomings identified (Meintjies, 2003).

Only two provisions of the Prevention of Family Violence Act (1993) were not repealed by the DVA of 1998, i.e. Section 4: Obligation to report ill-treatment of children and Section 5: Rape of a wife by her husband. In terms of section 4 of the Prevention of Family Violence Act, an obligation is placed on any person (including police officers) who attends to, examines, treats, advises, instructs or cares for any child, to report to a police officer, social worker or commissioner of welfare any reasonable suspicion that a child has been ill-treated or suffers from any injury deliberately caused. Robertson and Donaldson (1997) found that social- and health services as well as the police- and judicial system, did not intervene readily enough to protect the numerous child victims of domestic violence. The home has been proven to be one of society's most dangerous institutions when violence takes place in intimate relationships (Stephens & McDonald, 2002; Sullivan & Hagen, 2005). The many problems with the PFVA of 1993 resulted in the fast tracking of the DVA of 1998, which was gazetted into law during November 1998 in order to address some of the existing gaps.

### **2.6.6 Domestic Violence Act, 1998**

The Domestic Violence Act, No. 116 of 1998 was passed by Parliament during 1998 by the new democratic government to replace the Prevention of Family Violence Act, No. 113 of 1993 in order to seek improved redress for the high rate of domestic abuse, mainly perpetrated by men who violated women in the domestic relationship. The Domestic Violence Act (DVA) of 1998 was however only implemented a year later on 15 December 1999 (Smith & Nel, 2002). The aim of this Act was to reduce the high number of incidents of domestic violence in South Africa and to afford maximum protection to victims of domestic abuse by creating obligations on law enforcement agents to protect victims as far as possible.

The Domestic Violence Act is an expression of the State's local and international commitments to protect the human rights of women through the elimination of domestic violence, promotion of equality and social progress of women (Usdin *et al.*, 2000). The purpose of this Act is to make legal recourse much more accessible to any victim of domestic abuse. Thus, it aimed to put procedures in place that are as cost effective as possible. Several researchers (Amoakohene, 2004; Artz, 1999;

Damon, 2003) however found that some victims of abuse are reluctant to approach the police for assistance as they are deemed to be ineffective or insensitive in dealing with domestic violence incidents.

The Domestic Violence Act, No. 116 of 1998 (*Annexure A*) provided South Africa with its first legal definition of domestic violence. This Act includes an expanded definition of domestic violence wherein domestic violence is defined as a pattern of coercive behaviours that manifest itself in different forms of abuse as discussed in Section 2.5.3 of this Chapter.

### **2.6.6.1 Victims of domestic violence**

The Domestic Violence Act, No. 116 of 1998 comprises of a more inclusive definition of who qualifies as a victim of domestic violence. A major change in the Act is that it provides protection from abuse, for a much wider range of familial and domestic relationships. Whereas the Prevention of the Family Violence Act of 1993 only applied to partners who have lived together in a civil-, customary- or common law marriage, this Act defines a domestic relationship as any relationship between a complainant and the alleged abuser where they:

- are or were married to each other in terms of any law, custom or religion;
- cohabitate i.e. live or have lived together in a relationship as husband and wife (whether they are of the same sex or heterosexual);
- are the parents of a child(ren) or shared parental responsibility (guardianship) for the child (whether or not at the same time);
- are family members related by marriage, blood or adoption;
- are or were engaged to each other, dating or in a customary relationship, including an actual or perceived (imagined) romantic; intimate or sexual relationship of *any* duration; or
- share or recently shared the same residence.

From the above, it is clear that the DVA of 1998 applies to any victim who finds themselves in a “domestic violence relationship” and not only to “parties to a marriage”. The ever changing family structures in South African society required the adjusted Act to extend and widen the concept of “abuse” and “family” to offer better

protection to all victims of abuse. Thus, the revised definition of domestic violence clearly indicates that domestic violence refers to more than just violence that occurs in the traditional “home”. However, irrespective of the legal definition, police officials in the experience of the researcher still seem to be struggling to gain a common understanding of what constitutes a domestic violence incident. The main reason for this seems to be the fact that unless the conduct complained about amounts to a criminal offence, it is in many cases often not deemed by attending police officials to be a domestic violence incident and consequently not recorded as such. For example, in most instances emotional/psychological- or economic abuse does not amount to a criminal offence and is thus not always handled as a domestic violence incident. Also criminal conduct such as assault by a family member on another family member for example a sister assaulting a brother is also not always registered as a domestic violence incident by attending police officials as it is often not identified as such by them or the complainant.

### **2.6.7 Regulations under Domestic Violence Act, 1998**

In terms of section 19 of the Domestic Violence Act, No. 116 of 1998, the Minister of Justice has drafted regulations (*Annexure B*) for approval by parliament and circulation in the government gazette. These Domestic Violence Regulations came into operation on 15 December 1999 and include the following:

#### ***2.6.7.1 Manner of application for protection order***

The DVA of 1998 makes provision for victims in a domestic relationship to make application for a protection order (Form 2/*Annexure D*) to any court asking for relief or protection. An interim protection order (Form 4/*Annexure F*) can initially be granted as contemplated in section 5(2) of the Act. According to section 5(4) of the Act, the respondent has to be notified to be present at an enquiry to show cause or to submit reasons why a protection order should not be issued (Form 5/*Annexure G*). A final protection order (Form 7/*Annexure I*) as contemplated in section 6(1) of the Act, may be issued against the respondent. This protection order may prohibit the respondent from committing any act of domestic violence; from entering a specified

place; and/or from committing any act set out in the order. A warrant of arrest as contemplated in section 8(1) of the Act should be authorised and issued in the form of Form 8 (*Annexure J*), together with the protection order and brought into effect when the complainant reports a breach by the respondent in terms of the protection order. An affidavit (Form 9/*Annexure K*) has to be completed for purposes of obtaining a second or further warrant of arrest as contemplated in section 8(3) of the Act. A respondent may be fined or sentenced to a term of imprisonment should (s)he be convicted. The use of Form 10 (*Annexure L: Affidavit for contravention of a protection order*) and Form 11 (*Annexure M: Written notice to appear in court*) will be discussed in more detail in Chapter 4.

Any application by the complainant or respondent for a variation or setting aside of a protection order in terms of section 10(1) of the Act, should be made on the prescribed Form 12 (*Annexure N*) This application can however only be made upon written notice to the other party involved and the court concerned. The court may grant the application if it is satisfied that the application has been made freely and voluntarily and that good cause has been shown for the variation or setting aside of the order. The notice of the variation or setting aside of the order should be completed on Form 13 (*Annexure O*) and delivered to both parties as stipulated in section 10(3) of the Act. According to the Domestic Violence Act, No. 116 of 1998, a prosecutor cannot refuse to institute an action or withdraw a charge, unless (s)he has been authorised by the Director of Public Prosecution (Dissel & Ngubeni, 2003).

### **2.6.7.2 Duties imposed on role-players**

Another major change of the Domestic Violence Act, No. 116 of 1998 are the specific duties imposed upon various role-players (handling reports of intimate abuse) to enforce the DVA of 1998. The most onerous obligations have however been placed on police officials to assist complainants. This assistance takes many forms and it is important that police officials understand how and when they need to intervene in domestic violence incidents. The report of the Joint Monitoring Committee (2003) indicates that in monitoring compliance of these duties, one of the findings of concern is that some police officials are reportedly insensitive to the plight of men

who report violence and that they also do not acknowledge same sex relationships. Provisions have been made in the Act (section 18(3) and 5(b)) for the National Commissioner of the South African Police Service to issue national guidelines that must be observed by all police officials when dealing with domestic violence incidents. These guidelines regarding the specific duties imposed upon police officers will be discussed in more detail in Chapter 4.

### ***2.6.7.3 Alleviation of plight of victims vs. available resources***

Additional provisions in the Domestic Violence Act, No. 116 of 1998, aimed at alleviating the plight of victims of domestic violence, include the following:

- Court proceedings may be held in camera to protect the interest of victims. Any part to the proceedings may however request the presence of specific persons including representation by legal counsel.
- No order of costs will be awarded upon any party to proceedings.

Although the DVA of 1998 with all its provisions, was welcomed by non-governmental organisations as ground-breaking legislation and hailed as a vast improvement on the Prevention of Family Violence Act of 1993, the ever present concern is that these improvements will not make much difference for ordinary victims in South Africa if the SA Police Service and other relevant role-players do not commit enough resources to implement the Act. Heyzer (2003) states that the absence of adequate resources to implement policies, continues to hamper progress and high levels of violence continue to persist. Like its predecessor, the DVA does not recognise domestic violence as a criminal offence. It retains the speedy, inexpensive and unsophisticated civil procedure of obtaining a protection order. Thus, besides the flaws inherent in existing legislation, the implementation of such legislation by the SA Police Service as well as court officials has come under severe criticism.

In summary, South Africa has some of the best enabling legislation to protect victims of domestic violence. One of the biggest concerns, is the fact that irrespective of the promulgation of all the above legislation, legal changes with respect to domestic

violence law reform, has had limited effect as victims of domestic violence continue to feel that the state and criminal justice system does not serve them as victims remain trapped in violent relationships. Thus, in order for police officials to fulfil their obligations to ensure that victims receive the maximum protection that the law can provide, they need to start by ensuring that they have a broad knowledge of all relevant and related domestic violence legislation. Even though a number of statutes have been placed on the Statute Book since 1994, it is a fact that the law cannot create happy families or relationships. For the latter to materialise, a reform of heart and mind is needed, not only legal reform. An obvious place to start (for the police and communities) is to become more alert to their own prejudices and stereotypical views that often result in secondary abuse of victims of domestic violence as well as being aware of the underlying reasons of why the abuse occurs.

## **2.7 CONCLUSION**

This chapter explored the literature relevant to the study. It examined the history of the nature of domestic violence, elaborated on relevant legislation, various theories of domestic abuse as well as common misconceptions of domestic violence. Throughout the literature review, it is evident that domestic violence has a long, dark past and has been firmly entrenched in many cultures for generations. It is a very complex issue which has been compounded by misunderstandings, stereotypical views and myths regarding this phenomenon. Victims of domestic abuse are more often women living in a male dominant environment where men are often regarded as somewhat superior to women and many women across the globe accept the role dictated to them by society. Men as victims of abuse are however also becoming more of a reality. In South African society, the number of women and children, who are victims of domestic violence, is a barometer of the pervasive “culture of violence” in our society. Tragically it reflects the extent to which violence has permeated the fabric of our society. Through our inaction and by not acknowledging that domestic violence is a problem in our communities, South Africans continue to tolerate domestic violence even though they profess not to approve thereof.

Prevailing misconceptions and myths embraced in communities as well as by some police officials often worsen the suffering of victims of domestic violence. These

myths and misconceptions often lead police officers to act in a manner which does not alleviate the problem but rather compounds it. Misconceptions should therefore be discouraged and communities and police officials alerted to their own prejudices and stereotypical views that can cloud their actions and attitudes, which are often unconscious but detrimental to victims of domestic abuse. The nature, extent and impact of domestic violence should not be underestimated and should be clearly understood by all relevant role-players tasked with seeking redress for victims of abuse. Greater knowledge about the dynamics of domestic violence will enable police officers to respond in more effective ways to support victims of abuse and to reduce repeat victimisation. They will also come to understand why their best efforts to intervene in domestic violence situations are so often met with resistance and might come to accept the reality and necessity for repetitive police interventions. Until the composition of the SA Police Service more closely resembles the general population in terms of race, gender and sexuality, stereotypical views held by police officers about women and minority groups, are likely to prevail.

When looking at violence against women in South Africa today, there is an apparent contradiction – the Bill of Rights in the SA Constitution contains explicit guarantees which include the right to security and freedom from all forms of violence from either public or private sources. On the other hand, the chilling reality of the nature and level of violence against women in South Africa, remain alarmingly high and women continue to feel that they are not treated with the necessary dignity and respect by organs of State, when attempting to seek redress against abuse. It would thus seem that the “South African miracle” has not been optimally extended to those in domestic violence relationships.

The DVA of 1998 is generally considered to be one of the more progressive enactments of its kind compared to the current position in other African countries as well as internationally. Although the DVA of 1998 offers maximum protection to victims of abuse, it does not necessarily offer remedies for the challenges encountered when experiencing and/or dealing with the phenomenon of domestic violence. Thus, in order to be effective, law reforms need to be accompanied by fundamental changes in attitude, values and behaviours from the community and all

relevant role-players like the SA Police Service. Also, historic events in South Africa have indicated that the promulgation of legislation only, is not enough as additional support interventions such as provision of enough shelters, proper training of police officers as well as financial support are required to encourage victims of abuse to pursue their rights. Insight into the vulnerability and potential effects of continuous exposure to violence on adult and child victims, will guide the responses and interventions of police officers and other practitioners involved in service delivery to victims of domestic violence.

Chapter 3 will elaborate on the responses of the SA Police Service in the handling of domestic violence from a historical perspective.

## CHAPTER 3

### RESPONSE OF SOUTH AFRICAN POLICE SERVICE TO DOMESTIC VIOLENCE: A HISTORICAL PERSPECTIVE

#### 3.1 INTRODUCTION

The history of South Africa is a record of cruelty, indifference and neglect, which is sporadically punctuated by flashes of legal and social reform (Vetten, 1995). Even though all South Africans have since 1994 been part of the monumental change (first democratic elected government) based on human rights and freedom, pervasive domestic violence remains a reality for more women than their male counterparts. The use of the word “domestic” in the term domestic violence, has relegated this form of violence to being treated for years as a private matter, removed from the public arena by both society and the organs of state responsible for protecting victims of abuse. As discussed in Chapter 2 of this study, the response of the South African Police Service (SAPS) to domestic violence remains an issue of intense critique by the media, non-governmental organisations who advocate for the rights of victims of abuse as well as the public (NICRO, 1997; Usdin *et al.*, 2000; Vetten, 2005). A number of South African researchers (McKendrick & Hoffman, 1990; Padayachee, 1989; Parenzee *et al.*, 2001) are of the opinion that the SAPS have a crucial role to play in any attempt to implement a strategy designed to close the gap between the official condemnations of domestic violence as condoned in practice.

As previously indicated in Chapter 1, the goal of this study is to gain an understanding of the experiences and perceptions of frontline police officers who have to serve and protect victims of domestic abuse. This chapter aims to address the second objective of the study that is to describe the response of the SAPS to the domestic violence phenomenon from a historical perspective. To this end, this chapter will focus on the roots in relation to this phenomenon. Certain historical events at crucial time periods in the formation of the SA Police Service will be highlighted insofar as it relates to the response of the police in the handling of domestic violence within a historical context spanning from the period 1913 until

present. The chapter will also focus on the various strategies implemented by the SA Police Service with the change of legislation that has bearing on domestic violence.

### **3.2 ABSENCE OF LAWS TO PROTECT CIVIL SOCIETY**

The SA Police Force came into existence on 1 April 1913 (Fox, Van Wyk & Fourie, 1998). During the period of 1913 to 1989, South Africa was a police state, i.e. a state where there was an absence of laws protecting civil liberties, where people were set apart, treated as inferior and determinedly denied fundamental rights and freedoms.

During this period, the South African Police Force concerned itself less with crime prevention and more with the enforcement of restrictions of apartheid and the crushing of political opposition (McKendrick & Hoffman, 1990; Stevens & Yach, 1995). The primary mandate for policing originated in the idea of public peace-keeping. Its primary purpose was to disperse unruly or riotous assemblies, maintain order on the streets and to ensure that people could go about their lawful economic business (Brogden & Brogden, 1984). Historically, police officers in South Africa have been isolated from civil society and were often positioned in opposition to it as they were primarily used to suppress rebellion and civil strife (Jackson, 1997).

Domestic violence or issues related to this phenomenon, was perceived and handled by the police force of this time period as a private and/or personal dispute between husband and wife – members of the police force seldom intervened and in the instances where they did intervene, it was only to diffuse the situation by calming the abuser down. Bradley *et al.* (1993) maintains that the police (like members of other caring professions at this time) have through their contact with communities, always been aware of some forms of domestic violence but they have either not wanted nor been able to use their knowledge to attempt to transform the phenomenon into a public issue. The most common police response had been to “interfere” as little as possible as assaults within the privacy of the home environment was deemed to be exempted from the laws governing street assaults. The mission of the South African Police Force at this time, was to guard over the “lesser” peoples of South Africa, whose resistance to what God has proclaimed, had to be broken (Brogden & Shearing, 1993). The latter statements, as well as the inaction and non-interventive

approach adopted by the police force regarding domestic violence incidents, indicate that “lesser” people did not only refer to black people, but included women in general.

Police strategy at this time was characterised by a strong emphasis on a militaristic style of policing (Fox *et al.*, 1998). Thus, all basic police training at this time reflected a policing style grounded in strict discipline and coercion. Police behaviour, responsibilities and duties were determined by rules, regulations and hierarchies rather than initiative, discretion and consultation. Characteristics such as individualism and responsibility were not tolerated during basic training (Gibson, Ivancevich & Donnelly, 1982). It is thus not surprising that newly trained constables during this period, tended to treat the communities they served in a similar manner in which they themselves were treated during basic training. A “we-them” attitude towards the communities was evident in the subculture of the police force. This attitude was rooted in basic training and was later further enhanced by the structure of the police force. This style of policing was largely reactive and resulted in a lack of transparency which ultimately gave way to a lack of credibility amongst its supposed beneficiaries (Mistry, 1997). This situation continued until late 1989.

### **3.3 ESTABLISHMENT OF LEGISLATION TO PREVENT FAMILY VIOLENCE**

The 1990s provided a new challenge to the South African Police Force. Under State President De Klerk’s leadership, new reforms were introduced during the early 1990s. These reforms had a huge impact on the police force as political organisations like the African National Congress (ANC), were unbanned. During this period, the apartheid state was most strongly challenged (Shaw, 1997), as white minority came to an end (Cawthra, 1994); the political transition began and crime levels peaked during this time. Simpson (1997) identified a link between broader societal violence and violence in the family during this period. It can thus be inferred that because the family is a microcosm of society, the prevalence of crime in a community can invariably be linked to high levels of domestic violence.

### **3.3.1 Perpetuation of domestic violence**

Vogelman and Eagle (1991) and Jewkes (2001) describe violence against women and children, at this time, as “endemic” to South African society as *violence has become an acceptable way of solving conflict*. Thus, the most vulnerable, i.e. women and children became the main victims of violence as well as human rights violations in South Africa. Shaw (1997) emphasises that it would however be dangerously simplistic to argue that the violence was purely a consequence of the political transition as there is strong evidence to suggest that its roots lie in the apartheid system which the transition, sought to end. Simpson (1997) elaborates on this statement and cautions that whilst the experience of apartheid may have exacerbated the levels of violence against women, it cannot be blamed on apartheid as it has been an enduring feature of the social order – equally prevalent in the pre-colonial as well as contemporary South African society. It should also be noted that if it is accepted that gender related violence is a consequence of apartheid, the extraordinary prevalence of gender violence will be denied in societies that have not experienced apartheid.

### **3.3.2 Lack of policy and police intervention**

*No substantial policies or clear police procedures* were however in place during this period *to address domestic violence issues*. Each of the eleven policing agencies, which existed in Southern Africa at this time, recruited and trained entry-level constables for 3-6 months in terms of their own respective needs and training standards. New recruits in the SA Police Service were placed at a police station/unit/branch prior to being called-up for basic training at a designated police college. There was also no structured field-training programme at this time for new recruits who were in the process of completing their practical placement at the police station/unit/branch. Student constables, who completed their field placement period, were subsequently deployed to various units or branches with the full powers of a police constable. Once these constables entered the community service centre (charge office) they were confronted with the challenge of learning from their mistakes in executing their mandate of policing. Often, the seasoned police officials would place the newly qualified constables under pressure to forget what they learnt

during basic training and instead to follow their example. This in itself created immense confusion in the early stages of the careers of these constables who often felt pressurised to submit to the pressure of veteran police officers.

### **3.3.3 Challenges in application of Prevention of Family Violence Act No 133 of 1993**

When the Prevention of Family Violence Act (PFVA) 133 of 1993 was introduced, it *did not include any means for implementation*. SAPS members were simply informed via the normal communication channels (i.e. circulars and meetings) to note the passing of this Act. No formal training was conducted to facilitate the implementation of this Act. The latter combined with poor communication resulted in many police officials remaining ignorant of the existence of this Act. Although the Prevention of Family Violence Act No.133 of 1993 established procedures to prevent domestic abuse of immediate family members, this Act sadly, had many restrictions, as it was vague and out of touch with the realities faced by victims as it was generally construed as limited to physical abuse only. Section 3(1) of the PFVA No.133 of 1993 required a “peace officer” (not necessarily a police official) to serve an interdict on any person accused of family violence. This interdict, was intended to provide protection only for abused married women and their children against further assault and where the suspected perpetrator (husband) has violated the conditions of the interdict, he could be fined or imprisoned. Thus, unmarried couples who have never lived together were not provided for in this Act. This was problematic in the South African context as victims could be trapped in long-term violent relationships where they lived apart from the perpetrator.

### **3.3.4 Police approach to implementation of PFVA No.133 of 1993**

Very few police officers however understood their roles and responsibilities in terms of this Act and continued to use hunch, supposition and tradition as their guides to handling domestic violence incidents. As a result, *few police officials* at this time were *serious about implementing this Act*. The result of the latter was the erratic enforcement of this Act. Police officials felt restricted in terms of the non-existence of processes and procedures to be followed for ensuring protection of unmarried women who were abused by partners; or lesbian/gay couples. Although section 5 of

the Family Violence Act No.133 of 1993, provided that a husband could be convicted of the rape of his wife, this Act did not include protection for abused victims who were not married. Thus, “unmarried” victims seeking legal remedy for domestic abuse had no adequate protection as this Act did not make any provision for them. McKendrick and Hoffman (1990) found that even for abused victims who were in a marital relationship, the available options indicated in this Act had extreme financial and personal costs as the South African Police Service tended to only respond more seriously to a domestic violence incident or complaint, after a wife obtained a Supreme Court interdict.

Jackson (1997) found that *police officers* dealing with victims of domestic violence during this period generally *did not regard rape and domestic violence as crimes* partly because there was no specific criminal law against domestic assault. The experiences of women reporting interpersonal violence to the police were predominantly negative as they often experienced secondary victimisation in their interaction with the police. Irrespective of the implementation of the Prevention of Family Violence Act No.133 of 1993, the police generally seemed to continue to abide by a policy of non-interference in “family disputes”, also regarding it as an issue of low priority – ignoring the requests of battered wives, whilst unmarried and divorced women were left to fend for themselves (Human Rights Watch, 1995). The above shortcomings identified and the uncertainty regarding the roles and responsibilities of the police in terms of the policing of domestic violence at this time, resulted in domestic violence being policed on the periphery. Stanko (1998) maintains that generally when domestic violence incidents were reported, it was largely interpreted by the police as public disorder, an intrusion of noise or upset into the public realm and other peoples’ lives and thus dealt with accordingly. Assistance was only provided in situations where the violence manifested itself as injury or death, which was too serious to be ignored. Attending to murder, serious assaults and major economic crimes (none of which included domestic violence) was handled by police officers as “real crime” and “real police work”. Until this period, the conduct of the SA Police Service has done little to inspire the confidence of victims of domestic violence.

During this period, sporadic *initiatives* were launched *to upgrade the police force and to improve professional standards*. More, emphasis was also placed on community relations (Fox *et al.*, 1998). The reforms at this time did however not have the desired effects at grassroots level, as the attitude of police as well as their insensitive treatment of victims, resulted in many battered women and professionals deciding to exclude police involvement from battered women's programmes, as their inclusion was often perceived as a betrayal of the trust of the community. Thus, police-community relations at this time were tentative and to a large extent non-existent. In most situations however, the police remained the only recourse a battered wife had for protecting herself from violence perpetrated by her husband. In terms of the latter, it was essential that victims experienced a sensitive and professional response from the police. This however did not happen readily.

For eighty years (from its formation in 1913 until 1993), the SA Police force was a symbol of oppression for the greater part of the community as it played a central role in the upholding of apartheid in South Africa. At this time, abusive men were not held socially accountable for their abusive behaviour and wife abuse was tacitly legitimised and allowed to continue as police officers traditionally used inappropriate intervention techniques that avoided arrest and sought to reconcile the husband and wife rather than separating the parties and protecting the vulnerable (Jackson, 1997). Until 1994, apartheid and cultural standards were an invincible force perpetuating the subservience of women in South Africa.

### **3.4 DEMOCRATIC COMMUNITY-BASED SERVICE**

Nelson Mandela's election to the presidency of South Africa resulted in a new democratic government. The democratic election of 27 April 1994 demanded a fundamental reassessment of the nature of policing in South Africa (Fox *et al.*, 1998).

#### **3.4.1 Translation from South African Police Force to South African Police Service**

One of the major reforms introduced by the new government was the *restructuring of the police force* through the amalgamation of the eleven police agencies of South Africa into one national police service, as opposed to a "force" in accordance with the

constitution of the Republic of South Africa. Since 1996, there has been a strong move away from the notion of a police force to the *creation of a South African Police Service (SAPS), answerable to the new democratic government* (Singh, 2001). The new police service had to re-orientate itself away from suppression of rebellion to their core business of crime prevention. The South African Police Service Act, No 57 of 1995 (Amended), the Bill of Rights and the introduction of new rules and regulations were all factors that had a major effect on the transformation of the police from a “police force” to a “police service”. Police officers in the newly formed South African Police Service (SAPS) then had to adapt to working within the framework of a human rights culture (Mistry, 2000). The latter was done as part of an ongoing process of restructuring in an attempt to improve the image and restore public confidence in law enforcement.

With the dawn of the new democratic South Africa, the functions of the SAPS were now regulated by the *need to reconcile their objective of preserving order and safety with the democratic imperatives of personal freedom* (Bent, 1974). Ultimately the resolution of this dilemma was left up to the individual police officer, whose authority allowed him/her to use discretionary powers to make on-the spot decisions affecting the personal lives and safety of citizens. Also, in essence what was now required by the new police service was a transformation from a militaristic force towards a culture devoted to a service ethos (Stevens & Yach, 1995). Thus, began the journey of the SAPS towards the provision of a more democratic community-based police service. Implicit in the revised mission of the SAPS was a need to transform the police service into an organisation that can provide a service committed to operating within the values of a democratic society and where employees are accountable.

McKendrick and Hoffman (1990) found that the SAPS at this time however lacked credibility in many South African communities because of the extreme brutality they applied as agents of apartheid. Singh (2001) agrees with the previous authors that where there was a history of state repression, those who were the targets of violence by the police, would be reluctant to involve the police because of distrust. This period was marked by, a rapid increase in crime. Cawthra (1994) ascribed this rapid increase in crime to the fact that the South African nation, has emerged from a

destructive pattern of violence (both repressive and revolutionary) and in this process, many South Africans have been socialised to accept violence as the norm and as a legitimate solution to conflict.

In an attempt to combat crime more effectively in the diverse communities, the number of police officers needed to be boosted. More black officers also had to be recruited as they were in the minority and equity targets had to be complied with. The crime rate in the Western Cape, like the rest of South Africa, however continued to escalate at an alarming rate as the political transition unfolded. McKendrick and Hoffman (1990) maintain that during this period, the city of Cape Town had the highest crime rate of any large city in the Western World. Thus, although political violence was virtually a problem of the past, criminal violence became the challenge for the new SA Police Service. At this time, little preparatory work has however been done by the SAPS to re-orientate, retrain and up-skill the amalgamated police forces of Southern Africa ( which now made up the new SAPS) for their new role of rendering a “service” to the diverse South African communities, who have radically diverse expectations, of the new SAPS.

Throughout this period, domestic violence victims and service organisations however continued to complain of ineffective policing and bias of police officials in the handling of crimes against women (Jackson, 1997). Unfettered by the constraints of the inadequate Prevention of Family Violence Act , No.113 of 1993 and the non-interventive approach adopted by many police officials at this time, victims and service organisations managed to successfully lobby to have the issue of domestic violence placed more firmly and vigorously on the political agenda as the incidence of this phenomenon continued to increase. The result of the latter was the adoption of the new Domestic Violence Act, No. 116 of 1998.

### **3.4.2 Implementation of the Domestic Violence Act, No. 116 of 1998**

The purpose of *the Domestic Violence Act, No.116 of 1998*, was to reduce the high number of incidents of domestic violence in South African society and to uphold the rights of all persons by making provision for all victims of domestic abuse to receive

the maximum protection that the law can provide. This new Act came into operation on 15 December 1999 and ushered in a new era which signified the urgency and determination of the new South African government to tackle and eradicate the rampant violation of the rights of women and children. Through the adoption of the new Domestic Violence Act, No.116 of 1998 and the new Constitution of SA (1996), various role-players (including the police) have been obligated to intervene, assist and/or protect all victims of domestic violence within the confines of the family home.

The said Act *aims to address the shortcomings / inadequacies of the Prevention of Family Violence Act No.133 of 1993* in that it broadens the definition of domestic violence and provides a more inclusive definition of what individuals constitute a victim of domestic abuse. Thus, the Domestic Violence Act, No.116 of 1998 (unlike the Prevention of Family Violence Act, No.113 of 1993) is not restricted to married couples only and sets out remedies available to all victims of domestic violence. Whereas in the past, officers tended to handle domestic violence incidents by using their own informal methods of intervention such as mediation and recommending that parties seek counselling, police officers were now obligated by the new Act to assist victims of abuse as discussed in chapter 4 of this study. This new Act also allows for more powers to arrest the abuser should the victim's life appear to be in danger. It also makes provision for a magistrate to compel an abuser to continue to support the victim and her children financially. The Domestic Violence Act, No.116 of 1998 does not provide long-term solutions for victims trapped in abusive relationships nor does it address the underlying reasons of why abuse occurs (Richards, 2002a).

Stalans and Finn (1995) however found that irrespective of the aforementioned legislative improvements, some *police officials still frequently displayed a reluctance to intervene in domestic disputes* or did so in a judgmental manner, often siding with the male batterer. Thus, subsequent to the adoption of the Domestic Violence Act, No.116 of 1998, the National Commissioner of the SAPS issued National Instructions (7/1999) regarding police duties in relation to the Act. According to these instructions, any failure on the part of a police officer to act accordingly will constitute misconduct for which the police official may face disciplinary action with the

Independent Complaints Directorate. This new Act warrants police officers to have an intellectual curiosity, analytical ability and a capacity to interpret social, political and historical contexts to better help redress domestic violence (Vickers, 2000).

### **3.4.3 Challenges in application of the Domestic Violence Act, No.116 of 1998**

Despite the international and constitutional framework, the Joint Monitoring Committee (2003) found that the law continually fails to provide comprehensive protection to victims as domestic violence is often not handled by police officials as a priority but as an additional tasking and burden. Artz (1999) states that the inconsistent and faulty application of the law by police officers and other criminal justice agents, has in many cases illustrated that progressive legislation such as the Domestic Violence Act, No.116 of 1998 can be more of a theoretical exercise than a pragmatic one as the improvements has not to date translated into real change for women. Artz and De Oliviera (1999) ascribed the latter to the fact that *very little time and money have been spent at National and Provincial levels in the SAPS to ensure that police officers are familiar with the contents of this new Act; are competent to implement the Act or are able to understand the implications thereof for policing domestic violence incidents.*

Ohlin and Tonry (1989) found that domestic violence calls to the police continue to be more common than the combination of all other violent crimes. Parenzee *et al.* (2001) however state that irrespective of legislation, as well as the fact that violence against women and children have been identified during 1998 as a policing priority in the National Crime Prevention Strategy (NCPS), victims of domestic violence continued to receive inadequate support from the police. These South African researchers further allege that the *police continue to treat domestic violence as a "household dispute" which in practice seems to be considered to be insignificant in the greater domain of police work.* From the latter, it is clear that there seems to be a general belief amongst researchers and NGOs that despite a political will to improve the situation by reforming the legislation, there has been inadequate transformation of the criminal justice system which is charged with the implementation of the Domestic Violence Act, No.116 of 1998.

Even though there seems to be an increase over the last few years in reported cases of domestic violence, it is suggested that *domestic violence is still under reported*

*and is documented under the generic categories of "assault", "disturbing the peace" or "relationship problems" (McKendrick & Hoffman, 1990). Research indicates that the reluctance of particularly black women, in reporting acts of domestic violence, stems from the lack of public confidence in the police, inherited from the apartheid era, when the police played a largely repressive role in black communities (Simpson, 1997). Allegations of police hostility and the contemptuous treatment of female victims at the hand of the police, coupled with their ignorance of the legal provisions, exacerbated the victim's feelings of helplessness and their reluctance to turn to the police (Jackson, 1997). Under reporting of domestic violence incidents has been compounded by the difficulties the SAPS have in adapting to the transition. Apart from the low morale of members, the inadequate spread of resources (human or otherwise) to effectively address the issue of the effective policing of domestic violence remained a stumbling block.*

Many victims, found their efforts disappointing and frustrating when seeking protection through criminal law, as it is *not unusual for abusers to be released within hours after their arrest*. Police officials who are the most visible representatives of the criminal justice system, thus often find themselves on the receiving end of these disappointed complaints, anger and frustration because of the *inadequacy of the justice system to provide victims of domestic violence with the maximum protection as promised by the Domestic Violence Act, No.116 of 1998*.

*Criminal justice remedies tend to be limited as most calls for domestic violence incidents are classified as minor offences, for example a breach of the protection order does not carry significant penalties to act as a deterrent. In terms of the monitoring of the different crime categories of domestic violence i.e. assault, assault with grievous bodily harm and rape have not been desegregated by the SAPS to ensure that these statistics will reflect offences committed by strangers and those committed by intimate partners. Shaw (1997) states that recording crime relies on a two-stage process: victims or bystanders need to report the crime to the police, who then in turn need to record it properly. Even though attempts have been made to differentiate between general crimes of assault and assaults of a domestic nature in the collection of statistics, the implementation and monitoring thereof seem to be*

*problematic*. As a result, domestic violence remains hidden in reported statistics of assault and the ongoing pervasive nature of domestic violence, as well as the intensities thereof are not properly reflected. One can thus conclude that presently, *only a portion of domestic violence incidents gets reported*. Jackson (1997) found that depending on the degree of the violence, the weapon used, and the attitude of the police officer, the police will document the domestic violence incidents as common assault, rape, general sexual harassment or murder. This makes it *difficult to assess how many domestic violence cases have been reported and the response to it*. The collection of statistics in South Africa has also been complicated by the historical divide between the community and the police as well as the vagaries of apartheid record-keeping.

Over the years, the South African Police Service has developed a distinctive character due to historical influences. Rising crime and socio-political instability, together with evidence of the shortcomings and inefficiency of traditional policing approaches have led to a worldwide search for new policing approaches. During the last few years, the SA Police Service has moved towards a variety of forms of policing in which they attempted to redefine their own role in the community (Friedman, 1992). These initiatives were embarked on to establish new and more healthy relations with the community and to act as a catalyst to involve other professions and citizens in sharing the responsibility for issues that have been perceived as a problem for the police alone. The 1994 election represents a bridge between the new order based on democratic principles and constitutionalism and the old apartheid era which was characterised by massive violations of human rights, of which police brutality was a significant feature.

The next section will focus on the challenges faced by the police in the new democratic dispensation and the attempts initiated to reshape the police to align it with the new democratic ideals.

## **3.5 STRATEGIES IMPLEMENTED TO ADDRESS DOMESTIC VIOLENCE**

The South African Police Services is one of the organisations empowered to deal with the symptoms of the social and economic conditions in society. Though incapable of redressing the wrongs of society, it has however made some efforts to curtail the manifestations of these wrongs. Some of these efforts will now be discussed.

### **3.5.1 A community policing response to domestic violence**

The community policing approach to domestic violence is entrenched in the South African Constitution (Steven & Yach, 1995). A tradition of reactive policing has led to the South African Police Service being isolated from the broader community (Camerer, 1996). During the first ten years (1994-2004) of democracy, community policing emerged as the dominant strategy or philosophy of the SAPS for ensuring more effective policing of domestic violence incidents.

Research findings regarding the impact of community policing on domestic violence in the United Kingdom (Sheptycki, 1991) and the United States of America (Davis & Taylor, 1997) suggest that a community policing philosophy might have a positive impact on police practice. Glensor (1996) found that of all the different problems, the police are called upon to address, relatively few required solely a “law enforcement response”. Community policing provides a foundation for relationship building and development of problem-solving partnerships between communities and law-enforcement (Baker *et al.*, 2002). The South African Police Service accordingly attempted to form new partnerships with the various communities by establishing community policing forums with a view to enhance cooperation and dialogue between the police and the community and to combat crime through joint action and community vigilance. This strategy thus emphasizes crime prevention and community service along with law enforcement.

Gibson *et al.* (1982) and Friedman (1992) maintain that the implementation of community policing is not only a philosophy but a renewal strategy to position the police in a changing environment so that it is able to deal more effectively with the

current and future challenges. Distrust of the police, was a key obstacle in terms of the reporting of domestic violence by victims. Thus, by adopting a community policing philosophy, the SAPS attempts to change police-community relations from hierarchical, distant and authoritarian to equalitarian, intimate and communal (Manning, 1984). The latter was initiated because it was believed that together the police and community can become more effective and more humane co-producers of safety and public order than the police alone (Skolnick & Bayley, 1988). It can therefore be concluded that the most important aspect of community policing for the SAPS, consisted of breaking down the barriers that separated the community from the police. The SAPS have through the adoption of this strategy, acknowledged that they can only effectively address social issues like domestic violence, if they are in partnership with the community. This change of direction was necessary for more effective policing of domestic violence as the SAPS would otherwise have continued to suffer from a lack of legitimacy and would have remained largely alienated from the communities it is supposed to serve (Scharf, 1996).

By adopting a community policing strategy, the traditional paradigm of policing in the SAPS, which has been primarily reactive in nature, had to be replaced by a new style of policing that encourages transparency, a police-community partnership, a broader police role and the use of a proactive and problem solving approach (Robinson & Chandek, 2000). The latter required creating and developing a new breed of line officer (Friedman, 1992) as community police officers were expected to participate in activities usually shunned by traditional police officers (Goldstein, 1990, Kelling & Coles, 1997, Wilson & Kelling, 1982) and to use their individual discretionary powers.

Cawthra (1994) and Stevens and Yach (1995) found that although many declarations have been made by the SAPS about new partnerships with the community and changing attitudes in the service, some old habits seem to persist as:

- The policing style and values underlying community policing are not yet habitual or evident in the standards of conduct of the police;
- Police officers still lack knowledge and understanding of the diverse local communities, their customs, traditions, religions and cultures. There is also a

lack of understanding of community justice and traditional problem solving mechanisms;

- The police environment (at some stations) still does not support the provision of a professional and caring service;
- The SAPS does not adequately reflect the composition of the communities they police. There are also too few female frontline police officers compared to their male counter parts (even though the number has increased since 1994). Thus rectifying equity targets remains a challenge.

Irrespective of the aforementioned, Mistry (1997) found that lately there has been an increase in reported cases of domestic violence and states that perhaps this is because communities today, have a little more confidence in the ability of the police to investigate and handle crime. Friedman (1992) however argues that the majority of police officers today are still very much production oriented as their performance is clearly evaluated by a system that values their ability to make arrests and control public order. It is also alleged that they tend not to use their discretion as often as they should as they seem too preoccupied with procedure (Mistry, 2000). From this, it is evident that the SAPS still has to become accustomed to the principles of community policing and will have to learn how to optimally use their discretionary powers in this context, in order to find more effective solutions to policing domestic violence.

### **3.5.2 Service Delivery Improvement Programme (SDIP)**

Crimes against women and children were so widespread that it demanded a broader strategy and a more concerted effort by the SA Police Service in terms of effective redress for victims of domestic violence. During 2001 the Strategic Plan for the Western Cape Province for 2002-2007 was devised to include redress for victims of abuse. The strategy adopted was the Service Delivery Improvement Programme (SDIP) which aimed to improve service delivery to communities at grassroots level. This strategy was formulated to conform to the regulatory framework set by international conventions and the DVA, which was one of the most important tools in this regard. The approach was aimed at combating crime against women and children through the vigorous implementation of the prescripts of the DVA. The latter

was augmented by victim empowerment and support programmes for victims as well as the initiation of partnerships with relevant role players who render services to victims of domestic violence in the communities.

In order to succeed in the SDIP, police officials were expected to demonstrate specific competencies reflecting knowledge and skills in determining, interpreting and applying of the national law in accordance with the RSA Constitution No,108 of 1996, Police Service Act, No.83 of 1998 and other policy directives. The Amended Police Service Act, No 57 of 2008 was subsequently implemented. Police officials also needed to have the ability to work with diverse groups of individuals and communities. In response to activities in progress, police officials needed to have the ability to analyze diverse situations and make conclusions about the risks involved.

When approaching and managing situations, members were required to:

- maximize public and police safety;
- avoid and/or diffuse conflict situations;
- make effective use of community resources (if appropriate) where possible; and
- support victims in a sensitive manner and refer them for necessary assistance.

During and after the investigation of incidents, police officials needed to be able to gather the necessary information by applying effective investigative techniques and skills and they were expected to handle and interpret evidence properly and appropriately. When making an arrest, members had to affect the arrest according to the Law and Constitution. They also had to testify in court and be conversant with the relevant procedures. The strategy also stipulated that in order to ensure the execution of planned activities, programmes and interventions should be initiated for the allocation of the required resources to achieve the desired results.

### **3.5.3 Ad hoc services**

Pressure from non- governmental organizations (NGOs) to improve services have resulted in the establishment of ad-hoc services at police stations such as comfort

rooms for counseling of victims as well as short one day training sessions/workshops aimed at sensitizing police officers in dealing more effectively with domestic violence incidents.

Victim support rooms/comfort rooms have been provided at police stations for the use of victims of violence who have been traumatized. It provides a safe and secure milieu where statements can be taken in private, information can be provided and counseling can take place. The assistance of trained volunteers is used to attend to victims of abuse and to assist police officials with obtaining accurate and adequate information for a complete statement. Corcoran *et al.* (2001) states that the many potential needs of the victim may sometimes be beyond the scope of typical law enforcement tasks, thus appropriate training as well as an integrated working relationship with NGOs, focused on addressing domestic violence issues, is crucial.

### **3.5.4 Training initiatives**

Since 2000, various training initiatives, aimed at addressing the needs of victims of domestic violence have been implemented in response to the growing concern that too few police officials have the necessary knowledge and skills to police this phenomenon. Baker *et al.* (2002) state that training is a means of imposing knowledge and skills to new recruits as well as providing refresher courses for more experienced staff. Training of police officials in the implementation of the Domestic Violence Act, No.116 of 1998 was necessitated because:

- The DVA of 1998 obligates SAPS members to perform specific tasks and duties. It is thus imperative that police officers understand these tasks and are also adequately equipped to carry them out;
- There are areas where the Act relies on the use of discretion by police officers. Singh (2003) states that these discretionary powers are a further victimization of women in that the police have not been adequately trained to understand the social and psychological ethos of intimate violence and to effectively enforce their discretionary powers. In light of the latter training was necessitated to ensure that police officers were able to make informed decisions that would provide protection for victims of abuse;
- Members are expected to inform victims of their rights in terms of the Act and

to explain specific content. A detailed understanding of the issues and an ability to put information across in a clear and simple manner is imperative.

- Domestic violence cases require investigative skills, lacking in the training of police officers. Most police officials have mastered interrogation skills and not investigative skills. Domestic violence cases are often more complex because of witnesses who do not want to become involved as well as the traumatic effect of the abuse on the victim. It is thus imperative that the investigative skills of police officers needed to be developed if the police are to comply with their specific roles, duties and responsibilities as outlined in the National Instruction 7/1999.

The Joint Monitoring Committee (2003) found during a study tour to the Western Cape Province during 2000 that whilst there was an indication that at the very least, most members of SAPS were aware of and familiar with the DVA of 1998, not all members received in-depth training on the issues for ensuring effective implementation of the DVA of 1998. They also found that those police officials, who have been trained, were transferred to different positions at stations/units/sections where they did not practically have to apply their newly acquired skills and knowledge, thus resulting in a loss of skills and subsequent fruitless expenditure.

To facilitate the training process, attempts were made to develop a training manual in partnership with Technikon SA. No NGO or relevant role-players involved with dealing with domestic violence incidents were however involved in this process. Training was further hampered by the fact that no provision has been made in the 2000/2001 training budget for domestic violence training. Thus, the SAP was dependent on donor funding which was depleted eventually as large numbers of police officials had to be trained. Most training was done at “no cost” and trainers who did not necessarily have a holistic understanding of the domestic violence phenomenon were appointed to do the training.

Police officers (trained and untrained in the Domestic Violence Act, No.116 of 1998) continued to encounter a number of challenges with the practical application of this Act. Subsequent to the implementation of the Act, the interpretation of the Domestic

Violence Act was prepared for inclusion in the Basic Training curriculum for all new recruits. For the first time in South African history, domestic violence training was incorporated in the six month basic training programme. On completion of the formal basic training at the basic training academy, all student constables were deployed at designated stations to undergo a field training programme, over a six (6) month period, under supervision of a field training officer and field training supervisor.

Jackson (1997) states that training police officials in how to treat victims of gender violence is widely considered to be an integral part of the transformation of a police service. It should be noted that the initial basic training initiative described above was aimed at understanding and interpreting of the Act and little emphasis was placed on understanding the domestic violence phenomenon. Consequently supplementary Ad-hoc training was embarked on at station level where NGOs, like Rape Crisis conducted workshops for police officers to broaden their knowledge of the domestic violence phenomenon. The Independent Complaints Directorate (ICD) currently known as the Independent Police Investigation Directorate (IPID) also conducted work sessions for frontline police officials in order to enhance coordination with the SAPS. The initial ICD work sessions with police officials at station level, focused on potential problems with the implementation of the Act and recommendations to address these concerns.

A longer-term training initiative was undertaken by SAPS Provincial Training in partnership with NGOs to train police officers in Victim Empowerment. This initiative (five day programme) was developed and jointly presented by several NGOs as well as social workers and psychologists of SAPS Employee Health and Wellness. A need to develop specialized “soft skills” in the area of crimes against women and children, were identified. Funding of initiated programmes, however continued to be a battle as the development of functional skills programmes and not ‘soft skill’ programmes, remained priority in the SAPS training budget.

During the 2001/2002 financial year, funds were made available by the SA Police Service for specific training in terms of the implementation of the DVA of 1998 and Victim Empowerment. These programmes were however fragmented and not

standardized as each province developed its own training programme. Brogden (1991) warns that even though various training programmes like Victim Empowerment, Client Services, and other have been initiated to complement the domestic violence training programmes of the SAPS, these cosmetic changes will however have little effect unless they are followed up by a comprehensive and intensive programme of retraining, sensitization and the removal from the service of officers not willing to cooperate with the new order.

Rauch (1996) found that police attitudes towards women in general, and to violence against women in particular, required much more attention than the police have thus far provided. During 2004/2005 a standardized, five (5) day national Domestic violence training programme was developed to ensure uniformity in practice and implementation of the DVA of 1998. This intensive training programme has as its primary focus, social context training, and guidelines for police officers regarding the practical implementation of the Domestic Violence Act as well as gender-sensitivity training. Usdin *et al.* (2000) and the Joint Monitoring Committee (2003) share the opinion expressed by Brogden (1991) that an effective training module forms a crucial part of ensuring effective policing. From the latter statement, it is evident that the DVA of 1998 is but one important tool for the combating of gender-based violence, if properly implemented. This new national training programme was initially piloted in various provinces from March 2005 and was implemented in all provinces from September 2005. The initial target group for this training was all community service centre personnel and detectives.

During 2005 the field training programme was also amended in order to address identified training gaps like the inclusion of the practical application of skills in the implementation of the DVA. The new programme was primarily focused on but not limited to the development of mission critical competencies.

### **3.6 BARRIERS ENCOUNTERED IN POLICING DOMESTIC VIOLENCE**

Although the SAPS started to implement the policy guidelines of the Domestic

Violence Act and National Instructions, much still remained to be done, particularly with regard to providing effective guidance and training regarding the practical implementation of the Domestic Violence Act (1998) as well as barriers encountered during service delivery. Singh (2001) emphasizes that training must be viewed against the backdrop of an Act that does not stand on its own. A discussion of specific barriers encountered in the policing of domestic violence will now follow.

### **3.6.1 Constraints in the DVA of 1998**

The following issues have been identified as constraints in the DVA of 1998 and pose great challenges to police officials for effective service delivery:

- Abuse of protection orders: The Joint Monitoring Committee (2003) found that protection orders were often obtained for wrong purposes unrelated to abuse such as evicting partners from the home where there has been a disagreement. Partners also tended to obtain protection orders against each other in order to gain the upper hand in disputes.
- Lack of mechanisms in terms of interim protection for victims whilst they await the issuing of the final protection order.
- Serving of summonses: the police who are often requested to serve summonses sometimes experience problems with transport and/or lack of personnel and this can result in a delay of service delivery.
- Lack of shelters for victims of abuse and places of safety for children who need to leave the abusive relationship.

The above constraints often limit the impact in terms of the implementation and application of the DVA of 1998.

### **3.6.2 Budgetary constraints**

Usdin *et al.* (2000) maintain that the lack of inter- and intra-departmental budgets presents further obstacles as parliament enacted the new DVA of 1998 without any regard for its fiscal implications. The lack of financial commitment by the SAPS for appropriate training, coupled with over ambitious policy commitments to reduce domestic violence incidents, has resulted in a lack of impact in the pervasiveness of domestic violence in the Western Cape. The fact that “resources” are slowly being

transferred to the provinces, have had little impact on addressing the issue as personnel costs continue to dominate police expenditure.

### **3.6.3 Lack of interdepartmental coordination**

The effective implementation of the DVA of 1998 depends on the cooperation and coordination amongst law enforcement-, judicial-, and social service organizations as well as non-governmental organizations. Since 2000 SAPS participated in various initiatives in the Western Cape Province in order to establish a multi-disciplinary, interdepartmental team on violence against women to improve social, medical and legal procedures for women affected by violence. None of the aforementioned agencies seem to have budgeted for the time it would take for their personnel to practically implement their roles and responsibilities in terms of the DVA of 1998. The latter combined with the “other pressures” on each of these organizations for optimal service delivery on all levels in their respective areas, hampered the effective implementation of this Act.

Therefore any attempts to introduce radical changes, in the handling of domestic violence incidents by the South African Police Services and other role-players, should confront two major obstacles: the first is the resistance to properly implement the DVA, the second is the refusal to accept that a more drastic approach is needed to more effectively address the challenge of domestic violence in order to ensure maximum protection to victims of this kind of abuse.

### **3.6.4 Training of frontline police officers**

Prior to 1994, the training of new recruits (basic training) did not include training in terms of the handling of what was then referred to as family violence. Overall, minimal in-service training was done in SAPS to facilitate the implementation of the then Prevention of Family Violence Act (133 of 1993). Generally, frontline police officials were informed of the content of the Act, through the “normal communication channels”, i.e. circulars, parades and meetings.

Recruits, who completed their basic training programme at this time, also had no structured field training programme. This, coupled with the apathy with which the PFVA of 1993 was viewed and communicated, created a sense of ‘non-priority’ in terms of the policing of this phenomenon as it was often perceived as a private

family matter. It also created confusion in the early stages of the careers of the young constables as little guidance was provided in terms of how to translate the soft skills theory, learnt during their basic training (e.g. client service training) into practice. Mistry (1997) raised the concern that once these trainees face the realities of police work, they will be intimidated by more experienced police officials and will “forget” what they have learnt. The general *modus operandi* in terms of policing family violence, was to learn through trial and error as well as the examples set by their more “experienced” colleagues in their handling and treatment of victims of violence.

Wetendorf (1998) cautioned that the characteristics and skills developed during the basic training of police officials are the same characteristics and skills that when used in an intimate relationship, make police officials very dangerous abusers. Their competency is determined by their ability to:

- Use deadly force;
- Walk in and take control;
- Assume a position of authority;
- Intimidate by presence alone;
- Obtain information through interrogation and surveillance; and
- Deceive and manipulate when necessary.

A research study to evaluate the new elements of basic training, designed to promote community policing, found that trainees struggled with putting the principles of transparency, consultation, community service and accountability into practice (Mistry, 1997). In some stations that were considered “rough” or “busy” trainees were of the view that community policing was not applicable in those areas, as the lives of police officers were constantly in danger. From this one can infer that community policing was not as effective in all areas. By 15 December 1999, when the Domestic violence Act, No 116 of 1998 was implemented, the majority of police officers on station level were still uncertain about their roles and responsibilities as well as how to practically implement the Act.

The first training in the Western Cape Province in terms of domestic violence was

conducted with senior management when the DVA of 1998 was introduced. This was done to ensure the buy-in of station commissioners and the SAPS leadership. There was also an expectation that by training senior management, the knowledge gained, will be filtered down to station level. This however proved to be a challenge as frontline police officers in the community service centre, who is often the first level of contact with the community, still did not show any improvement in dealing with domestic violence incidents. Various reasons were identified in terms of the latter, which included problems with command and control, negative attitudes regarding the implementation of the Act, apathy regarding roles and responsibilities and ignorance. Thus, since 2000 the SAPS Training division rolled out the Domestic Violence programme to all frontline police officers in order to address the community needs and to ensure more effective policing. Attendance at this programme by frontline police officers however remains a concern as this training is not given the same priority as for other “operational” training courses.

### **3.6.5 Demeanour of police officers**

Another barrier is the demeanour of police officers when attending to domestic violence incidents. The DVA to a certain extent spells out what police officials should do at the scene of a domestic violence incident and provides them with an ambit in which to exercise their discretionary powers. Within the ambit of the DVA of 1998, a variety of different *modus operandi* remains open to the attending police officials. The manner, in which discretionary powers are used in deciding how to handle a specific complaint, is largely determined by the police officer’s character, values and beliefs. Reluctance of some police officials to arrest colleagues and/or friends, who are abusers, reflects negatively in terms of the credibility of the police service as protectors of victims of domestic violence.

Steinberg (2004) found that the following aspects of an officer’s demeanour at the scene of a complaint can either exacerbate or ameliorate domestic violence:

- the manner in which an officer treats an offender in front of his family;
- whether and with how much urgency he/she persuades a complainant to seek a protection order and/or lay a charge;
- the extent to which the presence of children in the house affects the police

official's behavior and demeanour; and

- the extent to which a police officer is concerned only with whether a crime will be committed on his/her shifts rather than the long-term consequences of his/her actions.

Some police officers continue to regard or treat domestic violence as an additional task, burden and/or private matter. Parenzee *et al.* (2001) state that progressive legislation combined with unprogressive attitudes amongst police officials result in negative attitudes towards complainants with consequent secondary victimization of victims of abuse and/or failure to act according to legal obligations as set out in legislation. The attitude displayed by some frontline police officials reflect the status quo, that they are themselves part of a “macho” culture which is profoundly anti-feminist and conservative in outlook.

The personality of the police officer, his/her commitment to the implementation of the Domestic Violence Act No.116 of 1998 including the relationship between the officers and the communities they serve, will determine the sustainability of training strategies implemented to address domestic violence (Artz & De Oliviera, 1999). Mistry (1997) maintains that training in itself is not enough as its expected benefits can falter through police officers' resistance to change. Brogdan (1991) suggests that police officers, who are therefore not willing to cooperate with the new order, should be removed.

### **3.6.6 Police-community relations**

An added difficulty to policing domestic violence is the existence of serious tensions between the police and the communities they serve (McKendrick & Hoffman, 1990). Some of these tensions are the result of malpractice by the police, whilst others exist because of past history based on mistrust and because the police, as omnipresent symbol of the political system, are singled out by groups of certain communities that oppose that political system.

The unwillingness of communities to take charge and become involved in finding recourse for domestic violence incidents occurring in their own backyards result in the perpetuation of this phenomenon. It thus becomes imperative that the police and

community work together to ensure effective redress for victims. A challenge in building trust in any community is the maintaining of integrity of the police when a police officer is involved in a domestic violence incident. The effectiveness of the police depends on public acceptance of their actions as well as their ability to secure and maintain public respect.

The barriers identified in this section are an appalling indication of the fact that there has been limited transference of philosophy into practice to date, thus making the effective policing of domestic violence increasingly difficult. Of more concern is the fact that some of these barriers like the training content provided to frontline police officials; the general conduct and behavior of police officials in dealing with victims of domestic abuse as well as police-community relations are within the span of control of the SAPS. Progress in dealing with violence has been slow because attitudes seem to be deeply entrenched and because effective strategies to address violence are still being defined. As a result of these, too many women and children still suffer at the hands of those closest to them.

### **3.7 CONCLUSION**

This chapter clearly indicates that the prevalence of domestic violence in South African society is not merely a post-apartheid occurrence. It appears to have always been part of South Africa's social fabric in all cultures and ethnic groups, which have never been addressed. The policing of domestic violence in South Africa should be understood in relation to the broad ideological, social and political context in which it occurs. This is crucial as it is this context that determines the responses of the police as well as the dynamics of the police-community relationship. Thus, it is crucial that all intervention strategies of the SAPS address the issue of domestic violence at the broad ideological, social and political levels as well as the micro level of individual relationships. Without addressing the ideological and social context which engenders and facilitates abusive attitudes and behaviour towards women it will be impossible for the South African Police (in cooperation with all relevant role players) to effectively redress the wrongs suffered by victims of domestic violence.

To understand the severity of domestic violence it is necessary to acknowledge that

it was a feature of the pre-colonial tradition and has continuity and resonance in the present. During the past decade, the SAPS have been on the receiving end of a constant bombardment of criticism, advice and instructions from various role-players. Legislation and research findings have created a cumulative pressure for transformation from an organization of repressive control to a community oriented service. The police have responded slowly and partially to various initiatives and some police officers have managed to resist some of them totally.

A welcome sign is that the policing of domestic violence is receiving more attention at parliamentary level and has subsequently been identified as a police priority. A central theme in this chapter is that genuine lasting improvement in service delivery with regard to domestic violence has not and will not be possible unless the SAPS firstly address their internal constraints. Changing the priorities and practices of the service is one of the first steps necessary for improved service delivery. Thus far, however, the attempts of the SAPS for improved service delivery to victims of domestic abuse are generally viewed by the larger community with much skepticism as it is not reflected in their daily policing of domestic violence incidents or the negative experiences of victims of domestic abuse. Consequently, the fragile gains that have been made by the SAPS remain limited in their impact.

Despite greater official acknowledgement of the serious and persistent nature of domestic violence reflected in governmental pronouncements, National Police Instructions and legislative reforms, the overall picture to emerge from this chapter is that little has changed. Though the new Domestic Violence Act has been warmly received by Human Rights Organizations and women alike, this legislation seems to have resulted in disappointment and frustration for ordinary victims of abuse as the implementation and application thereof remain problematic.

Chapter 4 will address service delivery of the SAPS to victims of domestic abuse with special emphasis on their implementation of SA legislation and National Instructions pertinent to this study.

## CHAPTER 4

### SERVICE DELIVERY TO VICTIMS OF DOMESTIC VIOLENCE: IMPLEMENTATION OF LEGISLATION

#### 4.1 INTRODUCTION

The South African Police Service (SAPS) is the only policing agency which has first-hand knowledge of the magnitude of the problem of violence in South African society as they are the ones who witness it daily (Nel & Bezuidenhout, 1995). This statement is especially true with regard to visible violence. Violence against women and children in South Africa, have reached epidemic proportions without many people (including the SAPS) being aware of its dimensions as it takes place largely in the privacy of the home as discussed in Chapter 1 and Chapter 2 of this study. Thus, it is often referred to as the “silent crime” as women, who are most often the victims, are afraid of seeking recourse. Since 1996, domestic violence has been identified in the National Crime Prevention Strategy (NCPS) of 1996 as well as the National Crime Combating Strategy (NCCS) of 2000, as a priority focus area for law enforcement officials because of the recognised negative endemic impact of this phenomenon (Joint Monitoring Committee, 2003; Singh, 2001). The White Paper on Safety and Security (Section 2) emphasizes the need for the development of specific guidelines to ensure that victims of domestic abuse are treated with extra care, dignity and compassion.

In pursuance of the goal of this study, which is to gain an understanding of the experiences and perceptions of frontline police officers who have to serve and protect victims of domestic abuse in terms of the Domestic Violence Act, No 116 of 1998, this chapter aims to address the third objective of the study i.e. to discuss service delivery to victims of domestic violence within a legislative context. To this end, this chapter will focus on the roles and responsibilities of the SAPS with emphasis on the respective roles and responsibilities within the SAPS structure; use of powers by police officials; service delivery to victims with special needs as well as the required documentation and record keeping of domestic violence incidents.

In terms of the Domestic Violence Act, No.116 of 1998, the SA Police Service, like other organs of state have specific roles, duties and responsibilities in terms of the effective policing of domestic violence. Vetten (1998) maintains that legislators placed these specific obligations in this Act upon the SA Police Service, in an effort to challenge their long history of neglect of domestic violence incidents. The practical application of the Domestic Violence Act, No.116 of 1998, in terms of the duties of police officials, has been set out in National Instruction (NI) 7/1999 by the then National Commissioner of the Police, Commissioner Selebi. The purpose of NI 7/1999 is to give detailed directions to police officials on how to respond to a complaint of domestic violence in terms of this Act. The Domestic Violence Act, No.116 of 1998 and NI 7/1999 of the SA Police Service are supportive of a person's basic constitutional rights in terms of the SA Constitution Act, Act 108 of 1996. Non-compliance of instructions could contribute to a victim being brutally assaulted or even killed. Presently, no police officials have been appointed to deal specifically with domestic violence incidents on a full time basis. Some police stations do however have specific officers (usually a woman) to deal with all reported domestic violence incidents in addition to all their other tasks and duties. The Domestic Violence Act, No.116 of 1998 makes provision for a complainant to approach any police officer or police station for assistance at any time, irrespective of when or where the domestic violence incident took place. This implies that no complainant may be turned away or referred to another police station without proper assistance. The process of assisting abused women must be empowering for them (Jewkes, 2001).

In terms of NI 7/1999, specific responsibilities have been assigned to the different role-players responsible for service delivery in the Community Service Centre (CSC) of the police station. This chapter will focus on an in-depth discussion of the various areas of note and importance for police officials, when attending to domestic violence incidents reported telephonically or in person at the CSC or when they attend to the crime scene personally. This discussion will be done in relation to their specific roles, duties, and responsibilities outlined in the:

- Domestic Violence Act, 1998 (Act 116 of 1998);
- Regulations under the Domestic Violence Act, 1998;

- National Instruction 7/1999;
- Station orders;
- Prevention of Family Violence Act, 1993 (Act 113 of 1993); and
- Section 205 of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996).

The discussion will underpin all stages of intervention and investigation for police officers responsible for ensuring effective action.

## **4.2 RESPONSIBILITIES OF THE STATION COMMISSIONER**

In terms of National Instruction 7/1999 the Station Commissioner (SC) is responsible for the general management of all the policing functions at his/her station. The roles and responsibilities of every SC in terms of the policing of domestic violence incidents include the following:

- 4.2.1 The identification of local organizations and other relevant role players in the community who are able to provide support services for example counseling, medical services and suitable shelter to complainants.
- 4.2.2 Liaising with these identified organizations and role-players in order to determine (i) the specific services they render; (ii) availability of services, i.e. after hours and over week-ends (iii) costs of the service and (iv) contact particulars.
- 4.2.3 Compiling a complete list of all the above information and the updating of this resource list at least once every six (6) months.
- 4.2.4 Ensuring that an updated and complete copy of this resource list is available in each police vehicle used to attend to complaints.
- 4.2.5 Ensuring that copies of the following documents are available in the CSC:
  - Domestic Violence Act, No.116 of 1998;
  - Regulations promulgated in terms of the Domestic Violence Act, No.116 of 1998;
  - National Instruction 7/1999;
  - Station Orders issued by the SC; and
  - An updated list of all relevant organizations and role-players who are able to provide support services to victims.

It is also important that station commissioners ensure that the above documentation is made available to all vehicles dispatched to attend any complaints. The latter is crucial, as domestic violence incidents are very volatile and attending police officials need to be adequately prepared for every eventuality.

- 4.2.6 Issuing of Station Orders, taking into account, the unique circumstances of the specific station/area and available resources when instructing the police officers under his/her command on matters relating to the rendering of assistance to complainants involved in domestic violence incidents.
- 4.2.7 Providing Radio Control Unit with a copy of:
- the updated resource list of support services in the area; and
  - the latest station orders issued in terms of assistance provided to complainants of domestic violence incidents.
- 4.2.8 Keeping of accurate records according to Section 15(1) of NI 7/1999 regarding reported domestic violence incidents, in terms of the number of:
- domestic violence incidents reported at his/her station;
  - cases registered as a result of domestic violence complaints reported; and
  - members trained in how to handle domestic violence incidents.

From the above it is clear that command and control in terms of the proper implementation of the Domestic Violence Act, No.116 of 1998 resorts with the SC who has the overall responsibility of managing all roles and policing functions at the station. The SC depends on the Community Service Centre Commander to give full effect to the implementation of the Domestic Violence Act, No.116 of 1998, Regulations in terms of this Act and National Instructions hereto.

### **4.3 RESPONSIBILITIES OF THE COMMUNITY SERVICE CENTRE COMMANDER**

The responsibilities of the Community Service Centre (CSC) Commander in terms of National Instruction 7/1999 include:

- 4.3.1 Ensuring that all the relevant documentation (reports / forms) for completion in terms of reported domestic violence incidents, are available in the CSC.



- 4.3.2 Ensuring that copies of the documentation referred to in the previous paragraph i.e. paragraph 4.2(e), is available and accessible in the CSC at all times, to all members attending complaints.
- 4.3.3 Obtaining enough information concerning the domestic violence incident where the incident is reported telephonically by a complainant or any other person; or reported in person to the CSC by someone other than the complainant. Obtaining adequate information is crucial for ensuring that appropriate intervention is provided by police officials. The CSC commander has the specific tasking of ensuring that the complaint received has all the elements of the definition of a domestic violence relationship and domestic violence.
- 4.3.4 Ensuring that a police vehicle is dispatched to the complainant and that the members of the vehicle are informed regarding (i) whether any violence or threat of violence is or has allegedly been involved in the incident and (ii) who the complainant is. It is imperative that members attending to the scene of domestic violence are provided with as much information as possible in order to ensure the safety of all involved.

The CSC commander is responsible for monitoring and facilitating the adherence (of attending police officials) to the prescripts of the Domestic Violence Act, No.116 of 1998 to ensure their effectiveness in the carrying out of their specific duties in terms of the Act.

## **4.4 RESPONSIBILITIES OF ATTENDING POLICE OFFICIALS**

Police officials, who attend to a domestic violence complaint at the scene of the domestic violence incident or when the incident is reported (telephonically or in person) in the CSC need to adhere to the following in terms of National Instruction 7/1999:

### **4.4.1 Receipt of telephonic or personal complaint in CSC**

Section 4(3) (a) of NI 7/1999 states that when an incident of domestic violence is reported, the police must “without unreasonable delay” go to where the complainant

is to attend to the matter. Thus, when a police official is informed of a domestic violence incident whether initiated by radio control (a central dispatch system), telephonically or through direct contact from the public, a quick reaction time is essential as the complainant might still be in danger. The police official, who receives the complaint of domestic violence, plays a pivotal role in the success of the handling of the domestic violence incident. The attending police official must ensure that the complaint is registered in the Occurrence Book (SAP 10) in the CSC as well as with Radio Control.

It is also the responsibility of this police official to ensure police attendance and that all assistance that may reasonably be required, is given to a complainant when a domestic violence complaint is reported at the CSC or when a complainant is located after having received the complaint. Members assisting complainants telephonically or personally must adhere to and deal with them in terms of their basic human rights, for example treating them with the necessary respect and dignity. The actions of the attending police officials need to reflect compassion and sensitivity to the complainant's situation.

It is imperative that the police officials who have been dispatched to attend to a domestic violence incident, have good knowledge of the geographical area where he/she is working in order to avoid unnecessary time lost in locating the scene of the complaint. Assistance rendered at the CSC should be recorded in the Occurrence Book (SAP 10).

#### **4.4.2 Securing the scene of domestic violence**

Police officials, who attend to complaints, normally have more than one outstanding complaint and are thus expected to prioritize their complaints in order of seriousness by using their discretion. This is often a difficult task as attending police officials do not always have all the facts of each reported incident prior to attending to the incident. By the time the police are called, the situation is more often than not already out of control. Domestic violence calls present police officers with highly charged emotional situations, which can be dangerous to all involved (Baker *et al.*, 2002). Section 6(1) of NI 7/1999 cautions police officers that due to the high risk

inherent to and volatility of domestic violence incidents police officers should whenever reasonably possible, not attend the scene alone. Even though it is imperative that at least two members attend to a complaint at all times, this is not always practically possible as lack of personnel on shifts is a constant challenge.

The following guidance on securing the scene of domestic violence is provided to police officials in Paragraph 6 of National Instruction 7/1999:

Upon arrival at the scene of any domestic violence incident, police officials are expected to:

- Where reasonable grounds exist to suspect that an offence containing an element of violence has been committed and the complainant is inside a building/private dwelling and entry is refused after an audible request for entry, reasonable steps (minimum force) can be used to gain entry into the dwelling (without a warrant) and secure the scene, if there are reasonable grounds to believe that the complainant is in imminent danger or in need of medical attention.
- Make every effort to communicate with the parties inside the building/private dwelling in order to find out if imminent physical danger exists. Circumstances that may show the need for such action include cries for help, visible injuries or weapons, obvious signs that a struggle has occurred as well as witness accounts of violence.
- Identify the relevant parties, i.e. the complainant (victim) and respondent (alleged perpetrator), as soon as entry is gained at a dwelling and determine whether the complainant is safe. Reasonable steps should be taken to ensure that the complainant is protected from further danger (this includes separating the relevant parties as soon as they have been identified). Every precaution should be taken by police officials to ensure their own safety. It is imperative that an environment conducive to communication for the obtaining of statements from the complainant and witness(es) is created, where possible. The attending police official should make every effort to ensure that the complainant is not interviewed in the presence of the respondent or other witnesses.



- Effect an arrest of a respondent without a warrant (in terms of section 3 of the Domestic Violence Act, No.116 of 1998 and section 40(1)(q) of the Criminal Procedure Act, 1997 (Act No. 51 of 1997) if there is reason to believe that the respondent has committed an act of domestic violence, if that act involved the use of violence. The aforementioned Acts make provision for police officials to arrest (without a warrant), any person who is or has been in a domestic relationship with the complainant and whom the police official reasonably suspects of having committed an offence (containing an element of violence) against the complainant. The police official is expected to use utmost discretion in determining if an arrest should be affected.
- Arrest is not mandatory. Police officers should always consider whether an arrest is proportionate to balancing the interests of protecting the victim and any children present, the need to prevent repeat offences and the interests of the alleged offender. It is the police officer's decision to arrest and this decision is not reliant on the willingness of the victim to proceed with a prosecution. It is crucial that the attending police officer stress the latter to the alleged perpetrator in order to remove responsibility from the victim. The power to arrest should only be used in circumstances in which it appears that the respondent is likely to cause harm to the complainant should the police leave the scene of the incident. Thus, in deciding whether to arrest or not, the provisions of (*Annexure S*) Standing Order (G) 341(arrest) should be kept in mind. As a general rule however, any arrest without a warrant is unlawful and proscribed. If reasonably possible to do so, specifically in cases where no overt or physical threats of violence is present, a Notice (Form 11)<sup>1</sup> must immediately be handed to the respondent (*Annexure M*) as contemplated in section 8(4)(c) of the DVA of 1998. From this it is clear that the DVA does not require police officials to always, or in all circumstances, arrest respondents of all domestic violence incidents. Usdin *et al.* (2000) maintains that as long as the powers of arrest remain subjective, the vulnerability of survivors of domestic violence incidents may not decrease in spite of the new Act.

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<sup>1</sup> Instructs respondent to appear before court of law on a specified date, to answer to the alleged charges brought against him/ her by the complainant in terms of section 17(a) of the Act.

- Establish whether the respondent owns any fire arms and whether he/she is in possession of a valid firearm license. The premises of a respondent, who is suspected of being in possession of a firearm, should be searched without a warrant. Any arms, ammunition and/or dangerous weapons found in the possession of the alleged abuser should immediately be seized in cases where (i) the abuser either threatened to kill or injure the complainant or (ii) if there is reason to believe that the abuser could harm the complainant because of a mental condition, inclination towards violence or substance dependence. Where no evidence of a firearm license can be produced by the respondent and fire-arms are however found during the search, a criminal charge of illegal possession of a fire-arm should be laid against the respondent by the attending police official.
- In instances where a protection order has already been issued and served on the respondent, uphold their primary duty of ensuring that law and order is maintained. This implies that if a violation is life threatening, the respondent who violated the conditions of the protection order should be arrested immediately. The police official has to ensure that the complainant submit a statement on Form 10 (Affidavit). A case should be registered for violation of a court order and for the crime committed (e.g. Assault GBH). Attending police officials should record the reason for the arrest in their Pocket Book (SAP 206) and in the arresting statement (e.g. complainant was seriously injured and/or the respondent threatened to kill him/her or threatened to use fire-arm).
- In instances where police officials deem the situation not to be life threatening (e.g. no threats, injuries, verbal- or economic abuse) to the complainant and is satisfied that there are no reasonable grounds to believe that any person (inside the dwelling) is in imminent danger, they may withdraw and make an entry into their Pocket Books indicating reasons for withdrawal from the scene. It is however imperative that where a protection order has been served, a case must still be opened for violation of a court order. Any assistance given to the complainant at the scene of the incident should be recorded in the Pocket Book of the members rendering assistance (e.g. attended complaint of domestic violence; no injuries or threats involved; respondent served with Form 11). It is imperative that copies are placed on

the complainants file.

Adherence to the above instructions is imperative to police officials as it does not only aim to ensure maximum protection to victims of abuse but also aims to protect frontline police officials from bodily harm as well as subsequent civil litigation or disciplinary proceedings resulting from non-compliance when attending to domestic violence incidents.

#### **4.4.3 Information assistance**

Effective implementation of Section 2 of the DVA of 1998 requires victims to understand the Act as well as know how it can assist them in redress. Section 2 of the Act clearly states that any member of SAPS has a duty to assist and inform a victim of his/her rights in terms of the Act, at the scene of an incident of domestic violence. Section 3(3) of NI 7/1999, require every station commissioner to ensure that an updated name list of all local support and community services (including information relating to medical services) are available in the community service centre as well as with radio control as previously discussed in section 4.2 (d) (e) and (g) of this chapter.

In terms of Section 2(b) and Section 2(c) of the DVA, the police official have the responsibility of providing complainants with a Notice (Form 1) as well as explaining the rights and remedies available to them in terms of the DVA, in a language that they can understand (*Annexure C*). Where complainants cannot read the notice, police officials should read it to them in the language of their choice. The availability of personnel with a good language proficiency, is however problematic in some areas in the Western Cape Province (Joint Monitoring Committee, 2003). Section 10(4) of the NI, outlines the steps a police official has to take to communicate with complainants. Should no one be available who can speak the preferred language of the complainant, the police officer must take reasonable steps to find someone who can speak and understand the language. Any steps taken to ensure that the complainant's preferred language has been addressed, need to be recorded in the SAP 10 or SAP 206 depending on where this assistance was rendered.

Police officials are expected to ensure that complainants understand their rights as well as the options available to them in terms of the DVA of 1998. These rights/options include:

- the right to apply for a protection order from court;
- the right to lay a criminal charge (at any police station) against the respondent where a criminal act has been committed; or
- where applicable, both the above options may be carried out.

Section 11(2)(c) of NI 7/1999 requires police officials to inform complainants of their rights to simultaneously lay a criminal charge against the respondent if applicable and to explain to complainants how to lay such a complaint. Police officials need to explain to complainants that they have the right or option to lay a criminal charge if they wish to do so. It should however be made clear to complainants that laying a criminal charge, is however not a prerequisite for applying for a protection order but that both options could be instituted on request from the complainant. Thus, when informing complainants of their rights and options, it is imperative that every effort is made by police officials to ensure that respondents are given a proper understanding of the value of the procedures to be followed, as well as their role(s) in these procedures.

It is also imperative that complainants are informed where and how to access the following:

- protection order
- medical assistance
- counseling services (if required) and
- alternative shelter (if available).

In terms of NI 7/1999 (3.3), the attending police officials have to provide complainants with a copy of the list of relevant organizations, hospital services and other support services, who can possibly render assistance to the complainant. The complainant needs to be informed that the SA Police Service will render assistance if circumstances require it e.g. finding shelter for the complainant (and children) if it is a life threatening situation or requesting of medical attention as needed.



The attending police official should request complainants to sign the relevant entry in his/her SAP 206 or the SAP 10 whichever may be applicable as an acknowledgement that they have been informed of their rights and remedies in terms of the DVA and that they comprehend the contents thereof. Where complainants refuse or are unable to sign in the SAP 206 or SAP 10, a third party who witnessed the explanation of the rights and remedies to the complainant, should be requested to sign in the applicable book in order to certify that he/she witnesses this and that the complainant refused to sign.

The minimum requirements for police officials in terms of the above duties are as follows.

#### **4.4.3.1 Protection Order**

Section 4(3) of the Domestic Violence Act, No. 116 of 1998, states that a member of the SA Police Service may apply for a Protection Order on behalf of the complainant with that person's written consent. It also makes provision for children younger than 18 years to apply for a protection order without the consent of parents/guardians. No consent is also required for a child, mentally ill person or any person unable to give consent, should a police official determine that such a victim's life is in danger and a protection order is needed.

The Domestic Violence Act, No.116 of 1998 makes provision for the granting of a protection order (previously referred to as an interdict) against an alleged abuser, provided there is a "domestic relationship" as indicated in Chapter 2. Police officials have to explain to complainants the purpose of a protection order i.e. that it is an order issued by a court of law ordering the respondent to refrain from the abusive behaviour against the complainant. The explanation should ensure that complainants understand to what extent the Protection Order can bring relief from violence, as well as the possible consequences for the respondent, should the Order be broken. Section 4 of the Domestic Violence Act, No.116 of 1998 makes provision for a victim to apply for a Protection Order to stop the abuser from committing any act of violence against him/her or from enlisting the help of any other person to do so; entering the mutual residence, the victim's residence or the victim's place of

employment. Other conditions applied for can include the assistance of the police in the seizure of any weapons in the respondent's possession or retrieval of specific items or property from the complainant's home (section 7(2)). The magistrate can also evict an abuser from the home and/or order him/her to make rent or mortgage payments for and/or emergency maintenance to the victim and any children (section 7(1)(c), (3) and (4)). In terms of section 7(6) of the Domestic Violence Act, No.116 of 1998, and the custody rights of the abuser can also be limited by the magistrate if this is in the best interest of the child(ren). Thus, a request by the respondent for contact with any child may be refused, or structured contact may be ordered by a magistrate.

Police officials need to make every effort to explain to complainants, in a language that they understand that (a) the interim order has no force and effect until it has been delivered to the respondent and (b) an interim protection order is a temporary measure only until such time as a final protection order has been granted. The complainant will thus continue to be in danger as long as an interim protection order remains unserved. For this reason, it is imperative that the police official should be able to distinguish if the application is urgent (i.e. whether the complainant's life is in imminent danger), in order for the application to be expedited by bringing it before a magistrate immediately. Imminent danger in this regard can be determined by looking for abusive tendencies of repeat offenders or the tendency of respondents towards violent behaviour that is often reflected in the number of completed SAP 508(a) forms relating to the same complainant. Thus, it is imperative that a SAP 508(a) be completed in respect of every reported incident of domestic violence. The proper completion of the SAP 508(a) forms will be discussed in more detail in section 4.7.3 of this chapter. It is crucial that police officials warn complainants that should they knowingly provide false information when applying for a protection order or when laying a criminal charge, they will be prosecuted and may be convicted should they be found guilty of such a criminal offence.

It is important that the complainant is made aware of the significance of being present for the hearing where the respondent will be granted an opportunity to give reasons why the final order should not be granted from his/her perspective. If the

respondent is successful the protection order can be set aside by the court. As is the case with all court proceedings, respondents can appeal against the court's decision. If the alleged perpetrator does however not appear in court on the return date, the application for a protection order will be confirmed in his/her absence.

A final protection order unlike the interim order becomes binding immediately upon it being issued even though it may not have been served. In terms of section 8(1)(a) of the said Act, a magistrate must, whenever a Protection Order is issued, also authorize a suspended warrant for the arrest of the respondent. Thus, it should be noted by police officials and complainants, that when a final protection order is granted and handed to them, a "suspended warrant" for the arrest of the alleged abuser should be included, which can only be executed in limited circumstances when the Order is violated. The limited circumstances will be discussed in more detail in section 4.4.7 of this chapter.

On receipt of an interim- or final protection order from the complainant, police officials need to check the expiry date on the order, to determine if the protection order handed to them is still valid. Where an existing warrant of arrest is executed, the attending police official needs to inform the complainant that because the warrant was used, (s)he needs to obtain a replacement warrant from a magistrate should the respondent contravene the order again. The protection order will however remain in force until a court sets it aside. A victim may apply for an amendment or setting aside of the protection order. Such an application (*Annexure N/Form 12*), will however only be granted if the court is satisfied that the victim is not being manipulated by the perpetrator and that the application is made freely and voluntarily.

The Domestic Violence Act, No.116 of 1998 stipulates that protection orders are enforceable throughout South Africa. Thus, complainants have the right to hand in or have their protection orders delivered at any police station of their choice. Any court can issue a protection order provided that it is in the same area in which (i) either the complainant or respondent permanently/temporarily resides and/or works or (ii) the incident(s) occurred. In terms of section 12(4) of NI 7/1999, a certified copy of a protection order and the warrant of arrest, as provided for in the DVA of 1998, have

to be forwarded by the clerk of the court to *any police* station identified by the complainant. This jurisdictional aspect has often resulted in a lot of confusion for police officials and frustration for complainants who are sent from one police station to the next for assistance. The confusion amongst police officials however often resulted from ignorance regarding this provision in the Act.

#### **4.4.3.2 Medical assistance and counseling services**

Section 2(a) of the Domestic Violence Act, No.116 of 1998 states that the SA Police Service have to assist complainants by ensuring that they obtain proper medical treatment. To comply with this duty, the attending police official needs to consider Station Orders in this regard. It is imperative that the police official not only enquires but also observes whether the victim needs medical attention or trauma counseling. Contact should be made with the relevant service providers in order to make arrangements to ensure that the victim is provided with the necessary assistance in this regard.

The complainant should be issued with the necessary forms, i.e. a J88 (Medical Report) and a SAP 308 (Permission for physical examination form), to be completed by a registered medical practitioner or hospital especially in incidents where a criminal charge has been laid. The police official has to make the necessary arrangements for complainants to receive counseling at the trauma room at the police station. The complainant should also be provided with a list in respect of counseling services which can be accessed for long term support.

#### **4.4.3.3 Assistance to find alternative shelter**

Where the complainant is unable to return home and has no other means of shelter, section 2(a) of the Domestic Violence Act, No.116 of 1998 stipulates that the police official needs to provide the complainant with the names and contact details of all organizations in the area that may provide shelter and related support and/or counseling. Should the complainant however be unable to initiate contact with a place of safety, the police official may take it upon him/herself to contact the organization on behalf of the complainant. Lack of shelters for abused women and their children, as well as the long waiting lists are however only one of the major

challenges that the police officials have to face when attending to domestic violence incidents. Singh (2001) found that South Africa has only about 100 shelters of varying size, countrywide for a population of over 45 million people.

Section 8 and 9 of NI 7/1999, mandates police officials to assist a complainant at his/her request in arranging transport to a suitable shelter should accommodation be available. In instances where complainants are transported in a police vehicle (as a last resort) police officers need to be aware of station orders in this regard. Complainants need to be informed that they are being transported at their own risk as police vehicles are not covered by third party insurance. Artz (1999) found that for poor rural women in the Southern Cape area, the use of police vehicles as a “last resort” is crucial, not only because of the limited availability and unreliability of public transport services; the long distances in between the services and/or the high travel costs but also the high rates of unemployment and poor and expensive telecommunication services. Legget (2002) supported these findings and added that it is compounded by the fact that individual police stations have access to vastly different resources. Consequently some police stations have no vehicles available which lead to long frustrating periods before victims can be transported. Police officers thus cannot always adequately carry out their duties as prescribed in the Domestic Violence Act, No.116 of 1998 as they are sometimes rendered impotent through lack of resources (Heyzer, 2003; Parenzee *et al.*, 2001). The absence of resources for the effective implementation of this Act thus continues to contribute to poor service delivery in terms of domestic violence in specific communities.

#### **4.4.4 Collection of personal property**

In cases where a protection order is issued and one of the terms of the protection order is that a peace officer (such as a police official) accompany the complainant in terms of section 2(b) of the Domestic Violence Act, No.116 of 1998, to collect personal belongings as specified in the order, the police official needs to adhere to the instruction. Where a police official is unable to accompany the complainant immediately, he/she must if no other officer is available, arrange a reasonable time to accompany the complainant to collect the personal belongings. In terms of NI 7/1999 section 4, the purpose of accompanying the complainant is to ensure the

safety of the complainant and not to involve the police officer in any dispute regarding the ownership of the identified property. Thus, reasonable steps need to be taken by the accompanying police officer to ensure the safety of the complainant while he/she removes the personal belongings specified in the order. The lack of definition in the Domestic Violence Act, No.116 of 1998, of what constitutes “personal” belongings and the unclear role(s) of the police officer when a dispute regarding ownership of said belongings arises during the accompaniment process, is often problematic for the attending police officer. Usdin *et al.* (2000) state that ongoing advocacy is needed to clarify and possibly amend this aspect of the Act.

In terms of NI 7/1999 section 11(4b), a police officer and complainant may only enter the private dwelling, after the police official has (i) audibly demanded admission and verbally notified the occupant of the purpose for which they seek to enter the dwelling; and (ii) on entering the dwelling, reasonable steps should be taken by the police official to ensure the safety of the complainant and all other parties present while waiting for the complainant to collect the personal belongings stipulated in the protection order. If however, after having audibly demanded admission to the private dwelling and the respondent refuses to give consent, the police official may use reasonable force, for example, break any door or window to enter the premises to arrest the respondent as he/she is guilty of contravening the protection order as well as guilty of contempt of court.

#### **4.4.5 Seizure of arms and dangerous weapons**

In terms of section 7(2)(a) of the Domestic Violence Act, No.116 of 1998, a police official may be ordered by a court of law to seize any arm or dangerous weapons in possession or under control of a respondent. Police officials are however also expected to (without any warrant); take steps to seize any licensed or unlicensed firearm in the possession of a person who is suspected of:

- having threatened or expressed an intention to kill or cause harm to self or other person(s) by means of a firearm or any other dangerous weapon; or
- being in possession of a arms or dangerous weapons and that the possession thereof is not in his/her best interest or in the interest of any other parties as a result of a physical or mental condition, an inclination towards violent

behaviour (irrespective of whether any arms were used in previous violent incidents) or substance dependence.

In terms of Section 110(1) of the Firearms Control Act, 2000 (Act No. 60 of 2000), a police official may without a warrant, search such a person and may even enter upon and search any dwelling where (s)he believes a firearm is kept. Any firearm(s) and ammunition should be seized for the purposes set out in section 102(1) (a)-(e) of the said Act. This provision in effect provides that the National Commissioner may declare a respondent unfit to possess a firearm if (s)he falls into the categories referred to in paragraphs (i) and (ii) above. Thus, a respondent on whom a final Protection Order has been served, may be declared unfit to possess a firearm in terms of section 102 of the Firearm Control Act, 2000 (Act No. 60 of 2000), on condition that the procedure provided for in the said Act, has been adhered to by the attending police official. It is therefore imperative that police officials have a good understanding of the said Act and comply with the stipulations to ensure maximum protection of the complainant.

Members who seized firearms as set out above, must ascertain whether the seized firearms are licensed and if it is not licensed, include an offence of possession of an unlicensed fire-arm in the registered docket. A SAP 13(a) tag must be attached to all seized weapons as determined by paragraph 11(1) (c) of National Instruction 7/1999 and must be retained in police custody until the court orders a return to the owner.

#### **4.4.6 Service of documents**

A police official may be requested by any person (who is not a police officer) authorized to effect the service of documents, to assist in the serving of an interim or final protection order in cases where resistance to the service of a document is encountered or is reasonably anticipated. The service of documents, i.e. protection orders, is generally not one of the roles outlined in the Domestic Violence Act, No.116 of 1998 for the South African Police Service. Regulations 15 (1)(a-b) clearly stipulates that the service of documents must be affected by (a) the clerk of the court, who has to hand over or send a copy of the document to the respondent by registered mail or (b) the sheriff of the court. Regulation 15(1)(c) states that a peace

officer, will only in terms of the provisions of the Criminal Procedure Act (CPA) (Act No 51 of 1997) relating to subpoenas be responsible for serving the documents. Thus, when a request is made in terms of the CPA of 1997, a police official needs to do so without unnecessary delay. The DVA also makes provision that the state would carry all costs.

#### **4.4.7 Contravention of the Protection Order**

According to section 17(a) of the Domestic Violence Act, No.116 of 1998 and the National Instruction 7/1999 paragraph 11(2), police officials may arrest any person acting in contravention of any prohibition, condition, obligation or order contained in a protection order. A complainant has the right to hand the warrant of arrest, together with an affidavit (that states what happened and in what way the respondent contravened the protection order) to any police official, at any police station for intervention. The fact that the warrant for the arrest of the respondent was issued, does not mean that the respondent must be arrested. In actual fact, as the warrant is a "suspended warrant", it may only be executed in the following limited circumstances:

- there are reasonable grounds to suspect that complainant may suffer imminent harm if respondent is not arrested; and
- the respondent contravened the protection order.

Thus, in practice if a police official, upon receipt of a protection order together with a warrant of arrest, as well as an affidavit (Form10) regarding contravention of the protection order (as contemplated in section 8(4) of the Act), believe that there are reasonable grounds to suspect that the complainant may suffer imminent harm as a result of an alleged breach of the protection order, the police official must execute the warrant and arrest the respondent for contravening the protection order on the strength of the warrant of arrest. Where the existing warrant of arrest is executed, the attending police official needs to inform the complainant that (s)he needs to obtain a replacement warrant of arrest from a magistrate for future use should she need to use it. Police officers need to note that once a warrant of arrest has been executed, the same warrant cannot be used again should another breach of the protection order be reported. A docket (Charge 1: Contravention of section 17(a) of

DVA – statutory offence) need to be opened and the respondent charged accordingly. The attending police official should as soon as possible send the respondent to court. It is imperative that the steps taken by the police official be explained to the complainant.

There are some police officials who are under the misguided impression that they must arrest all respondents who are guilty of breaching a protection order. The Domestic Violence Act, No.116 of 1998 however clearly stipulates that despite the fact that a warrant of arrest has been issued, a police official may not arrest a respondent for contravention of a protection order, unless there is grounds to believe that the complainant may be harmed in any way as a result of the alleged breach or the order. In *Greenberg and another v Minister of Safety and Security and Others* (case no. 22262/02) dated 20 January 2009 as well as *Khanyile and another vs Minister of Safety and Security and Others* (case no. 7079/08) dated 27 January 2012, the High Court expressed its frustration with police officials who appear to arrest respondents (alleged to have contravened protection orders) in circumstances where no reasonable grounds existed to suspect that they might cause imminent harm to complainants. The High Court has ruled that an arrest in the aforementioned circumstances is unlawful and in some cases consequently awarded damages to respondents on account of the unlawful arrest and detention. Thus, where police officials are of the opinion that there is insufficient grounds for arresting the respondent because the complainant is not in imminent danger, a written Notice (Form 11) requiring the respondent to appear in court, should be handed to him. The police official should insert and specify the date for the court appearance on the Notice, as the first court day after the incident took place. A copy of this Notice needs to be filed in the docket which has to be opened and registered in terms of section 17(a) of the Domestic Violence Act, No.116 of 1998 (because of the charge of contravention or breaching of the protection order). The docket together with the duplicate original of the Form 11 must be taken to the clerk of the court on the first court day. The police official needs to explain to the complainant why the respondent was not arrested as well as the steps that taken to ensure maximum protection of the complainant. Any respondent, who fails to appear before the court in accordance with the written Notice, is guilty of an offence and can be sentenced to a fine or

imprisonment for a period not exceeding six months. The maximum punishment for a person who contravenes a protection order is a sentence of five years and/or a fine.

Usdin *et al.* (2000) warn that as long as some police officials continue to have a non-interventionist attitude, victims of domestic violence will continue to suffer despite provisions of the DVA. In order to assist in determining whether the complainant may suffer imminent harm/danger, the following determinants should be taken into account by the police official as contemplated in sections 8(5) of the Domestic Violence Act, No.116 of 1998 as well as National Instruction 7/1999(11)(2)(c):

- the seriousness of the conduct comprising an alleged breach of the protection order;
- the risk to the health or well-being and safety of the complainant; and
- the length of time between the reporting and the occurrence of the alleged breach.

The above determinants are applicable in cases where a protection order has been issued.

Usdin *et al.* (2000) maintains that a weakness of the Domestic Violence Act, No.116 of 1998 is the lack of clear criminal procedures in the event of an abuser violating a protection order. Police officials are however required to use their discretion in making the determination of whether a crime has occurred and whether an arrest is possible and appropriate. However, as previously discussed in section 4.4.2 of this chapter, in instances where an interim protection order has not yet been obtained and the complaint is domestic violence related, a respondent could still be arrested without a warrant of arrest for any other crime which contains elements of violence.

Dealing with reported cases of domestic violence is often frustrating and confusing for police officials, as victims sometimes resist any interventions made by the SA Police Service. Victims are not always willing to provide police officials with the required information for making an arrest and they sometime also minimize the extent of the violence perpetrated against them thus limiting the ability of the police officer to substantiate the seriousness of the domestic violence incident. Even

though victims might want their abuser to be held accountable, they are often overwhelmed by the impact of the abusive incident(s). There are also victims who actively cooperate with the criminal investigations but who might later for various reasons request that the charges against the abuser be dropped or they might alternatively themselves ensure that the bail of the abuser is paid. From the above it can be concluded that police officials frequently find themselves having to respond to the same complaints at the same addresses.

#### **4.5 (MIS)USE OF AUTHORITATIVE AND DISCRETIONARY POWERS IN SERVICE DELIVERY**

The Domestic Violence Act, No.116 of 1998 provides police officials with a significant level of discretion and power to affect an arrest based on a reasonable belief of “imminent danger” to victims of domestic violence incidents. Many South Africans today still believe to some extent in privacy within the household and often choose not to become involved in a domestic dispute because they believe families should resolve their own problems (Singh, 2001). As the police are a smaller part/microcosm of the larger society (a demographic macrocosm), some police officials often choose not to arrest in some cases of domestic violence because they (to a larger or lesser degree) support the belief that the family (and not the justice system), should resolve the problem. The latter is reflected in the inactions and poor attitudes of some police officials, who irrespective of the fact that they have sworn to uphold the law and to provide victims of domestic abuse with the maximum protection that the law can provide, omit to follow through on proper recourse for victims seeking assistance.

When the abuser is the main source of income for the family, police officials sometimes tend not to charge him/her thus leaving the complainant and all others affected by the abuse, with no recourse and in a more vulnerable situation, as the violence is likely to reoccur. Victims in situations like these, often continue to suffer increased levels of physical abuse because they are totally dependent on the abuser as the provider (Wetendorf, 1998). Where victims want recourse but no arrest is made, it often reinforces the belief that the conduct was not to be taken seriously (Singh, 2003).

The use of discretion by police officials is often perceived to be in conflict with community values and needs rather than in accordance with it (Lea, 2004). Any police official who abuses his/her discretionary power by persuading a complainant, not to file charges, is violating a fundamental principle of community policing as he/she is not serving the interests of the community. The actions and inactions of police officials often indicate that not only does the behaviour of some police officials reflect tolerance for this kind of abuse, but that some of them are abusers in their personal relationships. It is crucial that complainants inform the station commissioner or any other police official at the reporting station, if a member of the SA Police Service is the respondent.

Wetendorf (2004) states that police officials who are also abusers are amongst the most dangerous as they can use their specialized police training, knowledge and /or equipment to intimidate and/or terrorize their victims.

In some instances, discretion can be exercised most inappropriately by police officials, for example in situations where the domestic violence incident involves a colleague who is known or unknown to the attending officer, who then tends to be reluctant to arrest the alleged abuser, who is a colleague (Joint Monitoring Committee, 2003). In these instances, where police officials choose to “protect” colleagues who are alleged abusers, they fail to comply with their responsibilities in terms of the Act, the Regulations and National Instructions 7/1999. Domestic violence committed by a police officer, is usually excused or rationalized as resulting from daily exposure to high levels of violence and stress on the job. Wetendorf (1998) maintains that because of the latter police officials often bring their frustrations into the privacy of their homes where their partners become the scape goats for their unresolved frustrations, inner conflicts and inability to handle their work stressors.

Villa (2002) found that generally, police departments have a poor record of dealing with domestic violence when the abuser is one of their own. Before the implementation of the Domestic Violence Act, No.116 of 1998, the majority of police

officials tended to respond to domestic violence calls from the partners of fellow police officials, by identifying with and siding with their colleague (perpetrator) rather than treating the incident as an offence. Police culture and collegial relationships tend to limit the response of police officers and the support provided to partners of colleagues (perpetrators), as attending police officials may be reluctant to believe that a colleague or friend is a batterer or because of the seniority of the perpetrator be reluctant to intervene or to provide the necessary support to the abused. They might also be less sympathetic to the complainant or feel ambivalent about enforcing the law and protecting their colleague.

Wetendorf (1998) argues that some police officials today still tend to use intimidation and persuasive tactics to prevent the partners of police officials from laying charges against their colleagues, thus encouraging a code of silence. In some cases, this was proven to be true as the researcher (in her capacity as SAPS social worker) found that police officials often attempted to handle incidents involving colleagues, informally by trying to talk the complainant out of laying a charge against their colleague. They would sometimes also make the complainant aware of the possible implications of laying a charge, in that it could be detrimental to the future career of the abuser. The complainant would also often be reminded to think about the children and all the “good” things they would lose if the police official is arrested.

The “goodness” of the abuser is also often emphasized by attending colleagues, who often believe the abuser to be a “good person” and “good police officer”, in need of empathy and support in the handling of his/her job stress. Colleagues, who are aware of the alleged abusive behaviour, often also promise to intervene by talking to the abuser about changing his violent behaviour. Most often, this manipulation of the vulnerable emotions of the complainant, results in the attending police official, succeeding in dissuading the victim from laying a complaint against their colleague. Commanders (at all levels), who become aware that police officials under their command failed to comply with their responsibilities in terms of the Act, Regulations and/or National Instructions, where a colleague was the perpetrator, should institute disciplinary action against attending police officials. The latter is crucial as an incident of domestic violence involving a police official, should be treated (at all

times) with the necessary seriousness and urgency, by the attending police official as they would any other incident of domestic violence.

Feltgen (1996) and Levinson (1997) state that victims of a police official who is an abuser, are particularly vulnerable because the officer: (i) has easy access to arms and other dangerous weapons; (ii) knows the location of battered women's shelters and (iii) knows how to manipulate the system. Thus, the "informal" method applied by police officers, is often in direct contradiction to the Domestic Violence Act, No.116 of 1998 and National Instruction 7/1999 regarding the appropriate response to domestic violence incidents. Lott (1995), Feltgen (1996) and Levinson (1997) found that police departments that have batterers among its ranks are unable to effectively serve and protect the victims of abuse.

Baker *et al.* (2002) found that the personal and emotional nature of reported domestic violence incidents can arouse strong feelings in the responding officers, especially if they remind them of similar circumstances in their own family or friendship network. Thus, it is not easy to remain neutral and professional at all times, as police officials (who are affected by the emotional and physical triggers) may overreact to one party to the detriment of all others involved. In many ways, the presence of domestic violence within police ranks is a test of the level of commitment of police officers to public safety. If the Service in any way displays tolerance or partiality when domestic violence is perpetrated by one of their own, no victim in the community or wider society will have faith in police protection.

#### **4.6 SERVICE DELIVERY TO VICTIMS WITH SPECIAL NEEDS**

Victims of domestic violence incidents are almost always the most vulnerable members of society who often have special needs. When dealing with complainants, victims or witnesses with special needs (by virtue of isolation, mobility restrictions, and language or communication disabilities), police officials need to be sensitive and accommodating. Victims with special needs include: children exposed to domestic violence; the elderly; victims who have a history of abuse (including police officers); victims with a physical or mental disability, those who have cultural, familial or religious values which prohibits the seeking of assistance to stop the violence, or

have a sexual orientation (e.g. lesbian, gay, bi-sexual or trans gender), which makes the seeking of assistance difficult. The true extent of domestic violence in terms of victims with special needs is largely unknown. The South African Constitution places police officers under positive duty to protect all adult and child victims of domestic violence.

#### **4.6.1 Children as victims with special needs**

Police officials are often the first individuals to come into contact with children who have become the silent, forgotten or invisible victims of domestic violence. Research studies indicate that there is a significant overlap between violence against children and violence against women in the same home (Ross, 1996; Tjaden & Thoennes, 1998). Even though these studies employed different methodologies, they consistently reported a significant level of co-occurrence of child abuse and partner abuse. These results emphasize the importance of protecting the abused parent in order to ensure the safety of the child. The magnitude and serious consequences resulting from children's exposure to domestic violence make intervention a priority for all police officials.

Baker *et al.* (2002) found that children living in dysfunctional homes where domestic violence is rife generally lack a sense of stability and security, normally provided by the family unit. Exposure to domestic violence has in fact been documented as a form of child abuse (Rossman & Rosenberg, 1997; Tomison & Tucci, 1997). Section 28(1)(d) and section 28(2) of the Constitution of the Republic of South Africa, No 108 of 1996 clearly states that every child has the right to be protected from maltreatment, neglect, abuse or degradation. It further stipulates that, what is in the best interest of the child should always be the most important priority. Thus, the dignity of the child should always be uppermost in the police official's mind. The status of the child (i.e. class, culture, race or gender) should not be a determining factor, as all children should be treated equally and with respect (Nel & Bezuidenhout, 1995).

Police officials who attend to domestic violence complaints where children are involved, should be aware that children in violent homes face three risks: (i) the risk of observing traumatic events (e.g. witnessing the physical abuse of a parent), (ii) the risk of being physically, emotionally and/or sexually abused themselves, and (iii) the risk of being neglected (Baker *et al.*, 2002). The belief that infants and children are too young to process domestic violence incidents is a myth. Osofsky (1996) found that young children can be overwhelmed by their exposure to domestic violence. The

latter is apparent where both the victim and the perpetrator are emotionally important and well-known to the child. Margolin (1998) supports this statement and further elaborates that the witnessing of domestic violence by children may be as harmful to them as suffering physical abuse itself. These children are often so affected that they end up performing and functioning significantly below the levels attained by their peers in school, at sport and social activities (Kolbo, 1996). In light of the latter statements, it can be inferred that police officials should endeavour to treat any child who is present at the time a domestic violence offence is committed, with the necessary sensitivity and patience. The latter is crucial as intervention by a police official may create great relief and/or additional distress for the child i.e. relief that the violence was stopped but concern regarding the victim's injuries and the abusers removal from the home.

Research indicates that battered women are at least twice as likely to abuse their children physically as are women who are not in abusive relationships (Ross, 1996; Straus & Gelles, 1990; Walker, 1984). A parent/caregiver in a domestic relationship may neglect and/or physically abuse their child(ren) because:

- their abusive partner requires their full attention in order for them to control the level of violence in the home;
- they may be unresponsive to the children because of their own fears and feelings of helplessness; and
- they might end up over disciplining the children in an effort to control the children's behaviour in order to protect them from what they perceive as the greater abuse i.e. the anger and rage of the abusive partner.

It can thus be concluded that a child's witnessing of domestic violence epitomizes the relationship between child maltreatment and domestic violence. Osofsky (1995) and Edleson (1999) found that children as the indirect victims of domestic violence, who might not actually have been physically assaulted, may suffer from social and mental health problems as a result of their experiences. The victim's "suffering" can manifest itself in psychological, behavioural and social problems as indicated in Table 4.1 below.

**Table 4.1**  
**Potential problems associated with exposure to domestic violence in childhood**

TYPES OF PROBLEMS	EXAMPLES FOR CHILDREN AND ADOLESCENTS
Increased externalized behaviours	Aggression toward others (e.g. hostility, bullying, fighting); property destruction; antisocial behaviours (e.g. lying, stealing); social isolation.
Increased internalized behaviours	Withdrawn, fearful, reluctance to try new things, anxiety, traumatic stress reactions e.g. nightmares.
Increased physical complaints	Increased stomachaches, headaches, tiredness; changes in appetite.
Lower social capabilities	Fewer age-appropriate social skills to initiate and sustain relationships, to seek assistance from others and to satisfy personal needs.
Learned attitudes supporting violence	Use of violence is okay to teach others a lesson or to control them; violence enhances one's image and peer status; girls are supposed to be weak and boys strong.
Less developed thinking skills	Less developed attention and concentration abilities; poorer understanding of social situations.

**Source:** Edleson (1999)

Sykes and Symans-Moulton (1990) found that children who witness abuse of a parent or who have been victims of abuse themselves, have greater developmental delays and behavioural dysfunction in later years. Baker *et al.* (2002) agrees with this statement and elaborates that the constant exposure to domestic violence may influence child victims' lives well into their adulthood (Baker *et al.*, 2002). In light of the latter statements it is thus imperative that should any police officials deem a child not to be in immediate danger but (s)he suspects that the child has been harmed or is at risk of being harmed, (s)he needs to contact the appropriate Family Violence,

Child Abuse and Sexual Offences (FCS) Unit in SAPS. Should no FCS unit be available, a specialized individual (e.g. forensic social worker) should be contacted. Sinclair (1985) and Sykes and Symons-Moulton (1990) documented reactions (of note for police officials and other professional practitioners) of children at various ages, who have been exposed to violence in their homes. These researchers found that children ages 6-12 years, exhibited eating disturbances, manipulative behaviour, fears of abandonment or loss of control. While adolescents tended to run away, become pregnant, experience suicidal or homicidal tendencies or engage in delinquent acts like substance abuse, vandalism, stealing and erratic school attendance. Police officials should however be aware that it is "normal" for children to experiment and exhibit some of the above signs during their different developmental stages as not all children and adolescents, who display emotional and behavioural problems, have been exposed to domestic violence. Where a child however manifests a number of these identified behaviours for an extended period and it continues to escalate in intensity, there is a distinct possibility that the child may be directly or indirectly exposed to domestic violence in the home.

Schechter and Edleson (1999) identified specific considerations to be noted by police officials when they attend to domestic violence complaints where children are involved. These considerations are reflected in Table 4.2 below:

**Table 4.2**  
**Specific considerations in attending to needs of children in**  
**domestic violence situations**

<b>ROLE/ RESPONSIBILITY</b>	<b>CONSIDERATIONS</b>
<p><b>Determine the location of any children</b></p> <p>Enquire about the location of the children.</p>	<p>Ask the complainant where the children are currently; where they were when the violence occurred and if they are okay.</p>
<p><b>Determine if the child(ren) have been harmed or hurt</b></p> <p>It is important for the police officer to ascertain whether children are physically hurt or emotionally distressed.</p>	<p>The police officer must ask to see the children as they might be in another room of the house.</p> <p>Threats may have been made to ensure silence. Many children learn that remaining silent about the violence, keeping out of the way and not discussing their “secret” with others are good survival strategies.</p> <p>Police officials should beware of not coercing children to talk if they are not yet comfortable to do so. The child’s right not to speak if he/she is not ready to do so should be acknowledged and respected.</p> <p>It is important to recognize that there is often a history of violent incidents prior to the involvement of the police.</p> <p>Children may be responding both to the immediate situation and from their own experiences of past incidents thus experiencing accumulated impacts of ongoing violence.</p>
<p><b>Reassure children</b></p> <p>Talking to children directly lets them know that someone outside of the family (police officer) is aware of the violence; is concerned and wants to help.</p>	<p>The officer should address the child at eye level i.e. sit or squat to ensure that (s) he is physically at the child’s level. The use of simple, direct and age appropriate language is imperative. Police officials should introduce themselves by name and explain their role in simple language that the child will understand (preferably using the mother tongue of the child).</p> <p>The utilization of the child’s name when communicating concerns about the child’s safety is crucial.</p> <p>It is imperative that police officials explain to the child involved that he/she has the right to complain. If they are too young, the child could be assisted by a parent/guardian or any other person acting on his/ her behalf (with the child’s permission) and a police official.</p> <p>Avoid criticizing or demeaning the abusive parent in front of the child. Always honour the child’s loyalty to the abuser.</p> <p>Do not make promises to the child that is impossible to keep.</p>

**Source:** Schechter & Edleson (1999)

McGee (2000) found that children are rarely interviewed by police officials when investigating a domestic violence incident. It can thus be inferred that if children are continuously ignored, they will remain the silent victims of domestic abuse and have the potential to become the perpetrators of the future. One of the possible reasons why police officers do not interview children is that historically their training has been focused on the obtaining of information through interrogation methods. In light of the latter it is imperative that police officials acquire the necessary skills for effective communication with children and for creating a safe environment where child victims will feel secure enough to share their experience(s). Schechter and Edleson (1999) however caution that children witnessing abuse should be viewed as a potential risk factor rather than conclusive evidence of maltreatment, as many battered women do attend to the psychological needs of their children.

#### **4.6.2 Other special needs complainants**

Even though the majority of domestic violence reports made to police officials, are from heterosexual relationships, same sex domestic violence cannot be ignored irrespective of the attending police official's culture or beliefs. Officers have to be sensitive to and aware of the range of domestic violence experienced by these victims at the hands of their family members and caretakers when they "come out". Women and men who declare their sexuality are often victims of domestic violence as they may be denied access to their children. Thus, when local enquiries are made or other family members are spoken to about the domestic violence incident police officers should never assume that the sexual orientation of a victim or witness is known to all. Any inadvertent 'outing' of the victim or witness could cause considerable distress and place the victim or witness in danger thus also damaging the trust relations between the police and the victim.

When dealing with complainants or witnesses with special needs, the investigation is paramount. It is crucial that the investigative procedures need to be altered. For example, if the complainant is deaf and cannot lip read, the police official should try to communicate through writing or make use of a sign language interpreter. Support persons identified by the complainant or witness should be permitted to be present

during interviews irrespective of whether an interpreter is already present. In no circumstances should the abuser be used as a support person for the complainant as this can add to emotional distress of the complainant. Neither abusers, victims nor children should be used as interpreters as translations may be contaminated. The name of the interpreter utilized as well as the relationship to the parties (if any), should be recorded by the police official in his/her pocket book.

Where the police official encounter difficulties with mentally challenged persons, the matter needs to be discussed with the SAPS legal services, as the procedure might necessitate an urgent application to the high court. In situations where both the abuser and the victim will be absent from their residence as a result of arrest, being placed in a shelter or hospital and their pets left unattended in their absence, the police official needs to report the circumstances to the nearest Society for the Protection against Cruelty to Animals (SPCA). The police official has to inform both parties of any arrangements made with the SPCA and should encourage the parties to retrieve the pet(s) as soon as possible to avoid them being given to other persons or being put down. When dealing with special needs complainants, it is however crucial that police officials take extra measures and special care to ensure that complainants are treated with the necessary respect and dignity.

#### **4.6.3 Police officials as victims or perpetrators of domestic violence**

Police officers are not invulnerable or protected from the various forms of domestic violence in their personal lives (Reuss, 2001). Domestic violence experienced by police officers as either victims or perpetrators of this form of abuse is however often misrepresented and not given the attention needed to ensure proper redress amongst those entrusted to police this phenomenon. Wetendorf (2004) found that little to no research to date gives credence to the serious psychological effects police officers face in their attempt to live in one (functional) world whilst working in another (dysfunctional) world marked by crime, criminals, an imperfect justice system and a lack of resources to ensure effective redress to victims of domestic violence.

#### **4.6.3.1 Police officials as victims of domestic violence**

Police officials, who are victims of domestic violence, generally avoid calling 10111 as they are often embarrassed to admit that they are victims of domestic violence. Besides fear of retaliation from the abuser, they often fear that calling for assistance might open their private lives to the scrutiny of their colleagues and/or the Human Resources department. Victims, who are police officials, also fear the stigma attached to being a victim of abuse, as they are often expected to disclose personal information about their intimate relationship with the abuser. Their abilities as law enforcement officers are also questioned and their career as a police official may be jeopardized as colleagues question their professional competence and ability to handle themselves in conflict situations.

Female police officials in the SA Police Service performing functional duties (frontline officers), face an ongoing battle for acceptance and respect in the male dominated profession of policing. Although attempts have been made to rectify the equity in the Western Cape Province, the Annual Report (2011/2012) of the SA Police Service indicates that only 4 268 (25%) of the 16 787 functional police officials in the Western Cape Province, are women thus placing into question this continued gender disparity. The latter results in male police officials tending to exaggerate mistakes their female counterparts make and using these as proof that female police officials are not as effective or competent in their service delivery as their male counterparts. Female police officials are thus continually required to demonstrate that they can handle a “man’s job”. The environment thus makes it extremely difficult for a female police official, who is a victim of domestic violence, to admit her experience of abuse or to access available remedies.

The victim’s profession can thus often be a barrier for others believing that she/he, who is armed with institutional power of the police, is a victim in her/his own home (Wetendorf, 1998). Consequently, (s)he faces considerable victim blaming as (s)he “should have known” how to handle the situation better or not to find herself in an abusive relationship. The stereotypes of the battered women and that of a police official are contradictory in that the battered women are submissive and passive and female police officers are portrayed as aggressive and in control. Thus the battered

police officer defies both stereotypes.

The abuser (whether a civilian or an officer) is likely to perceive the victim's policing career as a threat to his own need for power and control, as the victim's job provides her/him with authority, status, financial independence and security. The abuser is aware that others might doubt that (s)he can dominate, coerce or batter a police official. (S)he may attempt to use the victim's position and training against him/her by trying to force him/her to defend himself / herself and then to use that self-defense reaction against the victim by laying a charge or obtaining a protection order. If a police official is the subject of a protection order, access to his/her service weapon may be denied or restricted thereby limiting his/her functioning as a police officer.

Where the victim is in a same sex relationship, disclosing the abuse may also mean disclosing the relationship and her sexual orientation which can be detrimental for the victim because of existing prejudice prevailing in the SA Police Service. Wetendorf (2007) found that determining the dominant aggressor in same sex cases are not without its challenges as these cases are usually handled poorly, if at all. Thus, presently there is little benefit for police officials, who are victims in disclosing their abuse. When a police official however do request assistance, it is often an indication that the abuse has escalated to a volatile extent as police officers only tend to seek assistance as a last resort because of the strong cultural stigma of "cowboys don't cry".

#### ***4.6.3.2 Police officials as perpetrators of domestic violence***

Neidig, Russel and Seng (1994) completed a nationwide survey of one-hundred-and twenty-three police departments in the United States of America of officer involved domestic violence. These researchers found that domestic violence was two to four times more common in police families than the general population. No studies of this nature has however been done to date in South Africa. The survey found that victims are particularly vulnerable because the police official who is the abuser:

- Always has a fire-arm (often more than one weapon) and is strained to use weapons and deadly force;
- Knows how to inflict pain and leave no visible bruises;

- Is trained to intimidate by presence (voice and stance) alone and to use his body as a weapon;
- Convinces the victim that he has power to harm or kill and get away with it or have others do it for him;
- Informs the victim that if she does call the police his colleagues and friends will believe him instead of her;
- Threatens that if she reports the abuse he will lose his job and she will be without financial support;
- Uses the mobility of his job as well as police equipment (vehicle tracking devices, telephone taps, verifying of number plates, etc.) to stalk or keep the victim under surveillance;
- Will have friends/colleagues “patrol” the victim’s house, workplace, etc. when he is unable to do so himself;
- Knows how to manipulate the court system to shift blame to the victim and avoid a penalty; and
- Knows the location of all battered women’s shelters and has easy access as he is known to the staff.

Victims of police family violence often fear reporting the incident to the police as they know the case will be handled by officers who know the abuser and would side with him/her or fail to properly investigate or document the reported incident because of professional loyalty (Feltgen, 1996; Levinson, 1997). The above identified vulnerabilities require alternative sources of shelter for victims of police perpetrated domestic violence as established shelters are known to police officials.

In cases where both the victim and abuser are police officers, additional complications and barriers to intervention can be experienced as both officers have access to weapons and specialised training to defend against and perpetrate violence (Wetendorf, 1998). Police officers, who attend a domestic violence scene where both the victim and the perpetrator are police officers, are often reluctant to identify one of the officers as the aggressor and either wrongly label the abuse or decline to intervene. The risks for the victim and others, who might attempt to assist, are consequently doubled if the situation is not handled with extreme caution.

Victims who are police officers and who have made a complaint against an abusive partner who is also a police officer can often experience relentless pressure and threats to make them recant or to reconcile and withdraw the complaint. The victim might be perceived by colleagues as breaking the police code by exposing the abuse and colleagues might subsequently turn against the victim and side with the abuser. Where there is not enough information or corroboration from witnesses, the complaint of the victim might be one of “her word against his”. Wetendorf (1998) ascribe the latter to the fact that the police have a strong sense of family and have historically protected their own and thus dealt with it in-house when they dealt with it at all. Ammons (2005) agrees with this opinion as she found that this outdated notion of dealing with police perpetrated domestic violence often reflected in the police culture results in officers protecting each other to the extent of covering up police perpetrated domestic violence to avoid embarrassment and bad publicity. Thus, when a police officer is the abuser, the system is in disarray as victim safety as well as trust in the criminal justice system is threatened.

Victims of domestic violence count on the competent performance of police officials to make victim safety and offender accountability, central to the criminal justice systems’ response. As indicated in Chapter 1 of this study, the police are usually the first line of defense for victims of abuse thus the general expectation is that the police will be impartial in their intervention in any domestic violence incident. The latter can be realized through the proper implementation of the Domestic Violence Act, No.116 of 1998 as well as NI 7/1999. The poor implementation of the DVA as well as non-compliance with NI 7/1999, allow abusers to enjoy social impunity which constitutes a failure on the part of the state to properly exercise its powers and prerogatives to deter, punish and prevent domestic violence. Police officers are sworn not only to enforce and to abide by the law. Thus, in order to ensure effective and efficient service delivery to all victims of domestic violence, attending police officials must comply with all Regulations in terms of the Act as well as the Station Orders issued in regard to each duty outlined in NI 7/1999.

## **4.7 DOCUMENTATION AND RECORD KEEPING OF DOMESTIC VIOLENCE INCIDENTS**

In terms of the Domestic Violence Act, No.116 of 1998 and the NI 7/1999, police officials are compelled to complete an increased number of documents than was required in the past for the processing of all reported domestic violence incidents. For many police officials this is however perceived as an administrative burden.

It is crucial for police officers to gain the best evidence with full documentation and statements for future use in criminal or civil proceedings. The Regulations issued in terms of the DVA of 1998, stipulate the utilization of specific prescribed forms by police officials, in order to comply with the obligations in terms of the Act. The purpose of these forms is to enable police officials to keep track of the activities and progress related to specific cases. The importance of these documents for proper record keeping of reported domestic violence incidents, as well as the roles and duties of police officials in terms of the record keeping (as stipulated in the legislation and national instructions), will now be discussed.

### **4.7.1 Notice to complainants (Form 1 of the Regulations)**

The Notice to complainants (Form 1/*Annexure C*) in a case of domestic violence outlines the remedies and assistance available to a complainant. This Notice should be handed and explained to the complainant in a language that s(he) understands. The latter duty needs to be performed by the police official in attendance or by any other individual identified by the attending police official who can speak and understand the language of the complainant. Drivers of police vehicles, dispatched to attend to domestic violence complaints, must ensure that there is enough copies of Form 1 available in the vehicle to ensure that it is readily available for issuing to complainants at every incident of domestic violence they have to attend during their shift.

Complainants should be requested to sign the Pocket Book (SAP 206) of the attending police official, as an indication that they have been informed of their rights and that they understand the options that are available to them. Complainants have

to formally acknowledge receipt of the notice on a copy of Form 1 provided by the police official. It is important that this copy should be placed on the case file.

#### **4.7.2 Pocket Book (SAP 206) and Occurrence Book (SAP 10)**

The Pocket book (SAP 206) and the Occurrence book (SAP 10) are part of the general tools used by police officials for the recording of incidents and assistance given to victims by police officials in domestic violence cases to ensure an accurate description of the incident as well as for proper record keeping purposes.

Several sections of NI 7/1999 state that entries need to be made in the pocket book of the police official to record action that they have taken or have been unable to take in terms of the Act. The SAP 206 is used to record any assistance given to a complainant outside the Community Service Centre (CSC). If no charges or arrests have been made at the scene of a domestic violence incident, a police official has to record the reasons for this in his/her SAP 206.

The SAP 10 is used to record (i) any assistance given to a complainant by police officers in the CSC/Charge Office and (ii) all injuries noticed. The recorded information can later be used by the attending police officials when testifying in court to ensure that accurate and factual information are provided during testimony in a criminal case related to domestic violence.

According to National Instruction 7/1999, all domestic violence complaints must hereafter be registered on the Criminal Administration System (CAS) in the CSC.

#### **4.7.3 Report of Domestic Violence Incident Form (SAP 508(a))**

Section 12(2) of NI 7/1999 stipulates that police officers have to give a complete account of their responses to and actions taken for every reported incident of domestic violence on a SAP 508(a) i.e. a "Report of Domestic Violence Incident"-form. This form serves as a checklist of what needs to be addressed during the interview with the complainant. It also provides evidence of all discussions between the complainant and the attending police official. This form/report (*Annexure Q*) needs to be completed and signed in respect of every incident of domestic violence

attended to by police officials. Thus, a completed report of the domestic violence incident attended to needs to be made irrespective of whether the complainant has opened a criminal case or not.

A file with reference 39/4/2/3 containing all completed SAPS 508(a) forms completed need to be opened every month at all police stations and should be accessible in the CSC. For example, all the SAPS 508(a) forms completed during each specific month e.g. October 2006 must be filed with the reference 39/4/2/3 (10/2006) in accordance with the SAP 508(b).

The following information is needed to ensure that the documentation is complete:

- biographical data of the complainant and respondent
- a description of the domestic violence incident, and
- all assistance rendered to the complainant by the police official.

The following documentation needs to be collected for inclusion in the domestic violence incident file even when no criminal charge has been laid:

SAP 508(a); copies of member's Pocket Book (SAP 10) as well as the OB (SAP 206); Form 3/Annexure E (information provided to complainant); J 480A (Application for protection order); J88 (Medical report); copies of all statements; description in SAP 5 of any other outstanding documentation and added related documents relevant to domestic violence. Once a protection order is received at the CSC, the attending police official needs to ensure those copies of the protection order (interim- and final protection order) as well as the warrant of arrest, is placed on the case file. All future correspondence/documentation concerning the complainant must be collected in this file.

The purpose of the Domestic Violence Incident File is to ensure accurate record keeping in terms of abusive tendencies of repeat offenders or to monitor the tendency of respondents towards violent behaviour. A number of completed SAP 508(a) forms relating to the same domestic violence incident, could also indicate the need for the police official to apply for a protection order on behalf of a complainant,

whose record may prove that (s)he has been abused over a period of time and is caught up in the cycle of violence.

It should be noted that an incomplete or inaccurate report can seriously undermine any attempt made by the respondent to end the cycle of violence. An incomplete police report can also result in the unnecessary postponement of the case in order to gather the appropriate information (Ashby, 2003). This can make the prosecution of the abuser more difficult or impossible as the report might be used against the victim by the abuser thus prolonging the agony of victims. An accurately completed report of the domestic violence incident on the other hand, can however serve as a solid basis for the prosecution of the respondent. Thus it is imperative that this file be updated in terms of interventions and progress made by the complainant.

Cross indexing of all completed domestic violence reports/forms and entries in the OB and Pocket Book is important for accurate record keeping.

#### **4.7.4 Domestic Violence Incident Register (SAP 508(b))**

Section 12(1) of NI7/1999 states that police officials must record/register all reported domestic violence incidents in the Domestic Violence Register (SAP 508(b)). This register (Annexure P) requires police officials to comprehensively record key details of all reported domestic violence incidents, to ensure proper record keeping. Every reported incident of domestic violence must be recorded separately in the register, even if the same parties are involved in repeated incidents. The number of reported complaints of domestic violence, registered at the police station per month, will provide a clear indication of the prevalence of domestic violence in the service area.

As station manager, it is ultimately the responsibility of the station commissioner to ensure that an accurate record is kept of all reported domestic violence incidents. Various initiatives have been embarked on since 2000 to ensure that station commissioner's comply with this instruction. During September 2006, a new national circular was issued instructing station commissioners to ensure compliance regarding the proper completion of domestic violence forms and registers. Unfortunately, it seems that there are still police stations in the Western Cape

Province where record keeping is poor because of incomplete and inaccurate registration of reported incidents of domestic violence or where no Domestic Violence Register is kept. In certain cases, disciplinary action has been taken against station commissioners of stations where no Register is kept.

Attending police officials have to ensure that they cross index all entries made in the SAP 508(b) with the entries made in the Occurrence Book to ensure accuracy of data. The police official has to ensure that all the required data has been collected and the register completed as follows:

- Time and date of incident.
- Particulars of the complainant as well as the police officials who assisted him/her.
- Type of incident as well as the outcome thereof.
- Indication of whether a protection order has already been granted.
- When and from which court the protection order has been granted.
- The name of the police official who issued a warning to the respondent to appear in court (in cases where no arrest has been made).
- Reference of the Pocket- and Occurrence book numbers.

The above requirements indicate that it is essential that all relevant information, of every incident of domestic violence, be recorded in the SAP 508(b) to ensure a complete report of the incident is registered.

In terms of section 12(5) of NI 7/1999, a copy of every protection order as well as warrant of arrest obtained, should be filed in a separate file (under reference 39/4/3/1). It is important that these files should be readily available and accessible after hours, should an alleged breach of a protection order be reported. A warrant of arrest needs to accompany an interim or final protection order as this will allow for easier execution of the warrant.

Police officials have to ensure that the category of domestic violence as is clearly stipulated in the register as well as whether a Protection Order has been obtained by the complainant. This data is imperative as it can be an indication of the seriousness

of the violence as well as the history of the abuse and the recourse sought. In terms of section 12(4) of NI 7/1999, certified copies of protection orders and the warrant of arrest (as provided for in the Domestic Violence Act, No.116 of 1998), has to be forwarded by the clerk of the court to any police station, as identified by the complainant. It is imperative that the correct particulars of the protection order are copied in the appropriate columns of the SAP 508(b) where an entry has already been made in respect of the complaint. If however no previous entry exists, a new entry must be made.

Often, the police are confronted with the situation where respondents tear up their personal copy of the protection order, as well as the copy handed to the complainant. Through accurate recording and updating of the SAP 508(b), the police official should thus be able to determine from the recorded data, whether a copy of the specific protection order has been received by the station, which would consequently allow the attending police official to act upon that copy of the protection order. The police official will also be able to determine from the information gathered in the register, whether a respondent has any previous arrests for contravention of a Protection Order or if a Form 11 had previously been issued to him to appear in court as a result of such a contravention.

A new domestic violence coding system has been put in place in order to differentiate between general crimes of assault and assaults that is domestic violence related to provide more accurate statistics on reported cases. This new system requires police officials to list all cases in the SAP 508(b) and to encode the "type of domestic incident" according to different categories of domestic violence as indicated in Table 4.3 below.

**Table 4.3**  
**Codes indicating type of conduct constituting domestic violence**

<b>Code</b>	<b>Type of incident</b>
<b>DV 1</b>	Physical abuse
<b>DV 2</b>	Sexual abuse
<b>DV 3</b>	Emotional, Verbal and Psychological Abuse
<b>DV 4</b>	Economical Abuse
<b>DV 5</b>	Intimidation
<b>DV 6</b>	Harassment
<b>DV 7</b>	Stalking
<b>DV 8</b>	Damage to property
<b>DV 9</b>	Unlawful entry where parties do not share same residence
<b>DV 10</b>	Any other controlling or abusive behaviour towards complainant
<b>DV 11</b>	Contravention of existing Protection Order

**Source:** SAP 508(b)

The latter however has proven to be a challenge as implementation tends to be sporadic. The information received from stations is consolidated on the monthly feedback return forms, which provides the background against which the National Commissioner's biannual report to parliament (on incidents of non-compliance by SAPS members) can be viewed in perspective.

#### **4.7.5 Opening of a docket**

As domestic violence as such, is not a crime in South Africa. Police statistics currently only reflect reported crimes such as assault, rape and malicious damage to property. Many actions that constitute domestic violence, are thus not defined as crimes, for example forced isolation, economic abuse and stalking. When an abusive act that is recognized by criminal law as an offence, is committed in a domestic relationship, a victim, when reporting the incident, can take up the option of laying a

criminal charge against the respondent. As soon as a criminal charge has been laid, a case docket, indicating the specific offence, needs to be opened and an investigation registered. In terms of NI 7/1999(1), it is the responsibility of the police officer who receives the complaint, to open a docket and have it registered for investigation. The attending police official may under no circumstances direct the complainant to counseling or conciliation services only to avoid the opening and/or registration of a docket. A normal investigation (as for any other criminal case) needs to follow. All steps taken by police officials should be explained to complainants in an uncomplicated manner.

The fact that domestic violence is not regarded as a criminal offence as yet, makes it imperative that police officials are able to link the domestic violence incident to a criminal offence in order to ensure reliable police statistics regarding reporting of domestic violence incidents. All procedures, rules and regulations regarding the investigation of a specific criminal offence must be taken into account.

The following two tables i.e. Table 4.4(a) and Table 4.4(b) below as well Table 4.3 above reflects the various forms of conduct that can be linked to a criminal offence. These tables reflect the various types of conduct that qualifies as domestic violence and includes more than the generally reported and recorded abusive behaviours discussed in Chapter 2. The contents in these tables are in line with the literature review (section 2.5.3 of Chapter 2) as Oosthuizen and Wissing (2005) agree that victims of abuse are often exposed to different forms of abuse in the abusive relationship, which leads one to conclude that the various forms of abuse is generally not mutually exclusive and may occur in combination with one another.

**Table 4.4(a)**  
**Categories of abusive conduct constituting a criminal offence**

CONDUCT	CRIMINAL OFFENCES
<p><b>Emotional/Verbal/Psychological abuse</b></p> <ul style="list-style-type: none"> <li>• Repeated insults, ridicules or name calling.</li> <li>• Repeated humiliation (public/private).</li> <li>• Obsessive possessiveness or jealousy resulting in the constant invasion of the complainant's privacy.</li> <li>• Sleep deprivation.</li> <li>• Continuous accusations of infidelity.</li> <li>• Repeated threats of violence or death to cause emotional pain.</li> <li>• Repeated blaming of the victim for all the respondent's problems.</li> </ul>	<ul style="list-style-type: none"> <li>• Crimen Injuria</li> <li>• Criminal defamation</li> <li>• Kidnapping</li> </ul>
<p><b>Sexual abuse</b></p> <ul style="list-style-type: none"> <li>• Forcing the victim to perform sexual acts.</li> <li>• Continuous verbal abuse with sexual overtones and connotations e.g. whore, slut, etc.</li> <li>• Forcing victims to watch pornographic material.</li> <li>• Forcing victims to have intercourse or perform sexual acts with strangers.</li> </ul>	<ul style="list-style-type: none"> <li>• Rape (even if parties are married to each other).</li> <li>• Incest</li> <li>• Crimen Injuria</li> <li>• Indecent assault</li> <li>• Kidnapping/Abduction (with the intent to have sexual intercourse with a minor).</li> </ul>
<p><b>Physical abuse</b></p> <ul style="list-style-type: none"> <li>• Shoving, slapping, punching, kicking, throttling, and biting.</li> <li>• Assault with objects, guns, knives or any dangerous weapons.</li> <li>• Burning the victim with petrol, benzene or any inflammable substance.</li> <li>• Physical harm in the form of threats to harm a person.</li> <li>• Threats of physical violence (that include any of the above acts).</li> </ul>	<ul style="list-style-type: none"> <li>• Assault common</li> <li>• Assault with intent to do grievous bodily harm (Assault GBH).</li> <li>• Administering poison or other noxious (poisonous) substance / attempted murder.</li> <li>• Murder</li> <li>• Culpable homicide</li> </ul>

CONDUCT	CRIMINAL OFFENCES
<b>Harassment</b>	<ul style="list-style-type: none"> <li>• Crimen-injuria</li> <li>• Common assault (where threats of violence induces fear of physical harm).</li> </ul>
<b>Stalking</b>	<ul style="list-style-type: none"> <li>• Presently not recognized as a crime but may amount to Crimen-injuria.</li> </ul>
<b>Intimidation</b>	<ul style="list-style-type: none"> <li>• Intimidation (applicable in most severe incidents)</li> <li>• Common assault (if threats of physical harm induces fear)</li> </ul>
<b>Damage to property</b>	<ul style="list-style-type: none"> <li>• Malicious injury to property</li> <li>• Arson</li> </ul>
<b>Entry into the complainant's residence without consent</b> (where parties do not share the same residence)	<ul style="list-style-type: none"> <li>• Trespassing</li> <li>• Housebreaking with intent to commit an offence e.g. entering residence to remove furniture.</li> </ul>

Although the Act does not create an offence of domestic violence, it criminalizes the breach of an order (Dissel & Ngubeni, 2003). The following are offences that can constitute a criminal offence in terms of Section 17 of the Domestic Violence Act, No.116 of 1998:

**Table 4.4(b)**  
**Conduct that constitutes a criminal offence in terms of section 17 of the**  
**Domestic Violence Act, 1998**

CONDUCT	CRIMINAL OFFENCES
Contravention or breach of the protection order granted in terms of the DVA.	Violation of the protection order in contravention of section 17(a).
Publishing information which might directly or indirectly reveal the identity of any party to the proceedings.	Unlawful publication of identity in contravention of section 17(b).
Publishing certain information relating to any proceedings held in terms of the DVA in violation of the court order.	Violation of a court order in contravention of section 17 (c).
Willfully making a false statement in a material aspect in an affidavit, when reporting any violation of the protection order.	Making a false statement in an affidavit in contravention of section 17(d).

Thus, even though domestic violence is as yet not recognized as a criminal offence in South Africa, abusive conduct which is a criminal offence, is still criminally punishable. Consequently, a police official who arrests a respondent who violated the conditions of a protection order where the violation was deemed threatening should register a case of violation of a court order as well as for the crime committed (e.g. Assault with intent to do grievous bodily harm).

Domestic violence is difficult to prove because the assault usually happens in the privacy of the home without witnesses. It is therefore imperative that all evidence required to prosecute the criminal offence is obtained by the investigating officer through proper investigation of the incident. It is vital for all police officials and role-players involved, to work together in the process of gathering the evidence correctly from the initial phase when the offence is reported.

The following information should be included in the docket for successful prosecution:

- (i) sworn statements by the complainant (Form 10) [respondent and witness(es) as well as attending police officials]
- (ii) J88
- (iii) SAPS 69 and
- (iv) J32 to subpoena witnesses to court
- (v) arresting statement
- (vi) copy of served protection order and
- (vii) warrant of arrest.

Statements form an essential part of evidential material in the investigation of domestic violence incidents. It is crucial in the investigation process that evidence is handled correctly and obtained according to the correct legal procedures, in order to ensure admissibility of relevant collected evidence. The latter are crucial as battered women tend to make very poor witnesses as they may easily be intimidated by the abuser or defense counsel.

Proper care should be taken by police officials to ensure that each domestic violence case is allocated a case number in order to enhance the tracking of cases. The case should be referred to the Prosecution for a decision to be made on whether to prosecute or not. It should be noted that files can only be disposed of in accordance with the approved disposal authorization. Perpetrators of domestic violence incidents should never be viewed as separate and different from perpetrators of other crimes, as it is possible that crucial intelligence will get lost and the link between incidents of domestic violence and other criminal activity might be missed. Thus it is imperative that police officers do not consider the investigation of a domestic violence incident in isolation. The latter is important as police officers investigating criminal offences may have crucial information on domestic violence perpetrators and police officers investigating domestic violence incidents, may have access to intelligence relating to other criminal offences.

When attending or assisting at a domestic violence scene, the duty of any police official is to protect the victim(s) of abuse to the best of their ability. Failure to act accordingly constitutes misconduct in terms of section 18(4) of the Domestic Violence Act, No.116 of 1998 for which the police official concerned, will face a disciplinary enquiry with the Independent Complaints Directorate (ICD), who is in terms of this Act obligated to monitor its implementation by the SAPS. The latter innovation by legislators is an attempt to introduce statutory monitoring and oversight of police enforcement of the law. It should be noted that during 2012 the ICD has subsequently changed its name to the Independent Police Investigation Directorate (IPID).

Thus, in order to give full effect to the implementation of the Domestic Violence Act, No.116 of 1998, the SA Police Service in the Western Cape has developed a Service Charter that enshrines the commitment of its police officers to perform their roles, duties and responsibilities as set out in the Domestic Violence Act, No.116 of 1998 and National Instruction 7/1999. The commitment made, includes:

- Treating victims of domestic violence with respect, dignity, sensitivity and care.
- Listening objectively and attentively to what complainants have to say.
- No inflicting of secondary trauma i.e. no insulting or blaming complainants or suggesting the abuse was their own fault.

The above is the key approach when dealing with domestic violence incidents. The instructions and guidelines indicated, govern the steps to be taken by all police officials when dealing with domestic violence incidents.

#### **4.7.6 Record keeping of complaints against members**

Section 14(1) of NI 7/1999 stipulates that every station commissioner has to keep a record of the:

- number and details of complaints received against its members in respect of failure to comply with the DVA of 1998, obligations in terms of the Act, Regulations in terms thereof or the National Instructions;

- related disciplinary proceedings instituted and the decisions which emanated thereof; and
- steps taken as a result of recommendations made by the IPID.

Complaints against police officials, who allegedly failed to comply with their obligations, as members of the SA Police Service, in terms of the DVA of 1998 or National Instruction 7/1999, include:

- (a) failure to open and properly register a docket when the complainant indicated that she wanted to lay a criminal charge as the conduct of the respondent constituted an offence;
- (b) omitting to provide the complainant with the prescribed Notice (Form 1) or to explain the content of the Notice;
- (c) failure to inform the complainant of his/her right to apply for a protection order or right to lay a criminal charge, where applicable.
- (d) failure to assist the complainant to obtain medical treatment;
- (e) refusal to accompany the complainant to collect her personal property where this was ordered by the court;
- (f) failure by the SC to compile a detailed and updated list of the local organizations that are willing and able to provide counseling and other support services to complainants (as required by paragraph 3(3) of the NI7/1999);
- (g) failure by the SC to ensure that a copy of all relevant documents i.e. DVA, Regulations issued in terms thereof, NI7/1999, any Station Orders issued relating to domestic violence incidents, as well as the list of local organizations referred to in subparagraph (vi) above are available in the Community Service Centre at all times;
- (h) failure by the SC to ensure that, a copy of the list of local organizations, referred to above, is at all times available in each dispatched vehicle utilized to attend to complaints (as required by paragraph 3(5) of the National Instruction); or

- (i) failure by a Community Service Centre Commander to ensure those copies of the Notice (Form 1) as well as the documentation referred to in subparagraph above, are available at all times in the CSC and dispatched vehicles as needed.

All allegations of misconduct regarding an alleged failure by police officials to comply with an obligation in terms of the Act, Regulations in terms of the Act or the National Instructions issued in this respect, has to be recorded on the SAP 508(a) form for submission to the relevant senior managers at the end of each month, where these reports ought to be consolidated before the third working day of each month, for feedback to the Provincial Commissioner, who in turn has to submit a consolidated report to IPID and to the Divisional Commissioner of Crime Prevention for submission to parliament as required by Section 18(5)(d) of the DVA of 1998.

It is important to note that the IPID is the only body, who has the power to decide whether the SA Police Service should institute disciplinary action against any member who failed to comply with an obligation imposed in terms of the DVA of 1998. If the SA Police Service, after having investigated a complaint against a police official, concludes that no disciplinary action should be taken against a police official, the matter should still be referred to the IPID – requesting this body to direct that no disciplinary action be taken against the member by motivating the reason for this request. Where the IPID decides that SAPS should however proceed with instituting disciplinary action against a police official, this decision is final and must be implemented without delay even though it may result in a finding during the disciplinary hearing that no misconduct was committed. From the latter, it can be concluded that the SA Police Service does not have the decision making power to decide not to institute disciplinary action against any member, after having received a complaint that the member failed to comply with an obligation imposed in terms of the Act or National Instruction.

Some of the duties described above are difficult to fulfill in the context of under developed infrastructure, scarce resources, lack of inter departmental cooperation

and poorly articulated departmental responsibilities (Usdin *et al.*, 2000). Thus, in order to effectively police domestic violence, police officers need to have a clear understanding of the specific roles, duties and responsibilities in relation to all relevant legislation and SAPS directives in this regard.

Lott (1995) and Levinson (1997) found that police departments tend to handle police perpetrated domestic violence cases informally as often no report or investigation was done. This “informal” method of dealing with reported incidents of police perpetrated domestic violence is a violation of the legislative mandate and departmental policies regarding the required response to reported domestic violence incidents. These researchers also found that counseling was the most common discipline measure imposed for allegations of domestic violence committed by its own police officers.

Levinson (1997) and Feltgen (1996) however caution that a police service that has domestic violence offenders amongst its ranks will not be able to effectively serve and protect victims of abuse if they cannot effectively police themselves.

#### **4.8 CONCLUSION**

Domestic violence is a complex issue that is difficult to address as the perpetrator is not a conventional criminal but a domestic partner. Individual incidents of domestic violence and repeated patterns of violence are brought to police attention within a wide range of domestic settings and a variety of family units. In South African culture, what occurs in the home and family is often still considered sacred and secret. Thus, as perpetrators are intimate family members, a large number of domestic violence incidents go unreported because of the existing culture of silence regarding crime in the closed confines of the home.

The police, like the rest of society however, often fail victims of domestic violence, who try to seek recourse as they are not always consistent in their actions regarding their rejection and condemnation of the brutalization and intimidation of women and children at the hands of abusers. The police, who are often the first outsiders to arrive at a domestic violence scene should have a clear comprehension of the

seriousness of the situation in which the victims find themselves. Although not all forms of domestic violence constitute criminal offences which are punishable in a court of law, it cannot be ignored. Thus, it is imperative that attending police officers also have a clear understanding of their role and responsibility towards the victims as their action or inaction can easily create the impression that they do not really care, and in this way contribute to the secondary trauma of the victim. Decisive actions need to be taken in order to make the victim feel empowered. The latter can be an indication to the victim that his/her situation is not hopeless and that all will be done to assist or protect him/her.

All actions of police officials should send a clear message to the community, that violence in whatever form will not be condoned by the Service and that any form of domestic violence is intolerable and unlawful. The complainant should be left with a clear understanding and belief that the SA Police Service will protect him/her and that (s)he will receive the necessary assistance. It is however also important that the complainant is made aware that his/her abuse of the system can have detrimental consequences for himself/herself as well as all other victims of violence.

The Domestic Violence Act, No.116 of 1998 and SAPS NI 7/1999 set out the duties and delegated powers of police officers. An emerging shortcoming of the Act is the fact that police officials need only comply with their obligations where this is “reasonable” and “practically” possible. Not only does this make allowance for non-compliance with obligations but it also complicates prosecution for non-compliance. An awareness and understanding by police officers, of the social context, nature and magnitude of this phenomenon as well as the meaning of violence in relationships, will contribute to an improvement in service delivery. As the first line of contact for many victims of abuse, police officials can breach the cycle of violence by being more aware of their own roles, duties and responsibilities as well as their attitudes regarding this phenomenon and being more responsive to victims who report these incidents. This can however only be achieved by a serious attitude change and complete paradigm shift regarding service delivery to victims of domestic violence.

Police officials need to attend to domestic violence with greater effectiveness and no

matter what his/her personal opinion may be. It is expected of him/her to act professionally, be impartial, accountable and responsible. Members need to understand and live out the basic principles underlying professional and competent collection of evidence and the presentation thereof in court in order to ensure admissibility in court. It is essential that attending police officials are aware of the issues around domestic violence to ensure that the initial contact does not hamper the future investigation or relationship between the victim and police. The importance and seriousness of a complete investigation is imperative for the prevention of recurring incidents of domestic violence in our society. Offenders in this category need to be made aware that they will be prosecuted and cases of this nature will not be tolerated by the SA Police Service.

Even though the SA Police Service cannot take total responsibility for the fact that women do not report or seek help for abuse, they can however sensitize and equip police officials to handle victims of abuse with the necessary respect, empathy and commitment so that those victims who seek redress for abuse may develop trust in the system and the service.

Chapter 5 will follow with an explanation of the empirical findings and the analysis of the data collected from participants.

## CHAPTER 5

### POLICING DOMESTIC VIOLENCE: PERCEPTIONS AND EXPERIENCES OF POLICE OFFICERS

#### 5.1 INTRODUCTION

In this chapter the experiences and perceptions of frontline police officers in the policing of domestic violence will be presented and analysed by means of different themes, typical of qualitative research. The major results of the data collected will be discussed in relation to the literature presented in Chapter 2, 3 and 4 of this study. The research design and methodology used in the investigation were previously discussed in Chapter 1 of this study. This chapter will elaborate on the results of the qualitative study undertaken with the twenty-eight (28) participants who work as frontline police officers, responsible for the policing of domestic violence as part of their daily functioning at seven (7) police stations in the Western Cape Province varying from rural to urban as well as large and smaller police stations.

De Vos (2011:399) states that analysis begins by going back to the purpose of the study. This chapter aims to address the fourth and last objective of this study, namely to investigate the perceptions and experiences of frontline police officials in terms of their roles and responsibilities as stipulated in the Domestic Violence Act, No.116 of 1998 as well as reflecting on the meaning of these experiences and perceptions for the policing of domestic violence. This objective was crucial for the determining of competency gaps in terms of the necessary knowledge, skill and attitude of participants in fulfilling the obligations placed on them in terms of the Domestic Violence Act, No. 116 of 1998 as well as to make recommendations on how any identified gaps can be addressed by programme developers and policy makers of the SAPS in the Western Cape Province.

In light of the above, this chapter will focus on the following:

- A presentation and analysis of the biographical details of the sample population;
- A presentation and discussion of the identified five themes that emerged from the twenty-eight interviews;
- The subdivision of the five themes into two or more sub-themes;
- The subdivision of subthemes into individual categories;
- The linkage of the themes, subthemes and categories to the title, aim and objectives of the study;
- A presentation of the literature control indicating how the themes, subthemes and categories relate to literature and previous research findings.

## 5.2 RESULTS OF THE EMPIRICAL INVESTIGATION

An interview schedule was used for data collection. Findings are based on the data obtained in interviews from questionnaires and presented with an interpretation of the data in comparison to the literature review. The findings are presented by means of a schematic explanation of the main and sub-areas that emerged from the empirical study.

**Table 5.1**

**Schematic description of main and sub-areas of the empirical study**

	MAIN AREAS	SUB-AREAS
1	Identifying details	<ul style="list-style-type: none"> <li>• Name of police station where officer works.</li> <li>• Rank level</li> <li>• Gender</li> <li>• Race</li> <li>• Duration of performing Domestic Violence (DV) duties.</li> </ul>
2	General experiences	<ul style="list-style-type: none"> <li>• Number of DV incidents handled.</li> <li>• Forms of DV incidents handled and level of difficulty.</li> <li>• Comparing the handling of DV incidents with handling of other crimes.</li> <li>• Average reaction time in responding to DV incidents.</li> </ul>

	MAIN AREAS	SUB-AREAS
3	Roles and Responsibilities	<ul style="list-style-type: none"> <li>• Individual understanding and implementation.</li> <li>• Difficult/Challenging roles and responsibilities</li> <li>• Effect of diffusing a DV situation.</li> <li>• Service delivery to vulnerable victims.</li> <li>• Practical obstacles (systemic/personal) hindering compliance.</li> <li>• Challenges in record keeping of DV.</li> <li>• Practical strategies implemented at station level.</li> </ul>
4	Training	<ul style="list-style-type: none"> <li>• Formal-, informal and In-service training completed.</li> <li>• Level of competency achieved after training.</li> </ul>
5	Perceptions	<ul style="list-style-type: none"> <li>• Domestic Violence Act, No 116 of 1998</li> <li>• Impact of response of complainants on policing of DV.</li> <li>• Determining imminent danger during DV incidents</li> <li>• Common misconceptions regarding policing of DV complaints</li> <li>• Impact in addressing DV incidents</li> </ul>

- **Identifying details**

Identifying details were imperative for determining the profile of participants to ensure that they fit the criteria for inclusion in the sample as discussed in Chapter 1 of this study.

- **General experiences**

This section focussed on questions reflective of participants' general experiences in terms of their policing of domestic violence. Five (5) questions were posed to determine the aptitude as well as the level of exposure of participants in intervening in domestic violence incidents. These questions were asked to determine the level of experience of participants in terms of policing and their exposure to intervening in domestic violence incidents.

- **Roles and responsibilities**

A large segment of the interview was focussed on the perceptions and experiences of the roles and responsibilities of participants in terms of the relevant legislation.

Nine (9) questions were formulated to determine the perceptions and experiences of participants.

- **Training**

Participants were asked to answer two (2) questions to determine their level of knowledge regarding the domestic violence phenomenon and relevant legislation as well as to identify any type of training received to equip them to deal more effectively with domestic violence incidents.

- **Perceptions**

This section focussed on determining the insight and receptiveness of participants in terms of the impact they are making in the policing of this phenomenon as stipulated in the Domestic Violence Act, No. 116 of 1998 as well as their subjective understanding of the response of the community they serve.

- **Comments**

In this section provision was made for general comments. This section provided participants with an opportunity to provide additional input of concern regarding the phenomenon that they might deem relevant to the study.

All responses obtained from the in-depth interviews were transcribed verbatim and analysed according to the steps provided by Tesch (1990:154-156) as discussed in Chapter 1. The responses were diverse depending on the geographical location and training of the participants. Responses were grouped according to themes that emerged during the course of the interviews. These identified themes, were used to address the stated objectives of this study and to provide answers to the research question as discussed in Chapter 1.

What emerged from this analysis will now be discussed. Data is presented in the form of tables and direct responses.

### 5.2.1 Profile of participants

Table 5.2 below reflects the biographical details of the participants (n= 28) at each of the seven (7) target stations: rank, race gender and the period that participants have been policing domestic violence. These aspects were identified as it was needed to determine whether and how any of the above variables have an impact on the perceptions and/or experiences of these twenty-eight (28) participants in their policing of domestic violence. The names of the stations were substituted with pseudonyms (A-G) to ensure anonymity of the participants. This information was included in the interview schedule and provided critical information of each participant.

**Table 5.2**  
**Identifying details of respondents**

PARTICIPANT	STATION	RANK	RACE	GENDER	DURATION OF PERFORMING CURRENT DUTIES
1	A	Constable	Coloured	Male	8yrs
2	A	Captain	White	Female	15yrs
3	A	Constable	Coloured	Male	7yrs
4	A	Sergeant	Coloured	Male	11yrs
5	B	Warrant Officer	African	Female	12yrs
6	B	Constable	African	Male	6yrs
7	B	Captain	African	Male	14yrs
8	B	Constable	Coloured	Male	8yrs
9	C	Constable	African	Female	1yr 7mths
10	C	Constable	African	Male	2yrs
11	C	Sergeant	White	Female	9yrs
12	C	Captain	Coloured	Male	19yrs
13	D	Warrant Officer	White	Female	11yrs

PARTICIPANT	STATION	RANK	RACE	GENDER	DURATION OF PERFORMING CURRENT DUTIES
14	D	Constable	African	Male	7yrs
15	D	Sergeant	Coloured	Male	10yrs
16	D	Constable	Coloured	Female	3yrs
17	E	Warrant Officer	Indian	Male	12yrs
18	E	Sergeant	Coloured	Male	11yrs
19	E	Constable	White	Female	8yrs
20	E	Captain	African	Female	14yrs
21	F	Constable	African	Female	5yrs
22	F	Sergeant	White	Male	8yrs
23	F	Constable	Coloured	Female	3yrs
24	F	Warrant Officer	Coloured	Male	12yrs
25	G	Constable	White	Female	8yrs
26	G	Constable	African	Male	6yrs
27	G	Sergeant	White	Female	9yrs
28	G	Warrant Officer	Coloured	Male	10yrs

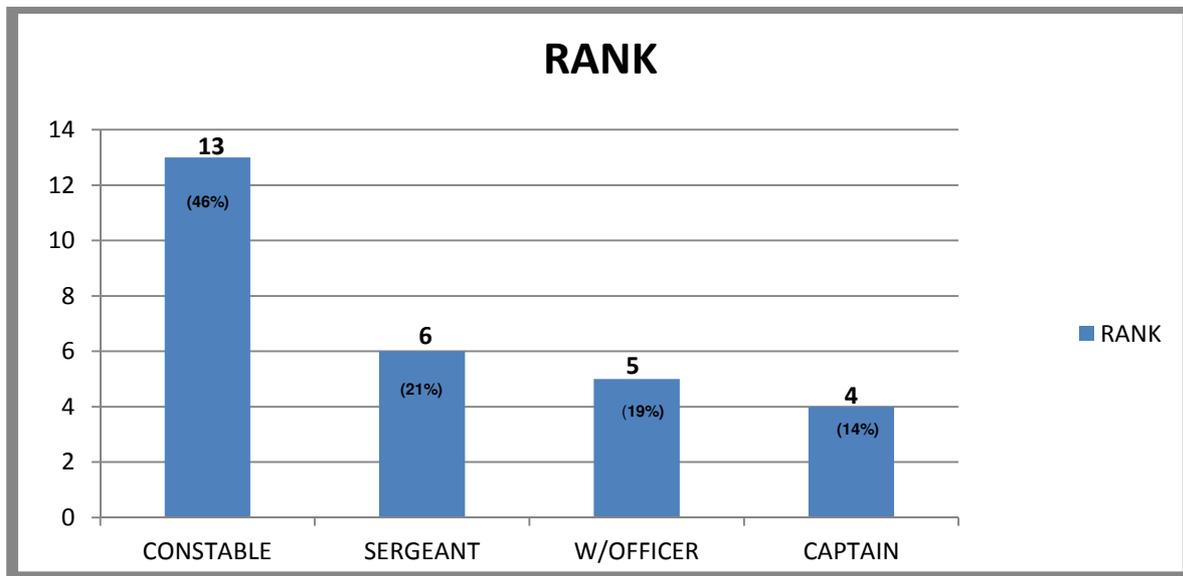
A discussion of each aspect of the identifying details as reflected in Table 5.2 above will now follow.

### **5.2.1.1 Station**

The sample (n=28) for this study was drawn from seven police stations identified in the Western Cape Province because of its consistently high crime statistics for crimes against women and children. The stations ranged from large urban police stations (stations A-E) to smaller rural police stations (stations F-G) which vary in size. A total of four (4) participants were interviewed at each station.

### 5.2.1.2 Rank level

Participants (n=28) were asked to indicate what their rank level was. Figure 5.1 below illustrates the various rank levels of participants.



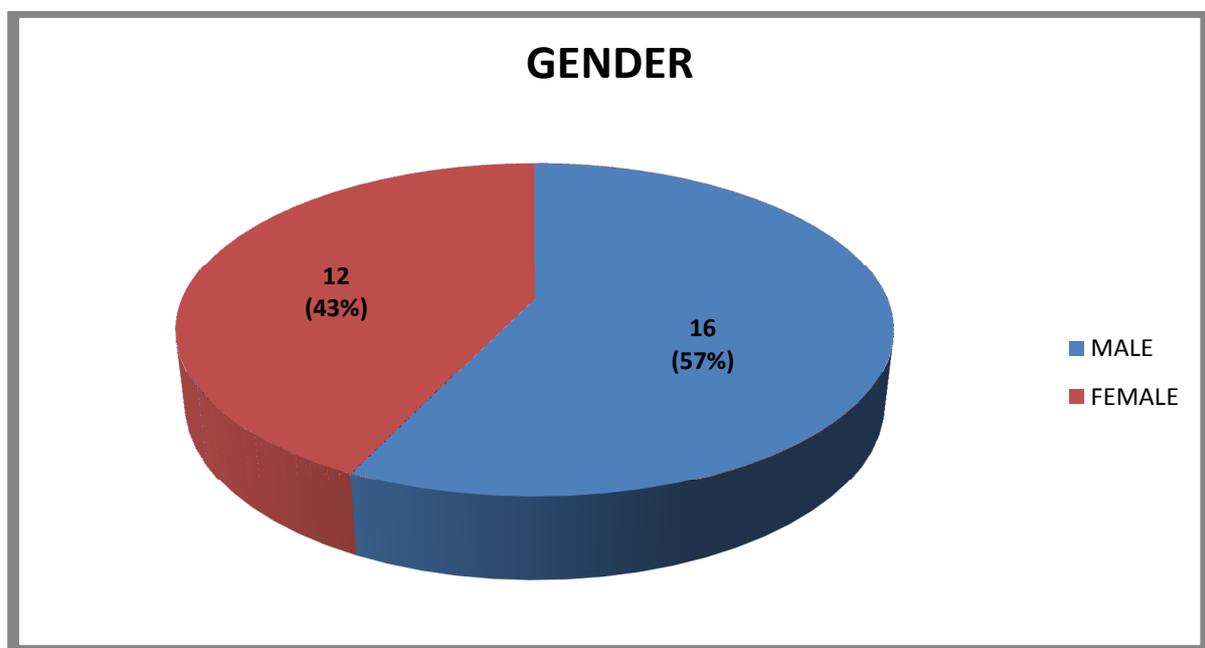
**Figure 5.1: Rank levels of participants**

Of the twenty-eight participants, four (14%) participants held the rank of Captain, five (19%) were Warrant Officers whilst six (21%) participants held the rank of sergeant. The majority of participants in the study i.e. thirteen (46%) were constables. Constables made up more than double the amount of all other ranks that participated in the study as all frontline police officers at the rank level of constable generally performed duties as “foot soldiers” responsible for attending to all complaints received in the charge office as well as at crime scenes. Participants with the rank level of captain and warrant officer, who (because of the seniority of their rank level) normally act as the CSC Commander as outlined in Chapter 1 of this study, also generally had the dual responsibility of attending to complaints because of a shortage of personnel. This dual function seemingly had a negative impact on optimal service delivery as participants were required to perform additional roles in terms of service delivery to victims of domestic violence. The latter resulted in optimal service delivery being hampered as participants were not as attentive and sensitive as they should have been when dealing with victims of domestic violence as some tended to use shortcuts to help lessen their workload. Three of the CSC

Commanders confirmed that one of the shortcuts include encouraging complainants to go back home and “talk things out” with their partners so that they are not loaded with the administrative burden of completing all the necessary documentation.

### **5.2.1.3 Gender**

Female participants seemed to be much more willing and at ease than their male counterparts, with sharing their perceptions and experiences regarding the policing of domestic violence. Figure 5.2 below indicates that twelve (43%) of the participants were female and 16 (57%) were male.

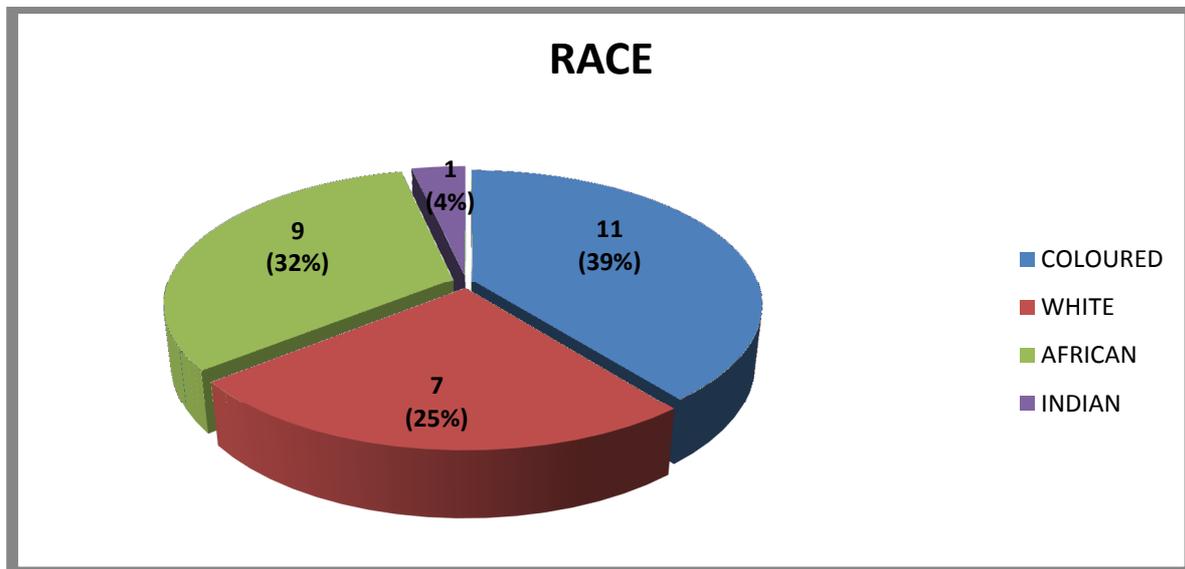


**Figure 5.2: Gender of participants**

Gender equity in the SA Police Service shows great disparity as police officers in the functional (operational) line are still predominantly male. All twenty-eight (28) participants performed shift duties in the Community Service Centre (CSC) or attended to all complaints in the community. One of the criteria for inclusion of participants in the sample of the study was practical experience in policing of domestic violence incidents. Data collected during interviews indicates that female participants found it easier to attend to domestic violence complaints than their male counterparts.

#### 5.2.1.4 Race

Four (4) police officers from each of the seven identified police stations (n=28) were selected as the representative sample for the study.



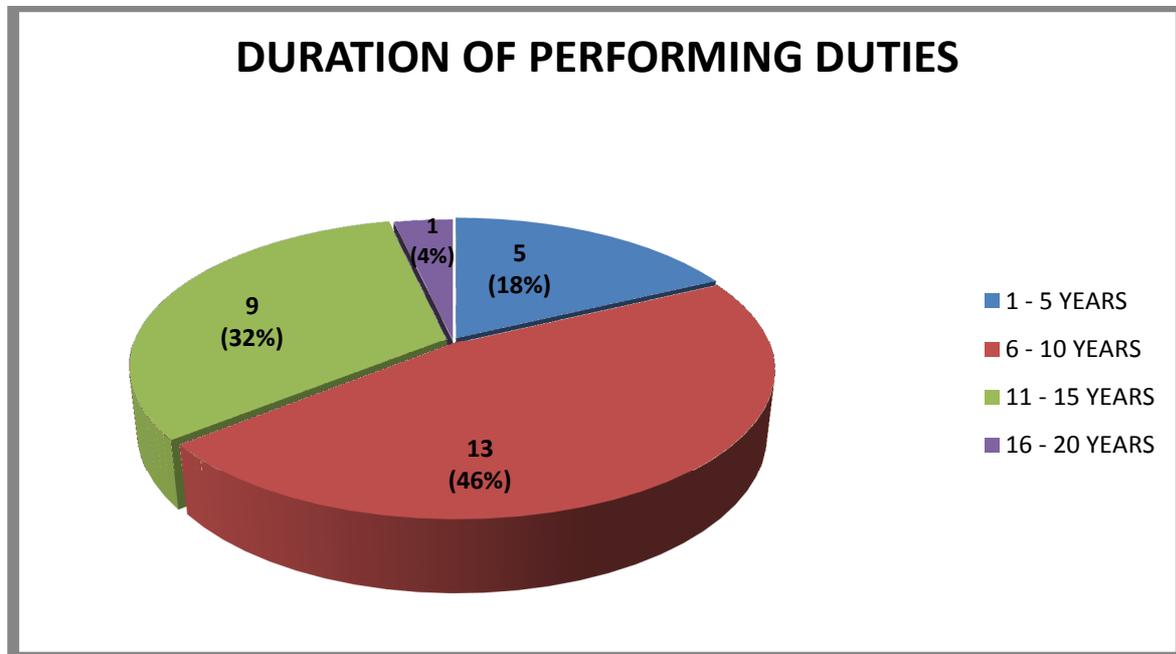
**Figure 5.3: Race of participants**

In terms of race, nine (32%) of the participants are classified as African, eleven (39%) coloured and seven (25%) white and only one (4%) Indian participant. The latter is reflective of the equity ratio of police officers in the SAPS during 2010/2011. Mark (1996:107) states that the research sample has to be very similar to the population from which it is drawn, on those variables that are relevant to the study for it to be considered to be representative. The study included participants from all racial groups with a 7% difference in representation between Coloured and African and White and Coloured race groups respectively. Only one (1) Indian police official was a participant in the study. Bent-Goodley (2000:327) and Davis (2001:19) found that there is no significant difference between racial groups and the occurrence of domestic violence. There is little available research on the impact of race of the attending police officer at a domestic violence scene.

#### 5.2.1.5 Duration of performing current duties

In determining the experience of participants who attended to domestic violence incidents, it was clear that the range of experience in dealing with domestic violence

incidents differed amongst participants irrespective of rank and years of performing current duties. Figure 5.4 below reflects the difference in the duration of performing of domestic violence duties by participants.



**Figure 5.4: Duration of performing current duties**

The findings indicate that even though female participants have not been performing their current duties as long as their male counterparts, they appear to have more experience in terms of attending to domestic violence complaints than their male counterparts. The female police official (participant nr. 9), who has the least number of years of experience i.e. one year and seven months, has assisted more victims in finding redress for domestic violence than some of her senior male counterparts who have more experience in general policing.

The following statements reflect possible reasons provided by participants for this finding:

- *“We have an agreement on our shift that sensitive cases where women and children are involved are handled by the female on the shift...”*
- *“I (male participant) am not so good at dealing with social work problems...women are better at that than us... they are more sensitive than men...”*

From the above statements it is evident that male participants prefer that female partners take the lead when attending to domestic violence complaints. The latter results in female police officials who are becoming more skilled at treating domestic violence victims with the necessary dignity and respect and male participants staying inept and not developing their competence in this regard. It can further be concluded that male participants tend to have less practical experience in dealing with domestic violence complaints. The lack of experience of male police officers can be ascribed to the fact that the attending to victims of domestic violence has in police culture always been relegated to be the role of female police officers on shifts in the SAPS.

#### **5.2.1.6 Number of domestic violence incidents per station**

- (b) Participants were requested to indicate the number of domestic violence incidents they handled during a shift at their respective stations. Table 5.3 below reflects the combined responses of the average number of domestic violence incidents handled by participants per station.

**Table 5.3**

**Domestic violence incidents per station**

SERIAL NUMBER	STATION	AVERAGE NUMBER OF INCIDENTS PER STATION
1	A	09
2	B	11
3	C	08
4	D	12
5	E	08
6	F	05
7	G	06

The quantitative analysis of the data in Table 5.3 above reflects that the average number of incidents reported per shift can vary from five to twelve domestic violence related incidents depending on the geographical area of the police station. Richards

(2002a) found that even though the actual figures are difficult to obtain, South Africa boasts one of the world's highest rates of reported domestic violence. The larger police stations in metropolitan areas seem to have an average of eight to twelve reported domestic violence related cases per shift and rural stations five to six reported cases. The fact that the incident rate is so high echoes findings of LaFevre (1999) that indicate that most violence that women are subjected to is still socially, culturally and even legally condoned.

All participants however agreed that the number of incidents reported fluctuates and is a concern as it tends to increase depending on the time of the month and is not always recorded but handled "informally". This will be further discussed in Table 5.5 below.

The findings in terms of the statistics indicated by participants in Table 5.3 above should be regarded as conservative indications of the actual incidence of domestic violence, as researchers (Singh, 2001; Victor-Zietsman, 2007) and non-government organisations (Rape Crisis and People Opposing Women Abuse) have for many years documented the discrepancies between reported and actual incidents. Blaser (1998) and Simpson and Kraak (1999) similarly found that statistics of the SA Police Service are often associated with significant under reporting because of a lack of public confidence in the police as well as resource challenges which hampers police officials in the effective policing of domestic violence. Domestic violence is the most underreported and under recorded crime because of the various factors indicated as well as the anomaly that the perpetrator is known to the victim through a close, intimate or developing relationship and the abuser relies on the trust and loyalty of the victim. Jewkes (2001) found that in general, South African research indicates violence in relationships to be so endemic that men and women often accept coercive and even violent behaviour as "normal" or unimportant and consequently do not report it. One can thus conclude that for the Western Cape Province the causal situation that accounts for most incidents of abuse can be found in a combination of elements of the Culture of violence theory (Viano, 1992); Inter-generational transmission theory (Sternberg *et al.*, 1993); Feminist theory (Saunders, 1998) and Sex-role theory (Walker, 1985) as described in section 2.5.1 of Chapter 2 of this

study.

### 5.3 THEMES ESTABLISHED FROM IN-DEPTH INTERVIEWS

The results of the study have been grouped into four major themes derived from the responses of the participants. These themes are:

- Theme 1: The experience of domestic violence
- Theme 2: Attitude and perceptions
- Theme 3: Competence in policing domestic violence
- Theme 4: Perceptions and attitude in terms of service delivery

Every major theme also consists of sub-themes wherein results will be presented and interpreted by comparing it with the literature study. Theme 1-4 was divided into three (3) sub-themes respectively. All the sub-themes were divided into different categories as set out in Table 5.4 below. After each sub-theme and category, the relevant number reference is provided in brackets to indicate where it is discussed in the chapter.

**Table 5.4**  
**Themes, sub-themes and categories**

THEMES	SUB-THEMES	CATEGORIES
1. The experience of domestic violence	1.1 Occurrence of domestic violence incidents	Peak demand periods (a) Complexities in attending to reported complaints (b)
	1.2 Forms of domestic violence	Physical abuse (a) Emotional / Psychological abuse (b) Damage to property (c) Sexual abuse (d) Economic abuse / Financial abuse (e) Intimidation (f) Unauthorized entry (g) Stalking & Harassment (h)
	1.3 Domestic violence vs. other crimes	Priority Crime (a) Non-priority Crime (b)

THEMES	SUB-THEMES	CATEGORIES
		Emotional readiness (c) Effect of withdrawn cases (d)
2. Attitude and perceptions	2.1 Roles and responsibilities  2.2 Assistance to victims  2.3 Challenging roles	Attending to domestic violence complaints (a) Acting as commander (b) Uncertainty and ignorance (a) Consistency in service delivery (b)  Use of discretion (a) Finding alternative shelter (b) Handling police perpetrated domestic violence (c) Dealing with children (d)
3. Competence in policing domestic violence	3.1 Nature of training  3.2 Demeanour of police officials  3.3 Effectiveness of Domestic Violence Act.	Informal and formal training (a) Sufficiency of training (b) Acquisition of skill (c)  Pride and responsibility (a) Frustration and aggravation (b) Unresponsiveness and reluctance to assist (c)  Benefits of Act (a) Limitations of Act (b) Implementation challenges (c)
4. Perception and attitude in terms of service delivery	4.1 Quality of service delivery	Effectiveness of service (a) Community relations (b) Efficiency of service (c)

THEMES	SUB-THEMES	CATEGORIES
	4.2 Monitoring and recordkeeping  4.3 Barriers to effective service delivery	Reluctance to complete required documents (a) Non-compliance (b)  Serving protection orders (a) Community relations and networking (b) Availability of resources (c)

A discussion of the identified themes, sub-themes and categories will now follow.

### 5.3.1 Theme 1: The experience of domestic violence

As indicated in Chapter 1, there are two groups of police officers working a 12 hour shift (day and night duty) consisting of an average of seven (7) members assigned to a shift. In reality, the latter however varies depending on the size of the station as well as the absenteeism rate per shift. The experiences of participants will now be presented, discussed and analysed according to the relevant sub-themes and categories as reflected in Table 5.3.

#### 5.3.1.1 Theme 1 – Sub-theme 1: Occurrence of domestic violence incidents

All the participants in this study indicated that the reporting of domestic violence incidents tend to increase during “peak demand periods” and agreed that this presents a challenge for effective service delivery as both human and logistical resources at their stations are often limited.

##### (a) Category: Peak demand periods

Table 5.5 below contains the excerpts of participants related to “peak demand periods” during which participants experienced an increase in the volume of reported incidents of domestic violence.



Table 5.5

## Occurrence of domestic violence incidents: peak demand periods

SUB-THEME	CATEGORY	EXCERPTS FROM INTERVIEWS
Occurrence of domestic violence incidents	Peak demand periods	<ul style="list-style-type: none"> <li>• <i>“...<u>weekends, month-end and forth-nights</u>, we expect more complicated domestic violence complaints...”</i></li> <li>• <i>“...the most difficult domestic violence complaints at our station usually get reported <u>after six o'clock during the evening or just before we go off duty.</u>” “...die meeste moeilike gesinsgeweld klagtes word aangemeld in die aand na ses uur by ons stasie of net voor ons van diens moet gaan ...”</i></li> <li>• <i>“...number of complaints double on <u>pay days and public holidays</u> ...they go more overboard than usual...<u>wet rainy weather</u> of the Western Cape makes it worse...”</i></li> </ul>

As previously indicated in Table 5.3 the number of reported incidents per shift tends to fluctuate depending on the geographical area. These fluctuations in reported complaints however tend to increase depending on the time of the month (*“...weekends, month-end and forth-nights...”*) as reflected by responses from participants in Table 5.5 above. All domestic violence complaints reported during these peak demand periods are not always recorded by the respective police official as some reported incidents are handled “informally” depending on the assessment of the incident by the attending police official or the time the incident was reported (*“...after six o'clock during the evening or just before we go off duty.”*). This “informal” handling of reported domestic violence complaints seem to occur mostly during periods when there is an increase in the volume of other crimes and/or the resource capacity (to attend to all the reported crimes) is stretched to maximum level. What is more concerning however is the fact that the “informal” handling of reported domestic violence complaints reportedly tends to occur when the most difficult domestic violence complaints get reported.

All participants agreed that incidents reported after hours, are more problematic to handle as enabling victims to access resources during peak demand periods seem to be more difficult to facilitate than it would be during normal working hours when all role-players responsible for providing support to victims of abuse are available and accessible. Participants also indicated that *“...pay days and public holidays...”* are

particularly challenging because of more aggressive behavior displayed by some members of the public resulting from excessive drinking and a subsequent increase in reported incidents of domestic violence. The latter is reportedly also worsened by “...wet rainy weather of the Western Cape...” which often “forces” more people to socialize in closer proximity in their homes than usual resulting in more violence.

The second category under the sub-theme “Occurrence of domestic violence incidents” is “complexities in reported complaints” which is presented in Table 5.6 below.

*(b) Category: Complexities in attending to reported complaints*

Intervening in domestic violence is a very complex issue because of the nature of the established relationship between parties. The narratives in Table 5.6 below reflect the complexities experienced by participants in attending to domestic violence complaints.

**Table 5.6**  
**Occurrence of domestic violence incidents: complexities in attending to reported complaints**

SUB-THEME	CATEGORY	EXCERPTS FROM INTERVIEWS
Occurrence of domestic violence incidents	Complexities in attending to reported complaints	<ul style="list-style-type: none"> <li>• “Clients come to the CSC with <u>unrealistic expectations</u>...I am <u>not always able to assist as they are uncertain about laying a complaint</u>...”</li> <li>• “...it is <u>difficult</u>.....we are expected to advise complainants and make <u>split second decisions</u> and you worry if you made the right one...we are not social workers...”</li> <li>• “...this is not a random act of violence committed by a stranger...the <u>victim knows the perpetrator and does not want him arrested</u>...here the <u>whole family is involved</u>...”</li> <li>• “...unlike other cases where parties are not related it is more <u>difficult to arrest a father in front his child</u>...”</li> </ul>

Sixteen (16) participants indicated that often when cases are reported at their respective stations, it is not reported by complainants as a domestic violence incident as they seem to be hesitant to lay a complaint as they only want the abuser to be given a verbal warning in the hope that it will act as a deterrent to the abuser (“...I am not always able to assist as they are uncertain about laying a complaint...”). This inability to assist often seem to result in frustration as these participants considered the complaints to be of a serious nature and viewed the “...unrealistic expectations...” of complainants as a complication in providing assistance because complainants were not yet ready to seek legal recourse for the abuse. Victor-Zietsman (2007) similarly found that the hesitancy and uncertainty by victims in laying a complaint can be ascribed to their ignorance about domestic violence. From this one can conclude that it is critical for police officials to be able to clarify any confusion or uncertainty by complainants regarding the content of the DVA of 1998 as well as available assistance for redress.

The verbatim responses of three (3) participants with limited training in the handling of domestic violence related complaints indicated that they were unable to provide optimal assistance to victims as they felt they did not have the ability to assist as indicated by the following response: “...we are expected to advise complainants and make split second decisions and you worry if you made the right one...we are not social workers...”. This response from participants indicate that the doubts voiced about their ability to assist is grounded in their limited understanding of what is required from them in terms of their roles and responsibilities. This finding can be linked to the explanation provided by Finkelhor (1988); Gelles (1999) and Corcoran *et al.* (2001) who found that intervening in domestic violence can be a very complex and controversial process as the varied potential needs of victims may be beyond the capability of typical law enforcement tasks. This statement is further illustrated by the following excerpt (“...It is difficult...”). All participants agreed that the level of complexity is increased when dealing with domestic violence because of the nature of this form of violence as is reflected in the following response “...this is not a random act of violence committed by a stranger...the victim knows the perpetrator...”. From the latter response one can infer that it is sometimes easier for participants to deal with perpetrators who are not known to complainants as it

reportedly does not seem to affect the emotions and actions of participants to the same degree. The following statement confirms the latter “...*unlike other cases where parties are not related it is more difficult to arrest a father in front his child...*”

Based on the given responses and given the fact that more domestic violence incidents are reported than is recorded, the ignorance or uncertainty on the part of not only the complainants but also inexperienced and ignorant police officials dealing with domestic violence related incidents is a cause for concern requiring concrete intervention.

A presentation and discussion on sub-theme 2 of theme 1 will now follow.

#### **5.3.1.2 Theme 1 – Sub-theme 2: Forms of domestic violence**

As noted in Chapter 1 of the study, all participants included in the study are frontline police officials who are responsible for providing assistance to victims of domestic violence at the time of the study. Participants (n=28) were requested to indicate the frequency of the various forms of domestic violence they handled most often by prioritising it on a scale of 1 (most frequently encountered) to 10 (least frequently encountered). The frequency and forms of abuse police officials have to deal with vary as discussed in Chapter 2 and can range from physical, emotional, economic, sexual abuse as well as stalking, damage to property, intimidation, unauthorised entry and harassment (Bollen, 1999). Domestic violence can include a number of different behaviours, and there is no single criminal offence of “domestic violence”. Table 5.7 below is reflective of the quantitative analysis done of the data collected to determine which of the forms of domestic violence have been dealt with most frequently by participants.

**Table 5.7**  
**Frequency rating of domestic violence encounters**

FORMS OF DOMESTIC ABUSE	FREQUENCY							FRE- QUENCY TOTAL
	1 (most frequently encountered) and 10 (least frequently encountered)							
	STATION A	STATION B	STATION C	STATION D	STATION E	STATION F	STATION G	
Physical abuse	1	1	1	1	1	1	1	7
Emotional / Psychological abuse	2	3	2	4	3	3	2	19
Economic abuse / Financial abuse	5	5	3	3	7	5	6	34
Sexual abuse	4	6	4	5	4	2	3	28
Stalking	9	8	8	6	8	7	9	55
Damage to property	3	2	5	2	2	4	4	22
Intimidation	6	4	6	7	5	8	5	41
Unauthorized entry	7	7	7	8	6	6	7	48
Harassment	8	9	9	9	9	9	8	61
Other	10	10	10	10	10	10	10	70
<b>n=28</b>								

In analysing the findings in Table 5.7 above it is evident that domestic violence experienced by participants takes on many forms. Lewis (1999) similarly found that that domestic violence is a multi-dimensional phenomenon which involves various types of abuse. The responses of participants indicated that the forms of *abuse most frequently handled* by police officers are the following in sequence of frequency: physical abuse, emotional / psychological abuse, damage to property, sexual abuse, economic/financial abuse, Intimidation, Unauthorised entry, Stalking and Harassment.

A follow-up question was posed to participants requesting them to indicate and to

motivate which of the different forms of domestic violence they identified, were the most challenging to handle. Emotional abuse, physical abuse, economic abuse, sexual abuse, damage to property and unauthorised entry were the forms of abuse identified by the twenty-eight (28) participants as sequentially the *most challenging to handle*.

The various forms of domestic violence as rated by participants in terms of frequency as well as level of difficulty to handle will now be discussed in the following sub-themes and categories.

(a) *Category: Physical abuse*

All twenty-eight (28) participants agreed that physical abuse was the *most frequent form of domestic violence dealt with* on a daily basis (see Table 5.7) and it was the *second most challenging form of abuse to handle*.

**Table 5.8**  
**Forms of domestic violence: physical abuse**

SUB-THEME	CATEGORY	EXCERPTS FROM INTERVIEWS
Forms of domestic violence	Physical abuse	<ul style="list-style-type: none"> <li>• “Physical abuse is difficult to handle when both parties are drunk and bleeding from <u>fighting with each other...</u>”</li> <li>• “Handling physical abuse where you can see <u>visible marks on children and old people</u> are extremely stressful...you feel so ...”</li> <li>• “Physical abuse can become very problematic as we get some cases where the woman tends to provoke the man on purpose to physically <u>hit</u> her as she wants to get him arrested so that she can be free for the weekend...”</li> </ul>

Participants described physical abuse as “difficult”, “extremely stressful” and “very problematic” to handle as indicated in Table 5.8 above. The level of difficulty for participants in dealing with physical abuse is ascribed to the consumption of alcohol by parties, dealing with traumatised children and the perceived ulterior motives of complainants.

Seven (7) of the participants tried to justify the reason for physical abuse

experienced by victims as indicated by the following statement: “...*woman tends to provoke the man on purpose*”. This statement is contrary to the opinion of Ferrato (2000) who disagrees that it is a fallacy that women are looking for abuse or that they provoke it. This kind of assumption by participants also indicate that they are conforming to the prevailing attitude that supports the abusive behaviour which could be a reflection of the prevailing victim blaming and patriarchal perspective of the communities they live in and serve. The latter gives credibility to the statement made by Stanko (1998) that regardless of the legal shift in position, some police officials will still assume that if a woman is a victim of violence, then she must have done something to deserve it.

Hagen (2001) found that women exposed to physical violence are also often being abused emotionally as they suffer severe emotional and mental distress. Emotional abuse will now be discussed below.

*(b) Category: Emotional abuse / Psychological abuse*

Emotional abuse was rated by nineteen (66%) of participants as the *second most frequent form of abuse encountered* by participants (see Table 5.7) and identified as the *most challenging form of abuse to handle*. Jewkes in Vetten (2005:2) had similar results in that they found in one survey of 1306 women in three South Africa provinces that 51% of women in the Eastern Cape, 50% in Mpumalanga and 40% in Northern Province were subjected to emotional abuse which they found to be the most challenging form of abuse to prove. The findings of Browne and Herbert (1997) and Sanderson (2008) differ from the frequency results of this form of abuse as it found that emotional abuse generally occurred more frequently than physical abuse and is more difficult to detect. Several researcher studies (Leiner *et al.*, 2008; Scott-Tilley *et al.*, 2010) concur that emotional abuse is often a precursor to physical abuse and stress that both forms of abuse seem to be equally destructive.

The above findings indicate that even though physical abuse is reported more frequently than emotional abuse it does not necessarily mean that it is the most frequent form of abuse experienced by victims. One can also conclude that the reason that statistics reflect a higher frequency for reported physical abuse cases is

that it is a form of abuse that is often easier for victims to explain because of the visible evidence whereas emotional abuse is reportedly more difficult to prove and often not viewed by respondents as life threatening. The following statements of respondents (see Table 5.9 below) are reflective of this:

- “...most difficult to identify as you rarely see any noticeable signs like for physical abuse...”
- “...avoid dealing with emotional abuse as it is problematic to identify elements of a crime...or imminent danger as there is no visible outward signs ...”

**Table 5.9**

**Forms of domestic violence: emotional/psychological abuse**

SUB-THEME	CATEGORY	EXCERPTS FROM INTERVIEWS
Forms of domestic violence	Emotional abuse	<ul style="list-style-type: none"> <li>• “...emotional abuse is the most difficult to identify as you <u>rarely see any visible signs</u> like for physical abuse...”</li> <li>• “I try to avoid dealing with it as it is problematic to identify any elements of a crime...or imminent danger as there is <u>no visible outward signs...</u>”</li> <li>• “...convincing the victim to take action is a big challenge as she is not only <u>emotionally distraught</u> but <u>fears the reaction</u> of the accused...”</li> </ul>

From the excerpts in Table 5.9 above one can conclude that emotional abuse are not always viewed or handled as serious as it is one of the forms of domestic violence that have not been classified as illegal or criminal even though it often has a serious and lasting impact on the sense of well-being and autonomy of victims as reflected in the following excerpt: “...she is not only emotionally distraught but fears the reaction of the accused...”. The responses of participants indicate that they found emotional abuse extremely challenging to handle because of the lack of visible proof and the psychological manipulation of the victim by the abuser. Consequently this form of abuse does not always get reported or recorded properly because of the latter.

Damage to property is the next form of domestic violence to be discussed.



*(c) Category: Damage to property*

Damage to property was rated as the *third most frequent form of abuse handled* (see Table 5.7) and was rated *fifth (out of the nine forms of abuse) in terms of level of challenge*. The responses of all participants (n=28) indicate that this form of abuse is problematic and reportedly difficult to handle as reflected in table 5.10 below.

**Table 5.10**  
**Forms of domestic violence: damage to property**

SUB-THEME	CATEGORY	EXCERPTS FROM INTERVIEWS
Forms of domestic violence	Damage to property	<ul style="list-style-type: none"> <li>• <i>“I find it difficult to understand how you can be guilty of unlawfully <u>damaging your own car</u> in a marital relationship or where parties are living together...”</i></li> <li>• <i>“...destruction of property is always part of the complaint where both parties are physically violent with each other as <u>things tend to get broken in anger...</u>”</i></li> <li>• <i>“... “...we always get complaints where <u>furniture is damaged</u> whenever alcohol or drugs are present...” “...wanneer daar alcohol of dwelms betrokke is kry ons altyd klagtes van beskadiging van meubels...”</i></li> </ul>

Damage to property reportedly most often occurs in conjunction with other forms of abuse like physical abuse as reflected in the following excerpt: *“...where both parties are physically violent with each other things tend to get broken in anger...”* as well as where substance abuse are present as reflected in the following excerpt: *“...we always get complaints where furniture are damaged whenever alcohol or drugs are present ...”*.

The following response of one participant indicated that he would be unable to be objective in the handling of this form of abuse because of his subjectivity and lack of insight which proves him unable to provide optimal service assistance to victims of this form of abuse *“...I find it difficult to understand how you can be guilty of unlawfully damaging your own car...”*. Flynn (1990) and James (1999) similarly found that some forms of domestic violence are often minimised and treated by police officials as less serious.

A discussion on sexual abuse as the fourth most frequent form of abuse encountered by frontline police officials will now follow.

(d) *Category: Sexual abuse*

Sexual abuse was identified as the *fourth most frequently reported form of abuse encountered* as reflected in Table 5.7 above and was similarly rated as the *fourth for level of challenge in terms of the handling of this form of abuse* by participants.

**Table 5.11**  
**Forms of domestic violence: sexual abuse**

SUB-THEME	CATEGORY	EXCERPTS FROM INTERVIEWS
Forms of domestic violence	Sexual abuse	<ul style="list-style-type: none"> <li>• <i>“Sexual abuse cases are <u>more difficult</u> for me when there are children involved...because I <u>feel even more helpless and angry</u>...even at the parents who are supposed to protect their children...”</i></li> <li>• <i>“I try not to show that it <u>affects me emotionally</u> or that it is <u>difficult to face the victims</u> as the damage is already done.”</i></li> <li>• <i>“In our community <u>victims are too afraid</u> to lay a complaint as a lot of men here still believe it is their <u>right to force their women to have sex ...</u>”</i></li> <li>• <i>“Victims <u>seldom report marital rape</u>...when they do you can be sure there is also <u>emotional abuse or other forms of abuse involved</u> that is not so easy to identify...”</i></li> </ul>

The responses of participants as reflected in Table 5.11 above indicate that complaints of marital rape was not often received but on the few occasions a complaint was made it was generally accompanied by other forms of abuse that is often more difficult to prove as indicated by the following excerpt: *“Victims seldom report marital rape...when they do you can be sure there is also emotional abuse or other forms of abuse involved that is not so easy to identify...”*. This finding is similar to that of Parenzee and Smythe (2003) who found that sexual abuse often go hand in hand with physical and emotional abuse but are not reported as frequently by victims of abuse. The infrequency of reported sexual abuse as indicated by participants is however in contrast with the findings of Simpson and Kraak (1999:1) forecast that annually at least 1,2 million South African women are likely to be

sexually assaulted by someone they know. The following response is indicative of this statement: *"In our community victims are too afraid to lay a complaint as a lot of men here still believe it is their right to force their women to have sex..."*. This infrequency of reporting sexual abuse incidents clearly indicates that sexual abuse continues to be under reported and subsequently the extent of this form of abuse is not being addressed by the police. Vetten (2005) similarly found that rape is under reported for various reasons.

Even though participants only seem to deal with the tip of the proverbial iceberg regarding sexual abuse, it is evident from their responses that the few incidents they dealt with was experienced as being emotionally taxing as they tended to repress their feelings in order to deal with reported incidents as reflected by the following excerpt *"I try not to show that it affects me emotionally or that it is difficult to face the victims as the damage is already done"*. This response also reflects the level of empathy and feelings of helplessness because of their inability to intervene timeously or to prevent this form of abuse from occurring or reoccurring.

Participants agreed that the level of difficulty in dealing with reported sexual abuse incidents tended to be more emotionally exhausting when it involves the sexual abuse of children by family members or a close family friend as reflected by the following excerpt of a participant *"Sexual abuse cases are more difficult for me when there are children involved...because I feel even more helpless and angry...even at the parents who are supposed to protect their children..."*. The latter statement reflects that the feelings of helplessness experienced by participants is often escalated by their unfulfilled expectation and belief that parents should protect their own in contrast to the reality they tend to experience when attending to a domestic violence incident thus resulting in feelings of anger directed at the caregivers of child victims. The above statement indicates that it is not easy for participants to remain neutral and professional at all times as police officers are affected by the emotional and physical triggers. Baker *et al.* (2002) found that the personal and emotional nature of reported domestic violence incidents can arouse strong feelings in the responding officers.

Economic/Financial abuse rated fifth in terms of frequency is the next form of abuse to be discussed.

(e) *Category: Economic / Financial abuse*

**Table 5.12**  
**Forms of domestic violence: economic/financial abuse**

SUB-THEME	CATEGORY	EXCERPTS FROM INTERVIEWS
Forms of domestic violence	Economic / Financial abuse	<ul style="list-style-type: none"> <li>• "... <u>the victim begs you not to arrest her husband because she will have no income ...</u>"</li> <li>• "...<u>victims do not cooperate as they are scared about what the abuser will do...</u>"</li> <li>• "...<u>withdraw the case and protection order application because she feared she would be left without any income...</u>"</li> </ul>

Although economic / financial abuse was rated fifth as reflected in Table 5.7 in terms of frequency of the forms of abuse encountered, it was rated by participants as the third most challenging form of abuse to handle for the following reasons indicated in Table 5.12 above: "...the victim begs you not to arrest her husband because she will have no income..." and "...victims do not cooperate as they are scared...". From this it is clear that participants are hesitant to act because of the emotional turmoil and financial dependence of the victim. Raphael (2000) found that being poor or unemployed make some women more vulnerable to abuse or victimisation than their middle and upper class counterparts. Participants indicated their frustration and feelings of hopelessness in the outcome of their encounters with victims who experienced this form of abuse as the intense emotional trauma involved tend to direct the actions of victims as indicated in the following statement: "...withdraw the case and protection order application because she (victim) feared she would be left without any income...".

A discussion on intimidation as one of the forms of abuse as rated by participants in terms of frequency will now follow.

(f) *Category: Intimidation*

Intimidation was rated sixth out of the nine forms of abuse indicated most frequently encountered by participants in Table 5.7 followed by unauthorised entry. Intimidation was also indicated by participants as very difficult to prove as victims who experienced this form of abuse had difficulty to put a name to what was happening to them consequently no action is often taken in this regard. Jewkes (2001) had a similar finding as he agrees that only when victims know what is happening to them they will be better able to take action or get help. None of the participants reported having a single encounter of dealing with *Intimidation* only. Intimidation was reportedly encountered always with other forms of abuse – most frequently emotional/psychological abuse as reflected in by the following excerpt: “...*the fact that complainants are too afraid to lay a charge shows you how confused and traumatised they are because of the threatening behaviour of the abuser...*”.

It was also evident from the responses of participants that this form of abuse is always part of any police perpetrated domestic violence complaint because of the stature of police officials as indicated by the following response “...*victims of police officers are more afraid because they are constantly reminded by the abuser that he has special powers and authority like training and easy access to deadly weapons...*”. Wetendorf (1998) similarly found that victims of police perpetrated violence experience additional complications as officers have access to weapons and specialised training to perpetrate violence. From this it can be inferred that the level of intimidation is often increased by the propagation of the perpetrator and subsequent belief by victims that irrespective of the violence he will be protected by his colleagues. Likewise Levinson (1997) and Feltgen (1996) found that victims of police perpetrated violence often fear reporting the incident to the police as they know the case will be handled by officers who know the abuser and would side with him/her or fail to properly investigate or document the reported incident because of professional loyalty.

Unauthorised entry is the next form of abuse to be discussed.

(g) *Category: Unauthorised entry*

Unauthorised entry was rated seventh in terms frequency as reflected in Table 5.7 above and was reported to be very problematic to handle. Table 5.13 below reflects the type of challenges encountered by participants in this category.

**Table 5.13**  
**Forms of domestic violence: unauthorised entry**

SUB-THEME	CATE-GORY	EXCERPTS FROM INTERVIEWS
Forms of domestic violence	Unauthorised entry	<ul style="list-style-type: none"> <li>• “...often victims <u>ask the abuser to move back into the home as she feels sorry for him irrespective of the interdict...in the end he abuses her again...this is very frustrating as it is predictable...</u>”</li> <li>• “...she allows him back into the house because he <u>threatens her</u> and he knows she is intimidated by him and his friends...”</li> <li>• “The accused <u>refused to stay away from the house as ordered in the protection order...she was afraid to have him arrested...she only wanted us to warn him...</u>”</li> </ul>

The challenge in handling these incidents seem to centre on victims inviting “...the abuser to move back into the home...” (contrary to stipulations in the protection order) which the abuser is prohibited by law to enter because the victim “...feels sorry for him...” or “... because he threatens her...”. This reportedly often occurs during the recovering phase of the domestic violence cycle as described by Walker (1984), Landenburger (1998) and Collins (2000) with disastrous results for the victim. Participants also indicated that fear and intimidation sometimes is a motivator for allowing the abuser back into the home as reflected by the following excerpt “...he knows she is intimidated by him and his friends....” Whatever the motivations of the victim for allowing the abuser back into the home, it result in great frustration for participants as this action makes it difficult for them to convince victims that recovery from the abusive relationship is possible. One can also conclude that the “*frustration*” and “*predictability*” of the continuous cycle of violence can result in participants becoming disillusioned at their own efforts and giving up hope that the cycle of violence can eventually be broken. The latter has great implications for how seriously future reported domestic violence complaints by the said victim will be handled.

*(h) Category: Stalking and harassment*

In Table 5.7 above stalking and harassment were indicated as the two forms of abuse rated as least challenging as it was least frequently encountered by police officers. A possible reason for the latter could be that stalking and harassment is not classified as a crime and often, like intimidation difficult to prove, consequently victims are hesitant to report this form of abuse.

Based on the analysis of data reflected in Table 5.7 and the above responses of participants it is evident that the forms of abuse indicated by participants as the most challenging to handle are also the same forms of abuse they reportedly encountered most frequently even if the sequence of the forms of abuse might differ. When comparing the above findings with the findings of a victim survey completed by the Institute for Security Studies during 1999, it is evident that even though there is great similarities in the experiences of participants in terms of the various forms of abuse encountered when compared to the reported incidents to the police, there is however a significant difference in the numbers of incidents experienced by victims and the numbers of cases reported and subsequently recorded. Thus, proving the statements made by Jewkes (2001), Richards (2002a) and Victor-Zietsman (2007) to be true for this study as the prevalence of domestic violence incidents appear to be higher than the number of reported encounters by participants. The various forms of domestic violence identified share many similar root causes as discussed in Chapter 2 (sub-section 2.5.1), thus it can be concluded that interventions directed at one may positively influence other forms of violence as well.

The findings also indicate that some participants differ from their colleagues in terms of their understanding of what constitutes a domestic violence incident as well as how it should be dealt with. The main reason for the lack of common understanding seems to be the belief that unless the reported incident amounts to a criminal offence, it is not deemed by some participants to be a serious complaint. Another reason could be the cultural background and unresolved issues of participants regarding their personal experience with domestic violence that negatively impacts on their ability to comprehend and action their specific roles and functions in terms of

the proper implementation of the DVA of 1998. It would also appear as if the challenges encountered by participants in assisting victims of domestic violence are often exacerbated by ignorance and cultural and psychological barriers resulting in feelings of immense frustration helplessness and hopelessness in effecting redress for victims of domestic violence.

A presentation and discussion on sub-theme 3 of theme 1 will now follow.

### **5.3.1.3 Theme 1 – Sub-theme 3: Domestic violence cases vs. other crimes**

It was necessary to examine the degree to which police officials view domestic violence as a criminal activity compared to other crimes as indicated by Logan *et al.* (2006) as it might explain their response to domestic violence incidents. Sub-theme 3, Domestic violence cases vs. other crimes are the next sub-theme with four different categories that will be analysed and interpreted. Participants were requested to indicate their experience of how intervening in domestic violence incidents compared to intervening in any other reported violent crime. This question was put to participants to determine if domestic violence is in reality handled as the priority it is professed to be when compared to other serious and violent crimes at station level. The responses in Table 5.14 and Table 5.15 below illustrate the comparisons drawn by participants in terms of their experiences in this regard. Participants were initially very cautious in answering this question as they seemed to believe that their responses might in some way implicate them or their station management.

#### *(a) Category: Priority Crime*

A total of sixteen (57%) participants i.e. eight (67%) of the twelve female participants and only eight (50%) of the 16 male participants indicated that they bring the same level of commitment or more to attending to domestic violence complaints as they would to any other violent crime as reflected in the statements in Table 5.14 below.

**Table 5.14**  
**Domestic violence vs. other crimes: priority crime**

SUB-THEME	CATEGORY	EXCERPTS FROM INTERVIEWS
Domestic violence vs. other crimes	Priority crime	<ul style="list-style-type: none"> <li>• <i>“My shift commander is a woman so we get <u>reminded daily on parade that domestic violence is a priority...</u>”</i> “My skof bevelvoerder is ‘n vrou so ons word elke dag gedurende parade herinner dat gesinsgeweld ‘n prioriteit is...”</li> <li>• <i>“Intervening in domestic violence <u>cannot be handled as a civil matter anymore ... the Act forces us to make it a priority as there are too many cases.</u>”</i></li> </ul>

These statistics indicate that there is a greater level of commitment placed by female than male participants in their policing of this phenomenon. These participants work at four out of the seven target stations where participants experience domestic violence to be given greater priority than other violent crimes in varying degrees as determined by the station commander of the respective station. This finding disproves the statement of Sinden and Stephens (1999) that the priority placed on the policing of domestic violence differs from the priority given to other criminal assault cases where the accused is a stranger and that this handling is usually associated with slow or non-response and devaluing of victims proves to be. The latter statement is further disproved by the experience shared by participants who indicated that where the station and/or shift commander is female, greater priority seems to be given to the policing of any crimes against women and children which, includes domestic violence. This finding is evident in the following statement: *“My shift commander is a woman so we get reminded daily on parade that domestic violence is a priority...”*. From the latter response it is evident that there is disjuncture in the experience of participants and previous research findings in terms of the level of priority placed on the policing of domestic violence by attending police officials. The above responses also indicate that command and control in terms of the policing of this phenomenon is perceived by participants to have been institutionalised in varying degrees at their respective stations.

It can be concluded that even though the number of reported domestic violence cases remain a concern, the reported commitment by participants in the policing of

domestic violence incidents reflect the level of priority placed by participants on the policing of domestic violence at their respective stations.

*(b) Category: Non-Priority Crime*

A total of twelve (43%) participants (i.e. 4 female and 8 male participants) of the outstanding three stations indicated that in practice reported domestic violence incidents were generally not handled as a priority crime at their respective stations as “more serious crime” tends to be prioritised.

**Table 5.15**

**Domestic violence vs. other crimes: non-priority crime**

SUB-THEME	CATEGORY	EXCERPTS FROM INTERVIEWS
Domestic violence vs. other crimes	Non-Priority crime	<ul style="list-style-type: none"> <li>• “...<i>It is <u>not as important as other complaints</u>...some police officers still tend to think they are interfering in family or marriage relationships...</i>”</li> <li>• “<i>It is in practice <u>not given the same priority</u> as other crimes because it is so <u>common in communities</u> ... victims only want the abuser to be warned and do not want to lay a charge...</i>”</li> <li>• “<i>Domestic violence is <u>not seen as such an important complaint</u>...it is something that the two parties and a lawyer or social worker must sort out.</i>”</li> </ul>

The following excerpt as reflected in Table 5.15 above describes the general experience shared by participants: “*It is in practice not given the same priority as other crimes...*”. The sixteen (57%) participants who indicated that they handle domestic violence incidents as a priority also indicated that they are aware of some colleagues at their station who do not comply as they do not see domestic violence as a serious complaint as is evident in the following statement: “*Domestic violence is not seen as such an important complaint...it is something that the two parties and a lawyer or social worker must sort out.*” Participants ascribed this non-intervention attitude of colleagues to the fact that they felt reportedly “forced” to handle domestic violence as a priority. From this one can infer that this belief will have a negative impact on the commitment of these participants in ensuring the same level of service delivery to victims of abuse.

The statements of participants indicate that it is evident that the priority given to the policing of domestic violence at station level depends on how serious the station commander and his/her management team view the policing of these incidents. This approach results in inconsistency in the priority placed on domestic violence at station level and subsequent service delivery to victims. It also gives credence to the findings of Roosendaal (2002); Smith and Nel, (2002); Parenzee and Smythe (2003) and Vetten (2005) who is of the opinion that the constant criticism directed at the South African Police Service (SAPS) by the public and the media is resultant of the low priority placed on domestic violence calls by the SAPS.

Even though sixteen (57%) participants reported sporadic changes in redressing domestic violence incidents at station level, the priority given to the policing of domestic violence incidents at three (3) out of the five (7) target stations, seemingly remain unchanged. It is evident from the generalised statements made by participants that violent incidents between people in a domestic relationship are often not handled as seriously as stranger assaults as indicated by the following statements:

- *“...It is not as important as other complaints...some police officers still tend to think they are interfering in family or marriage relationships...”*
- *“It is in practice not given the same priority as other crimes because it is so common in our communities...”*

The above verbatim responses have definite similarities to findings of Fagan (2012); Usdin *et al.* (2000) who found that the police in many countries routinely ignore or dismiss complaints of domestic violence by refusing to believe the women's allegations or by failing to recognise the seriousness of the allegations. These biased attitudes often result in complainants being turned away; sometimes feeling intimidated or warned against filing of a complaint. The above responses prove the statement of Russel (1984) to be applicable to the findings in this study as he maintains that the law like the media and society as a whole approve and support the use of violence through their inaction. This passive and overwhelming acceptance of violence in society forms the basis of the culture of violence theory as described by Viano (1992) in section 2.5.1.2 of Chapter 2 of this study.



From the above narratives it can be inferred that generally there is a concerning number of police officials who still does not perceive or handle domestic as the priority it is professed to be even though there are those individual police officials (as well as exemplary stations) who are committed to making a difference in the policing of this phenomenon. It would however appear as if the latter is sporadic and inconsistent as not all police officials at a station tend to adhere to the same standards if command and control is tentative. Davis and Taylor (1997) ascribe the reason for the latter to the finding that police officials often react and handle reported domestic violence cases differently than stranger assaults as most police officials are aware of the fact that whereas victims of stranger assaults usually call the police with the intention of pressing charges and wanting punishment for the perpetrator their experience of attending to domestic violence incidents seemed to have conditioned them to believe that often the reverse is true as victims of domestic violence incidents tend to decide not to lay charges but only want the perpetrator removed from the premises; and when they do lay a charge, it is often withdrawn resulting in feelings of hopelessness and frustration for the attending police official.

(c) *Category: Emotional readiness*

All participants (n=28) irrespective of training and years of experience described intervening in domestic violence incidence as more challenging than any other crime for different reasons as reflected in Table 5.16 below.

**Table 5.16**

**Domestic violence vs. other crimes: emotional readiness**

SUB-THEME	CATE-GORY	EXCERPTS FROM INTERVIEWS
Domestic violence vs. other crimes	Emotional readiness	<ul style="list-style-type: none"> <li>• <i>“Intervening in domestic violence is <u>physically and emotionally draining as it is too much to handle...you attend to the same complaint over and over again...</u>”</i></li> <li>• <i>“...you are <u>never really prepared</u> when it involves children, separation of parties and/or break-up of families... handling criminals is easier...”</i></li> <li>• <i>“...only want to address the criminal act but <u>don't want to get involved with emotional stuff...</u>”</i></li> </ul>

Responses from participants indicate that they find the handling of domestic violence incidents not only to be unpredictable but more emotionally taxing than dealing with any other violent crime because of the emotional triggers involved as reflected by the following excerpt: “...*is physically and emotionally draining as it is too much to handle...*”. Continuing to assist victims who previously withdrew charges against an alleged abuser, seems to be a challenge police officials have great difficulty to comprehend and deal with as indicated by the following “...*you attend to the same complaint over and over again...*”. This repetitive nature in dealing with the cycle of violence often leads to frustrated at having to repeatedly respond to domestic violence complaints at the same address with little hope that the interventions will result in real or immediate change as the cycle of violence continues. This finding links to the statement made by Blum (2004) who maintains that although there are many people who can adjust immediately to situations that are predictable and stable, very few of them can adapt to unanticipated, rapidly changing or chaotic high-stress conditions, without some degradation in their performance. Subsequently victims tend to be less motivated to seek redress for domestic violence endured. Several researchers (Amoakohene, 2004; Artz, 1999; Damon, 2003) likewise found that some victims of abuse are often reluctant to approach the police for assistance as they are deemed to be ineffective or insensitive in dealing with domestic violence incidents.

The narratives in Table 5.16 above also reflect that the most challenging responsibilities are experienced with the emotional aspects of securing the scene of domestic violence as identified by participants in the following statement: “...*you are never really prepared when it involves children, separation of parties and/or break-up of families... handling criminals is easier...*”. Baker *et al.* (2002) similarly found that domestic violence calls present police officers with highly charged emotional situations that can be dangerous to all involved. From the responses of participants it was also evident that portraying an empathetic demeanour when providing assistance to victims of domestic abuse is in total contrast to the tough image the police tried to cultivate during the previous regime as reflected by the following statement of a participant: “...*only want to address the criminal act but don't want to get involved with emotional stuff...*”. This could be one of the reasons why research findings of Parenzee *et.al.* (2001) and Vetten (2005) described police officials to be

insensitive to the needs of victims of abuse. Likewise Sullivan and Hagen (2005) caution that this lack of emotion can result in many women being sceptical about police intervention and complaining about their insensitivity and inadequacy.

The challenges identified by participants indicate that even though participants are generally aware of their roles and responsibilities, portraying an empathetic demeanour is still proving to be a difficult skill for police officials to acquire in pursuance of effective service delivery to victims, as it is still perceived by some male police officials to be a social services responsibility not befitting their macho image. Many police officers have historically subscribed to the idea that they should always be free of emotion. Greene (2001) similarly found that any acknowledgement of emotion is considered “weak” and “unmanly” and is in part related to the myth that “cowboys don’t cry”. From the above it is clear that a different approach is thus required for ensuring priority focus in the provisioning of maximum protection to victims of domestic violence – an approach for which police officials are seemingly emotionally and psychologically not prepared for.

(d) *Category: Effect of withdrawn cases*

All participants (n=28) indicated that the withdrawal of cases by victims of domestic violence had a negative impact on their psychological state to varying degrees.

**Table 5.17**

**Domestic violence vs. other crimes: effect of withdrawn cases**

SUB-THEME	CATEGORY	EXCERPTS FROM INTERVIEWS
Domestic violence vs. other crimes	Effect of withdrawn cases	<ul style="list-style-type: none"> <li>• “I <u>feel let down</u> by complainants who report incidents only to withdraw the case later. <u>The next time</u> they come I am <u>not so keen to assist</u> as I expect more commitment ...”</li> <li>• “I am <u>psychologically tired</u> of the same complaints from the same complainants because of their own inactions...” “Ek is sielkundig moeg van dieselfde klagtes van dieselfde klaagster omdat sy nie self iets wou doen aan haar situasie nie...”</li> <li>• “I get <u>upset and frustrated</u> with complainants who withdraw cases after all the effort I put into processing of the domestic violence complaints...”</li> <li>• “...it seems like <u>they do not care</u> how much time and paper work registering of the case involves...I feel all <u>my work was for nothing</u> when they withdraw the case later...”</li> </ul>

The severity of the psychological impact is reflected in the following excerpts from Table 5.17 above: “...feel let down...”; “...upset and frustrated...” and “...psychologically tired...”. Participants experience the action by domestic violence victims of withdrawing cases as impacting negatively on subsequent service delivery as echoed in the following response: “The next time they come I am not so keen to assist as I expect more commitment ...”. The latter response indicate that participants feel their time and efforts to assist were wasted as the victim did not follow through on her decision to seek redress thus making them unwilling to assist in future. This response is a reflection on the limitations with regard to level of insight of participants have in terms of the cycle of violence and also reflects their tendency to focus more on the reaching of targets than showing sensitivity to the situation and social context of the victim. Similarly Friedman (1992) argues that the majority of police officers today are still very much production oriented as their performance is clearly evaluated by a system that values their ability to make arrests and control public order.

The second theme, “Attitude and perceptions” with three sub-themes “roles and responsibilities”, “assistance to victims and challenging roles will now be discussed.

### **5.3.2 Theme 2: Attitude and perceptions**

The attitude and perceptions of police officials seem to be critical factors in the priority placed on domestic violence at station level as discussed in 5.3.1.3 (a) and (b) above. Several studies (Rigakas, 1997; Robinson & Chandeeck, 2000; Sinden & Stevens, 1999) are in agreement with this finding and maintain that police officials have complex attitudes about domestic violence and that situational factors may influence police response to domestic violence situations.

Five aspects were explored in the study to determine what each participant’s level of perception and attitude is in terms of the assigned roles and responsibilities as stipulated in the DVA of 1998 and NI 7/1999. Sixteen (57%) of the participants seemed to have a good understanding of their specific roles and duties in terms of the implementation of the Act and National Instructions. The remaining twelve (43%)

participants only seem to have a basic idea regarding their roles and responsibilities. From their responses, it was clear that except for the fact that they were aware that the DVA created more crime categories for them to address, they had little understanding of their specific roles and responsibilities with regard thereto.

A discussion of the verbatim responses of participants will now follow.

### **5.3.2.1 Theme 2 – Sub-theme 1: Roles and responsibilities**

Police officers have throughout history been given “roles” to play when responding to domestic violence; peacemaker, marriage counsellor and mediator.

Karmen (1990) states that intervening between husband and wife has always been an unpleasant, thankless and dangerous tasking for police officials. The following responses are a general reflection of the comments of participants in this category in terms of the specific roles and responsibilities placed on them as police officials attending to domestic violence incidents.

(a) *Category: Attending to domestic violence complaints*

Table 5.18 below reflects the awareness of police officials regarding their respective roles and responsibilities in attending to domestic violence complaints.

**Table 5.18**  
**Roles and responsibilities: attending to domestic violence**

SUB-THEME	CATEGORY	EXCERPTS FROM INTERVIEWS
Roles and responsibilities	Attending to domestic violence	<ul style="list-style-type: none"> <li>• “When receiving a domestic violence complaint, you have to <u>interview the complainant</u>...ask whether she needs <u>shelter or medication</u> and <u>explain the procedure to be followed</u>. After explaining you give her <u>Form 1</u> and <u>completes the SAP 508(a)</u> to be taken to court and <u>508(b)</u> in the CSC to register the complaint...”</li> <li>• “...I have <u>never seen a Form 1</u> at my station...I only heard about it from colleagues at other stations...”</li> <li>• “...we are <u>not trained as social workers or lawyers</u>...”</li> <li>• “...we are <u>expected to perform miracles</u>...I am not superhuman.”</li> </ul>



From the responses received only nine (32%) participants indicated a comprehensive understanding of their roles and responsibilities in attending to domestic violence complaints as discussed in Chapter 4 of this study and reflected in the following response:

- *“When receiving a domestic violence complaint, you have to interview the complainant...ask whether she needs shelter or medication and explain the procedure to be followed. After explaining you give her Form 1 and completes the SAP 508(a) to be taken to court and 508(b) in the CSC to register the complaint...”*

Another seven (25%) participants indicated a fair understanding but experienced difficulty with the practical application of the respective roles which subsequently hampers their service delivery as expressed by one participant *“...I know what is expected of me but in practice it is more difficult to action these roles...”*.

Twelve (43%) participants verbalised a limited and rudimentary understanding of their respective roles in terms of the Act resulting in subsequent poor compliance with all related prescripts. This was also the same participants who indicated that they did not receive any formal training in domestic violence. Four (14%) of these participants indicated that they did not know or have ever issued a Form 1 (Notice to complainants outlining assistance available to complainants) in attending to domestic violence incidents as reflected by the following statement: *“...I have never seen a Form 1 at my station...I only heard about it from colleagues at other stations...”*. Participants generally did not seem to have a complete understanding of their roles and responsibilities regarding the implementation of the DVA of 1998 as reflected by the following excerpts: *“...we are not trained as social workers or lawyers...”, “...we are expected to perform miracles...I am not superhuman”*. This fragmented understanding by participants regarding their stipulated roles and responsibilities is reflective of their individual attitudes as well as the priority placed by them on the policing of domestic violence and the subsequent need for a reassessment of training and development interventions for ensuring more effective service delivery to victims of domestic violence. Logan *et al.* (2006) likewise found that an in-depth understanding of police attitudes toward their roles and responsibilities (in terms of

the policing of domestic violence) have implications for police training and subsequent actions taken.

(b) *Category: Acting as commander*

The role of commander in the Charge Office/Community Service Centre (CSC) is generally performed by the police officer on duty with the highest rank level. Depending on the personnel strength, he/she will have the dual responsibility of attending to complaints reported to the CSC as well as supervising of all functions in the CSC. Table 5.19 below reflects the verbatim responses of participants who acted as CSC Commander.

**Table 5.19**  
**Roles and responsibilities: acting as commander**

SUB-THEME	CATEGORY	EXCERPTS FROM INTERVIEWS
Roles and responsibilities	Acting as commander	<ul style="list-style-type: none"> <li>• "...the <u>lack of information received</u> from dispatch makes it difficult for the commander to know what to expect on the scene...and this is dangerous..."</li> <li>• "...I see that <u>members comply and are given guidance and disciplinary action is taken</u> if members fail to comply...this is <u>not easy</u>...situation is not always so clear-cut..."</li> <li>• "It is difficult to ensure <u>compliance and no deviation</u> by all means if you are also working outside..."</li> </ul>

A total of seventeen (61%) participants indicated that they experienced feelings of fear for their safety as well as that of the members they supervise when they are being dispatched to attend to a domestic violence scene because of inadequate information obtained during the reporting of the complaint as illustrated by the following statement "...the lack of information received from dispatch makes it difficult for the commander to know what to expect on the scene...and this is dangerous..."

The following responses indicate that although all nine (32%) participants who have the dual role of CSC commander are aware of their added roles and responsibilities, they reportedly felt at times, that it is a heavy burden as they are often unable to

ensure police officers under their supervision are adequately prepared to attend a domestic violence scene irrespective of the guidance provided as they have to “trust” that the attending police official will execute his responsibilities professionally. This inability is further exacerbated by the expectation that they need to institute disciplinary action against “one of their own” when non-compliance is reported. The following statement reflects this dilemma “...I see that members comply and are given guidance and have to take disciplinary action when members fail to comply...this is not easy and the situation is not always so clear-cut...”.

From the above excerpts it is clear that the participants with dual roles often found it challenging execute their dual roles of providing the necessary guidance to subordinates and monitoring compliance whilst simultaneously assisting victims. The latter is reflected by the following statement: “It is difficult to ensure compliance and no deviation by all means if you are also working outside...”. From the latter response it is evident that this dual function has the potential of negatively impacting on optimal service delivery to victims of domestic violence as these participants are required to perform additional roles and attending to a range of different complaints.

From the above narratives it is evident that the effective and efficient implementation of the Act will remain a challenge for those participants who continue to have a very poor to limited understanding and acceptance of their assigned roles and responsibilities.

### **5.3.2.2 Theme 2 – Sub-theme 2: Assistance to victims**

Jewkes (2001) emphasises that any assistance provided to victims of domestic violence should be empowering for them. Assistance by police officials to victims of abuse is however often portrayed by the media and victims as lacking. The following two categories “uncertainty and ignorance” as well as “inconsistency in service delivery” will now be discussed under subtheme 2.

#### *(a) Category: Uncertainty and ignorance*

The verbatim responses from twelve (43%) participants as reflected in Table 5.20

below indicated a very poor understanding as well as a fragmented knowledge of their roles and responsibilities in terms of providing assistance to domestic violence victims. It took time for these participants to describe some of the expected roles and responsibilities they are required to perform.

**Table 5.20**  
**Assistance to victims: uncertainty and ignorance**

SUB-THEME	CATEGORY	EXCERPTS FROM INTERVIEWS
<i>Assistance to victims</i>	Uncertainty and ignorance	<ul style="list-style-type: none"> <li>• <i><u>“Welfare does not give us any feedback...we just work on what we see...”</u></i></li> <li>• <i>“... I <u>have never seen</u> the Domestic Violence Act or the National instruction...” “...ek het nog nooit die Wet of Nasionale Instruksie oor gesinsgeweld gesien nie...”</i></li> <li>• <i>“...I <u>am not sure of all the roles...</u> so I check with my shift guys what to do...”</i></li> <li>• <i>“...sometimes we are also guilty as <u>we do not provide complainants with the right information...</u>”</i></li> </ul>

The responses of these participants as reflected in Table 5.20 above indicate that most of their strategies in providing assistance to victims seem to have been derived from experiential learning and advice from colleagues acquired over time as indicated by the following statement: “...I am not sure of all the roles...so I check with my shift guys what to do...”.

It is also evident from their responses that they generally have not initiated any independent reading in terms of the relevant DVA legislation or literature as is proven by the following response: “...I have never seen the Domestic Violence Act or the National instruction...”. From this it can be inferred that there is a definite lack of a culture of learning or interest in self-development on the part of these participants which contribute to their existing ignorance and their subsequent inability to properly implement the Act as well as their non-compliance with the National Instructions at station level. The latter response together with the following statements made by participants: “...sometimes we are also guilty as we do not provide complainants with the right information...” could indicate that the ignorant actions by participants could be the result of a lack of training or disregard by participants in ensuring proper

redress for victims of abuse resulting in tensions with the community because of dissatisfaction regarding service delivery. McKendrick and Hoffman (1990) likewise found that the existence of tensions between the police and the communities they serve are additional difficulties to policing domestic violence. The narratives in Table 5.20 further indicate that uncertainty and ignorance is exacerbated by the withholding of information and feedback by other relevant role-players, like the Department of Social Welfare as experienced by participants “...Welfare does not give us any feedback...we just work on what we see...”.

(b) *Category: Consistency in service delivery*

From the verbatim responses of participants as reflected in Table 5.21 below, it is evident that inconsistency in service delivery to victims of domestic violence was experienced by all participants (n=28) to varying degrees.

**Table 5.21**  
**Assistance to victims: Consistency in service delivery**

SUB-THEME	CATEGORY	EXCERPTS FROM INTERVIEWS
<i>Assistance to victims</i>	Consistency in service delivery	<ul style="list-style-type: none"> <li>• “...<u>most times we have different ideas about how to handle cases...even our station orders are different from what I learnt in training...</u>”</li> <li>• “...members and commanders <u>do not always have the same understanding of what is a domestic violence incident or how it should be handled...</u>”</li> <li>• “...it is problematic when registering of cases and administration is <u>not handled the same way at all stations...</u>”</li> <li>• “...all the <u>documents are not always available in the CSC...Form 1 is not always available on the patrol vans...</u>”</li> </ul>

Nineteen (68%) participants differed in their understanding of the domestic violence phenomena as indicated in the following statement: “...members and commanders do not always have the same understanding of what is a domestic violence incident or how it should be handled...” as well as the prescribed process and procedures for ensuring proper redress as reflected herewith “...most times we have different ideas about how to handle cases...even our station orders are different from what I learnt

*in training...*”. From this one can infer that there are definite inconsistencies as well as a lack of uniform service standards in assistance provided to victims of domestic violence. This lack of application of uniform standards in addressing domestic violence incidents often also tend to reportedly result in confusion in terms of the roles and responsibilities when police officers are transferred to other stations where station orders and procedures might differ.

Nine (32%) out of the twenty-eight participants identified inconsistency in proper administration processes in terms of reported cases as well as the lack of uniform and standardized practices in the monitoring and proper registration of domestic violence incidents as a grave concern “...*it is problematic when registering of cases and administration is not handled the same way at all stations...*”. The responses of participants as reflected in Table 5.21 above also have serious implications for CSC commanders at stations where inconsistencies exist as it brings into question their ability and motivation to properly supervise the implementation of the Domestic Violence Act by police officials under their command as illustrated by the following response of participants “...*all the documents are not always available in the CSC...Form 1 is not always available on the patrol vans...*”. These identified inconsistencies in service delivery is an indicator of the priority placed on domestic violence at the respective target stations in ensuring maximum protection to victims of domestic violence.

### **5.3.2.3 Theme 2 – Sub-theme 3: Challenging roles**

A follow-up question was asked aimed at exploring which of the specific roles and responsibilities are the most challenging to fulfil when assisting domestic violence victims. Responses received will now be discussed under the following categories: “use of discretion”; “finding alternative shelter”; “handling police perpetrated domestic violence” and “dealing with children”.

#### *(a) Category: Use of discretion*

The responsibility of using utmost discretion in determining when an arrest should be executed was viewed by all participants (n=28) as the most challenging role as reflected in Table 5.22 below.



**Table 5.22**  
**Challenging roles: use of discretion**

SUB-THEME	CATEGORY	EXCERPTS FROM INTERVIEWS
Challenging roles	Use of discretion	<ul style="list-style-type: none"> <li>• "...we have to <u>decide on the scene who is right and who is wrong</u>...my training did not prepare me for this..."</li> <li>• "...<u>deciding when to remove traumatised children from their violent home and placing them in the care of someone else is difficult</u>..."</li> <li>• "...the wrong decision can get you in trouble if procedures are not followed...you can <u>get a civil claim against you</u>."</li> <li>• "<u>Using my discretion not to arrest if there is a warrant but no imminent danger</u> places me at the mercy of the community...their anger can be dangerous..."</li> </ul>

Participants seemed to be very hesitant of enforcing their right to use discretion as they reportedly felt that their training did not prepare them adequately for this challenging role as reflected in the following statement "...we have to decide on the scene who is right and who is wrong...my training did not prepare me for this...". The fact that participants are often expected to make split second decisions complicates the situation more if they are hesitant or uncertain.

Twenty (71%) participants indicated that even though they have the liberty of using their discretion they are cautious to do so for fear of the negative consequences as indicated by the following statement: "...the wrong decision can get you in trouble if procedures are not followed...you can get a civil claim against you." This statement is indicative of the opinion held by Mistry (2000) who also found that police officers tend not to use the discretionary powers given to them as often as they should as they seem too preoccupied with procedure.

All participants (n=28) indicated that they are often tentative or uncertain about decisions they make on scenes where children are involved and agreed that their decisions are often based on their emotional response to the situation as indicated in the following statement: "...deciding when to remove traumatised children from their violent home and placing them in the care of someone else is difficult...". A similar

finding was made by Singh (2003) who is of the opinion that discretionary powers are a further victimization of domestic violence victims in that the police have not been adequately trained to understand the social and psychological ethos of intimate violence and to effectively enforce their discretionary powers. From this one can conclude that the uncertainty indicated by some participants often results in police officers making poor choices when child victims are involved. Edwards (1991) found that stereotypical attitudes can influence the police officers' use of discretion in decision-making.

Participants seem to struggle with the expectation of communities who reportedly expected them to act contrary to the domestic violence legislation as they seemingly expect all abusers to be arrested even if the assessment of the police official indicate that the victim does not appear to be facing imminent harm and the decision is made not to arrest as reflected by the following statement: *"Using my discretion not to arrest if there is a warrant but no imminent danger places me at the mercy of the community...their anger can be dangerous..."*. Lea (2004) similarly found that the use of discretion by police officials is often believed to be in conflict with community needs rather than in accordance with it. This finding is in contrast with that of Smith and Nel (2002) who state that police officers are given no opportunity to use discretion in arresting the perpetrator once a warrant of arrest has been issued even when there is no immediate danger. The latter was however found to be true for participants at four police stations where the station commissioners revoked the use of discretion of participants by instructing that all perpetrators against whom a warrant of arrest have been issued should be arrested irrespective of the circumstances. The latter is a clear example of differences in Station Orders issued by station commissioners and could be an initiative to indicate to the community that they are serious about dealing with alleged abusers.

*(b) Category: Finding alternative shelter*

Finding a place of safety for victims of abuse (especially over weekends and after hours) has been indicated by all participants (n=28) as a constant battle for police officials, more so in rural areas as the shelters are often inadequate, full or non-

existent thus leaving police officials with little recourse as reflected in Table 5.23 below.

**Table 5.23**  
**Challenging roles: finding alternative shelter**

SUB-THEME	CATEGORY	EXCERPTS FROM INTERVIEWS
Challenging roles	Finding alternative shelter	<ul style="list-style-type: none"> <li>• “We <u>struggle in the rural areas</u> to find a place of safety as there are none...”</li> <li>• “Looking for a safe place for the victim is a <u>nightmare especially over weekends</u> as space is a problem...”</li> <li>• “...<u>finding shelter after hours is difficult</u>...we have to <u>force our way</u>...”</li> <li>• “When there is <u>no place to accommodate the victim</u> I have no way out but to let them <u>sleep on a bench at the station</u>...”</li> </ul>

The following narratives are reflective of the nature and extent of the challenges attending policing officials are expected to deal with in trying to find a place of safety for victims who are forced to flee their homes:

- “Looking for a safe place for the victim is a nightmare especially over weekends as space is a problem...”.
- “We struggle in the rural areas to find a place of safety as there are none...”.

This finding is echoed by Singh (2001) who found that in Cape Town Metro Region there were only sixteen shelters available to victims of abuse. Levi (2008) concur that shelter space in South Africa is limited and has always been problematic.

Responses from participants indicate that they sometimes have to employ stringent tactics when trying to find alternative shelter for victims after hours. The following partial response reflects the measures some participants have to go to in order to ensure access to a place of safety after hours “...finding shelter after hours is difficult...we have to force our way...”. When the latter does not work police officers resort to more desperate measures as indicated by the following statement “When there is no place to accommodate the victim I have no way out but to let them sleep on a bench at the station...”. The responses discussed as reflected in Table 5.23

above indicate that finding alternative shelter and the identified lack of available shelter for domestic violence victims often result in desperate measures and undignified treatment of women and children. The indignity is the result of a lack of available of short-term shelters that can provide emergency refuge as well as the existing lack of long-term accommodation that could help victims to rebuild their lives, thus making it difficult for police officials to create a feeling of safety and security for victims of domestic violence.

(c) *Category: Handling police perpetrated domestic violence*

Neidig *et al.* (1994) found that domestic violence was two to four times more common in police families than the general population. Table 5.24 below reflects the experiences and perceptions of participants in terms of their response in the handling of domestic violence where police officers are implicated.

**Table 5.24**

**Challenging roles: handling police perpetrated domestic violence**

SUB-THEME	CATEGORY	EXCERPTS FROM INTERVIEWS
Challenging roles	Handling police perpetrated domestic violence	<ul style="list-style-type: none"> <li>• “A final protection order was issued against one of our members for domestic violence...I <u>had to be strong and follow through with the departmental hearing as no one wanted to do it ...</u>”</li> <li>• “I do not like dealing with marital problems of colleagues...it <u>can be dangerous for your career especially if it is a senior officer...</u>”</li> <li>• “...we try to handle it by ourselves...<u>talk to the complainant to give him (abuser) another chance...</u>” “...ons probeer dit onder onself hanteer...praat met die klaer on hom nog ‘n kans te gee...”</li> </ul>

Twenty-four (86%) participants agreed that on becoming aware of a complaint against a colleague, they generally first try to talk to the complainant in order to convince her not to lay a formal complaint and to give the alleged perpetrator another chance as they will talk to him to ensure the abuse will not re-occur. The following statement is reflective of this culture: “...we try to handle it by ourselves...talk to the complainant to give him (abuser/colleague) another chance...”. This statement confirms the findings of the Joint Monitoring Committee (2003) who is of the opinion

that discretion is in some cases exercised inappropriately by police officials where domestic violence involves a colleague who is known or unknown to the attending police officer, who tends to be reluctant to arrest the alleged abuser. Participants also indicated that colleagues would sometimes also make the complainant aware of the possible implications of laying a charge that could be detrimental to the future career of the abuser as well as herself and their children should he be dismissed. The finding of Wetendorf (1998) holds some truth for this study as some police officials today still tend to use persuasive tactics to prevent the partners of police officials from laying charges against their colleagues, thus encouraging a code of silence.

The aforementioned participants also seem to find it more difficult to implement disciplinary action in police perpetrated domestic violence especially when the perpetrator is one of their own colleagues as reflected by the following statement: *“A final protection order was issued against one of our members for domestic violence...I had to be strong and follow through with the departmental hearing as no one wanted to do it...”*. Villa (2002) accordingly found that generally police departments have a poor record of dealing with domestic violence when the abuser is one of their own. There seem to be a number of reasons for this difficulty experienced here as indicated by the following response: *“I do not like dealing with marital problems of colleagues...it can be dangerous for your career especially if it is a senior officer...”*. From this response one can conclude that the seniority of a colleague can become a deterring factor in dealing with police perpetrated domestic violence as it can be intimidating for the attending police official especially if he is of junior rank. This finding together with the partial response from a participant that *“...we try to handle it by ourselves...”* is indicative of the existing code of silence in this regard. This code of silence is explained by the statement of Wetendorf (1998) who found that police officers have a strong sense of family and have historically protected each other by dealing in-house with police perpetrated domestic violence on the rare occasion when it is dealt with at all. Baker *et al.* (2002) found that the personal and emotional nature of reported domestic violence incidents can arouse strong feelings in the responding officers, especially if they remind them of similar circumstances in their own family or friendship network. The implications of the latter can be detrimental for all victims of domestic violence attended to by like-minded

police officials.

(d) *Category: Dealing with children*

All participants (n=28) indicated that they experienced dealing with children to be particularly challenging as they found it difficult to protect them from further trauma as illustrated in Table 5.25 below.

**Table 5.25**  
**Challenging roles: dealing with children**

SUB-THEME	CATEGORY	EXCERPTS FROM INTERVIEWS
Challenging roles	Dealing with Children	<ul style="list-style-type: none"> <li>• "...<u>arresting the accused in his home or in front of his children...removing children late at night because both parents are drunk and then having to deal with the children's trauma of being uprooted is the worst...</u>"</li> <li>• "Knowing what the child has to experience continuously and the <u>effect it will have on his life makes me very angry at the parents...</u>"</li> <li>• "...<u>interviewing children is difficult ...I try to avoid asking children unnecessary questions to prevent further trauma...</u>" "...onderhoud voering met kinders is moeilik...ek probeer dit vermy om kinders verder te traumatiseer met onnodige vrae..."</li> </ul>

The following verbatim response is reflective of the experiences and perceptions of participants in this regard: "...interviewing children is difficult ...I try to avoid having to ask children unnecessary questions to prevent further trauma". McGee (2000) similarly found that children are rarely interviewed by police officials when investigating a domestic violence incident. One of the possible reasons why participants possibly find it challenging to interview children is that historically their training has been focused on the obtaining of information through interrogation methods which is much harsher and aggressive than the specific therapeutic considerations recommended by Schechter and Edleson (1999) in Chapter 4 subsection 4.6.1 of this study. From this finding it can thus be inferred that in the absence of more conventional therapeutic interviewing methods as well as in pursuance of avoiding further trauma to child victims, participants can cause more harm if children are continuously avoided as they will remain the silent victims of domestic abuse and have the potential to become the perpetrators of the future. In

light of the latter it is imperative that police officials acquire the necessary interviewing skills for ensuring more effective communication with children and for creating a safe environment where child victims will feel secure enough to share their experience(s).

Twenty (71%) participants expressed their difficulty in curbing their anger at parents who continue to expose their children to abuse. The following statement reflects the experience shared by one participant: *“Knowing what the child has to experience continuously and the effect it will have on his life makes me very angry at the parents...”*. Baker *et al.* (2002) likewise found that the constant exposure to domestic violence may influence child victims’ lives well into their adulthood. The concern for the impact of this exposure in later life as expressed by participants is also confirmed by Corcoran *et al.* (2001) who found that children who grow up witnessing or experiencing family violence may suffer potentially detrimental consequences including anger, withdrawal symptoms and lack of social skills.

All participants (n=28) agreed that any form of domestic violence where the perpetrator and/or victim is under the influence of alcohol and/or other substances, presents them with additional emotive and practical challenges in terms of intervening for ensuring maximum protection as reflected by the following statement: *“...arresting the accused in his home or in front of his children...removing children late at night because both parents are drunk and then having to deal with the children’s trauma of being uprooted is the worst...”*. Baker *et al.* (2002) similarly found that the personal and emotional nature of reported domestic violence incidents can arouse strong feelings in the responding officers.

The narratives in Table 5.25 above clearly reflect that police officials find it difficult to switch readily between roles from being the tough law enforcement official when dealing with criminals to switching to the more empathetic and neutral protector amidst physical and emotional triggers. Parenzee *et al.* (2001) cautions that progressive legislation combined with unprogressive attitudes amongst police officials result in negative attitudes towards complainants with consequent secondary victimization of victims of abuse and/or failure to act according to legal obligations as

set out in legislation. Thus it can be concluded that in order to be effective any law reform need to be accompanied by fundamental changes in attitude, values and behaviours from the community and all relevant role-players.

A discussion on the following theme “Competence in policing domestic violence” will now follow.

### **5.3.3 Theme 3: Competence in policing domestic violence**

Competence is defined in the Webster Comprehensive dictionary (1992: 267) as “...a person’s ability to physically and mentally meet the demands of a situation or work.” Although domestic violence is a universal problem, twelve (43%) participants indicated that they do not feel equipped to respond to domestic violence situations properly.

Four (4) areas were explored to determine the competency level or capability of participants to attend to domestic violence incidents. From these responses, three sub-themes emerged “nature of training”, “demeanour of police officials” and “effectiveness of DVA”. A discussion of these sub-themes and their accompanying categories will now be presented.

#### **5.3.3.1 Theme 3 – Sub-theme 1: Nature of training**

Section 3.5.4 of Chapter 3 of this study elaborated on the various training initiatives implemented in response to the growing concern that too few police officials have the necessary knowledge and skills to effectively police this phenomenon. The first question posed to participants aimed to determine what training they received in the implementation of the DVA, Domestic Violence Regulations and/or National instructions. The purpose was to gain an understanding of participants’ level of preparedness and capability to render services to victims of domestic violence as indicated in objective two of this study. Table 5.26 and Table 5.28 below illustrate the verbatim responses of participants.

##### *(a) Category: Informal and formal training*

Four (14%) out of the twenty-eight participants indicated that they did not receive any

training in domestic violence as part of the basic training programme as it did not form part of the curriculum at that time. These four participants attempted to resolve this deficiency by either attending an informal information session as reflected by the following excerpt: *"I attended a half day presentation by a NGO at my station after my basic training..."* or by acquiring the bulk of their existing knowledge from personal experience over the last thirteen years. The verbatim responses from these participants as illustrated in Table 5.26 below however indicate that they prefer to learn from their own experiences or from each other.

**Table 5.26**

**Nature of training: informal and formal training**

SUB-THEME	CATEGORY	EXCERPTS FROM INTERVIEWS
Nature of training	Informal training	<ul style="list-style-type: none"> <li>• <i>"I attended a <u>half day presentation</u> by a NGO at my station after my basic training..."</i></li> <li>• <i>"I prefer to <u>ask colleagues who know what to do</u> and I try out their advice...sometimes it works..."</i></li> <li>• <i>"I only ever attended an <u>information session at the station</u> on the National Instructions but it did not prepare me for the kind of situations I have to deal with..."</i></li> </ul>
	Formal training	<ul style="list-style-type: none"> <li>• <i>"...<u>completed a one week course</u> followed by a two day refresher session... it was <u>not as long as the other operational courses</u> we attend..."</i></li> <li>• <i>"My shift attended a <u>one week training course</u> on the definitions of Domestic violence, types of abuse and registers and forms to complete...but there was <u>not enough time for practical work</u>..."</i></li> <li>• <i>"...did a <u>two week course</u> and it was more informative than the new shorter week course they give now as it covered more..."</i></li> </ul>

The following excerpt reflects the general experience of these participants: *"I prefer to ask colleagues who know what to do and I try out their advice...sometimes it works"*. From this it clear that the participants with no formal training seemingly tend to depend more on the advice of officers whom they perceive to be more experienced in dealing with this phenomenon. The statement of Baker *et al.* (2002) is in contrast to this finding as they emphasise that formal training is a means of imposing knowledge

and skills to new recruits as well as providing refresher courses for more experienced staff.

The above finding is of particular concern as it clearly indicates that police officials who completed their basic training before 1998, are seemingly not motivated to enhance their knowledge and found it easier to rely more on advice of colleagues (who themselves, did not attend any formal domestic violence training sessions) as well as imitating old habits, irrespective of new regulations or instructions. From this it can be inferred that in this process a lot of erroneous ways of handling domestic violence incidents can be adopted which subsequently need to be unlearned. The latter is contrary to the recommendations made by Jackson (1997) who states that training police officials to handle victims of gender violence should form an integral part of transformation of a police service. The narratives in Table 5.26 above are indicative of the training gaps that still exist today regarding formal and informal training initiatives and place in question the level of commitment of the SA Police Service in dealing with domestic violence incidents.

A total of twenty (71%) participants attended formal training interventions with a maximum duration of one week for frontline police officers as reflected by the following excerpts:

- *“...completed a one week course followed by a two day refresher session...it was not as long as the other operational courses we attend...”*
- *“My shift attended a one week training course on the definitions of Domestic violence, types of abuse and registers and forms to complete...but there was not enough time for practical work...”*

This minimum time duration allocated to formal domestic violence training is in contrast with the assertion of Khan (2000) who found that where minimum time is spent on formal training it will subsequently result in reluctance by police officers to intervene in domestic violence incidents and will hamper them from ensuring the effective handling of domestic violence incidents. From the above excerpts it is apparent that the current one week formal training course does not prepare participants adequately for dealing with the present reality of domestic violence as it provides only limited knowledge which negatively impacts on their competency to ensure proper redress for victims. This finding also holds true for informal training as is reflected by the following verbatim response of one participant: *“I only ever*

*attended an information session at the station on the National Instructions but it did not prepare me for the kind of situations I have to deal with...".*

Even though the SA Police Service initiated various informal training interventions to complement the one week formal domestic violence training programme it seemingly did not have the desired outcome. This initiative is in line with the opinion of Singh (2001) who advocates that training and development interventions should not stand on its own.

One possible reason why "refresher training" and "top-up training" did not have the desired outcomes was that the informal training initiatives were seen as an alternative option to attending the formal domestic violence training programme as reflected in the follow excerpt: "*I could only attend the short course as we are too few members at the station...it did not equip me enough as the training was too short...*". This seemingly apathetic approach to domestic violence training will however have no positive results unless current training is followed up by a comprehensive and intensive programme of retraining, sensitization and the removal from the service of officers not willing to cooperate with the new order. Usdin *et al.* (2000) and the Joint Monitoring Committee (2003) agree that an effective training module forms a crucial part of ensuring effective policing. The following verbatim response of one participant also indicate that formal training is a great need for proper implementation of the Act and National Instructions: "*...did a two week course and it was more informative than the new shorter week course they give now as it covered more...*".

(b) *Category: Sufficiency of training*

A follow-up question was posed to participants to determine the level of knowledge acquired during their attendance of domestic violence training initiatives. The narratives in Table 5.27 below reflect the perceptions of participants as determined by their experiences in dealing with these incidents as well as their access to training initiatives.

**Table 5.27**  
**Nature of training: sufficiency of training**

SUB-THEME	CATEGORY	EXCERPTS FROM INTERVIEWS
Nature of training	Sufficiency of training	<ul style="list-style-type: none"> <li>• <i>“I am not aware of many members with <u>enough training to handle domestic violence effectively...</u>” “Ek ken baie min lede met genoegsame opleiding om gesinsgeweld effektief te kan hanteer...”</i></li> <li>• <i>“I had <u>no training but learnt</u> by trial and error over the years...the younger cops who had training now ask me for guidance...”</i></li> <li>• <i>“Basic training <u>equipped me on legislative issues and what the Act expects of me as a police officer but I needed more practical advice on how to assist victims...</u>”</i></li> </ul>

From the narratives it would appear that even though domestic violence was included in the Basic Training of twenty-four (86%) participants, a total of sixteen (57%) participants indicated that they generally experienced the content of the training as insufficient and too theoretical to prepare them adequately for the practical reality of having to deal effectively with domestic violence incidents. The following excerpt is reflective of this: *“...I needed more practical advice on how to assist victims...”*. From this response one can infer that the nature of the training intervention determines the quality of intervention strategies embarked on by participants after training. It can also be concluded that the ineffectiveness of this training result in new recruits having to “learn” from their more experienced colleagues during their probation period. Mistry (1997) likewise found that once trainees face the realities of police work, they tend to be intimidated by more experienced police officials and will “forget” what they have learnt. The latter unfortunately proved to be true for one participant in the study who was mentored by a more experienced police official whose treatment of victims tended to be clouded by his own ignorance and/or prejudices towards domestic violence. This is reflected in the following statement: *“Basic training equipped me on legislative issues and what the Act expects of me as a police officer but I needed more practical advice on how to assist victims...”*.

The responses of eight (29%) participants reflect their sense of reluctance to attend

any training as they perceived themselves as having adequate knowledge and experience and thus believe that they do not need to attend any formal domestic violence training even though they lack the necessary theoretical knowledge and sensitivity to deal effectively with domestic violence incidents as reflected by the following excerpt: *“I had no training but learnt by trial and error over the years...the younger cops who had training now ask me for guidance...”*. This reluctance portrayed by these participants, can be detrimental to complainants who are unfortunate to be assisted by police officials with this kind of mentality. Kratcoski and Das (2007) likewise agree that is a great concern, as it is imperative that police organizations constantly ensure further development of its police officials and adapt the training in order to address new demands and specific expectations from their government and the communities they serve.

The following narrative by one participant reflect that there are police officials who realise that there is a great need for more training to ensure that victims are not turned away out of ignorance: *“I am not aware of many members with enough training to handle domestic violence effectively...”*. This excerpt confirms that optimal service delivery will not be possible without training and policing of domestic violence will remain ineffective. Parenzee *et al.* (2001) similarly found that victims who approach the police for help tend to leave without finding recourse for their plight because of ineffective policing of domestic violence incidents. From this it can thus be concluded that irrespective of the training initiatives of the SAPS, the dissatisfaction of domestic violence victims (with the attitudes and practice responses of police officers) remain unacceptably high.

Although some participants seemingly perceive themselves as more experienced in dealing with domestic violence incidents than others, they have not acquired the necessary competencies needed that an in-depth formal training programme can provide for ensuring more effective service delivery to domestic violence victims. It is evident from the narratives in Table 5.27 above that the older participants generally felt that their experience has aided them adequately over the past few years even though they reluctantly agreed that they are not clued up with the latest policies and procedures. The apparent reluctance of more “experienced” participants

to attend training can be the result of their discomfort at having to attend formal training sessions (at their age) with much younger colleagues, whom they perceive to be inexperienced and subordinate to them.

(c) *Category: Acquisition of skill*

Skill is defined by the Webster Comprehensive dictionary (1992:1178) as *“The familiar knowledge...as shown...in its application to practical purpose.”*

The researcher requested participants to indicate how the training they received equipped them to deal more effectively with the reality of domestic violence incidents. This question was included in the study to determine the ability, expertise and proficiency of participants in applying the acquired theoretical knowledge in practice when dealing with domestic violence incidents. The following responses in Table 5.28 below were generated from three (3) of the participants who completed some form of domestic violence training.

**Table 5.28**

**Nature of training: acquisition of skill**

SUB-THEME	CATEGORY	EXCERPTS FROM INTERVIEWS
Nature of training	Acquisition of skill	<ul style="list-style-type: none"> <li>• <i>“..I am now <u>better equipped</u> to deal with the emotional aspects with confidence.”</i> “...ek is nou beter toegerus om die emosionele aspekte met vertroue te hanteer.”</li> <li>• <i>“I <u>am able</u> to attend to complaints better...can explain options to complainants but struggle with emotional situations...”</i> “Ek kan nou beter my klagtes bywoon...kan opsies makliker aan klaagsters verduidelik, maar sukkel met emosionele situasies...”</li> <li>• <i>“I <u>know how</u> to complete the forms... <u>know what is expected</u> of me now but I <u>struggle with applying some of the training in the field</u>...”</i></li> </ul>

Apart from the four (14%) participants whose basic training did not include domestic violence training, the above responses indicate that a further four (14%) participants also did not have any formal training and that the informal training sessions (information session and/or on-the-job training work sessions after completion of

their basic training) only provided them with a basic knowledge base as reflected in the following excerpt: “*I know how to complete the forms... know what is expected of me now but I struggle with applying some of the training in the field...”.* The latter indicates that these four participants experienced the training they received as useful but inadequate for acquisition of practical skills required for dealing more effectively with domestic violence incidents.

The narratives in Table 5.28 above clearly reflect that the younger participants tended to avail themselves more readily for formal theoretical training than their older counterparts, who seemingly lack the sound theoretical knowledge base needed to ensure proper balance of knowledge and practice for more effective service delivery. From the narratives of twenty (71%) participants who received formal training, it can be inferred that their respective attempts at intervening during domestic violence incidents, will be more compliant with legislation unless they opted to adopt “old habits” and “short cuts” learnt from senior officers. The training although mostly grounded in theory, seemed to have enhanced participants’ understanding of their roles and responsibilities and provided them with some level of confidence even though practical application reportedly remains a challenge for all participants in the policing of domestic violence incidents.

A discussion on Demeanour of police officials will now be presented and discussed.

### **5.3.3.2 Theme 3 – Sub-theme 2: Demeanour of police officials**

As attitude determines action, the participants in the study were requested to describe how they feel about having the responsibility to diffuse domestic violence situations and providing maximum protection to victims. This question was formulated to determine participants’ specific opinion and thoughts about their experience of the responsibility placed on them by the DVA of 1998, as their attitude toward their responsibilities will determine their behaviour and the effort they will put into their duty of providing maximum protection to victims of domestic abuse. The responses of participants will be discussed in the following categories that are closely linked: “pride and responsibility”, “frustration” and “unresponsiveness and reluctance” to assist.



(a) *Category: Pride and responsibility*

Table 5.29 below reflects the common responses shared by participants regarding their sense of pride and responsibility in performing their assigned duties.

**Table 5.29**  
**Demeanour of police officials: pride and responsibility**

SUB-THEME	CATEGORY	EXCERPTS FROM INTERVIEWS
Demeanour of police officials	Pride and responsibility	<ul style="list-style-type: none"> <li>• “...<u>feel responsible</u>...I made a declaration to fulfil my duties to the best of my abilities.” “...<u>voel verantwoordelik</u>...het ‘n eed afgelê dat ek my pligte ten volle sal uitvoer.”</li> <li>• “I feel <u>honoured</u> and take it as <u>a challenge</u> to assist those victims who depend on us...”</li> <li>• “I am <u>very serious</u> and <u>passionate</u> about policing domestic violence...but there are those at my station who does not take it so seriously...”</li> </ul>

Eighteen (64%) participants stated that they felt a deep sense of pride and/or responsibility as reflected by the following narratives:

- “...feel responsible...I made a declaration to fulfil my duties to the best of my abilities.”
- “I feel honoured and take it as a challenge to assist those victims who depend on us...”

These feelings of pride and responsibility as expressed by participants in Table 5.29 below result from a more positive attitude thus potentially facilitating more effective policing of domestic violence. Dwyer (1999) likewise found that despite the legal mechanisms that are in place, the most effective way of dealing with domestic violence incidents, is still determined by the attitudes of the role-players responsible for ensuring proper redress for domestic abuse. The narratives further indicate that participants generally verbalised a great sense of feeling responsible and taking pride in the responsibilities placed on them.

Another five (18%) participants however indicated that their sense of pride and

responsibility was being marred by colleagues who refuse to comply with domestic violence prescripts as reflected in the excerpt: *“I am very serious and passionate about policing domestic violence...but there are those at my station who does not take it so seriously...”*. The remaining five (18%) participants generalised their feelings of pride and responsibility to include all crimes they are expected to police.

The above responses also indicate that any sense of pride and responsibility experienced, are however often accompanied by high levels of frustration as reflected in Table 5.30 below.

*(b) Category: Frustration and aggravation*

The narratives in Table 5.30 below indicate that responding to domestic violence situations is often marked by intense levels of emotional turmoil for all respondents in varying situations.

**Table 5.30**  
**Demeanour of police officials: frustration and aggravation**

SUB-THEME	CATEGORY	EXCERPTS FROM INTERVIEWS
Demeanour of police officials	Frustration and aggravation	<ul style="list-style-type: none"> <li>• <i>“...it is <u>emotionally exhausting</u> if you have to <u>attend to the same situation over and over</u> because <u>charges are continuously withdrawn</u>...”</i></li> <li>• <i>“It is <u>irritating</u> when <u>both parties are drunk</u> or have interdicts against each other.... you get little co-operation from them...”</i> “Dit is irriterend as al twee (klaer en beskuldigde) onder invloed van drank is of interdikte teen mekaar het...jy kry min samewerking...”</li> <li>• <i>“...<u>very annoying</u> when <u>parties make their own agreements</u> irrespective of the protection order stipulations...”</i></li> <li>• <i>“It <u>frustrates</u> me and I feel <u>hopeless</u> when I am unable to help when <u>resources</u> are not available...”</i></li> </ul>

The general experience of participants is reflected in the following excerpts: *“...very annoying...”*, *“It frustrates me...”* and *“It is irritating...”* This is a cause for concern because as “gatekeepers” to the criminal justice system, the frontline police officials

play an important role in shaping victims' initial experiences of it and thus cannot afford to allow any form of frustration to impact on their service delivery to victims of abuse. In this regard, Glanz and Spiegel (1996) and Corcoran *et al.* (2001) likewise agree that the police, as the first social institution to deal with incidents of domestic violence, generally have a fundamental role in assisting victims of domestic abuse to follow through on their decision to seek recourse for the abuse. The latter is critical as the police not only represent state policy but also act as an important link to both the prosecution process and to the provision of victim services in the community. From this one can also infer that it could be detrimental to victims if police officers acted out these feeling of frustration and aggravation as it will impede the quality of their service delivery.

These experiences of frustration and aggravation reportedly are ascribed to the actions and inactions of complainants which result in feelings of hopelessness in dealing effectively with this phenomenon as indicated by the following excerpt: “...very annoying when parties make their own agreements irrespective of the protection order stipulations...”. Kratcoski and Das (2007) caution likewise that frustration in attending to domestic violence calls can often lead to low morale and behaviour problems in police officials.

Twelve (42%) participants indicated that their feelings of frustration emanated from a sense of feeling helpless in being unable to meet the demands made on them which they often experience as being overwhelming as complainants do not always follow through on seeking redress for abuse. This finding is evident in the following statement: “...it is emotionally exhausting if you have to attend to the same situation over and over because charges are continuously withdrawn...”. Ashby (2003) similarly found that this is not an unusual occurrence as victims of abuse have a tendency to want to withdraw charges after the state has completed their investigation and was ready to go to court. Parenzee *et al.* (2001) similarly found that police officials generally tend to become frustrated with the continuous withdrawal of charges by victims as the recording of a domestic violence case requires a lot of paper work for record-keeping purposes.

The following narrative reflects another cause of frustration and aggravation shared by participants: *“It is irritating when both parties are drunk...you get little co-operation from them...”*. Alcohol adds another dynamic to an already volatile situation that can become more violent and dangerous for both the victim and the attending police officer. Summers and Hoffman (2002) likewise cautions that the presence of alcohol and drugs increases aggression in an already violent person.

The narratives in Table 5.30 below confirm that some participants are unable to adequately deal with the psychological demands and practicalities of handling domestic violence incidents because of shortcomings in their training and psychosocial development. Kratcoski and Das (2007) are of the opinion that attitudes of police officials can be changed especially if they are socially learnt. In light of the latter it becomes imperative that the specific developmental areas be identified and training tailor-made accordingly for ensuring more effective service delivery to victims of domestic violence.

The third category under the sub-theme “demeanour of police officials” is “Unresponsiveness and reluctance to assist” which is presented in Table 5.31 below and subsequently analysed and discussed.

*(c) Category: Unresponsiveness and reluctance to assist*

Twelve (42%) participants indicated that they tend to become reluctant in providing further assistance because of the repetitive nature of the complaint as they often have to attend to the same complaint repeatedly, only to watch the situation deteriorate because of the perceived inaction of the complainant. The narratives in Table 5.31 below indicate the common reasons for the unresponsiveness of these participants.

**Table 5.31****Demeanour of police officials: unresponsiveness and reluctance to assist**

SUB-THEME	CATEGORY	EXCERPTS FROM INTERVIEWS
Demeanour of police officials	Unresponsiveness and reluctance to assist	<ul style="list-style-type: none"> <li>• <i>“...a lazy police officer will <u>convince her to go back home</u> to make up with her partner...” “...’n lui polisie man sal haar ompraat om terug huistoe te gaan en die probleme met die man self op te klaar...”</i></li> <li>• <i>“I am <u>never eager to attend to the same complaint</u> over and over where complainants just want you to warn the suspect but they do not want to lay a charge...it is a <u>waste of my time</u>...”</i></li> <li>• <i>“...some members (police officers) choose to stand on the side lines...they still feel they are <u>interfering in family or marital problems</u>...”</i></li> <li>• <i>“They <u>do not want to handle domestic violence incidents</u> ...they see it as a social work problem ...<u>not a serious offence</u>.” “Hulle wil nie gesinsgeweld insidente hanteer nie...hulle sien dit as ‘n maatskaplike probleem...nie ‘n ernstige klagte nie.”</i></li> </ul>

The narratives in Table 5.31 above reflect that the police response to domestic violence still appear to be a cause for great concern as domestic violence is still not handled with the required seriousness as reflected in the following statement: *“They do not want to handle domestic violence incidents...they see it as a social work problem...not a serious offence”*. The following excerpt describes the general experience of participants in this regard: *“I am never eager to attend to the same complaint over and over where complainants just want you to warn the suspect but they do not want to lay a charge...it is a waste of my time...”*.

This disregard of the violence experienced by victims of domestic violence results in victims not being afforded the necessary dignity and respect during their interaction with the police. The narratives in Table 5.31 thus demonstrate the extent of the reluctance and apathy as identified by these participants.

The unresponsiveness and reluctance to assist for whatever reason also indicate that some police officials seemingly fail to realize that they have a legal obligation to protect victims of abuse as reflected in the following excerpt *“...a lazy police officer*

*will convince her to go back home to make up with her partner...*". The latter can have disastrous consequences for the victim. Artz (2004), Matthews and Abrahams (2001) likewise warns accordingly that the periods in which victims approached the police or courts for protection are often the most dangerous times wherein the domestic violence escalates. The latter excerpts are in contrast to the statement of Jewkes (2001) who emphasises that the process of assisting victims should be empowering for them. Usdin *et al.* (2000) also agree that as long as some police officials continue to have a non-interventionist attitude, victims of domestic violence will continue to suffer despite provisions of the DVA.

In light of the challenges identified by participants in section 5.3.2.3 of this Chapter, the responses from participants further indicate that the handling of domestic violence incidents is often experienced as complex, frustrating and unpleasant. A number of reasons have been identified for this behaviour by some participants, notwithstanding the identified lack of resources but also their ignorance regarding the social context of the domestic violence phenomenon as well as a reluctance to interfere in what is still seemingly viewed as a "family matter" as confirmed by the following excerpt: *"...some members (police officers) choose to stand on the side lines...they still feel they are interfering in family or marital problems..."*. Eigenberg *et al.* (1996) and Ferratto (2000) similarly found that the viewing of "domestic disputes" as "private family matters" has been a problem for decades in police agencies across the globe. From this one can thus infer that the privacy granted to batterers by frontline police officials because of their non-interventionist attitudes, continuously encourage the behaviour of abusers (especially if the perpetrator is a police official) and further endangers the lives of victims of abuse. This is contrary to the specific mandate of the police as stipulated in the DVA of 1998.

Sub-theme 2, Effectiveness of the DVA of 1998 is the next sub-theme with three different categories: "Benefits of the Act", "Limitations of the Act" and "Implementation challenges" that will be interpreted and analysed.

### 5.3.3.3 Theme 3 – Sub-theme 2: Effectiveness of the DVA

The Domestic Violence Act of 1998 provided South Africa with its first legal definition of domestic violence. Usdin *et al.* (2000) describes this Act as an expression of the State's local and international commitments to protect the human rights of women by eliminating domestic violence. Participants were requested to share their opinion regarding the DVA of 1998. This question was posed to determine how effective they experienced the Act to be.

#### (a) Category: Benefits of Act

Table 5.32 below reflect the perceptions of the eighteen (64%) participants who believe the Act to be in essence beneficial to both victims and police officials.

**Table 5.32**  
**Effectiveness of the DVA: benefits of Act**

SUB- THEME	CATE- GORY	EXCERPTS FROM INTERVIEWS
Effectiveness of the DVA	Benefits of Act	<ul style="list-style-type: none"> <li>• <i>“It is a very good Act...it not only assist victims of domestic violence but <u>gives good direction to us of what to do and how to go about it...</u>”</i></li> <li>• <i>“It is the best thing that could happen as it is a law that <u>protects all victims of domestic violence.</u>”</i></li> <li>• <i>“It is a good thing as it <u>mandates us to assist in more ways than before...</u>”</i></li> <li>• <i>“<u>If correctly applied, it can really make a difference in the overall crime statistics...this does not always happen...</u>” “As dit reg aangewend word kan dit ‘n groot verskil maak in die geweld statistiek syfer...dit word baiekeer nie gedoen nie...”</i></li> </ul>

The following partial responses of participants forms the basis of their perception in this regard: *“...it not only assist victims of domestic violence but gives good direction to us of what to do and how to go about it...”*, *“...protects all victims...”*, *“...mandates us to assist in more ways than before...”*. Smith and Nel (2002) concur with this finding as they agree that the DVA of 1998 can provide protection to victims of abuse if properly implemented. All participants (n=28) however voiced some reservation regarding the proper implementation of the Act in the SA Police Service and the

consequences of non-compliance for all involved as indicated by the following narrative: *“If correctly applied, it can really make a difference in the overall crime statistics...this does not always happen...”*

(b) *Category: Limitations of Act*

During the interviews participants identified more limitations than benefits of the Act as illustrated in Table 5.33 below.

**Table 5.33**  
**Effectiveness of the DVA: limitations of Act**

SUB-THEME	CATEGORY	EXCERPTS FROM INTERVIEWS
Effectiveness of the DVA	Limitations of Act	<ul style="list-style-type: none"> <li>• <i>“The <u>protection order is often used to ‘cheat’ the police to come and arrest the man because she (complainant) wants to be free of her man for the week-end.</u>”</i></li> <li>• <i>“...some <u>loopholes in the Act still need to be addressed like when personal belongings have to be removed....</u>”</i></li> <li>• <i>“It is <u>unfairly protective of women even though they abuse the Act..</u>”</i></li> </ul>

Twenty (71%) participants felt strongly that the Act has specific limitations which impacts negatively on their ability to provide maximum protection to victims of domestic abuse. The remaining eight (29%) participants could not indicate specific limitations. The narratives in Table 5.36 below indicate the general limitations as identified by participants in terms of their experience of the implementation of the DVA of 1998.

Participants believe that these limitations make it difficult to efficiently and effectively deliver on their assigned roles and responsibilities as indicated by the following excerpt: *“The protection order is often used to ‘cheat’ the police to come and arrest the man because she (complainant) wants to be free of her man for the week-end.”* The latter viewpoint was confirmed by the Joint Monitoring Committee (2003) who similarly found that protection orders were often obtained for wrong purposes unrelated to abuse such as evicting partners from the home where there has been a

disagreement. Another limitation of the Act identified by participants was their uncertainty regarding the role of the attending police officer in accompanying the victim to pick up belongings at home and there is a dispute regarding ownership as reflected in the following narrative: “...some loopholes in the Act still need to be addressed like when personal belongings have to be removed...”. Usdin *et al.* (2000) likewise emphasize the need for ongoing advocacy to clarify and possibly amend this aspect of the Act.

As the purpose of the DVA of 1998 is to make legal recourse much more accessible to any victim of domestic violence, the identified limitations often caused by stereotypical views tend to impact negatively on service delivery. The following excerpt is reflective of this view: “It is unfairly protective of women even though they abuse the Act...”. Amoakohene (2004), Damon (2003) and Artz (1999) concur that this kind of belief by police officials often result in reluctance by victims of abuse when having to approach the police for assistance as they are deemed to be insensitive in dealing with domestic violence incidents because of a generalization of negative experiences combined with their stereotypical views.

(c) *Category: Implementation challenges*

Sinden and Stephens (1999) found that an awareness of the perceptions of police officials regarding challenges in terms of domestic violence issues is important for understanding their response to policing domestic violence incidents. The narratives in Table 5.34 below reflect the challenges which participants struggle with in the implementation of the DVA of 1998 and how these issues negatively impact on the effectiveness of the DVA of 1998.

**Table 5.34**  
**Effectiveness of the DVA: implementation challenges**

SUB-THEME	CATEGORY	EXCERPTS FROM INTERVIEWS
Effectiveness of the DVA	Implementation challenges	<ul style="list-style-type: none"> <li>• <i>“...some members (police officials) still <u>do not take the Act seriously and cooperation between organisations are poor... police need assistance from all role-players and communities to make it work.</u>”</i></li> <li>• <i>“...Justice Department just <u>withdraws cases on request after we went to great effort.</u>”</i></li> <li>• <i>“...<u>complainants misuse it (DVA)... and little is done about this...</u>” “...klaers misbruik dit...en min word daaromtrent gedoen...”</i></li> <li>• <i>“It is difficult when you have <u>too few members</u> and you are already overloaded with other complaints...”</i></li> </ul>

One of the reportedly frustrating implementation challenges is the alleged misuse of the DVA of 1998 by complainants as indicated by the following statement “...complainants misuse it (DVA)... and little is done about this...”. Usdin *et al.* (2000) likewise found the lack of clear criminal procedures in the event of the abuser (or complainant) violating the protection order to be a barrier in ensuring effective service delivery as required by the Act. From the responses of participants it was also evident that the challenges encountered centred around a lack of commitment by fellow police officers, absence of trust and proper communication channels to ensure better networking with relevant stakeholders as well as resource needs as indicated by the following narratives:

- *“...some members (police officials) still do not take the Act seriously and cooperation between organisations are poor... police need assistance from all role-players and communities to make it work.”*
- *“It is difficult when you have too few members and you are already overloaded with other complaints...”*

Corcoran *et al.* (2001) agree that many of the potential needs of victims may sometimes be beyond the scope of typical law enforcement tasks, thus a multi-disciplinary integrated working relationship with relevant role-players, focused on addressing domestic violence issues, is crucial.

The fourth and last theme “Perceptions and attitudes in service delivery” with three sub-themes will now be discussed.

### **5.3.4 Theme 4: Perceptions and attitude in terms of service delivery**

A number of questions were formulated to determine participants’ specific know-how or procedural knowledge with regard to the quality of service rendered when policing domestic violence incidents. Participants were requested to give their view of the quality of their service delivery to victims seeking redress for domestic abuse.

Participants had to answer two questions in terms of their own level of understanding of (i) the communities’ opinion of the service delivery standards of the police in terms of the policing of domestic violence incidents and (ii) their own regard of and attitude towards the quality of their service delivery to victims of domestic abuse. These questions were posed to determine the experience and perceptions of participants of their interaction with victims in dealing with domestic violence incidents.

The following three sub-themes emerged from the data collected “Quality of service delivery” and “Monitoring and record-keeping” and “Barriers to effective service delivery”. A presentation of these sub-themes and related categories will now follow. An analysis and discussion will also be presented.

#### **5.3.4.1 Theme 4 – Sub-theme 1: Quality of service delivery**

Logan *et al.* (2006) found that police attitudes determine the quality of service delivery and the facilitation of creating a sense of comfort and security for victims seeking redress for abuse. Participants were requested to determine what impact they believe they are making in dealing with domestic violence incidents presently. The narratives in Table 5.35 below reflect the perceptions of participants in this regard.

##### *(a) Category: Effectiveness of service*

Twenty-one (75%) participants described their service delivery as having a positive impact irrespective of the challenges they are facing.



**Table 5.35**  
**Quality of service delivery: effectiveness of service**

SUB-THEME	CATEGORY	EXCERPTS FROM INTERVIEWS
Quality of service delivery	Effectiveness of service	<ul style="list-style-type: none"> <li>• <i>“...there are police officers like me who <u>go to extra lengths</u> to try to help...it <u>takes time and patience</u> for complainants to trust you but it works...”</i></li> <li>• <i>“I believe I am making a difference as <u>more women come to talk to me now as they know that I will protect them</u>”... “Ek glo ek maak ‘n verskil want meer vroue kom nou na vore want hulle weet ek sal hulle beskem...”</i></li> <li>• <i>The community sometimes get <u>very upset</u> with us if they are <u>not happy about how the complaint was handled</u>...especially when we do not make an arrest if there is no danger of imminent harm...they get <u>physically and emotionally abusive with us</u>...”</i></li> <li>• <i>Sometimes we get so <u>over loaded with other cases</u> that we forget to follow-up or give feedback to the complainant...this <u>reflects badly on the quality of our service</u>...”</i></li> </ul>

Although subjective, the responses of participants reflect the positive impact individual participants believe they have made in the communities they serve as reflected by the following excerpts:

- *“...there are police officers like me who go to extra lengths to try to help...it takes time and patience for complainants to trust you but it works ...”*
- *“I believe I am making a difference as more women come to talk to me now as they know that I will protect them”...”*

Their pride in their service delivery is evident in their demeanour and seems to keep them motivated irrespective of the daily challenges. Smith and Nel (2002) likewise found that there are police officials who go beyond the call of duty to ensure maximum protection of victims of domestic violence.

The excerpts further indicate that the community sometimes are dissatisfied with participants when the outcome of the police intervention does not satisfy their sense of values as proven by the following narrative: *The community sometimes get very upset with us if they are not happy about how the complaint was handled...especially*

when we do not make an arrest if there is no danger of imminent harm...they get physically and emotionally abusive with us...". It should however be noted that the dissatisfaction with service delivery is not always unfounded as indicated by the following statement: "*Sometimes we get so over loaded with other cases that we forget to follow-up or give feedback to the complainant...*". Horowitz (2007) likewise found that the impressions of the community, regarding police encounters are influenced by the demeanour as well as the actions of the police officer. Thus, as discussed in subparagraph 5.3.3.2 of this chapter, the high levels of frustration and subsequent low morale and inaction of police officials often impact negatively on the communities' perception of their service delivery.

Twenty-four (86%) participants however believe that service delivery has improved to some extent over the last few years, but that it is still inadequate and limited. Their responses further indicate that the improvements seem to be the result of individual participants' efforts as they believe some colleagues to be lacking in empathy, commitment and/or concern for the plight of domestic violence victims.

(b) *Community relations*

Participants generally believed that the communities they serve have a poor and somewhat unfair view of the services they deliver to victims of domestic violence as reflected by the narratives in Table 5.36 below. Skogan (2006) found that people's unpleasant experiences have greater influence than pleasant experiences as it erodes satisfaction regarding service delivery of the police.

**Table 5.36**  
**Quality of service delivery: community relations**

SUB-THEME	CATEGORY	EXCERPTS FROM INTERVIEWS
Quality of service delivery	Community relations	<ul style="list-style-type: none"> <li>• "...community believes the <u>police is bias...we always side with the man and is always late...</u>" "...gemeenskap glo die polisie is bevooroordeel...ons vat altyd die man se part en is altyd te laat..."</li> <li>• "...community thinks our role is to <u>warn and scare the accused and not to if they do not want our help...</u>"</li> <li>• "...community always complains we are <u>doing nothing to address domestic violence or we do not do enough...</u>"</li> </ul>



Participants felt that communities have unrealistic expectations regarding the fulfilment of their role (as the police) in the policing of domestic violence. The extent of the expectations is evident in the following partial response made by one of the participants: “...community thinks our role is to warn and scare the accused and not to interfere if they do not want our help...”. This narrative indicates that complainants often have different expectations of their encounters with the police depending on whether the encounters are police- or citizen initiated.

Another response from participants seems to indicate that they generally believe that communities perceive them to be part of the problem rather than part of the solution as reflected in the following excerpt: “...community believes the police is bias...we always side with the man and is always late...”. This view is in contrast with how most participants generally described their own service delivery. Horowitz (2007) found that when people form opinions of the police based on their interactions, they tend to focus on the process more than the outcome of their own personal experiences and on second hand reports. Even though the majority of participants voiced a belief that they are making a positive impact, they however acknowledge the need to further improve on their service standards.

All participants admitted that there are definite gaps in their present service delivery. Eight (25%) of them however ascribe these to conditions outside of their span of control. The responses also indicate that the view held by eighteen (64%) participants regarding their service impact seem to be more positive than the views held by the communities regarding their service delivery impact. The findings further indicate that the perception or understanding of participants regarding how communities view their service delivery seem to influenced the general response of police officials to domestic violence.

From the responses it is clear that little reform of hearts and minds occurred over the last decade since the implementation of the DVA. An obvious place to start (for the police and communities) is to become more alert to their respective prejudices and stereotypical views that often result in service delivery complaints as reflected by the follow excerpt: “...community always complains we are doing nothing to address

*domestic violence or we do not do enough...*". Kratcoski and Das (2007) emphasize that it is not only the police who is at times misunderstood by the communities but also the victims and the communities in which victims live.

A discussion on the last category "Efficiency of service" in terms of the Quality of service delivery sub-theme will now follow.

(c) *Category: Efficiency of service*

The narratives in Table 5.37 below reflect the perception of the 20 (71%) participants who indicated an awareness of and frustration with the service delivery deficiencies resulting from laziness and inefficiency of colleagues as well as the negative impact the latter has on victims of domestic abuse and service delivery in SAPS as a whole.

**Table 5.37**  
**Quality of service delivery: efficiency of service**

SUB-THEME	CATEGORY	EXCERPTS FROM INTERVIEWS
Quality of service delivery	Efficiency of service	<ul style="list-style-type: none"> <li>• "...not all of us are always addressing domestic violence as well as we could, as <u>all victims are not helped properly or in time.</u>"</li> <li>• "...some colleagues are lazy... they <u>do not put in any extra effort...they derail my good work and this frustrates me...</u>" "...sommige kollegas is lui...hulle loop nie die ekstra myl met klaers nie...hulle maak my goeie werk ongedaan en dit frustreer my..."</li> <li>• "<u>There are police officers who are involved with domestic violence in their own families that is why they cannot assist the community who has the same problem.</u>"</li> </ul>

The following excerpt is descriptive of the extent of the service delivery efficiency challenge as described by one participant: "...some colleagues are lazy...they do not put in any extra effort...they derail my good work and this frustrates me..." The responses of participants also indicate that participants were generally critical of the poor service delivery by colleagues: "...not all of us are always addressing domestic violence as well as we could, as all victims are not helped properly or in time". These participants are also the ones who portrayed a more positive attitude toward policing

of domestic violence and indicated that they believe there is room for improvement even in their own service delivery for ensuring greater impact. Belknap (1995) and Robinson and Chandek (2000) also found that the attitudes of police may be highly likely to influence police officials' assessment and responses to domestic violence incidents as well as shape victims' perceptions of police response.

Ten (36%) participants indicated that they are also aware of police officers who are involved in police perpetrated domestic violence which negatively impacts on their ability to ensure optimal service delivery as reflected by the following narrative: *"There are police officers who are involved with domestic violence in their own families that is why they cannot assist the community who has the same problem".* Lott (1995), Feltgen (1996) and Levinson (1997) likewise found that police departments that have batterers among its ranks are unable to effectively serve and protect the victims of abuse. The chilling reality of the nature and level of violence against women in South Africa, remain alarmingly high and women continue to feel that they are not treated with the necessary dignity and respect by the police, when attempting to seek redress against abuse. It would thus seem that the "South African miracle" has not been optimally extended to those in domestic violence relationships.

#### **5.3.4.2 Theme 4 – Sub-theme 2: Monitoring and recordkeeping**

Participants were requested to indicate any service challenges they experience in terms of the recording of domestic violence incidents. Plotnikoff and Woolfson (2001) found that any effective response to the policing of domestic violence is largely dependent on comprehensive record keeping and the ease with which this information can be retrieved when it is needed at a later stage. The following narratives in Table 5.38 and Table 5.39 below reflect the sentiments shared by participants in this regard.

##### *(a) Category: Reluctance to complete required documents*

The narratives in Table 5.38 below reflect that seventeen (61%) participants experienced the amount of paperwork required to deal formally with domestic violence incidents as much more cumbersome than for other cases.

Table 5.38

**Monitoring and recordkeeping: reluctance to complete required documents**

SUB-THEME	CATEGORY	EXCERPTS FROM INTERVIEWS
Monitoring and record-keeping	Reluctance to complete required documents	<ul style="list-style-type: none"> <li>• "...<u>much more paper work to complete in a domestic violence case...completing all the forms registering the case takes a lot of time...</u>"</li> <li>• "...cases get lost because it is <u>not documented correctly...</u> domestic violence trends can thus not be determined." "...sake raak verlore omdat dit nie reg opgeskryf word nie...tendense van gesinsgeweld kan dus nie opgespoor word nie."</li> <li>• "...members <u>do not always document their responses to every domestic violence incident on the SAP 508(a) and a case is not always registered...</u>"</li> </ul>

These participants generally found the record keeping processes and filing of completed documentation (as prescribed in paragraph 12 of NI 7/1999) to be a constant challenge as illustrated by the following excerpt: "...much more paper work to complete in a domestic violence case...completing all the forms and to register the case takes a lot of time...". This reluctance to ensure proper recording and monitoring of reported incidents of domestic violence often result in contradictory statistics and have devastating results for victims of violence as indicated by a partial statement of one participant: "...cases get lost because it is not documented correctly...". Ashby (2003) similarly found that an incomplete or inaccurate report can seriously undermine any attempt made by the respondent to end the cycle of violence. These incomplete police reports often has potential to result in unnecessary postponement of cases in order to gather the appropriate information as there is no solid basis for the prosecution of the abuser. Responses of participants also indicate that some of their colleagues do not always follow stipulated instructions as reflected by the following narrative: "...members do not always document their responses to every domestic violence incident on the SAP 508(a) and a case is not always registered...". This refusal to complete the required documents also has serious consequences for ensuring accurate police statistics in terms of reported incidents in order to get a truthful picture of the extent of this phenomenon.



The following section will elaborate on responses collected in a follow-up question where participants were requested to share their view regarding why the situation of non-compliance is allowed to prevail. The excerpts in Table 5.39 below reflect the observations shared by participants regarding the extent of non-compliance regarding proper monitoring and recordkeeping practices.

(b) *Category: Non-compliance*

**Table 5.39**

**Monitoring and recordkeeping: non-compliance**

SUB-THEME	CATEGORY	EXCERPTS FROM INTERVIEWS
Monitoring and record keeping	Non-compliance	<ul style="list-style-type: none"> <li>• “...<u>no one checks</u> if the statements or registers are completed properly...when <u>forms</u> are running short it is <u>not completed</u>.”</li> <li>• “<u>Members do not adhere to the administrative processes that need to be followed...they see themselves as operational...not administrators...</u>”. “Lede steur hulle nie veel aan die administratiewe prosesse wat gevolg moet word nie...hulle sien hulle self as operasioneel...nie administratief nie...”</li> <li>• “...members continue with their old habits because <u>no one</u> at my station has ever been <u>charged for not complying with the instructions...</u>”</li> </ul>

Twenty (71%) participants indicated that comprehensive recordkeeping of reported domestic violence incidents is sporadic and fragmented as reflected by the following statement: “Members do not adhere to the administrative processes that need to be followed...they see themselves as operational...not administrators...”. The under recording of reported incidents of domestic violence complaints presents victims of domestic violence with a dilemma as official statistics in relation to the real incidence of reported domestic violence consequently remain difficult to establish largely because of non-compliance resulting from the seeming reluctance of police officers to accept “administration” as part of their role and functions. This finding also indicates a concerning lack of accountability which allows police officers to blatantly disregard the prescripts of the DVA as illustrated by the following narratives:

- “...no one checks if the statements or registers are completed properly...when forms are running short it is not completed.”

- “...members continue with their old habits because no one at my station has ever been charged for not complying with the instructions...”

The above excerpts indicate that non-compliance with the DVA of 1998 and NI 7/1999 is perpetuated by a lack of command and control as well as a lack of institutionalisation of disciplinary action for non-compliance. Twelve (43%) participants indicated that police officers continue with being non-compliant as they know it is rare that colleagues are charged for non-compliance.

The responses further confirm findings of an audit completed by the Independent Complaints Directorate during November 2010 who similarly found that only 23% of stations audited were compliant with their obligations under the DVA of 1998. From this one can infer that legislation without a proper implementation strategy and procedures to support the reporting, documenting and monitoring of domestic violence incidents, will have ineffective results. Thus it can be inferred that the top management of the SA Police service will continue to be criticised by various portfolio Committees and NGOs for poor compliance to the Act if this situation is allowed to prevail.

#### **5.3.4.3 Theme 4 – Sub-theme 3: Barriers to effective service delivery**

Marenin (2002) describe the policing of domestic violence in democratic countries (like South Africa) as one of the most complex and difficult jobs in society. Participants were requested to identify other factors that hinder them in compliance with their duties in providing maximum support to victims of abuse. All participants (n=28) indicated that they experienced a number of hindrances in ensuring effective service delivery. A discussion regarding the barriers to effective service delivery will follow under the categories “serving of protection orders”, “community relations and networking” as well as “availability of resources”.

##### *(a) Category: Serving protection orders*

Table 5.40 below outlines specific incidences experienced by participants that hamper them in the serving of protection orders on alleged abusers.



Table 5.40

## Barriers to effective service delivery: serving protection orders

SUB-THEME	CATEGORY	EXCERPTS FROM INTERVIEWS
Barriers to effective service delivery	Serving of protection orders	<ul style="list-style-type: none"> <li>• "...we are <u>not aware or informed</u> of Protection Orders being served by the sheriff...<u>no copies are forwarded for filing at the station</u>..."</li> <li>• "...it is a constant <u>struggle to obtain final Protection Orders and Warrants of Arrest from the courts</u>..."</li> <li>• "<u>Both parties take out protection orders against each other that need to be served... become problematic as it ends up being abused</u>..." "Beide partye neem interdikte teen mekaar uit wat gedien moet word...is 'n problem want hulle gebruik dit teen mekaar..."</li> </ul>

Twenty-six (93%) participants identified the serving of Protection Orders as one of the biggest barriers to effective service delivery. The following excerpts describe the nature of this barrier:

- "...we are not aware or informed of Protection Orders being served by the sheriff...no copies are forwarded for filing at the station..."
- "...it is a constant struggle to obtain final Protection Orders and Warrants of Arrest from the courts..."

This identified barrier indicates the seriousness of the obstacles encountered with relevant role-players and situations that directly or indirectly make it difficult for police officials to respond diligently to domestic violence incidents and to ensure maximum protection to victims. The following experience described by a participant reflects another dilemma they are required to deal with: "Both parties take out protection orders against each other that need to be served... become problematic as it ends up being abused...". These barriers result in extreme frustration which has the potential to impede service delivery.

(b) *Category: Community relations and networking*

Fifteen (54%) participants identified a lack of strong community relations and networking with other relevant role-players as a challenge that impacts negatively on their policing of domestic violence incidents as reflected by the following narrative: "...still a lack of cooperation and poor communication with the community and

*Justice department...this makes our work more difficult*". McKendrick and Hoffman (1990) similarly found that the existence of tensions between the police and the communities they serve are additional difficulties to policing domestic violence. The responses in Table 5.41 below reflect the kinds of challenges encountered in this regard.

**Table 5.41**

**Barriers to effective service delivery: community relations and networking**

SUB-THEME	CATEGORY	EXCERPTS FROM INTERVIEWS
Barriers to effective service delivery	Community relations and networking	<ul style="list-style-type: none"> <li>• "...the <u>lack of cooperation and poor communication with the community and Justice Department make our work more difficult</u>".</li> <li>• "...the continuous <u>hoax calls and false allegations against us make you tired...</u>"</li> <li>• "I know our community trusts me more by the day as <u>more women come to me for help...</u>" "Ek dink die gemeenskap vertrou ons meer by die dag want daar is meer vroue wat my nader vir hulp..."</li> </ul>

The following excerpt reflects the sentiment of twenty-four (86%) participants that the absence of processes and structures to ensure a closer working relationship between SAPS, the judicial system and the community as a whole presents a barrier to effective service delivery: "...the lack of cooperation and poor communication with the community and Justice Department make our work more difficult". This barrier results in poor service delivery as cautioned by Parenzee *et al.* (2001) who found that effective service delivery demands the development of an improved working relationship between all parties responsible for ensuring proper recourse for victims of domestic violence.

Thirteen (46%) participants indicated a consistent improvement in the relationship with the community as is evident in the following excerpt: "...community trust me more by the day as more women come to me for help...".

A discussion on the "availability of resources" as the last "barrier to effective service delivery" will now follow.



*(c) Category: Availability of resources*

All Participants (n=28) experienced the lack of resources (human and logistical) to be a complex issue to deal with and a major barrier in ensuring optimal protection to victims of abuse. The narratives in Table 5.42 below reflect the daily resource challenges experienced by participants in attending to domestic violence complaints.

**Table 5.42****Barriers to service delivery: availability of resources**

SUB-THEME	CATEGORY	EXCERPTS FROM INTERVIEWS
Barriers to effective service delivery	Availability of resources	<ul style="list-style-type: none"> <li>• "...<u>booking off sick by members</u>...makes it impossible to send two police officers to attend a domestic violence scene...this is very dangerous..."</li> <li>• "...there is <u>not always enough vehicles</u> to attend to scenes..." "...daar is nie altyd genoeg voertuie om klagtes by te woon nie..."</li> <li>• "You are expected to provide victims with a place of safety but there is <u>not enough places</u> to accommodate all victims..."</li> </ul>

Twenty (71%) participants felt that they cannot always adequately carry out their duties as prescribed in the DVA of 1998 as they are sometimes rendered impotent through lack of resources. The following excerpts are reflective of their experiences: "...there is not always enough vehicles to attend to scenes..."; "...not enough places to accommodate all victims...". Parenzee *et al.* (2001) likewise found that police officers are often expected to address domestic violence with no proper guidance, support or resources to do so.

Artz (1999) had similar findings in Southern Cape area where the use of police vehicles as a "last resort" was crucial, not only because of the limited availability and unreliability of public transport services; the long distances in between the services and/or the high travel costs but also the high rates of unemployment and poor and expensive telecommunication services. Legget (2002) likewise found the lack of resources to be compounded by the fact that individual police stations have access to vastly different resources. Thus some police stations have no vehicles or personnel available which can lead to long frustrating periods before victims can be

assisted as reflected by the following narrative: “...booking off sick by members...makes it impossible to send two police officers to attend a domestic violence scene...this is very dangerous...”. From this it is evident that the lack of resource support coupled with the trauma of having to deal with domestic violence on a daily basis, potentially can give way to feelings of helplessness and hopelessness among those who are expected to provide optimal service delivery to victims of abuse. Mayhall *et al.* (1995) similarly found that the police were often expected to risk their lives in the discharge of their duties but received little support for their actions. One can thus conclude that the absence of resources for the effective implementation of the DVA of 1998 will continue to contribute to poor service delivery to domestic violence victims in specific communities.

The serious lack of shelters for victims of domestic abuse, especially in rural areas, makes it difficult for police officials to provide maximum protection to victims. The following narrative indicates the magnitude of this challenge: “...not enough places of safety to accommodate all victims...”. This statement indicates that the capability of police officials in ensuring a safe haven for victims is very limited as it is largely dependent on the availability of shelters.

In summary, it is evident from the above narratives that the roles and responsibilities of participants are often frustrated by the operations and informal policies at police stations, actions and inactions of victims; attitudes of colleagues, operation of the judicial system and the complexities of the law in the policing of domestic violence. Even though the majority of participants verbalised a level of seriousness in the proper policing of domestic violence and managed a certain level of success, the actions of other police officials working on their shift often seem to contradict this seriousness.

## **5.6 CONCLUSION**

This chapter elaborated on the findings which were derived from the data collected during the research process. These findings have been substantiated with literature from Chapters 2-4. The following chapter (Chapter 6) will focus on a discussion of the conclusions and recommendations made by the researcher based on these findings.

## CHAPTER 6

### CONCLUSIONS AND RECOMMENDATIONS

#### 6.1 INTRODUCTION

The experiences and perceptions of frontline police officers, who have to serve and protect victims of domestic violence (in terms of the Domestic Violence Act, No. 116 of 1998) were investigated in this study. The aim of this chapter is to draw up conclusions derived from findings in this study and to make relevant recommendations to in-house social workers, other health and wellness professionals and the management cadre, responsible for the development and capacity building of police officers in the South African Police Service, in order to ensure more effective and efficient service delivery to victims with regard to the policing of domestic violence incidents.

The goal of the research was to gain an understanding of the experiences and perceptions of frontline police officers in the Western Cape Province, who have to serve and protect victims of domestic abuse in terms of the Domestic Violence Act, No. 116 of 1998. The goal was reached as the following objectives set out in Chapter 1 were achieved.

- In Chapter 2 a theoretical overview of the nature and extent of domestic violence from within a social context was given. This provided insight and a better understanding of the domestic violence phenomenon. It also provided a clearer picture of the relevant legislative framework which mandates the functioning of frontline police officials who have to serve and protect victims of abuse.
- In Chapter 3 the response of the South African Police Service (SAPS) to the domestic violence phenomenon was described from within a historical context. Historical events at crucial time periods in the formation of the SA Police Service were explored insofar as it relates to the response of the police to domestic violence. The different strategies implemented by the SA Police

Service with the changes in legislation that have bearing on domestic violence were also identified.

- In Chapter 4 service delivery to victims of domestic violence were explored from within a legislative context. The specific roles and responsibilities as well as delegated powers were discussed as prescribed by the Domestic Violence Act, No.116 of 1998 and SAPS NI 7/1999. This exploration provided insight into all stages of intervention and investigation for ensuring effective action by frontline police officers responsible for policing domestic violence.
- In Chapter 5 the experiences and perceptions of frontline police officers in the policing of domestic violence were presented and analysed by means of different themes, typical of qualitative research. The major results of the data collected were discussed in relation to the literature presented in Chapter 2, 3 and 4 of this study. The research design and methodology used in the investigation were previously discussed in Chapter 1 of this study. This chapter elaborated on the results of the qualitative study.

The research question of this study was: “What are the subjective experiences and perceptions of frontline police officers in the Western Cape Province regarding their service delivery to domestic violence victims as determined by the Domestic Violence Act, No. 116 of 1998?” This question was also addressed in Chapter 5.

There were several limitations to this study. This study focussed on only seven (7) out of the twenty-three (23) priority stations in the Western Cape Province and thus can limit the generalizability of the research findings. The study primarily consisted of subjective responses of participants which might not accurately reflect the true experiences and perceptions of all participants regarding their policing of domestic violence.

The researcher formed certain conclusions as a result of the literature review and empirical investigation. The following concluding themes have been derived from the research findings and subsequent recommendations are made.



## 6.2 CONCLUSIONS AND RECOMMENDATIONS

The following conclusions and recommendations are based on the findings from the empirical investigation.

### 6.2.1 Identifying details

The **findings** of this study regarding the identifying details are as follow:

All participants of this study were **frontline police officers**, who are responsible for the policing of domestic violence at **five (5) urban and two (2) rural police stations** in the **Western Cape Province**. More male participants (57%) participated in the study as the operational environment has **more male than female frontline police officers** who is responsible for the policing of domestic violence. However, where a male and female police officer work as partners when attending a domestic violence incident, the male police officer would automatically assume the role of “protector” of his female partner and the female officer would take on the role of “care giver” to victims of abuse. Male police officials generally tend to take charge of so called “hard-core crimes” whilst their female counterparts tend to handle mostly “social crimes”, that mainly involve vulnerable victims who are perceived to be more “emotional” and “softer” in nature.

Participants (39%) from the **Coloured** race grouping made up the majority of participants in the study, closely followed by **African** participants (32%) and **White** participants (25%), with a minority representation of **Indian** participants (4%). The equity spread is significant of the broader population of police personnel in the Western Cape Province. The **rank levels** of participants varied from **Constable to Captain** with the majority of participants (46%) holding the entry level rank of constable. A common factor amongst all participants is the range of experience in the handling of domestic violence incidents that varied amongst participants irrespective of gender, race, rank or size of the respective police stations.

More cases of domestic violence are reported and attended to in **urban** areas than in **rural** areas because of the difference in geographical size and the access to resources. It is however evident that there is an **increase in the number of**

**reported incidents** of domestic violence in both rural and urban areas. The number of reported domestic violence incidents at larger urban police stations however tend to be higher than at smaller rural police stations as the urban police stations tend to serve larger volumes of populations. The general increase in the number of reported cases at urban and rural police stations indicates that victims are no longer willing to remain silent irrespective of the fact that the violence they are subjected to is still socially, culturally and even legally condoned in spite of available legislation. Participants confirmed that more domestic violence incidents are reported than is recorded as some statistics are lost because of ignorance or uncertainty on the part of not only the complainants but also police officials who are inexperienced and not knowledgeable when dealing with domestic violence related incidents.

From these findings the **conclusion** can be reached that all frontline police officials at all police stations, irrespective of gender, race, rank or range of experience are responsible for dealing with an increasing number of domestic violence incidents on a daily basis. The findings indicate that in the SA Police Service, female participants are expected to attend to domestic violence related incidents more readily than their male counterparts because of the prevailing organisational culture. The findings however indicate that there are some female police officials who are just as inept as their male counterparts at handling domestic violence incidents. In light of the above findings it can thus be concluded that **female participants tend to be more experienced** at dealing with victims of domestic violence than their male counterparts irrespective of the number of years in the field. From this it can further be concluded that assigned gender roles are still very much part of the organisational culture of the SA Police Service.

The conclusion can also be drawn that, **race and rank** of participants as well as the **size of the respective police station** does have an impact on the perceptions and/or experiences of some participants as it **determines the level of exposure participants** get in dealing with domestic violence related incidents as discussed in Chapter 5. It can further be concluded that **gender sensitivity** and **ignorance of the social context** as well as **traditional teachings** have an impact on the **quality of service delivery** provided to victims of domestic violence.

### Recommendations for practice

- Social context and gender sensitivity training as well as cultural teachings should be implemented during the Basic Training level of the SA Police Service and this training should be periodically reinforced throughout the policing career of all police officials.

### 6.2.2 Theme 1 – The experience of domestic violence

The following **findings** were recorded:

The **occurrence and reporting of domestic violence incidents** tend to **increase during “peak demand periods”** i.e. at night, during weekends, on pay days or rainy/wet winter days when there is closer interaction among partners or family members. The latter places a greater burden on police officials as both human and logistical resources at stations is often limited. These statistics should however be regarded as a conservative indication of the actual prevalence of domestic violence reported at target stations. The increase in the volume of reported domestic violence complaints as well as the complexity of domestic violence incidents result in an increase in the workload of police officers, which highlights the many challenges they have in responding effectively and timeously to reported complaints of domestic violence.

In attending to the **increasing number of domestic violence incidents** police officials essentially have **to face unknown risks with unpredictable outcomes**. Attending to these volatile situations presents them with **significant challenges** as it is often **complex and time-consuming**, leaving police officials feeling frustrated, hopeless and powerless to affect real change. Participants generally experienced that intervening in domestic violence can at times be a very difficult process as they are **not always able to address all the needs** of the victim as it may be **beyond the scope of their assigned roles and responsibilities** in terms of the DVA of 1998. Another complexity in this regard is the **challenges experienced with other relevant role-players** responsible for redress of domestic violence.

The **forms of domestic violence** indicated by participants as the most challenging to handle, are also often the same forms of abuse they encounter most frequently although the sequence of the forms of abuse differ. **Physical abuse, Emotional abuse and Damage to property** are the forms of abuse **most frequently encountered** by participants followed by **Sexual abuse** and **Economic abuse**. The understanding of some participants differs from that of their colleagues in terms of their perception of what constitutes a domestic violence incident as well as how it should be dealt with. There are different reasons for this difference in understanding as explained in Chapter 5 of this study.

Irrespective of the verbal commitments made by senior police officials as well as participants in this study regarding the priority placed on the policing of domestic violence incidents, it is in practice still not given the necessary priority status at most stations as **other violent crime still tends to take precedence**. The level of priority given to the policing of domestic violence at station level depends on how serious the station commander and his/her management team view and prioritise the policing of these incidents. Participants also experience the policing of domestic violence to be more difficult than the policing of stranger assaults, as most of the complex circumstances surrounding both the abuser and victim of domestic violence are not present in stranger assaults. Police officials thus often react and **handle reported domestic violence cases differently than stranger assaults** and often not as serious in comparison.

More male than female police participants find the handling of domestic violence incidents to be **more emotionally taxing** than dealing with any other violent crime because of the **emotional triggers involved**. The findings also indicate that participants have to increasingly withstand verbal abuse from victims and perpetrators alike in some communities. Verbal abuse can also often escalate to physical abuse aimed at the attending police officials during their efforts to provide protection to victims of abuse. This is especially dangerous for police officials who have to attend to domestic violence scenes alone because of a shortage of personnel.



The findings further reflect that any **sense of pride and responsibility** experienced in the policing of domestic violence, are often accompanied by **high levels of frustration**. These marked levels of frustration often lead to **low morale and behavioural problems** in participants. Many of them become **frustrated with the repetitive nature of the problem** after having to attend to the same complaint repeatedly, only to watch the situation worsen.

Many participants also have **outdated notions of what domestic violence is** and how to handle it. The main reason for the lack of common understanding seems to be the perception that as the reported incident is not deemed to be a criminal offence, it is subsequently not perceived by some participants to be a serious complaint. The unresolved personal experiences of participants regarding domestic violence incidents exacerbates this perception and negatively impacts on their ability to comprehend and action their specific roles and functions in terms of the proper implementation of the DVA of 1998. Ignorance and cultural and psychological barriers often give way to feelings of immense frustration, helplessness and hopelessness in effecting redress for victims of domestic violence.

The **conclusion** can be reached that the pervasive police culture, lack of insight and continuous adherence to an outdated conceptualization of domestic violence contribute to the weakening of the implementation of current legislation, National Instructions and Standing Orders in terms of the policing of domestic violence.

Domestic violence is still not perceived or handled by most police officials, as the priority it is professed to be even though there are those individual police officials as well as exemplary police stations that are committed to making a difference in the policing of this phenomenon. Police officials often ignore or dismiss complaints of domestic violence because of their own biased attitudes or ignorance to recognise the seriousness of the allegations made by victims. Consequently complainants are turned away; feeling intimidated or disillusioned in a system that should in effect protect them. Even though the concept of domestic violence is clearly defined in the DVA of 1998 and penalties indicated for non-compliance, it is still not treated as a serious offence whatever its form.

The study further suggests that in action, the views of some participants regarding their policing of domestic violence incidents tend to differ from their views of the policing of other “serious violent crimes”. The comparisons drawn in terms of how police officials respond to perpetrators in terms of domestic violence and those committing other kinds of crimes, reflect that there is a difference in the responses of especially the older and more experienced police officials, who seem to lack the necessary sensitivity and who still have reservations about “interfering in private matters”. This confirms that it is not only the police official who is sometimes misunderstood by the community but also vice versa as the community is often misunderstood by police officials as some of them still believe that, domestic violence is better resolved without external interference as police involvement might aggravate an already tense situation.

Police officials find it difficult to switch readily between roles from being the tough law enforcement official when dealing with criminals to switching to the more empathetic and neutral protector amidst physical and emotional triggers. Portraying an empathetic demeanour when providing assistance to victims of domestic abuse is in total contrast to the tough image the SA Police tried to cultivate during the previous regime and is still proving to be a difficult skill for some police officers to acquire in pursuance of effective service delivery to victims, as it is still perceived by some male police officials to be a social services responsibility not befitting their macho image.

### **Recommendations for practice**

- The culture in the SA Police Service needs to be changed and police officials held accountable. For effective change to occur in this regard, senior police officials however need to acknowledge (in practice) the seriousness of domestic violence as well as its impact as a problem for policing and society as a whole.

- It is imperative that attending police officials should be provided by the dispatching officer with all the necessary information when they are requested to attend to a domestic violence scene. The latter will prevent unnecessary stress, anxiety and/or exaggerated assumptions resulting from having to face the “unknown”.
- Counselling and internal support from the management cadre at every station as well as the Employee Health and Wellness (EHW) professionals should be paramount especially for newly trained recruits to ensure emotional readiness as they will be better able to deal with the complexities of handling this phenomenon. Talking to or regular debriefing by a professional member of EHW (e.g. social worker, psychologist or religious) will assist police officials to become more knowledgeable and experienced in dealing with their daily stressors. This intervention could also assist in the minimising of police perpetrated domestic violence.

### 6.2.3 Theme 2 – Attitude and perceptions

The following **findings** were determined:

The findings of this study suggest that police officials have **complex attitudes** about domestic violence and that **situational factors influence the response** of the police to domestic violence situations.

Even though police attitudes regarding the policing of domestic violence incidents have been changing over the last few years, there are still obvious **weaknesses in the police response** to domestic violence. One of these weaknesses is the actioning of the priority placed on the policing of domestic violence in the Western Cape Province, which still remains a challenge as **domestic violence is in reality not implemented as a priority crime**.

Participants generally did not have a comprehensive understanding of their roles and responsibilities as stipulated in the DVA of 1998. From the responses it was clear

that their **lack of insight in terms of the Act** results in **poor compliance with the DVA of 1998**.

From the findings it is also evident that in the process of **providing assistance** to victims of domestic violence, participants often become **frustrated** by the actions or inactions of complainants. Consequently they tend to become **demotivated** in terms of providing continued assistance to victims and subsequently **do not maintain a vigilant state** resulting in negative consequences for complainants.

The findings also indicate that dealing with children and “one of their own” are great challenges for all participants. In **dealing with children**, participants **avoid having to interview children** when investigating domestic violence complaints. Police officers generally tend not to be as circumspect in **using their discretion** as often as they should as they are **wary of civil claims** and too **preoccupied with procedure**. In **dealing with a colleague** involved in police perpetrated domestic violence, the SA Police service generally has a poor record of **dealing with domestic violence when the abuser is a police official**. Discretion is often exercised inappropriately by police officials where domestic violence involves a colleague as they instinctively seem to protect their own.

From the findings above the **conclusion** can be drawn that some police officials have become **hardened and increasingly cynical** because of the perception by the public and also from within their own ranks that they cannot make a difference. There seem to be a belief that the police are fighting a losing battle with the **escalation of domestic violence**, the **poor cooperation with the judicial system** as well as **communities** who seemingly **have lost faith and respect in their efforts** to effectively police this phenomenon. The majority of participants are **frustrated by the cyclical nature of domestic violence** as they are still very much production oriented as their performance is evaluated by a system that values their ability to make arrests and control public order instead of focusing on the establishment of processes and systems that will ensure proper redress for victims of abuse.



The findings also reflect that a successful and effective response to policing domestic violence is greatly influenced and determined not only by the attitudes of the attending police officials but also an **integrated response from all relevant stakeholders**. These conclusions suggest that there is a need for future research to more closely examine the attitude and perceptions of entry level police officers with later times in their career to measure changes in attitude and perception over time.

### **Recommendations for practice**

- A review of the existing domestic violence training programmes completed during Basic Training as well as In-service Training should be done by the Division Human Resource Development in SAPS on an annual basis, given the inability of some participants to clearly indicate their understanding of their roles and responsibilities in terms of the DVA of 1998 and NI7/1999. Inter-departmental training facilitated by the relevant stakeholders can help to improve awareness of the respective roles and responsibilities of each department.
- The Head: Visible Policing together with the Cluster Commanders as well as the Provincial Inspectorate should in partnership diligently and regularly undertake monitoring and evaluation visits to police stations under their jurisdiction to ensure the proper implementation of the DVA of 1998 and related legislation.
- Meaningful performance indicators and realistic targets relating to domestic violence should be developed by the Performance Management Section of the SA Police Service to ensure the provision of optimal service delivery to victims.
- Comparative performance data should be provided by the Strategic Management Section of the SA Police Service to all Cluster Commanders at station level. Subsequent actions need to be monitored where performance is below standard for identification and addressing of non-compliance.
- Police officials in supervisory positions should be trained in domestic violence; adopt new policies and take ownership of these policies so that those they supervise can follow their lead. Change must start on an individual level with

the senior management as the attitude of police officials at the respective police stations seem to depend on how the station management respond to domestic violence complaints.

#### **6.2.4 Theme 3 – Competence in policing domestic violence**

The following **findings** were obtained from the study:

Although all the participants attend to domestic violence incidents on a daily basis as part of their job functions, they generally lacked insight in understanding the social context and psychological character of intimate violence as well as how to effectively enforce their discretionary powers. The **nature of the training completed** by participants seem to be **too limited** to prepare them adequately to deal more effectively with the reality of attending to the personal and emotional nature of the various forms of domestic violence in practice. This finding combined with the reality that police officials do not tend to discuss their emotions regarding what happens on the job or how they feel about their experiences, often result in a build-up of unvented emotions as they have been socialised through their police training not to show emotion when attending to any incident as any acknowledgement of emotion would be considered unmanly and unprofessional.

Participants who did however obtain the necessary competencies through formal courses and self-development are seemingly **more confident and motivated to provide maximum protection** to victims of abuse. Participants with personal and 'street' experience seem to have **developed coping strategies and responses** that allowed them to avoid formal training and adopt 'short cuts' which result in inconsistencies in service delivery as well as having detrimental consequences for younger and impressionable police officials being mentored by them with subsequent negative consequences for victims seeking redress.

The SA police Service have over the past few years defined and redefined their particular approach to a new policing philosophy; consequently the training of police officials was changed accordingly. The new policing approaches adopted in the past have however not provided frontline police officials with a sense of being **trained to**

**a sufficient standard to accomplish their mandate** as required by the DVA of 1998. The training interventions initiated to complement the SAPS Basic training programme seem to be **cosmetic in nature** as older frontline police officials are not compelled to attend this training contrary to issued National Instructions.

The SA Police Service presently lacks a uniform strategy that can address the varied domestic violence situations encountered in the different societal contexts of the Western Cape Province as well as the complex nature of the domestic violence phenomenon. Despite the issuing of National Instruction 7/1999 and the subsequent declaration by the SA Police Service that domestic violence is one of the crime priorities, **no coherent domestic violence strategy or training and development strategy** has thus far been developed for ensuring the effective implementation of the Domestic Violence Act of 1998. Irrespective of the varied views of participants about the use and abuse of the DVA of 1998, there is however agreement amongst participants that the **DVA is beneficial** for both victims and police officials if **properly implemented**.

From these findings it can be **concluded** that Training is an essential starting point for a more effective police response to the policing of domestic violence. If training is not done, police officials will not have the ability to perform optimally and attain the level of accomplishment necessary for the successful policing of domestic violence. Police officials are expected to balance legitimate yet conflicting values and rights i.e. (i) demands for effectiveness while still protecting individual rights and maintaining law and order without unduly restricting liberty and (ii) the need to use force without deviating into abuse. The latter require training that provides police officials with intellectual and practical tools to make proper balancing decisions and situational judgements that are in accordance with democratic, societal and legal norms and expectations. Thus, the above findings clearly emphasize that training should be a key element of any strategic approach adopted for the effective policing of domestic violence by the SA Police Service in the Western Cape Province. From the research findings, it is however apparent that training alone will not equip police officials with the necessary critical thinking and decision-making skills. The police officials of the new millennium need to have initiative, knowledge and vision to

handle and redress problems through their creative thinking, ability to network with relevant role-players and have a lifelong commitment to enhance their competence through education and training.

The findings of this study indicate that the limited extent of the knowledge of participants regarding the domestic violence phenomenon, affects their preparedness for dealing with their present reality. It also emphasize the need for continued “refresher” training of police officials regarding their response to domestic violence and more specifically to victims who seek redress for domestic abuse. The experiences of participants indicate that their effectiveness in the communities they serve, are dependent on their competency, fairness, honesty and responsiveness to individual needs of victims.

Thus far the SA Police Service has been struggling in its attempts to adequately train police officials for conceptual balance and situational judgements thus resulting in organisational paralysis, ineffectiveness and misuse of authority as well as undemocratic policing in terms of domestic violence incidents.

The following **recommendations for policy** are made based on the researcher’s personal observations and experience in domestic violence training as well as the findings of the research. It is recommended that:

- A comprehensive domestic violence policing strategy should be designed to be culture-and region-specific, providing victims with easy access to a wide range of services and involving community as well as individual stakeholders in the design of interventions.
- Any subsequent training and development strategy initiated should be developed for all rank levels of police officials, focussing on the nature and extent of the phenomenon, procedural knowledge and the high percentage of violent crime that is domestic in origin but which is not captured as being a domestic violence related incident. Thus, training should form a key part of the policing strategy in terms of domestic violence. Complacency needs to be replaced with active intervention and development.
- Police officials as the first point of contact in reported domestic violence

incidents should receive annual refresher domestic violence and cultural awareness training to assist them in their investigative roles. The Basic training of entry level constables should be extended to include a more comprehensive and practical application module on Domestic violence. A proper appreciation and comprehension of the changing nature and dynamics of domestic violence, including its impact on victims and society as a whole, is fundamental for practice and for ensuring safety of victims.

- Formal domestic violence training should be made compulsory for all police officials irrespective of their rank, number of years of service or practical experience. Police officials should be defaulted if they refuse to attend domestic violence training sessions or refresher training courses. Comprehensive fitness training must be integrated into all formal training to prevent unnecessary loss of life of police officials who are not tactically ready.
- Training interventions initiated to complement the formal domestic violence training programmes of the SAPS should include comprehensive and intensive programmes of retraining, sensitization and the dismissal from the service of officers not willing to comply with the DVA of 1998 and NI 7/1999.
- Development of the adaptive expertise of police officials should be prioritised in order to ensure the nurturing of their ability to manage emotional triggers and/or unanticipated incidents without police officials losing mental accuracy or tactical propriety.
- An environment should be created that encourage and facilitates continuous training focussed on supervisory skill building in tactical thinking, decision-making and optimal performance when confronted with stressful incidents.
- Educational development campaigns should be initiated to promote non-violent techniques of conflict management. Here the services of external and community based organisations are crucial as this training is fundamental for the development of police officials as well as victims, perpetrators and the youth to ensure a decrease in domestic violence related incidents over the long term.

### 6.2.5 Theme 4 – Perceptions and attitude in terms of service delivery

The following **findings** were determined:

Participants are aware of varied subjective opinions held by the respective communities they serve regarding the effectiveness of their service delivery as well as perceptions of incompetence by the police in dealing with domestic violence incidents. They experience the communities they serve as having a poor and somewhat unfair view of the **quality of their service delivery** to victims of domestic violence as well as having unfair expectations regarding service delivery to them. The views held by communities were perceived by some participants as a challenge whilst others adopted an “us versus them” mentality where they have an affinity only with each other and seem to have difficulty relating to the communities they serve, thus creating more barriers for effective service delivery. The majority of participants indicated satisfaction with the quality of assistance they provided to victims even though the level of satisfaction was however unevenly spread.

Although **service delivery has improved** in the estimation of most participants to varying degrees over the last few years they feel, it is still limited as it is hampered by a lack of resources. It is also clear that the existing service delivery improvements seem to be the result of **individual participants’ efforts** as they clearly believe that too many of their colleagues are still lacking in empathy, commitment and/or concern for the plight of domestic violence victims.

Participants agree **domestic violence is under reported and under recorded** in the SA Police Service. Irrespective of the implementation of prescribed documentation to ensure standardization of recordkeeping, administrative processes remain one of the biggest challenges in the SA Police Service. **Comprehensive recordkeeping is sporadic** and presents a challenge which participants are struggling with on a daily basis as there seem to be a general **reluctance by police officials to deal formally with domestic violence** incidents. Police officials **do not record all incidents of domestic violence** especially in cases where no protection order was issued for a domestic violence related offence.

Participants also experience that fellow police officials are **rarely defaulted for non-compliance** in this regard as **accountability** and **monitoring and evaluation of service delivery by supervisors remains a challenge**.

The findings also reflect that participants perceive the current **information management system** of the SA Police Service to have been developed in a **fragmented** manner. **Incorrect coding** of domestic violence incidents, **poor recording** of incidents by attending police officials as well as the **incorrect registration** of the reported cases on the Central Administration System (CAS) by CAS operators result in an undercounting of true domestic violence statistics. The SAPS has to date **not been able to integrate the information** held on family violence and child protection dockets with domestic violence databases, even though the same names of offenders often appear on both dockets. Consequently statistics indicating the extent of reported incidence of domestic violence at station level remain an empirical question.

Participants continue to experience serious challenges in the form of barriers which continue to hamper them in providing maximum protection to victims of abuse. The **servicing of Protection Orders** was identified as one of the biggest barriers to effective service delivery because of challenges with relevant stakeholders. The **lack of strong community relations and poor networking** with relevant stakeholders impeded the effective and efficient service delivery to victims of domestic violence. The **overall functioning of the judicial system** is also experienced to be a major contributor of frustration for participants as communication and/or poor cooperation between the police and judicial system often seem to result in ineffective service delivery to victims. In the **absence of proper communication processes and information sharing** between the police and judicial system, ownership and effective service delivery will remain a challenge if an integrated multi-disciplinary approach is not adopted in endeavouring to ensure optimal service delivery to victims of domestic violence.

Compliance with the DVA of 1998 when dealing with police perpetrated domestic violence remains a challenge as most participants voiced an awareness of incidents

of internal cover-ups and protection of fellow colleagues who were either victims or perpetrators of abuse. Participants were generally very vague and hesitant to share their experiences and knowledge of known **colleagues who are victims of abuse or perpetrating domestic violence** in their own families. The latter is a concern as any police official who is a perpetrator or a victim, will find it challenging to effectively serve and protect victims of abuse.

Even though the police have a critical assigned role in ensuring the safety of vulnerable victims, the impact of their interventions are frequently minimized as they often have to fight or prevent further incidents of domestic violence without practical assistance from other stakeholders. Irrespective of NI7/1999 it is evident from the findings that some participants are forced to **attend to domestic violence scenes alone** because of a **lack of personnel** resulting from the high absenteeism rate of shift members during peak demand periods. The latter coupled with the incompetence or apathy experienced by some participants can increase the levels of anxiety as reflected in Chapter 5 of this study.

Participants also felt that they are expected to **address domestic violence with limited guidance, support or resources** to do so. They felt that they are not always able to adequately carry out their duties as prescribed in the DVA of 1998 as they are sometimes rendered impotent through **lack of human and logistical resources** resulting in poor service delivery to victims of specific communities.

Participants, who are responsible for the policing of domestic violence in rural areas, experience the physical and socio-cultural isolation as well as isolation from potentially supportive institutions as additional barriers to optimal service delivery. The **lack of shelters** for victims of domestic violence (especially in rural areas) is experienced to be extremely problematic for police officials in ensuring maximum protection to victims.

From these findings one can **conclude** that police perceptions and experiences influence their assessment and responses to reported domestic violence incidents as well as subsequently shaping the perceptions of victims in terms of the police

response. The perception held by participants regarding the impact of their own service delivery to domestic violence complainants seem to be more positive than the views held by the communities they serve regarding the service delivery impact of the police.

There seems to be a significant shift in attitude by participants in terms of their awareness of having to deal more appropriately with victims of domestic violence. No uniform attitude or response could however be identified for participants in the policing of domestic violence.

The implementation of the DVA of 1998 is seemingly showing ineffective results without a proper implementation strategy and procedures to support the reporting, documenting and monitoring of domestic violence incidents. The effectiveness of the monitoring processes put in place to monitor both the level of demand and the quality of service delivery to victims of domestic abuse will determine the success of any police response to domestic violence incidents. Thus the development of a comprehensive strategy is imperative.

Currently the SA Police Service has no uniform policy for dealing with police perpetrated domestic violence except for NI7/1999, which requires notification of the Independent Police Investigation Directorate (IPID) when an employee is the object of a domestic violence related criminal investigation. The number of reports made to IPID in this regard does however not reflect the true nature and extent of police perpetrated domestic violence.

Any effective response to a domestic violence incident is largely dependent on comprehensive and accurate recordkeeping of all domestic violence related incidents and the ease with which this data can be retrieved. Accurate record keeping and statistics constitute the primary stage in determining the extent of the domestic violence phenomenon and to work out more effective strategies to combat domestic violence. The reluctance by some participants to deal formally with domestic violence incidents therefore needs to be dealt with concisely. Improving current statistics on domestic violence is imperative for getting an accurate and “real

time” picture of the nature and prevalence of this phenomenon.

The lack of networking and effective sharing of information amongst and within the SA Police Service and relevant stakeholders responsible for seeking redress for domestic violence victims, impact negatively on the effective and efficient service delivery to all victims of domestic violence.

The anxiety experienced by some participants when having to attend to a domestic violence scene alone can have a negative effect on their judgement and reaction time. Thus, police attendance to domestic violence incidents will continue to be an area where police officials are exposed to potential assault and loss of life unless the human resource need is addressed and the prescripts regarding domestic violence regulations are complied with.

The perceptions and attitudes of participants and the perceived experiences of victims at the hands of police officials indicate that more rigorous interventions need to be implemented to ensure maximum protection and redress to victims of domestic abuse.

### **Recommendations for practice and policy**

- Regular community surveys should be done by the Crime Prevention Unit of the SA Police Service to determine the level of satisfaction of the community with the service delivery of the SA Police Service. The feedback can serve as valuable input for the amendment of police training and intervention programmes for ensuring the training of competent and well prepared police officials.
- Considered efforts to enhance the trust and confidence of communities should be made by every attending police official through increased community networking, outreach as well as through the publicity of good practice and tone setting messages. This is crucial for ensuring development of cooperative relationships as well as the circumventing of the existing lack of involvement of community members in intervention strategies initiated by the SA Police Service.

- Police officials should endeavour to establish more effective partnerships with the community which will require of them to make every effort to understand and respond with more sensitivity to the respective expectations of different cultural groups during each police encounter.
- The appointment of a suitably trained police official (at every police station) as a domestic violence coordinator is imperative for the proper monitoring of all domestic violence related incidents. These appointed police officials should be responsible for dealing with all reported incidents of domestic violence at station level and should facilitate the improvement of service delivery to all domestic violence victims.
- Fragmented approaches to the policing of domestic violence should be avoided. A coordinated, collaborative, integrated, interagency approach across all government and non-government agencies responsible for assisting victims of domestic violence is imperative for ensuring their safety. A partnership between all stakeholders has become imperative. Improved cooperation and coordination amongst all relevant role-players (responsible for the implementation of the DVA of 1998) should be foremost on every agenda. Best practices should be identified and propagated and pilot projects developed. Development of an improved working relationship between all relevant stakeholders will ensure more effective service delivery.
- Systems to ensure proper monitoring and recording practices should be implemented to allow for the accurate identification of repeated domestic violence incidents to enable swift and correct interventions.
- The SA Police Service should aim to develop a more integrated approach where all information recorded about previous reported incidents at the same address or involving the same family members, can be accessible to all attending police officials.
- Police responses to domestic violence incidents should be graded according to the number of times a complaint was reported and/or police officials attended to the complaint, thus providing police officers with an indication of the history of the domestic abuse and police interventions embarked on.
- Increased reporting and recording of domestic violence incidents should be key aims of any initiative embarked on to effectively police this phenomenon.

The SA Police Service should expect the overall number of recorded incidents to increase in the short term. The latter should be reflected in the development of performance indicators to ensure that it will not act as a disincentive.

- Managers should be held accountable where documents are not completed as prescribed. Regular and continuous monitoring and supervision by commanders will improve consistency in the application of the DVA of 1998 and related legislation.
- The SA Police Service must regard it as an obligation to address the issue of police officials who are involved as perpetrators or victims in domestic violence related incidents. The SAPS need to face this challenge directly and decisively but with compassion.
- A formal uniform policy must be adopted directing the steps to be taken when an allegation is made of domestic violence involving SAPS members and employees. The essential principle of this policy must be that police officials accused of domestic violence should not be treated any differently than any other citizen. This policy must be supported by all management levels of the SA Police Service and a zero tolerance approach should be adopted regarding non-compliance. The Legal Services Department of the SA Police Service need to provide a clear directive that is backed up by consequences for perpetrators and managers who do not comply with the prescribed directive.
- A re-assessment of the allocated resources (human and logistical) to geographical areas (where victims find themselves in physical and socio-cultural isolation from potentially supportive institutions) must be prioritised as a matter of urgency as it is imperative for improved service delivery.

In summary, the SA Police Service need to relook its current reactive oriented police approach to the policing of domestic violence, which is contrary to the community based policing approach advocated by senior management for the policing of this phenomenon. It is time to initiate an honest assessment of current policies and practices and attempt to reflect on why most of these initiatives are failing to deliver on its promise to protect and serve all victims of domestic abuse.



### **6.3 FURTHER RESEARCH**

In light of the results of this study it is suggested that:

1. The experience and perceptions of frontline police officers should be further explored in another province for comparative analysis to determine commonalities and differences in perceptions and experiences regarding the policing of domestic violence.
2. Further research should focus on the nature and extent of police perpetrated domestic violence by police officials in the Western Cape Province and the police response to this violence.
3. A comparative study should be embarked on to explore changes over time in the attitude and perception of police officials regarding the policing of domestic violence from entry level with later times in their career.

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## DOMESTIC VIOLENCE ACT 116 OF 1998

**To provide for the issuing of protection orders with regard to domestic violence; and for matters connected therewith.**

### **Preamble**

RECOGNIZING that domestic violence is a serious social evil; that there is a high incidence of domestic violence within South African society; that victims of domestic violence are among the most vulnerable members of society; that domestic violence takes on many forms; that acts of domestic violence may be committed in a wide range of domestic relationships; and that the remedies currently available to the victims of domestic violence have proved to be ineffective;

AND HAVING REGARD to the Constitution of South Africa, and in particular, the right to equality and to freedom and security of the person; and the international commitments and obligations of the State towards ending violence against women and children, including obligations under the United Nations Conventions on the Elimination of all Forms of Discrimination Against Women and the Rights of the Child;

IT IS THE PURPOSE of this Act to afford the victims of domestic violence the maximum protection from domestic abuse that the law can provide; and to introduce measures which seek to ensure that the relevant organs of state give full effect to the provisions of this Act, and thereby to convey that the State is committed to the elimination of domestic violence,

BE IT THEREFORE ENACTED by the Parliament of the Republic of South Africa, as follows:-

### **1 Definitions**

In this Act, unless the context indicates otherwise-

**'arm'** means any arm as defined in section 1 (1) or any armament as defined in section 32 (1) of the Arms and Ammunition Act, 1969 (Act 75 of 1969);

**'clerk of the court'** means a clerk of the court appointed in terms of section 13 of the Magistrates' Courts Act, 1944 (Act 32 of 1944), and includes an assistant clerk of the court so appointed;

**'complainant'** means any person who is or has been in a domestic relationship with a respondent and who is or has been subjected or allegedly subjected to an act of domestic violence, including any child in the care of the complainant;

**'court'** means any court contemplated in the Magistrates' Courts Act, 1944 (Act 32 of 1944) or any family court established in terms of an Act of Parliament;

**'damage to property'** means the wilful damaging or destruction of property belonging to a complainant or in which the complainant has a vested interest;

**'dangerous weapon'** means any weapon as defined in section 1 of the Dangerous Weapons Act, 1968 (Act 71 of 1968);

**'domestic relationship'** means a relationship between a complainant and a respondent in any of the following ways:

- (a) they are or were married to each other, including marriage according to any law, custom or religion;
- (b) they (whether they are of the same or of the opposite sex) live or lived together in a relationship in the nature of marriage, although they are not, or were not, married to each other, or are not able to be married to each other;
- (c) they are the parents of a child or are persons who have or had parental responsibility for that child (whether or not at the same time);
- (d) they are family members related by consanguinity, affinity or adoption;
- (e) they are or were in an engagement, dating or customary relationship, including an actual or perceived romantic, intimate or sexual relationship of any duration; or
- (f) they share or recently shared the same residence;

**'domestic violence'** means-

- (a) physical abuse;
- (b) sexual abuse;
- (c) emotional, verbal and psychological abuse;
- (d) economic abuse;
- (e) intimidation;
- (f) harassment;
- (g) stalking;
- (h) damage to property;
- (i) entry into the complainant's residence without consent, where the parties do not share the same residence; or
- (j) any other controlling or abusive behaviour towards a complainant, where such conduct harms, or may cause imminent harm to, the safety, health or well-being of the complainant;

**'economic abuse'** includes-

- (a) the unreasonable deprivation of economic or financial resources to which a complainant is entitled under law or which the complainant requires out of necessity, including household necessities for the complainant, and mortgage bond repayments or payment of rent in respect of the shared residence;
- (b) the unreasonable disposal of household effects or other property in which the complainant has an interest;

**'emergency monetary relief'** means compensation for monetary losses suffered by a complainant at the time of the issue of a protection order as a result of the domestic violence, including-

- (a) loss of earnings;
- (b) medical and dental expenses;
- (c) relocation and accommodation expenses; or
- (d) household necessities;

**'emotional, verbal and psychological abuse'** means a pattern of degrading or humiliating conduct towards a complainant, including-

- (a) repeated insults, ridicule or name calling;
- (b) repeated threats to cause emotional pain; or
- (c) the repeated exhibition of obsessive possessiveness or jealousy, which is such as to constitute a serious invasion of the complainant's privacy, liberty, integrity or security;

**'harassment'** means engaging in a pattern of conduct that induces the fear of harm to a complainant including-

- (a) repeatedly watching, or loitering outside of or near the building or place where the complainant resides, works, carries on business, studies or happens to be;
- (b) repeatedly making telephone calls or inducing another person to make telephone calls to the complainant, whether or not conversation ensues;
- (c) repeatedly sending, delivering or causing the delivery of letters, telegrams, packages, facsimiles, electronic mail or other objects to the complainant;

**'intimidation'** means uttering or conveying a threat, or causing a complainant to receive a threat, which induces fear;

**'member of the South African Police Service'** means any member as defined in section 1 of the South African Police Service Act, 1995 (Act 68 of 1995);

**'peace officer'** means a peace officer as defined in section 1 of the Criminal Procedure Act, 1977 (Act 51 of 1977);

**'physical abuse'** means any act or threatened act of physical violence towards a complainant;

**'prescribed'** means prescribed in terms of a regulation made under section 19;

**'protection order'** means an order issued in terms of section 5 or 6 but, in section 6, excludes an interim protection order;

**'residence'** includes institutions for children, the elderly and the disabled;

**'respondent'** means any person who is or has been in a domestic relationship with a complainant and who has committed or allegedly committed an act of domestic violence against the complainant;

**'sexual abuse'** means any conduct that abuses, humiliates, degrades or otherwise violates the sexual integrity of the complainant;

**'sheriff'** means a sheriff appointed in terms of section 2 (1) of the Sheriffs Act, 1986 (Act 90 of 1986), or an acting sheriff appointed in terms of section 5 (1) of the said Act;

**'stalking'** means repeatedly following, pursuing, or accosting the complainant;

**'this Act'** includes the regulations.

## **2 Duty to assist and inform complainant of rights**

Any member of the South African Police Service must, at the scene of an incident of domestic violence or as soon thereafter as is reasonably possible, or when the incident of domestic violence is reported-

- (a) render such assistance to the complainant as may be required in the circumstances, including assisting or making arrangements for the complainant to find a suitable shelter and to obtain medical treatment;
- (b) if it is reasonably possible to do so, hand a notice containing information as prescribed to the complainant in the official language of the complainant's choice; and
- (c) if it is reasonably possible to do so, explain to the complainant the content of such notice in the prescribed manner, including the remedies at his or her disposal in terms of this Act and the right to lodge a criminal complaint, if applicable.

## **3 Arrest by peace officer without warrant**

A peace officer may without warrant arrest any respondent at the scene of an incident of domestic violence whom he or she reasonably suspects of having committed an offence containing an element of violence against a complainant.

## **4 Application for protection order**

- (1) Any complainant may in the prescribed manner apply to the court for a protection order.
- (2) If the complainant is not represented by a legal representative, the clerk of the court must inform the complainant, in the prescribed manner-
  - (a) of the relief available in terms of this Act; and
  - (b) of the right to also lodge a criminal complaint against the respondent, if a criminal offence has been committed by the respondent.
- (3) Notwithstanding the provisions of any other law, the application may be brought on behalf of the complainant by any other person, including a counselor, health service provider, member of the South African Police Service, social worker or teacher, who has a material interest in the well-being of the complainant: Provided that the application must be brought with the written consent of the complainant, except in circumstances where the complainant is-
  - (a) a minor;
  - (b) mentally retarded;
  - (c) unconscious; or
  - (d) a person whom the court is satisfied is unable to provide the required consent.
- (4) Notwithstanding the provisions of any other law, any minor, or any person on behalf of a minor, may apply to the court for a protection order without the assistance of a parent, guardian or any other person.

- (5) The application referred to in subsection (1) may be brought outside ordinary court hours or on a day which is not an ordinary court day, if the court is satisfied that the complainant may suffer undue hardship if the application is not dealt with immediately.
- (6) Supporting affidavits by persons who have knowledge of the matter concerned may accompany the application.
- (7) The application and affidavits must be lodged with the clerk of the court who shall forthwith submit the application and affidavits to the court.

## **5 Consideration of application and issuing of interim protection order**

- (1) The court must as soon as is reasonably possible consider an application submitted to it in terms of section 4 (7) and may, for that purpose, consider such additional evidence as it deems fit, including oral evidence or evidence by affidavit, which shall form part of the record of the proceedings.
- (2) If the court is satisfied that there is *prima facie* evidence that-
  - (a) the respondent is committing, or has committed an act of domestic violence; and
  - (b) undue hardship may be suffered by the complainant as a result of such domestic violence if a protection order is not issued immediately, the court must, notwithstanding the fact that the respondent has not been given notice of the proceedings contemplated in subsection (1), issue an interim protection order against the respondent, in the prescribed manner.
- (3)
  - (a) An interim protection order must be served on the respondent in the prescribed manner and must call upon the respondent to show cause on the return date specified in the order why a protection order should not be issued.
  - (b) A copy of the application referred to in section 4 (1) and the record of any evidence noted in terms of subsection (1) must be served on the respondent together with the interim protection order.
- (4) If the court does not issue an interim protection order in terms of subsection (2), the court must direct the clerk of the court to cause certified copies of the application concerned and any supporting affidavits to be served on the respondent in the prescribed manner, together with a prescribed notice calling on the respondent to show cause on the return date specified in the notice why a protection order should not be issued.
- (5) The return dates referred to in subsections (3) (a) and (4) may not be less than 10 days after service has been effected upon the respondent: Provided that the return date referred to in subsection (3) (a) may be anticipated by the respondent upon not less than 24 hours' written notice to

the complainant and the court.

- (6) An interim protection order shall have no force and effect until it has been served on the respondent.
- (7) Upon service or upon receipt of a return of service of an interim protection order, the clerk of the court must forthwith cause-
  - (a) a certified copy of the interim protection order; and
  - (b) the original warrant of arrest contemplated in section 8 (1) (a), to be served on the complainant.

## **6 Issuing of protection order**

- (1) If the respondent does not appear on a return date contemplated in section 5 (3) or (4), and if the court is satisfied that-
  - (a) proper service has been effected on the respondent; and
  - (b) the application contains *prima facie* evidence that the respondent has committed or is committing an act of domestic violence, the court must issue a protection order in the prescribed form.
- (2) If the respondent appears on the return date in order to oppose the issuing of a protection order, the court must proceed to hear the matter and-
  - (a) consider any evidence previously received in terms of section 5 (1); and
  - (b) consider such further affidavits or oral evidence as it may direct, which shall form part of the record of the proceedings.
- (3) The court may, on its own accord or on the request of the complainant, if it is of the opinion that it is just or desirable to do so, order that in the examination of witnesses, including the complainant, a respondent who is not represented by a legal representative-
  - (a) is not entitled to cross-examine directly a person who is in a domestic relationship with the respondent; and
  - (b) shall put any question to such a witness by stating the question to the court, and the court is to repeat the question accurately to the respondent.
- (4) The court must, after a hearing as contemplated in subsection (2), issue a protection order in the prescribed form if it finds, on a balance of probabilities, that the respondent has committed or is committing an act of domestic violence.
- (5) Upon the issuing of a protection order the clerk of the court must forthwith in the prescribed manner cause-
  - (a) the original of such order to be served on the respondent; and
  - (b) a certified copy of such order, and the original warrant of arrest contemplated in section 8 (1) (a), to be served on the complainant.

- (6) The clerk of the court must forthwith in the prescribed manner forward certified copies of any protection order and of the warrant of arrest contemplated in section 8 (1) (a) to the police station of the complainant's choice.
- (7) Subject to the provisions of section 7 (7), a protection order issued in terms of this section remains in force until it is set aside, and the execution of such order shall not be automatically suspended upon the noting of an appeal.

## **7 Court's powers in respect of protection order**

- (1) The court may, by means of a protection order referred to in section 5 or 6, prohibit the respondent from-
  - (a) committing any act of domestic violence;
  - (b) enlisting the help of another person to commit any such act;
  - (c) entering a residence shared by the complainant and the respondent: Provided that the court may impose this prohibition only if it appears to be in the best interests of the complainant;
  - (d) entering a specified part of such a shared residence;
  - (e) entering the complainant's residence;
  - (f) entering the complainant's place of employment;
  - (g) preventing the complainant who ordinarily lives or lived in a shared residence as contemplated in subparagraph ©) from entering or remaining in the shared residence or a specified part of the shared residence; or
  - (h) committing any other act as specified in the protection order.
- (2) The court may impose any additional conditions which it deems reasonably necessary to protect and provide for the safety, health or well-being of the complainant, including an order-
  - (a) to seize any arm or dangerous weapon in the possession or under the control of the respondent, as contemplated in section 9; and
  - (b) that a peace officer must accompany the complainant to a specified place to assist with arrangements regarding the collection of personal property.
- (3) In ordering a prohibition contemplated in subsection 1 ©), the court may impose on the respondent obligations as to the discharge of rent or mortgage payments having regard to the financial needs and resources of the complainant and the respondent.
- (4) The court may order the respondent to pay emergency monetary relief having regard to the financial needs and resources of the complainant and the respondent, and such order has the effect of a civil judgment of a magistrate's court.

- (5) (a) The physical address of the complainant must be omitted from the protection order, unless the nature of the terms of the order necessitates the inclusion of such address.
- (b) The court may issue any directions to ensure that the complainant's physical address is not disclosed in any manner which may endanger the safety, health or well-being of the complainant.
- (6) If the court is satisfied that it is in the best interests of any child it may-
- (a) refuse the respondent contact with such child; or
- (b) order contact with such child on such conditions as it may consider appropriate.
- (7) (a) The court may not refuse-
- (i) to issue a protection order; or
- (ii) to impose any condition or make any order which it is competent to impose or make under this section, merely on the grounds that other legal remedies are available to the complainant.
- (b) If the court is of the opinion that any provision of a protection order deals with a matter that should, in the interests of justice, be dealt with further in terms of any other relevant law, including the Maintenance Act, 1998, the court must order that such a provision shall be in force for such limited period as the court determines, in order to afford the party concerned the opportunity to seek appropriate relief in terms of such law.

## **8 Warrant of arrest upon issuing of protection order**

- (1) Whenever a court issues a protection order, the court must make an order-
- (a) authorising the issue of a warrant for the arrest of the respondent, in the prescribed form; and
- (b) suspending the execution of such warrant subject to compliance with any prohibition, condition, obligation or order imposed in terms of section 7.
- (2) The warrant referred to in subsection (1) (a) remains in force unless the protection order is set aside, or it is cancelled after execution.
- (3) The clerk of the court must issue the complainant with a second or further warrant of arrest, if the complainant files an affidavit in the prescribed form in which it is stated that such warrant is required for her or his protection and that the existing warrant of arrest has been-
- (a) executed and cancelled; or
- (b) lost or destroyed.
- (4) (a) A complainant may hand the warrant of arrest together with an affidavit in the prescribed form, wherein it is stated that the respondent has

- contravened any prohibition, condition, obligation or order contained in a protection order, to any member of the South African Police Service.
- (b) If it appears to the member concerned that, subject to subsection (5), there are reasonable grounds to suspect that the complainant may suffer imminent harm as a result of the alleged breach of the protection order by the respondent, the member must forthwith arrest the respondent for allegedly committing the offence referred to in section 17 (a).
- (c) If the member concerned is of the opinion that there are insufficient grounds for arresting the respondent in terms of paragraph (b), he or she must forthwith hand a written notice to the respondent which-
- (i) specifies the name, the residential address and the occupation or status of the respondent;
  - (ii) calls upon the respondent to appear before a court, and on the date and at the time, specified in the notice, on a charge of committing the offence referred to in section 17 (a); and
  - (iii) contains a certificate signed by the member concerned to the effect that he or she handed the original notice to the respondent and that he or she explained the import thereof to the respondent.
- (d) The member must forthwith forward a duplicate original of a notice referred to in paragraph (c) to the clerk of the court concerned, and the mere production in the court of such a duplicate original shall be *prima facie* proof that the original thereof was handed to the respondent specified therein.
- (5) In considering whether or not the complainant may suffer imminent harm, as contemplated in subsection (4) (b), the member of the South African Police Service must take into account-
- (a) the risk to the safety, health or well-being of the complainant;
  - (b) the seriousness of the conduct comprising an alleged breach of the protection order; and
  - (c) the length of time since the alleged breach occurred.
- (6) Whenever a warrant of arrest is handed to a member of the South African Police Service in terms of subsection (4) (a), the member must inform the complainant of his or her right to simultaneously lay a criminal charge against the respondent, if applicable, and explain to the complainant how to lay such a charge.

## **9 Seizure of arms and dangerous weapons**

- (1) The court must order a member of the South African Police Service to seize any arm or dangerous weapon in the possession or under the control of a respondent, if the court is satisfied on the evidence placed before it, including any affidavits supporting an application referred to in section 4 (1), that-
- (a) the respondent has threatened or expressed the intention to kill or injure himself or herself, or any person in a domestic relationship, whether or not by means of such arm or dangerous weapon; or

- (b) possession of such arm or dangerous weapon is not in the best interests of the respondent or any other person in a domestic relationship, as a result of the respondent's-
- (i) state of mind or mental condition;
  - (ii) inclination to violence; or
  - (iii) use of or dependence on intoxicating liquor or drugs.
- (2) Any arm seized in terms of subsection (1) must be handed over to the holder of an office in the South African Police Service as contemplated in section 11 (2) (b) of the Arms and Ammunition Act, 1969 (Act 75 of 1969), and the court must direct the clerk of the court to refer a copy of the record of the evidence concerned to the National Commissioner of the South African Police Service for consideration in terms of section 11 of the Arms and Ammunition Act, 1969.
- (3) Any dangerous weapon seized in terms of subsection (1)-
- (a) must be given a distinctive identification mark and retained in police custody for such period of time as the court may determine; and
  - (b) shall only be returned to the respondent or, if the respondent is not the owner of the dangerous weapon, to the owner thereof, by order of the court and on such conditions as the court may determine:
- Provided that-
- (i) if, in the opinion of the court, the value of the dangerous weapon so seized is below R200; or
  - (ii) if the return of the dangerous weapon has not been ordered within 12 months after it had been so seized; or
  - (iii) if the court is satisfied that it is in the interest of the safety of any person concerned, the court may order that the dangerous weapon be forfeited to the State.

## **10 Variation or setting aside of protection order**

- (1) A complainant or a respondent may, upon written notice to the other party and the court concerned, apply for the variation or setting aside of a protection order referred to in section 6 in the prescribed manner.
- (2) If the court is satisfied that good cause has been shown for the variation or setting aside of the protection order, it may issue an order to this effect: Provided that the court shall not grant such an application to the complainant unless it is satisfied that the application is made freely and voluntarily.
- (3) The clerk of the court must forward a notice as prescribed to the complainant and the respondent if the protection order is varied or set aside as contemplated in subsection (1).

## 11 Attendance of proceedings and prohibition of publication of certain information

(1)(a) No person may be present during any proceedings in terms of this Act except-

- (a) officers of the court;
- (b) the parties to the proceedings;
- (c) any person bringing an application on behalf of the complainant in terms of section 4 (3);
- (d) any legal representative representing any party to the proceedings;
- (e) witnesses;
- (f) not more than three persons for the purpose of providing support to the complainant;
- (g) not more than three persons for the purpose of providing support to the respondent; and
- (h) any other person whom the court permits to be present:

Provided that the court may, if it is satisfied that it is in the interests of justice, exclude any person from attending any part of the proceedings.

(b) Nothing in this subsection limits any other power of the court to hear proceedings *in camera* or to exclude any person from attending such proceedings.

(2) (a) No person shall publish in any manner any information which might, directly or indirectly, reveal the identity of any party to the proceedings.

(b) The court, if it is satisfied that it is in the interests of justice, may direct that any further information relating to proceedings held in terms of this Act shall not be published: Provided that no direction in terms of this subsection applies in respect of the publication of a *bona fide* law report which does not mention the names or reveal the identities of the parties to the proceedings or of any witness at such proceedings.

## 12 Jurisdiction

(1) Any court within the area in which-

- (a) the complainant permanently or temporarily resides, carries on business or is employed;
- (b) the respondent resides, carries on business or is employed; or
- (c) the cause of action arose, has jurisdiction to grant a protection order as contemplated in this Act.

(2) No specific minimum period is required in relation to subsection (1) (a).

(3) A protection order is enforceable throughout the Republic.

## 13 Service of documents

(1) Service of any document in terms of this Act must forthwith be effected in the prescribed manner by the clerk of the court, the sheriff or a peace officer, or as the court may direct.

- (2) The regulations contemplated in section 19 must make provision for financial assistance by the State to a complainant or a respondent who does not have the means to pay the fees of any service in terms of this Act.

#### **14 Legal representation**

Any party to proceedings in terms of this Act may be represented by a legal representative.

#### **15 Costs**

The court may only make an order as to costs against any party if it is satisfied that such party has acted frivolously, vexatiously or unreasonably.

#### **16 Appeal and review**

The provisions in respect of appeal and review contemplated in the Magistrate's Courts Act, 1944 (Act 32 of 1944), and the Supreme Court Act, 1959 (Act 59 of 1959), apply to any proceedings in terms of this Act.

#### **17 Offences**

Notwithstanding the provisions of any other law, any person who-

- (a) contravenes any prohibition, condition, obligation or order imposed in terms of section 7;
- (b) contravenes the provisions of section 11 (2) (a);
- (c) fails to comply with any direction in terms of the provisions of section 11 (2) (b); or
- (d) in an affidavit referred to section 8 (4) (a), wilfully makes a false statement in a material respect,

is guilty of an offence and liable on conviction in the case of an offence referred to in paragraph (a) to a fine or imprisonment for a period not exceeding five years or to both such fine and such imprisonment, and in the case of an offence contemplated in paragraph (b), (c), or (d), to a fine or imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

#### **18 Application of Act by prosecuting authority and members of South African Police Service**

(1) No prosecutor shall-

- (a) refuse to institute a prosecution; or
- (b) withdraw a charge

in respect of a contravention of section 17 (a), unless he or she has been authorised thereto, whether in general or in any specific case, by a Director of Public Prosecutions as contemplated in section 13 (1) (a) of the National Prosecuting Authority Act, 1998 (Act 32 of 1998), or a senior member of the prosecuting authority designated thereto in writing by such a Director.

(2) The National Director of Public Prosecutions referred to in section 10 of the National Prosecuting Authority Act, 1998, in consultation with the Minister of

Justice and after consultation with the Directors of Public Prosecutions, must determine prosecution policy and issue policy directives regarding any offence arising from an incident of domestic violence.

- (3) The National Commissioner of the South African Police Service must issue national instructions as contemplated in section 25 of the South African Police Service Act, 1995 (Act 68 of 1995), with which its members must comply in the execution of their functions in terms of this Act, and any instructions so issued must be published in the *Gazette*.
- (4)
  - (a) Failure by a member of the South African Police Service to comply with an obligation imposed in terms of this Act or the national instructions referred to in subsection (3), constitutes misconduct as contemplated in the South African Police Service Act, 1995, and the Independent Complaints Directorate, established in terms of that Act, must forthwith be informed of any such failure reported to the South African Police Service.
  - (b) Unless the Independent Complaints Directorate directs otherwise in any specific case, the South African Police Service must institute disciplinary proceedings against any member who allegedly failed to comply with an obligation referred to in paragraph (a).
- (5)
  - (a) The National Director of Public Prosecutions must submit any prosecution policy and policy directives determined or issued in terms of subsection (2) to Parliament, and the first policy and directives so determined or issued, must be submitted to Parliament within six months of the commencement of this Act.
  - (b) The National Commissioner of the South African Police Service must submit any national instructions issued in terms of subsection (3) to Parliament, and the first instructions so issued, must be submitted to Parliament within six months of the commencement of this Act.
  - (c) The Independent Complaints Directorate must, every six months, submit a report to Parliament regarding the number and particulars of matters reported to it in terms of subsection (4) (a), and setting out the recommendations made in respect of such matters.
  - (d) The National Commissioner of the South African Police Service must, every six months, submit a report to Parliament regarding-
    - (i) the number and particulars of complaints received against its members in respect of any failure contemplated in subsection (4) (a);
    - (ii) the disciplinary proceedings instituted as a result thereof and the decisions which emanated from such proceedings; and
    - (iii) steps taken as a result of recommendations made by the Independent Complaints Directorate.

## 19 Regulations

- (1) The Minister of Justice may make regulations regarding-
  - (a) any form required to be prescribed in terms of this Act;
  - (b) any matter required to be prescribed in terms of this Act; and
  - (c) any other matter which the Minister deems necessary or expedient to be

prescribed in order to achieve the objects of this Act.

- (2) Any regulation made under subsection (1)-
- (a) must be submitted to Parliament prior to publication thereof in the *Gazette*;
  - (c) which may result in expenditure for the State, must be made in consultation with the Minister of Finance; and
  - (c) may provide that any person who contravenes a provision thereof or fails to comply therewith shall be guilty of an offence and on conviction be liable to a fine or to imprisonment for a period not exceeding one year.

**20** Amends section 40 (1) of the Criminal Procedure Act 51 of 1977, by adding paragraph (q).

### **21 Repeal of laws and savings**

(1) Sections 1, 2, 3, 6 and 7 of the Prevention of Family Violence Act, 1993 (Act 133 of 1993), are hereby repealed.

(2) Any application made, proceedings instituted or interdict granted in terms of the Act referred to in subsection (1) shall be deemed to have been made, instituted or granted in terms of this Act.

### **22 Short title and commencement**

This Act shall be called the Domestic Violence Act, 1998, and comes into operation on a date fixed by the President by proclamation in the *Gazette*.

**NB: THE DRAFT REGULATIONS BELOW HAVE BEEN SUBMITTED TO PARLIAMENT FOR APPROVAL AND HAVE NOT YET BEEN PROMULGATED IN THE GOVERNMENT GAZETTE**

## **REGULATIONS UNDER THE DOMESTIC VIOLENCE ACT, 1998 (ACT NO. 116 OF 1998)**

The Minister of Justice has under section 19 of the Domestic Violence Act, 1998 (Act No. 116 of 1998), made the regulations in the Schedule.

### **SCHEDULE**

#### **Definitions**

1. In these regulations any word or expression to which a meaning has been assigned in the Act shall have that meaning and, unless the context otherwise indicates -  
"the Act" means the Domestic Violence Act, 1998 (Act No. 116 of 1998).

#### **Notice containing information**

2. The notice contemplated in section 2(b) of the Act must contain the information provided for in Form 1 of the Annexure.

#### **Explanation of notice**

3. For purposes of section 2(c) of the Act a member of the South African Police Service must -
  - (a) explain to the complainant -
    - (i) that a member of the South African Police Service will render such assistance as circumstances may require, including assisting or making arrangements to find a suitable shelter and to obtain medical treatment;
    - (ii) his or her right to apply for a protection order to prohibit the respondent from committing further acts of domestic violence, even if no criminal complaint has been lodged, so as to ensure his or her safety, health and well-being;
    - (iii) his or her right to lodge a criminal complaint; and
    - (iv) the purpose of the notice ;
  - (b) if the complainant is unable to read the notice, read the notice referred to in regulation 2 to the complainant, or take such reasonable steps as may be necessary to have the notice read to the complainant ;
  - (c) inquire from the complainant whether he or she -
    - (i) understands the contents of the notice ; and
    - (ii) requires further information regarding his or her remedies in terms of the Act and the right to lodge a criminal complaint ;
  - (d) explain, to the best of his or her ability, to the complainant on request -
    - (i) any part of the notice which the complainant does not understand; and
    - (ii) his or her remedies in terms of the Act and the right to lodge a criminal complaint; and

- (e) inform the complainant to obtain further information from the clerk of the magistrate's court should questions of the complainant remain unanswered.

### **Manner of application for protection order**

- 4.(1) A complainant may apply to the court for a protection order in a form substantially corresponding to Form 2 of the Annexure.
- (2) The application referred to in subregulation (1) must be made by way of an affidavit in which must be stated -
  - (a) the facts on which the application is based;
  - (b) the nature of the order applied for; and
  - (c) the name of the police station where the complainant is likely to report any breach of the protection order applied for.
- (3) Where the application is brought on behalf of a complainant by another person, the affidavit referred to in subregulation (2) must also set out or contain-
  - (a) the grounds on which such person has a material interest in the well-being of the complainant;
  - (b) the occupation of such person and capacity in which such person brings the application; and
  - (c) except in cases excluded by the provisions of paragraphs (a) to (d) of section 4(3) of the Act, the written consent of the complainant.

### **Information to be given by clerk of the court**

- 5. (1) For purposes of section 4(2) of the Act, the clerk of the court must, if the complainant is not represented by a legal representative -
  - (a) hand to the complainant a written notice which contains the information provided for in Form 3 of the Annexure, which must, if reasonably possible, be in the official language of the complainant's choice;
  - (b) read the notice or cause the notice to be read to the complainant, if the complainant is unable to read the notice;
  - (c) inquire from the complainant whether he or she -
    - (i) understands the contents of the notice ; and
    - (ii) requires further information concerning the relief available in terms of the Act and the right to lodge a criminal complaint; and
  - (d) on request of the complainant, further explain, to the best of his or her ability -
    - (i) any part of the notice which the complainant does not understand; and
    - (ii) the relief available in terms of the Act and the right to lodge a criminal complaint.

### **Issuing of interim protection order**

- 6. An interim protection order contemplated in section 5(2) of the Act must be in the form of Form 4 of the Annexure.

### **Notice to show cause**

7. The notice calling on the respondent to show cause on the specified return date why a protection order should not be issued, contemplated in section 5(4) of the Act, must be in the form of Form 5 of the Annexure.

#### **Issuing of protection order**

8. A protection order contemplated in section 6(1) of the Act must be -
  - (a) in the event that an interim protection order was issued, in the form of Form 6 of the Annexure; or
  - (b) in the event that an interim protection order was not issued, in the form of Form 7 of the Annexure.

#### **Issuing of warrant of arrest**

9. The warrant of arrest contemplated in section 8(1)(a) of the Act must be authorised and issued in the form of Form 8 of the Annexure.

#### **Affidavit for further warrant of arrest**

10. An affidavit contemplated in section 8(3) of the Act for purposes of obtaining a second or further warrant of arrest must be in a form substantially corresponding to Form 9 of the Annexure.

#### **Affidavit regarding contravention of protection order**

11. An affidavit contemplated in section 8(4)(a) of the Act in which it is stated that the respondent has contravened any prohibition, condition, obligation or order contained in a protection order must be in a form substantially corresponding to Form 10 of the Annexure.

#### **Written notice to respondent to appear before court**

12. (1) The written notice contemplated in section 8(4)(c) of the Act calling on the respondent to appear before a court on a charge of committing the offence referred to in section 17(a) of the Act must be in a form substantially corresponding to Form 11 of the Annexure.
  - (2) Any respondent who is called upon to appear before the court in accordance with a written notice referred to in subregulation (1) and who fails to-
    - (a) appear at the place and on the date and time specified in that notice; or
    - (b) remain in attendance at the proceedings,shall be guilty of an offence and liable to the punishment prescribed under subregulation (3)(b).
  - (3) (a) The court may if satisfied from the duplicate original of the notice referred to in section 8(4)(d) of the Act that the notice was handed to the respondent and that the respondent has failed to appear at the place and on the date and time specified in the notice, or if satisfied that the respondent has failed to remain in attendance at the proceedings concerned, issue a warrant for the respondent's arrest.
    - (b) The court may when the respondent is brought before it, in a summary manner enquire into his or her failure so to appear or to remain in attendance and unless the respondent satisfies the court that his or her failure was not due to any fault on his or her part, convict him or her of the offence referred to in subregulation (2) and sentence him or her to a fine

or to imprisonment for a period not exceeding six months.

### **Application for variation or setting aside of protection order**

13. An application for the variation or setting aside of a protection order, contemplated in section 10(1) of the Act, must be made in a form substantially corresponding to Form 12 of the Annexure.

### **Notice of variation or setting aside of protection order**

14. (1) The notice of the variation or setting aside of a protection order, contemplated in section 10(3) of the Act, must be in the form of Form 13 of the Annexure.
- (2) The notice referred to in subregulation (1) must be forwarded by the clerk of the court to the complainant and respondent by handing it to them personally or sending it to them by registered mail.

### **Service of documents**

15. (1) Service of any document in terms of the Act or these regulations, except where the Act or regulations provide otherwise, must without delay be effected by-
- (a) the clerk of the court by handing or presenting for handing over a certified copy of the document to the person on whom the document is to be served or sending a certified copy of the document to that person by registered mail and endorsing the original document to this effect;
  - (b) the sheriff in terms of the provisions of the Magistrate`s Courts Act, 1944 (Act No. 32 of 1944), and Rules published in terms of section 6 of the Rules Board for Courts of Law Act, 1985 (Act No. 107 of 1985); or
  - (c) a peace officer in terms of the provisions of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), relating to the service of subpoenas.
- (2) The clerk of the court sending a copy of the document in terms of subregulation (1)(a) to the person on whom the document is to be served, must require that proof of receipt thereof be returned to him or her by the relevant postal authority.
- (3) A person authorised to effect service in terms of subregulation (1), who is not a member of the South African Police Service, may, in any case where resistance to the service of a document is encountered or is reasonably anticipated, request a member of the South African Police Service to assist him or her with the service of any document provided for in the Act and these regulations.
- (4) The complainant or respondent who requires a document to be served in terms of the Act or these regulations shall be responsible for the costs of such service: Provided that the clerk of the court may, after consideration of such proof as he or she may require, direct that the State must be responsible for the costs of any service in terms of the Act or these regulations if he or she is satisfied that the complainant or respondent as the case may be, or both the complainant and respondent, do not have the means to pay for such costs at the time when service is required.

### **Short title**

16. These regulations shall be called the **Domestic Violence Regulations, 1999**, and shall come into operation on 15 December 1999.

<b><u>ANNEXURE C</u></b>
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**FORM 1**  
**[Regulation 2]**  
**NOTICE TO COMPLAINANT IN A CASE OF DOMESTIC VIOLENCE**  
**SECTION 2(b) OF THE DOMESTIC VIOLENCE ACT, 1998 (ACT NO. 116 OF 1998)**

This notice explains your rights and the steps you may take to protect yourself, your children and/or other members of the shared household. If, after reading this notice, there is anything you do not understand I will to the best of my ability explain the contents to you. If I or other members of the South African Police Service present are unable to answer any of your questions regarding this notice, you may contact the clerk of the magistrate's court for further information.

1. I, as a member of the South African Police Service will render such assistance to you as you may require in the circumstances including assisting or making arrangements to -
  - find a suitable shelter ; and/or
  - get medical treatment.
2. You may lay a criminal complaint against the person who committed the act of domestic violence (who will now be called the respondent) if the conduct of the respondent constitutes a criminal offence which will be investigated by the police.
3. In addition, you may apply, on any day and at any time, for a protection order at the Magistrate's Court in whose area -
  - you reside, carry on business or are employed, permanently or temporary ;
  - the respondent resides, carries on business or is employed; or
  - the act of domestic violence occurred.
4. I will provide you with an application form if you want to apply for such an order. It is not necessary to lay a criminal charge in order to obtain a protection order.
5. The Court will consider your application and may thereafter issue a temporary order which will only come into effect -
  - after it has been delivered to the respondent (the cost of which you have to pay unless you do not have the means to pay therefore) ; and
  - will be valid for a certain period of time.
6. After such period of time the court will consider to issue a permanent order.
7. In your application you may request the court to prohibit the respondent from -
  - committing any act of domestic violence;
  - getting the help of another to commit any act of domestic violence;
  - entering your workplace, home or the shared residence or any part thereof;
  - preventing you or any child who normally lives in the shared residence from entering or remaining in the residence or any part thereof;
  - committing any other act determined by the court.
8. You may request the court not to disclose your physical address to the respondent. The court may also, in order to protect you and to provide for your safety, health and wellbeing -
  - order that the respondent pay rent, mortgage or other monetary relief (such as medical expenses and loss of income);
  - refuse the respondent contact with your children;
  - order the seizure of any arm or dangerous weapon in the possession or under the control of the respondent;
  - order that a peace officer accompany you to assist you with the collection of your personal property;
  - impose any other condition it deems reasonably necessary.
9. The court will, when an order is made, issue a warrant of arrest for the respondent. This means that the respondent may be arrested if he or she fails to comply with any provision of the protection order and after you have given the police the warrant and an affidavit explaining that the respondent has

breached the order.

WARNING: It is a criminal offence if you knowingly give false information when applying for a protection order or when laying a criminal charge, you will be prosecuted and may be convicted.

**ANNEXURE**

**FORM 2**  
**[Regulation 4]**  
**APPLICATION FOR PROTECTION ORDER**  
**SECTION 4(1) OF THE DOMESTIC VIOLENCE ACT, 1998 (ACT NO. 116 OF 1998)**

**PART A : APPLICATION**

**(To be completed by applicant)**

**1. PARTICULARS OF COMPLAINANT (Victim of domestic violence)**

Surname :	
Full names :	
Id.No / Date of birth	
Home or temporary address :	
Home/contact telephone number :	
Work address :	
Work telephone number :	
Nature of domestic relationship with person who committed the act of domestic violence (Respondent):	
Occupation :	

**2. PARTICULARS OF PERSON MAKING THE APPLICATION ON BEHALF OF THE COMPLAINANT (if applicable)**

Surname :	
Full names :	
Id.No / Date of birth	
Home address :	
Home/contact telephone number :	
Work address :	
Work telephone number :	
Occupation :	
Capacity in which application is made :	
Nature of relationship with the complainant :	
State reason(s) why application is made on behalf of the complainant:	
Indicate whether written consent of complainant has been obtained : (Delete whichever is not applicable)	Written consent *has been obtained and is attached/is not necessary since the complainant is- <input type="checkbox"/> a minor (under the age of 21 years);

	<input type="checkbox"/> mentally retarded; <input type="checkbox"/> unconscious; <input type="checkbox"/> unable to provide consent because ..... .....
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**3. PARTICULARS OF PERSON WHO COMMITTED ACT OF DOMESTIC VIOLENCE (hereafter called the Respondent) - in so far as such particulars are available**

Surname :	
Full names :	
Id.No / Date of birth	
Home address :	
Home/contact telephone number :	
Work address :	
Work telephone number :	
Occupation :	

**4. PERSONS AFFECTED BY DOMESTIC VIOLENCE**

**4.1 Particulars of children and adults sharing the residence :**

Name :	Age :	Relationship to complainant

**4.2 How are these persons affected ?**

--

**4.3 Do any of these persons suffer disabilities? If so give details :**

--

**5. INFORMATION REGARDING ACTS OF DOMESTIC VIOLENCE**

*Give full details regarding all incidents of domestic violence and also indicate whether firearms or other dangerous weapons were used, what injuries have been sustained and whether medical treatment was obtained :*

--

**6. INFORMATION REGARDING URGENCY OF APPLICATION**

*Submit the reasons why the Court has to consider the application as a matter of urgency and why undue hardship may be suffered if the application is not dealt with immediately*

--

**7.TERMS OF PROTECTION ORDER**

***It is requested that the Respondent must be ordered (Mark appropriate box and complete where necessary) :***

(a)	Not to commit any act of domestic violence	
(b)	Not to get the help of another person to commit any act of domestic violence	
(c)	Not to enter the shared residence, situated at .....	
(d)	Not to enter a specified part of the shared residence, namely .....	
(e)	Not to enter the Complainant's residence, situated at .....	
(f)	Not to enter the Complainant's place of employment, namely .....	
(g)	Not to prevent the Complainant or any child who ordinarily live(s) or lived in the shared residence from entering or remaining in the shared residence or any part thereof, to wit .....	
(h)	Not to commit any other act, namely .....	

**8.ADDITIONAL CONDITIONS**

***It is also requested that the Court must order that (mark appropriate box and complete where necessary) :***

(a)	A peace officer, namely, ..... is to accompany the Complainant to assist with arrangements regarding the collection of the Complainant's personal property set out in paragraph 9, below.	
(b)	A member of the South African Police Service is to seize the following arm(s) or dangerous weapon(s) in the possession of the Respondent: .....	
(c)	The Respondent is to pay the following rent or mortgage payments: .....	
(d)	The Respondent is to pay the following emergency monetary relief: .....	
(e)	The Respondent is refused any contact with the following child or children: .....	
(f)	The Respondent is granted the following contact with the above-mentioned child or children: .....	
(g)	The physical address of the Complainant's residence not be disclosed to the Respondent .....	
(i)	Other conditions requested : .....	

**9.PERSONAL PROPERTY**

<b><i>Property description:</i></b>	<b><i>Grounds on which property is considered to be personal property :</i></b>	<b><i>Address where property is kept:</i></b>

**10.** I am likely to report a breach of the Protection Order at the \_\_\_\_\_ Police Station.

DEPONENT \_\_\_\_\_  
 (Person who applies for order)

DATE \_\_\_\_\_

**PART B : CERTIFICATION** (for official use)

11. I hereby certify that before administering the \*oath / taking the affirmation I asked the Deponent the following questions and noted \*her/his answers in \*her/his presence as indicated below:-

- (a) Do you know and understand the contents of the above declaration?  
 Answer \_\_\_\_\_.
- (b) Do you have any objection to taking the prescribed oath?  
 Answer \_\_\_\_\_.
- (c) Do you consider the prescribed oath to be binding on your conscience?  
 Answer \_\_\_\_\_.

I hereby certify that the Deponent has acknowledged that \*she/he knows and understands the contents of this declaration which was \*sworn to / affirmed before me, and the Deponent's \*signature / thumb print / mark was placed thereon in my presence.

Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_  
 \_\_\_\_\_ \*19/20\_\_\_\_\_.

**Justice of the Peace / Commissioner of Oaths**

Full Names \_\_\_\_\_

Designation \_\_\_\_\_

Area for which appointed \_\_\_\_\_

Business Address \_\_\_\_\_  
 \_\_\_\_\_

**\*Delete whichever is not applicable**

**NB: ONLY INCLUDED FOR INFORMATION PURPOSES**

**FORM 3**  
**[Regulation 5]**  
**INFORMATION NOTICE TO COMPLAINANT**  
**SECTION 4(2) OF THE DOMESTIC VIOLENCE ACT, 1998 (ACT 116 NO. OF 1998)**

1. You may lay a criminal complaint against the person who committed the act of domestic violence (hereafter called the respondent) if the conduct of the respondent constitutes a criminal offence which will be investigated by the police.
2. You may apply, on any day and at any time, for a protection order at the Magistrate`s Court in whose area -
  - you reside, carry on business or are employed, permanently or temporary ;
  - the respondent resides, carries on business or is employed;
  - the act of domestic violence occurred.
3. I am able to provide you with an application form if you want to apply for such an order. It is not necessary to lay a criminal charge in order to obtain a protection order.
4. The Court will consider your application and may thereafter issue a temporary order which will only come into effect -
  - after it has been delivered to the respondent (the cost of which you will have to pay unless you do not have the means to pay therefore) ; and
  - for a certain period of time.
5. After such period of time the Court will consider to issue a permanent order.
6. In your application you may request the Court to prohibit the respondent from -
  - committing any act of domestic violence;
  - enlisting the help of another to commit any act of domestic violence;
  - entering your home or the shared residence or any part thereof;
  - entering a specified part of the shared residence;
  - entering your workplace;
  - preventing you or any child who normally lives in the shared residence from entering or remaining in the residence or any part thereof;
  - committing any other act determined by the Court.
7. You may request the Court not to disclose your address to the respondent. The Court may also, in order to protect you and to provide for your safety, health and well-being -
  - order that the respondent pay rent, mortgage or other monetary relief (such as loss of earnings and medical expenses);
  - refuse the respondent contact with your children;
  - order the seizure of any arm or dangerous weapon in the possession or under the control of the respondent;
  - order that a peace officer accompany you to assist you with the collection of your personal property; and
  - impose any other condition it deems reasonably necessary.
8. The Court will, when an order is made, issue a warrant of arrest for the respondent, which means that the respondent may be arrested if he or she fails to comply with any provision of the protection order.

**WARNING:** It is a criminal offence if you should knowingly make a false allegation against the respondent in an affidavit.

**ANNEXURE F**

**NB: ONLY INCLUDED FOR INFORMATION PURPOSES**

**FORM 4**  
**[Regulation 6]**  
**INTERIM PROTECTION ORDER**  
**SECTION 5(2) OF THE DOMESTIC VIOLENCE ACT, 1998(ACT NO. 116 OF 1998)**

IN THE MAGISTRATE'S COURT FOR THE DISTRICT OF \_\_\_\_\_

HELD AT \_\_\_\_\_ APPLICATION NO. \_\_\_\_\_ / \_\_\_\_\_

In the matter between:

**APPLICANT:** \_\_\_\_\_

(\*Id.No./Date of Birth: \_\_\_\_\_)

**AND**

**RESPONDENT:** \_\_\_\_\_

(\*Id.No./Date of Birth: \_\_\_\_\_)

**1. PARTICULARS OF RESPONDENT**

Home Address: \_\_\_\_\_  
 \_\_\_\_\_ (Tel.No. \_\_\_\_\_)

Work Address: \_\_\_\_\_  
 \_\_\_\_\_ (Tel.No. \_\_\_\_\_),

Occupation: \_\_\_\_\_

**2. PARTICULARS OF APPLICATION**

The **Applicant** has applied for a Protection Order against the **Respondent** as per the affidavit(s) and record of oral evidence(if any) attached, which application has been considered by the Court.

**3. ORDER BY COURT AND PARTICULARS OF ORDER**

**3.1 The Court orders that :**

**3.1.1 \*The application for a Protection Order is dismissed; or**

**3.1.2 \*An Interim Protection Order is granted; and the Respondent is ordered-**

**3.1.2.1 \*not to commit the following act(s) of domestic violence \_\_\_\_\_**

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_;

**3.1.2.2** \*not to enlist the help of another person to commit the acts of domestic violence specified in paragraph 3.1.3;

**3.1.2.3** \*not to enter the shared residence at \_\_\_\_\_

**3.1.2.4** \*not to enter the following parts of the shared residence \_\_\_\_\_ at \_\_\_\_\_;

**3.1.2.5** \*not to enter the Complainant's residence at \_\_\_\_\_;

**3.1.2.6** \*not to enter the Complainant's place of employment at \_\_\_\_\_;

**3.1.2.7** \*not to prevent the Complainant or any child who ordinarily live(s) or lived in the shared residence at \_\_\_\_\_ from entering or remaining in the shared residence, or any part thereof;

**3.1.2.8** \*not to commit any of the following acts, \_\_\_\_\_;

**3.1.2.9** \*to make rent or mortgage payments in the sum of R \_\_\_\_\_ per month / annum;

**3.1.2.10** \*to pay the sum of R \_\_\_\_\_ to the Complainant as emergency monetary relief.

**4. ADDITIONAL ORDERS**

**4.1 It is further ordered that :**

**4.1.1** \*A peace officer, namely, \_\_\_\_\_ accompanies the Applicant to the following residence in order to assist with arrangements regarding the collection of personal property, i.e. \_\_\_\_\_;

**4.1.2** \*A member of the South African Police Service at \_\_\_\_\_ seizes the following arm(s) or dangerous weapon(s) in the possession of the Respondent, i.e. \_\_\_\_\_;

**4.1.3** \*The Complainant's physical address not be disclosed to the Respondent;

**4.1.4** \*The Respondent is ordered not to have any contact with the following child(ren) \_\_\_\_\_;

**4.1.5** \*The Respondent is allowed contact with the following child(ren) \_\_\_\_\_;

on the following basis: \_\_\_\_\_  
\_\_\_\_\_

**4.1.6** \*The Respondent \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_;

**4.2** A Warrant is authorised for the arrest of the Respondent, the execution of which is suspended subject to the Respondent’s compliance with the provisions of the Protection Order as stated above.

**4.3** A copy of this order and the warrant of arrest must be forwarded to the \_\_\_\_\_ Police Station, once this interim order has been served on the Respondent.

**5. DATE OF CONFIRMATION OF ORDER**

**5.1 The Respondent** is hereby informed of his/her right to appear in the Magistrate’s Court at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ at 08:30 in order to give reasons why the interim protection order should not be confirmed and made final; and of his/her right to have the matter heard on an earlier date after at least 24 hours’ written notice to the applicant and the aforesaid court.

**5.2 The Respondent** is further informed that if he or she does not appear in court on the above-mentioned date and time, and the court is satisfied that this notice was properly served on him or her, and is satisfied that he or she committed or is committing an act of domestic violence, this order will be confirmed and made final.

\_\_\_\_\_  
**MAGISTRATE**

\_\_\_\_\_  
**DATE**

\_\_\_\_\_  
\*Delete whichever is not applicable

**NB: ONLY INCLUDED FOR INFORMATION PURPOSES**

**FORM 5**  
**[Regulation 7]**  
**NOTICE TO RESPONDENT TO SHOW CAUSE (SUBMIT REASONS) WHY**  
**A PROTECTION ORDER SHOULD NOT BE ISSUED**  
**SECTION 5(4) OF THE DOMESTIC VIOLENCE ACT, 1998 (ACT NO. 116 OF 1998)**

IN THE MAGISTRATE'S COURT FOR THE DISTRICT OF \_\_\_\_\_  
 HELD AT \_\_\_\_\_ APPLICATION NO. \_\_\_\_\_ / \_\_\_\_\_  
 In the matter between:  
**APPLICANT:** \_\_\_\_\_  
 (\*Id.No./Date of Birth: \_\_\_\_\_)

**AND**  
**RESPONDENT:** \_\_\_\_\_  
 (\*Id.No./Date of Birth: \_\_\_\_\_)

**NOTICE TO RESPONDENT:**

**1. Particulars of Respondent:**

Home Address : \_\_\_\_\_  
 \_\_\_\_\_ (Tel.No. \_\_\_\_\_)  
 Work Address: \_\_\_\_\_  
 \_\_\_\_\_ (Tel.No. \_\_\_\_\_).

**2. Particulars of Application**

On ..... (date), the Applicant applied for a protection order against you. The Court considered the application but has not issued an interim protection order but will on the undermentioned date decide whether or not to issue a protection order against you.

**3. Protection Order**

- 3.1. You are hereby called upon to give reasons why a protection order should not be issued against you by the above-mentioned Court on the ..... day of ..... at 08:30, on the basis of the application and supporting affidavits, if any, of which certified copies are attached hereto.
- 3.2 If you so wish, the matter can be heard on a earlier date after you have given at least 24 hours` written notice to the applicant and the Court.
- 3.3 The Court will issue a protection order against you if you do not appear in the court on the abovementioned date and time, and if the Court is satisfied that this notice was properly served on you and that you have committed an act of domestic violence.

\_\_\_\_\_  
**CLERK OF THE COURT**

\_\_\_\_\_  
**DATE**



**NB: ONLY INCLUDED FOR INFORMATION PURPOSES**

**FORM 6  
[Regulation 8(a)]  
PROTECTION ORDER**

**SECTION 6 OF THE DOMESTIC VIOLENCE ACT, 1998 (ACT NO. 116 OF 1998)**

*(This form must be completed if an interim protection order was issued in terms of section 5(2))*

IN THE MAGISTRATE'S COURT FOR THE DISTRICT OF _____	
HELD AT _____	APPLICATION NO. _____ / _____
In the matter between:	
<b>APPLICANT:</b> _____	
(*Id.No./Date Birth: _____)	) of _____
<b>AND</b>	
<b>RESPONDENT:</b> _____	
(*Id.No./Date Birth: _____)	) of _____

**Whereas** the Applicant successfully applied for a protection order which was issued on the ..... day of ....., and **after** considering the facts of the matter;

**The Court orders that the attached interim protection order be :**

- 1.\*Confirmed;
- 2.\*Amended as follows: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ ; or
- 3.\*Set Aside.

A copy of this order and interim protection order, as well as the warrant of arrest for the Respondent must be forwarded to the ..... Police Station.

Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ \*19/20\_\_\_\_\_.

\_\_\_\_\_  
**MAGISTRATE** \_\_\_\_\_  
**DATE**

\*Delete whichever is not applicable

**ANNEXURE I**

**NB: ONLY INCLUDED FOR INFORMATION PURPOSES**

**FORM 7**  
**[Regulation 8(b)]**  
**PROTECTION ORDER**  
**SECTION 6 OF THE DOMESTIC VIOLENCE ACT, 1998 (ACT NO. 116 OF 1998)**  
*(This form must be completed if an interim protection order was not issued).*

IN THE MAGISTRATE'S COURT FOR THE DISTRICT OF \_\_\_\_\_

HELD AT \_\_\_\_\_ APPLICATION NO. \_\_\_\_\_ / \_\_\_\_\_

In the matter between:

**APPLICANT:** \_\_\_\_\_  
 \_\_\_\_\_ (\*Id.No./Date of Birth: \_\_\_\_\_)

**AND**

**RESPONDENT:** \_\_\_\_\_  
 \_\_\_\_\_ (\*Id.No./Date of Birth: \_\_\_\_\_)

**1. PARTICULARS OF RESPONDENT**

Home Address \_\_\_\_\_  
 \_\_\_\_\_ (Tel.No. \_\_\_\_\_)

Work Address: \_\_\_\_\_  
 \_\_\_\_\_ (Tel.No. \_\_\_\_\_),

Occupation: \_\_\_\_\_

**2. PARTICULARS OF APPLICATION**

**Whereas the Applicant** has applied for a Protection Order against the **Respondent** as per the affidavit(s) and record of oral evidence(if any) attached, and an interim protection order was not issued, and after consideration of the application the Court now makes the order hereunder.

**3. ORDER BY COURT**

- 3.1 The Court orders that :**
- 3.1.1 \*The application for a Protection Order is dismissed; or**
  - 3.1.2 \*An Interim Protection Order is granted; and the Respondent is ordered-**

3.1.2.1 \*not to commit the following act(s) of domestic violence

\_\_\_\_\_

\_\_\_\_\_

3.1.2.2 \*not to enlist the help of another person to commit the acts of domestic violence specified in paragraph 3.1.3;

3.1.2.3 \*not to enter the shared residence at \_\_\_\_\_

\_\_\_\_\_

3.1.2.4 \*not to enter the following parts of the shared residence

\_\_\_\_\_ at \_\_\_\_\_

\_\_\_\_\_;

3.1.2.5 \*not to enter the Complainant's residence at

\_\_\_\_\_;

3.1.2.6 \*not to enter the Complainant's place of employment at

\_\_\_\_\_

\_\_\_\_\_;

3.1.2.7 \*not to prevent the Complainant or any child who ordinarily live(s) or lived in the shared residence at \_\_\_\_\_ from entering or remaining in the shared residence, or any part thereof;

3.1.2.8 \*not to commit any of the following acts \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_;

3.1.2.9 \*to make rent or mortgage payments in the sum of R \_\_\_\_\_ per month / annum;

3.1.2.10 \*to pay the sum of R \_\_\_\_\_ to the Complainant as emergency monetary relief.

**4. ADDITIONAL ORDERS**

**4.1 It is further ordered that :**

4.1.1 \*A peace officer, namely, ..... accompanies the Applicant to the following residence in order to assist with arrangements regarding the collection of personal property, i.e. \_\_\_\_\_.

\_\_\_\_\_

\_\_\_\_\_;

4.1.2 \*A member of the South African Police Service at \_\_\_\_\_ seizes the following arm(s) or dangerous weapon(s) in the possession of the Respondent, i.e. \_\_\_\_\_;

4.1.3 \*The Complainant's physical address not be disclosed to the Respondent;



**4.1.4** \*The Respondent is ordered not to have any contact with the following child(ren)\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_;

**4.1.5** \*The Respondent is allowed contact with the following child(ren)

\_\_\_\_\_,  
on the following  
basis:\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_;

**4.1.6** \*The Respondent\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_;

**4.2** A Warrant is authorised for the arrest of the Respondent, the execution of which is suspended subject to the Respondent's compliance with the provisions of the Protection Order as stated above.

**4.3** A copy of this order and the warrant of arrest must be forwarded to the \_\_\_\_\_ Police Station, once this order has been served on the Respondent.

**MAGISTRATE** \_\_\_\_\_

**DATE** \_\_\_\_\_

\_\_\_\_\_  
\*Delete whichever is not applicable

**ANNEXURE J**

**FORM 8**  
**[Regulation 9]**  
**WARRANT OF ARREST**

**SECTION 8(1)(a) OF THE DOMESTIC VIOLENCE ACT, 1998 (ACT NO. 116 OF 1998)**

IN THE MAGISTRATE'S COURT FOR THE DISTRICT OF _____	
HELD AT _____	APPLICATION NO. _____ / _____
In the matter between:	
<b>APPLICANT:</b> _____	
(*Id.No./Date of Birth: _____)	
<b>AND</b>	
<b>RESPONDENT:</b> _____	
(*Id.No./Date of Birth: _____)	

**TO ALL MEMBERS OF THE SOUTH AFRICAN POLICE SERVICE:**

**Whereas** the attached Protection Order was granted against the Respondent by the Magistrate's Court for the district of \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ \*19/20\_\_ ; and

**Whereas** the Complainant has stated in the affidavit attached that the Respondent has breached (a) condition(s) of the Protection Order;

**Therefore** you are hereby authorised and ordered to forthwith arrest the Respondent in terms of the provisions of the Domestic Violence Act, 1998, if there are reasonable grounds to suspect that the Complainant may suffer imminent harm as a result of the alleged breach of the protection order by the Respondent.

GIVEN UNDER MY HAND AT \_\_\_\_\_ THIS \_\_\_\_ DAY OF \_\_\_\_\_ \*19/20\_\_.

\_\_\_\_\_  
 \_\_\_\_\_

MAGISTRATEDATE

\*Delete whichever is not applicable

**ANNEXURE K**

**FORM 9**  
**[Regulation 10]**  
**AFFIDAVIT FOR PURPOSES OF FURTHER WARRANT OF ARREST**  
**SECTION 8(3) OF THE DOMESTIC VIOLENCE ACT, 1998 (ACT NO.116 OF 1998)**

IN THE MAGISTRATE'S COURT FOR THE DISTRICT OF _____	
HELD AT _____	APPLICATION NO. _____ / _____
In the matter between:	
<b>APPLICANT:</b> _____	
	(*Id.No./Date Birth: _____) of _____
<b>AND</b>	
<b>RESPONDENT:</b> _____	
	(*Id.No./Date of Birth: _____)

<b>PART A : AFFIDAVIT</b>	<b>(To be completed by complainant)</b>
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**1. PARTICULARS OF COMPLAINANT**

Surname :	
Full names :	
Id.No / Date of birth :	
Home or temporary address :	
Home/contact telephone number :	
Work address :	
Work telephone number :	
Occupation :	

**2. PARTICULARS OF PROTECTION ORDER**

A protection order was granted and a warrant of arrest authorised on :	(Date)
In the Magistrate`s Court at :	
Against :	(Name of Respondent)

**3. PARTICULARS OF RESPONDENT**

Surname :	
Full names :	
Id.No / Date of birth	
Home address :	
Home telephone number :	
Work address :	
Work telephone number :	

**4. PARTICULARS OF APPLICATION**

4.1 I require a \*second/further warrant of arrest for my protection.

4.2. The existing warrant of arrest has been -

- (a) \*executed and cancelled; or
- (b)\*lost / destroyed, under the following circumstances:

\_\_\_\_\_

\_\_\_\_\_  
Signature of Deponent

\_\_\_\_\_  
Date

**\*Delete whichever is not applicable**

**PART B : CERTIFICATION** (for official use)

I hereby certify that before administering the \*oath / taking the affirmation I asked the Deponent the following questions and noted \*her/his answers in \*her/his presence as indicated below:-

- (a) Do you know and understand the contents of the above declaration?  
Answer \_\_\_\_\_.
- (b) Do you have any objection to taking the prescribed oath?  
Answer \_\_\_\_\_.
- (c) Do you consider the prescribed oath to be binding on your conscience?  
Answer \_\_\_\_\_.

I hereby certify that the Deponent has acknowledged that \*she/he knows and understands the contents of this declaration which was \*sworn to / affirmed before me, and the Deponent's \*signature / thumb print / mark was placed thereon in my presence.

Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ \*19/20 \_\_\_\_\_.

**Justice of the Peace / Commissioner of Oaths**  
Full Names \_\_\_\_\_  
Designation \_\_\_\_\_  
Area for which appointed \_\_\_\_\_  
Work Address \_\_\_\_\_

**\*Delete whichever is not applicable**

**ANNEXURE L**

**FORM 10**  
**[Regulation 11]**  
**AFFIDAVIT REGARDING CONTRAVENTION OF PROTECTION ORDER**  
**SECTION 8(4) OF THE DOMESTIC VIOLENCE ACT, 1998 (ACT NO. 116 OF 1998)**

<b>APPLICANT:</b>	
	(*Id.No./Date of Birth: _____)
<b>AND</b>	
<b>RESPONDENT:</b>	
	(*Id.No./Date of Birth: _____)

**PART A : AFFIDAVIT (To be completed by complainant)**

**1. PARTICULARS OF COMPLAINANT**

Surname :	
Full names :	
Id.No / Date of birth :	
Home or temporary address :	
Home/contact telephone number :	
Work address :	
Work telephone number :	
Occupation :	

**2. PARTICULARS OF PROTECTION ORDER**

A protection order was granted and a warrant of arrest authorised on :	(Date)
In the Magistrate`s Court at :	
Against :	(Name of Respondent)
<b>A copy of the Protection Order (indicating what orders were made), and the original warrant of arrest are attached.</b>	
A certified copy of the Protection Order and warrant of arrest were forwarded to the following Police Station :	..... ..... ..... .....

**3. PARTICULARS OF RESPONDENT**

Surname :	
Full names :	
Id.No / Date of birth	
Home address :	
Home telephone number :	
Work address :	
Work telephone number :	

**4. INFORMATION REGARDING BREACH OF PROTECTION ORDER**

Date(s) of breach of protection order:	..... ..... ..... .....
Place(s) where breach of protection order took place :	..... ..... ..... ..... ..... .....
Full details on how the conditions of the protection order were breached :	..... ..... ..... ..... .....
Reasons, if any, for believing that imminent harm may be suffered as a result of the breach of the protection order by the Respondent :	..... ..... ..... ..... ..... ..... ..... .....

Signature of Deponent \_\_\_\_\_

Date \_\_\_\_\_

**PART B : CERTIFICATION** (for official use)

I hereby certify that before administering the \*oath / taking the affirmation I asked the Deponent the following questions and noted \*her/his answers in \*her/his presence as indicated below:-

(a) Do you know and understand the contents of the above declaration?

Answer

\_\_\_\_\_.

(b) Do you have any objection to taking the prescribed oath?

Answer

\_\_\_\_\_.

(c) Do you consider the prescribed oath to be binding on your conscience?

Answer

\_\_\_\_\_.

I hereby certify that the Deponent has acknowledged that \*she/he knows and understands the contents of this declaration which was \*sworn to / affirmed before me, and the Deponent's \*signature / thumb print / mark was placed thereon in my presence.

Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_  
\*19/20\_\_.

**Justice of the Peace / Commissioner of Oaths**

Full  
Names \_\_\_\_\_

Designation \_\_\_\_\_

Area for which appointed \_\_\_\_\_

Work Address \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**\*Delete whichever is not applicable**

**FORM 11**  
**[Regulation 12(1)]**  
**NOTICE TO APPEAR BEFORE COURT**  
**SECTION 8(4)(c) OF THE DOMESTIC VIOLENCE ACT, 1998 (ACT NO.116 OF 1998)**

CASE NO. \_\_\_\_\_

IN THE MAGISTRATE`S COURT FOR THE DISTRICT \_\_\_\_\_

HELD AT \_\_\_\_\_ COURT \_\_\_\_\_

DATE OF TRIAL \_\_\_\_\_

**TO :**

Name of Respondent:		
Home address:		
Sex:	Occupation/Status:	Id No./Date of birth:

**You are hereby notified that you must appear personally before the above-mentioned Court on the date stated above at 08:30 on the following charge:**

**PARTICULARS OF CHARGE:**

You are guilty of the offence of contravening section 17(a) of the Domestic Violence Act, 1998 (Act No. 116 of 1998), in that upon or about the _____ day of _____ and at or near _____ in the district of _____ you _____ _____ _____ _____
--

*Note: (1) Please produce this document to the Clerk of the Court on the date of trial.  
 (2) By failing to appear before the Court as notified you may be convicted of an offence and upon conviction be sentenced to a fine or imprisonment for a period not exceeding six months.*

**CERTIFICATE:**

I \_\_\_\_\_(rank and name), in my capacity as a member of the South African Police Service stationed at \_\_\_\_\_, hereby certify that I have handed the original of this notice to the Respondent mentioned therein at \_\_\_\_\_(place) on \_\_\_\_\_(date) and that I explained the contents thereof to the said Respondent.

\_\_\_\_\_  
 (Name, rank and service no. of Member and date)

**ANNEXURE N**

**NB: ONLY INCLUDED FOR INFORMATION PURPOSES**

**FORM 12**  
**[Regulation 13]**  
**APPLICATION FOR VARIATION OR SETTING ASIDE OF PROTECTION ORDER**

**SECTION 10(1) OF THE DOMESTIC VIOLENCE ACT, 1998 (ACT NO. 116 OF 1998)**  
*(A copy of this Form must be forwarded to the other party)*

IN THE MAGISTRATE'S COURT FOR THE DISTRICT OF \_\_\_\_\_  
 HELD AT \_\_\_\_\_ APPLICATION NO. \_\_\_\_\_ / \_\_\_\_\_  
 In the matter between:

**APPLICANT:** \_\_\_\_\_  
 (\*Id.No./Date of Birth: \_\_\_\_\_ ) of \_\_\_\_\_

**AND**  
**RESPONDENT:** \_\_\_\_\_  
 (\*Id.No./Date of Birth: \_\_\_\_\_ )

**PART A : AFFIDAVIT (To be completed by applicant)**

**1. PARTICULARS OF APPLICANT**

Surname :	
Full names :	
Id.No / Date of birth :	
Home or temporary address :	
Home/contact telephone number :	
Work address :	
Work telephone number :	

---

\*Delete whichever is not applicable



**PART B : CERTIFICATION** (for official use)

I hereby certify that before administering the \*oath / taking the affirmation I asked the Deponent the following questions and noted \*her/his answers in \*her/his presence as indicated below:-

(a) Do you know and understand the contents of the above declaration?

Answer

\_\_\_\_\_.

(b) Do you have any objection to taking the prescribed oath?

Answer

\_\_\_\_\_.

(c) Do you consider the prescribed oath to be binding on your conscience?

Answer

\_\_\_\_\_.

I hereby certify that the Deponent has acknowledged that \*she/he knows and understands the contents of this declaration which was \*sworn to / affirmed before me, and the Deponent's \*signature / thumb print / mark was placed thereon in my presence.

Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_  
\*19/20\_\_.

**Justice of the Peace / Commissioner of Oaths**

Full

Names \_\_\_\_\_

Designation \_\_\_\_\_

Area for which appointed \_\_\_\_\_

Work Address \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\*Delete whichever is not applicable





**SAPS 508 (b)**

Vol no / Serial number	Datum en tyd van voorval / Date and time of incident	VB-nommer  OB-number	Besonderhede van klaer / Particulars of complainant	Besonderhede van lid (lede) wat voorval hanteer het / Particulars of member(s) who dealt with incident	Sakboekverwysing / Pocketbook reference	Soort van voorval / Type of incident

Uitslag/Outcome	Beskermingsbevel bestaan reeds / Protection Order already in existence		Beskermingsbevel ontvang van hof / Protection Order received from court			Kennisgewing aan die respondent om in die hof te verskyn / Notice to respondent to appear in court	
	Ja/Nee Yes/No	Stasie / Station	Datum / Date	Landdroshof / Magistrate Court	Lasbrief uitgereik: Ja/Nee Warrant issued: Yes/No	Volgnommer / Serial number	Lid wat uitreik / Issuing member

**ANNEXURE Q**



**SAPS 508 (a)**

SOUTH AFRICAN POLICE SERVICE

SUID-AFRIKAANSE POLISIEDIENS

Station  
Stasie: .....

Domestic Violence Register  
Gesinsgeweldregister:.....

**REPORT OF DOMESTIC VIOLENCE INCIDENT  
VERSLAG VAN VOORVAL VAN GESINSGEWELD**

**A. Particulars of complaint / besonderhede van Klaer:**

Surname: ..... Identification number: .....  
 Van..... Identiteitsnommer: .....  
 Full names: .....  
 Volle name: ..... Sex/Geslag:.....

RESIDENTIAL ADDRESS/WOONADRES	WORK ADDRESS/WERKSADRES
Tel. No.:	Tel. No.:

**B. Short description of incident of domestic violence / Kort beskrywing van voorval van gesinsgeweld:**

.....  
 .....  
 .....

*Domestic violence category (Mark with X) / Gesinsgeweldkategorie (Merk met X)*

Physical abuse/ Fisiese mishandeling		Sexual abuse / Seksuele mishandeling		Emotional, verbal and psychological abuse / Emosionele verbale en sielkundige mishandeling		Economical abuse Ekonomiese mishandeling	
Intimidation / Intimidasie	Harassment / Teistering	Stalking / Agtervolging		Contravention of existing protection order / Oortreding van bestaande beskermingsbevel		Damage to property / Beskadiging van eiendom	
Entry into complainant's home without consent, if parties do not share the same home / Betreding van klaer se woning sonder toestemming, waar partye nie dieselfde eiendom deel nie.				Any other controlling or abusive behaviour towards a complainant / Enige ander oorheersende of mishandelende gedrag teenoor die klaer			

Describe injuries suffered by complainant during the domestic violence incident / Beskryf die beserings  
 wat die klaer tydens die voorval van gesinsgeweld opgedoen het:

.....  
 .....

**C. Assistance to the complainant / Bystand aan die klaer:**

Did the complainant need or request medical assistance? Het die klaer mediese bystand benodig of versoek?	YES JA	NO NEE
--	-----------	-----------

If yes, or if the complainant is unable to answer due to the injuries sustained, the member must note all the steps taken to assist the complainant, including the availability of medical assistance, the name of the doctor contacted, whether a J88 was completed/Indien wel, of indien die klaer nie weens die beserings wat opgedoen is, in staat is om te antwoord nie, moet die lid alle stappe wat geneem is om die klaer by te staan, insluitend die beskikbaarheid van mediese bystand, die naam van die dokter wat gekontak is, of 'n J88 voltooi is, aanteken.

.....  
 .....

Did you enquire from the complainant whether he or she needs a shelter? Het u van die klaer verneem of hy of sy skulping benodig?	YES JA	NO NEE
--	-----------	-----------

If yes, what steps did you take? / Indien wel, watter stappe het u geneem?

.....  
 .....  
 .....

Did you enquire from the complainant whether he or she wants to apply for a protection order? Het u van die klaer verneem of hy of sy vir 'n beskermingsbevel aansoek wil doen?	YES JA	NO NEE
--	-----------	-----------

If yes, did the complainant understand the application process? Indien wel, het die klaer die aansoekprosedure begryp?	YES JA	NO NEE
---	-----------	-----------

Did you enquire from the complainant whether this was his or her first report to the Police pertaining to domestic violence where the respondent was involved? Het u van die klaer verneem of dit sy of haar eerste klagte aan die Polisie was rakende 'n geval van gesinsgeweld waarby the respondent betrokke was?	YES JA	NO NEE
---	-----------	-----------

If no, state where and when previous incident were reported / Indien nie, meld waar en wanneer vorige gevalle aangemeld is:

.....  
 .....

Did you enquire from the complainant whether he or she has laid a criminal charge against the respondent before? Het u van die klaer verneem of hy of sy voorheen 'n kriminele klagte teen die respondent gelê het?	YES JA	NO NEE
--	-----------	-----------

If yes, state when, where and the case number(s) (if available) / Indien wel, meld wanneer, waar en die saaknommer(s) (indien beskikbaar):

.....  
 .....

Did you enquire from the complainant whether he or she wants to lay a criminal charge, if the conduct of the respondent constitutes a criminal offence? Indien die gedrag van die respondent 'n misdryf daarstel, het u van die klaer verneem of hy of sy 'n kriminele klagte wil lê?	YES JA	NO NEE
--	-----------	-----------



## NATIONAL INSTRUCTION 7/1999

### DOMESTIC VIOLENCE

#### 1. Background

The Domestic Violence Act, 1998 (Act No. 116 of 1998), (hereinafter referred to as the *Domestic Violence Act*) imposes certain obligations on a member who receives a complaint of domestic violence. This instruction is intended to provide clear direction to a member on how to respond to a complaint of domestic violence in order to comply with the obligations imposed upon him or her in terms of the *Domestic Violence Act*.

#### 2. Definitions

In this instruction, unless the context otherwise indicates, -

*complainant* means any person who is or has been in a domestic relationship with another person and who is alleged to be or to have been subjected by such other person (hereinafter referred to as the *respondent*) to an act of *domestic violence* and includes any child in the care of the *complainant*;

*domestic violence* means any one or more of the following forms of conduct performed by a *respondent* in respect of a *complainant* which consists of:

- (a) **physical abuse**, consisting of any act or threatened act of physical violence;
- (b) **sexual abuse**, consisting of conduct that abuses, humiliates, degrades or violates the sexual integrity of the *complainant*;
- (c) **emotional, verbal and psychological abuse**, consisting of a pattern of degrading or humiliating conduct which may consist of -
  - repeated insults, ridicule, or name calling;
  - repeated threats to cause emotional pain; or
  - the repeated exhibition of obsessive possessiveness or jealousy which is such as to constitute a serious invasion of the privacy, liberty, integrity or security of the *complainant*;
- (d) **economic abuse**, which may consist of -
  - the unreasonable withholding of economical or financial resources from a *complainant* who is legally entitled thereto or which the *complainant* requires of necessity, including the withholding of household necessities from the *complainant* or refusal to pay mortgage bond repayments or rent in respect of the shared residence; or
  - the unreasonable disposal of household effects or other property in which the *complainant* has an interest;
- (e) **intimidation**, by uttering or conveying a threat or causing the *complainant* to receive a threat which induces fear;
- (f) **harassment**, consisting of a pattern of conduct which induces fear of harm to the *complainant*, including repeatedly -
  - watching or loitering outside of or near the building or place

- where the *complainant* resides, works, carries on business, studies or happens to be;
- making telephone calls to the *complainant*, whether or not conversation ensues, or inducing another to do so;
  - sending, delivering or causing the delivery of letters, telegrams, packages, facsimiles, electronic mail or other objects to the *complainant*;
- (g) **stalking**, by repeatedly following, pursuing or accosting the *complainant*;
- (h) **damaging of property**, consisting of the wilful damaging or destruction of property belonging to a *complainant* or in which the *complainant* has a vested interest;
- (i) **entry into the residence of the *complainant* without consent where the parties do not share the same residence**; or
- (j) **any other controlling or abusive behaviour towards a *complainant***;  
where such conduct harms, or may cause imminent harm to the safety, health or well-being of the *complainant*;

*domestic relationship* means a relationship between a *complainant* and the respondent where they -

- (a) are or were married to each other in terms of any law, custom or religion;
- (b) live or lived together in a relationship in the nature of a marriage (whether they are of the same or of the opposite sex);
- (c) are the parents of a child or have or had parental responsibility for the child (whether or not at the same time);
- (d) are family members related by consanguinity, affinity or adoption;
- (e) are or were in an engagement, dating or customary relationship: including an actual or perceived romantic, intimate or sexual relationship of any duration; or
- (f) share or recently shared the same residence;

*residence* also institutions for children, the elderly and the disabled; and

*respondent* means any person who is or has been in a *domestic relationship* with a *complainant* and who allegedly commits or has committed *domestic violence* against the *complainant*.

### 3. Responsibilities of station commissioner

- (1) Every station commissioner must liaise with local representatives of the Department of Welfare, the local Community Police Forum and any other relevant local institution, to identify local organisations which are willing and able to provide counselling and other support services (including medical services and suitable shelter) to *complainants*.
- (2) After having identified the organisations referred to in subparagraph (1), the station commissioner must liaise with the said organisations to determine -
  - (a) the specific services that are rendered by each;

- (b) whether the services are rendered after hours, during weekends and on public holidays;
  - (c) whether the services are rendered free of charge or at a fee; and
  - (d) the contact particulars of each.
- (3) The station commissioner must compile a list of the relevant organisations and include in it, in respect of each organisation, at least the information referred to in subparagraph (2) as well as information relating to hospitals, ambulance services and medical practitioners that may be utilised to provide medical treatment to *complainants*.
- (4) The original list referred to in subparagraph (3) must be kept by the station commissioner who must update it at least once every six months.
- (5) The station commissioner must ensure that a copy of -
- (a) the *Domestic Violence Act*;
  - (b) the Regulations promulgated in terms thereof;
  - (c) this National Instruction;
  - (d) the station orders issued by him or her in terms of subparagraph (6); and
  - (e) the list referred to in subparagraph (3);
- are at all times available in the Community Service Centre and that a copy of the list referred to in subparagraph (3) is at all times available in each police vehicle at his or her station which is utilized to attend to complaints.
- (6) The station commissioner must, taking into account the unique circumstances prevailing in his or her specific station area, available resources, etc., issue station orders -
- (a) requiring a member under his or her command to inform a *complainant* of the services rendered by organisations mentioned in the list and how to inform the *complainant* thereof (e.g. by providing the *complainant* with a copy of the list or allowing the *complainant* to peruse the list or reading the information from the list to the *complainant*);
  - (b) setting out the steps that must be taken by such member to assist the *complainant*, when requested thereto by the *complainant*, to gain access to any service rendered by an organisation mentioned in the list or to obtain medical treatment should this be required; and
  - (c) in general, instructing members under his or her command on any other matter relating to the treatment of *complainants* of *domestic violence* which he or she deems necessary to determine in respect of his or her specific station area.
- (7) Where a police station area forms part of a larger area consisting of more than one police station area and a radio control unit has been established to patrol and attend to complaints in such larger area, every station commissioner of a station in such larger area must, for

information purposes, provide the commander of such radio control unit with a copy of -

- (a) the list referred to in subparagraph (3) and, when he or she has updated the list, a copy of the updated version thereof; and
- (b) a copy of the station orders issued in accordance with subparagraph (6) and, if he or she amends the orders, a copy of the updated version thereof.

#### **4. Receiving complaints of *domestic violence*: responsibility of Community Service Centre commander**

- (1) Every Community Service Centre commander must ensure that copies of the documentation referred to in paragraph 3(5) (above) are at all times available in the Community Service Centre.
- (2) If an incident of *domestic violence* is -
  - (a) telephonically reported to the Community Service Centre or to a radio control unit by the *complainant* or any other person; or is
  - (b) reported in person to the Community Service Centre by someone other than the *complainant*,the Community Service Centre commander or member receiving the report must endeavour to obtain sufficient information concerning the incident to make it possible to comply with subparagraph (3).
- (3) If an incident of *domestic violence* is reported in the manner referred to in subparagraph (2), the Community Service Centre commander or person answering the telephone, must, -
  - (a) without any unreasonable delay, ensure that a police vehicle from the appropriate radio control unit or station is despatched to the *complainant* to attend to the matter;
  - (b) ensure that the crew of such vehicle is informed -
    - (i) whether any violence or threatened violence is allegedly or has allegedly been involved in the incident; and
    - (ii) who the *complainant* is.
- (4) If a *complainant* reports an incident of *domestic violence* in person at the Community Service Centre, the Community Service Centre commander must ensure that the steps set out in paragraph 5(2)(a)-(d) (below) are taken.

#### **5. Responsibility of a member**

- (1) A member who attends a scene of *domestic violence* must first of all determine whether the *complainant* is in any danger and take all reasonable steps to secure the scene as set out in paragraph 6 (below) and to protect the *complainant* from any danger.
- (2) Once the scene has been secured, the member must -
  - (a) render such assistance to the *complainant* as may reasonably be required in the circumstances (this is more fully set out in paragraph 7 (below));
  - (b) if it is reasonably possible to do so, hand the Notice,

- contemplated in paragraph 10 (below), to the *complainant* and explain the contents of such notice to the *complainant*;
- (c) assist the *complainant* or make arrangements for the *complainant* to find a suitable shelter and to obtain medical treatment, as set out in paragraphs 8 and 9 (below); and
  - (d) investigate the alleged incident of *domestic violence* and gather all available evidence in respect of any offence which may have been committed during such incident.

## 6. Securing a scene of *domestic violence*

- (1) Due to the high risk inherent to and volatility of *domestic violence* incidents, a member must be extremely careful when responding to a call to a scene of *domestic violence* and should, whenever reasonably possible, not go alone to the scene.
- (2) Upon arriving at the scene, the member must attempt to locate the *complainant* and determine whether the *complainant* is in any danger.
- (3) If the *complainant* is located and he or she is not inside a building or similar structure, the *complainant* must be interviewed to determine whether he or she is in any immediate danger. If the *complainant* does not seem to be in any immediate danger, the steps set out in paragraph 5(2)(a)-(d) (above) must be followed. If the *complainant* is in any danger, the member must take the necessary steps to ensure the safety of the *complainant*.
- (4) If it is established that the *complainant* is inside a building or similar structure, the member must determine whether there are reasonable grounds to suspect that an offence has been committed against the *complainant*.
- (5) If a member has reasonable grounds to suspect that an offence has been committed and that the *complainant* may furnish information regarding the offence, such member -
  - (a) may, where necessary, if the *complainant* is inside a building or similar structure, exercise his or her powers in terms of sections 26 and 27 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977) (hereinafter referred to as the *Criminal Procedure Act*), to enter the premises and building and interview and take a statement from the *complainant*, as this will enable him or her to determine whether the *complainant* is in any danger and what steps to take to protect the *complainant* from harm or further harm: Provided that a member may not, if the *complainant* is inside a private dwelling and the member is refused entry into the dwelling, forcibly enter the dwelling in terms of the said provisions;
  - (b) must, if the *complainant* is inside a private dwelling and the member is refused entry into the dwelling, take reasonable steps to communicate with the persons inside the dwelling to

- determine whether any person inside the dwelling is in any imminent danger, and -
- (i) may, if he or she has reasonable grounds to believe that any person inside the dwelling is in imminent danger and that a forcible entry is necessary to protect the person, use minimum force to gain entry to the dwelling in order to protect the *complainant* or any other person from imminent physical harm (Circumstances which may indicate to the need for such action include cries for help, visible injuries or weapons, obvious signs that a struggle has occurred or the account of a witness that a crime has been committed and that the *complainant* could reasonably be expected to be injured and in need of urgent medical attention.); or
  - (ii) must, if he or she is satisfied that there are no reasonable grounds to believe that any person inside the dwelling is in any imminent danger, withdraw and make an entry in his or her Pocket Book (SAPS 206) setting out the reasons why he or she is so satisfied.
- (6) If the member does not have reasonable grounds to believe that an offence has been committed and that the *complainant* is inside a building or structure (including a private dwelling), the member may not act in terms of sections 26 and 27 of the *Criminal Procedure Act* and must request permission to enter the building or structure and,
- (a) if given permission to do so, enter the building or structure and interview the *complainant* to determine whether he or she is in any immediate danger. If the *complainant* does not seem to be in any immediate danger, the steps set out in paragraph 5(2)(a)-(e) (above) must be followed. If the *complainant* is in any danger, the member must take the necessary steps to ensure the safety of the *complainant*; and
  - (b) if refused permission to do so, act as set out in subparagraph (5)(b) (above).
- (7) Securing a scene of *domestic violence* may require the separation of the *complainant* and *respondent* and may include arresting the *respondent* in terms of section 3 of the *Domestic Violence Act* and section 40(1)(q) of the *Criminal Procedure Act*, which empowers a member to arrest without a warrant any person who is or has been in a domestic relationship with the *complainant* and whom the member reasonably suspects of having committed an offence containing an element of violence against the *complainant* (therefore including the offence of common assault). (See Standing Order 341 for general information concerning "Arrest").
- (8) Where a member has reason to believe that a person -
- (a) who has threatened or expressed the intention to kill or injure himself or herself or any other person by means of a firearm; or,
  - (b) who is in possession of a firearm and whose possession thereof

is not in his or her interest or in the interest of any other person as a result of his or her mental condition, his or her inclination to violence (whether an arm was used in the violence or not), or his or her dependence on intoxicating liquor or a drug which has a narcotic effect,

such member may at any time, in terms of section 41(1) of the Arms and Ammunition Act, 1969 (Act No. 75 of 1969), without a warrant enter upon and search such place or search such person and seize any arm or ammunition, for the purposes set out in section 11 of the said Act (which *inter alia* provides that the National Commissioner may declare a person to be unfit to possess arms).

- (9) A member who seizes a firearm in accordance with subparagraph (8), must ascertain whether such firearm is licensed and, if not, include the offence in the docket.

## 7. Duty to render general assistance to the *complainant*

- (1) In terms of the *Domestic Violence Act* a *complainant* may approach the Service for assistance at any time, irrespective of when or where the incident took place. Where a criminal charge is laid by the *complainant*, it is the responsibility of the member receiving the complaint to open a docket and have it registered for investigation and the member may not avoid doing so by directing the *complainant* to counselling or conciliation services.
- (2) When a member locates a *complainant* after having received a complaint of *domestic violence* or the *complainant* reports an incident of *domestic violence* at the Community Service Centre, such assistance as may reasonably be required in the circumstances must be rendered to the *complainant*.
- (3) To comply with this duty, a member -
- (a) must render such assistance as may be required by station orders provided for in paragraph 3(6)(c) (above) including assistance to the *complainant* to lay a criminal charge; and
  - (b) may, where it is reasonable to do so, contact a family member or friend of the *complainant* to render support to the *complainant*.
- (4) Any assistance rendered to the *complainant* in terms of subparagraphs (1) - (3) must -
- (a) if it is rendered at the Community Service Centre, be recorded in the Occurrence Book; or
  - (b) if it is rendered at another place, be recorded in the Pocket Book (SAPS 206) of the member rendering the assistance.

## 8. Duty to assist the *complainant* to find suitable shelter

- (1) In terms of the *Domestic Violence Act*, a member must assist the *complainant* to find suitable shelter or make arrangements for the *complainant* to find suitable shelter.

- (2) To comply with this duty, a member must comply with any station orders issued in this regard, as provided for in paragraph 3(6) (above), and must at least -
- (a) provide the *complainant* with the names, contact numbers and/or addresses of any organisation in the area which may be able to provide suitable shelter and relevant support and/or counselling services;
  - (b) at the request of the *complainant* and where it is reasonably possible to do so, contact on behalf of the *complainant* an organisation which may render relevant assistance to the *complainant*; and
  - (c) at the request of the *complainant*, assist in arranging transport for the *complainant* to a suitable shelter or an organisation that may be able to render relevant support and/or counselling (e.g. by contacting the family or friends of the *complainant* with a request to transport the *complainant*, arranging for a taxi at the expense of either the *complainant* or a willing family member or friend, etc.). A member may, only as a last resort, transport a *complainant* in a police vehicle to find a suitable shelter if such a vehicle is available and there is no other means of transport. In such an event the *complainant* must be informed that he or she is being transported at his or her own risk.
- (3) Any assistance rendered to the *complainant* in terms of subparagraphs (1) and (2) must -
- (a) if it is rendered at the Community Service Centre, be recorded in the Occurrence Book; or
  - (b) if it is rendered at another place, be recorded in the Pocket Book (SAPS 206) of the member rendering the assistance.

## **9. Duty to assist the *complainant* to obtain medical treatment**

- (1) In terms of the *Domestic Violence Act* a member must assist the *complainant* to obtain medical treatment or make arrangements for the *complainant* to obtain medical treatment.
- (2) To comply with this duty, a member must comply with any station orders issued by the station commissioner in this regard as provided for in paragraph 3(6) (above) and must at least -
- (a) ask the *complainant* whether he or she requires medical treatment; and, if so,
  - (b) assist or make arrangements for the *complainant* to receive medical treatment; and
  - (c) if a criminal charge has been laid, issue a J88 and SAPS 308 to the *complainant* for completion by a registered medical practitioner. (Where possible and provided transport is available, the member must arrange for the *complainant* to be taken to the registered medical practitioner.) A member may, only as a last resort, transport a *complainant* in a police vehicle to receive medical treatment if such a vehicle is available and

there is no other means of transport. In such an event the *complainant* must be informed that he or she is being transported at his or her own risk.

- (3) Any assistance rendered to the *complainant* in terms of subparagraphs (1) and (2) must -
  - (a) if it is rendered at the Community Service Centre, be recorded in the Occurrence Book together with a description of any injuries to the *complainant* that the member may have observed; or
  - (b) if it is rendered at another place, be recorded in the Pocket Book (SAPS 206) of the member rendering the assistance together with a description of any injuries that the member may have observed.

## 10. Provide *complainant* with Notice and explain content to *complainant*

- (1) In order to ensure that a *complainant* is informed of his or her rights as well as the remedies at his or her disposal in terms of the *Domestic Violence Act*, the member must, where reasonably possible to do so, hand to the *complainant* a copy of the Notice as provided for in the *Domestic Violence Act* (Form 1 to the Regulations in terms of the Act) in the official language of the *complainant's* choice.
- (2) The remedies at the disposal of a *complainant* in terms of the *Domestic Violence Act*, are as follows:
  - (a) the right to lay a criminal charge;
  - (b) the right to apply for a protection order; or
  - (c) the right to lay a criminal charge as well as apply for a protection order.

It is important to inform the *complainant* that laying a criminal charge is not a prerequisite for applying for a protection order.
- (3) As the Notice must be provided to the *complainant* in the official language of his or her choice, the member must ascertain what language the *complainant* understands.
- (4) Once a member has determined what language the *complainant* understands, the following steps must be taken:
  - (a) If the language is one of the official languages of the Republic, the member must -
    - (i) if the member can speak and understand that language, hand a copy of the Notice to the *complainant* in that language and explain the contents thereof to the *complainant*;
    - (ii) if he or she cannot speak and understand that language and -
      - (aa) someone is available who can speak and understand that language, request such person to explain the contents of the Notice to the *complainant* in that language; or

- (bb) if no one is available who can speak and understand that language, take all reasonable steps to find someone who can speak and understand that language. If such a person is found, paragraph (aa) must be complied with.

For the purpose of this paragraph, use must be made of the different translations of the Notice into the official languages of the Republic.

- (b) If the language is not one of the official languages of the Republic the member must -
    - (i) if he or she can communicate in that language, convey the contents of the Notice to the *complainant* in that language;
    - (ii) if he or she cannot communicate in that language and -
      - (aa) someone is available who can communicate in that language, request such person to convey the contents of the Notice to the *complainant* in that language; or
      - (bb) if no one is available who can communicate in that language, take all reasonable steps to find someone who can communicate in that language. If such a person is found, paragraph (aa) must be complied with.
  - (c) Any steps taken in terms of subparagraphs (a)(ii)(bb) or (b)(ii)(bb) must -
    - (i) if they are taken at the Community Service Centre, be recorded in the Occurrence Book; or
    - (ii) if they are taken at another place, be recorded in the Pocket Book (SAPS 206) of the member taking the steps.
- (5) The member must request the *complainant* to sign in the Occurrence Book or in his or her Pocket Book, whichever may be applicable, at the relevant entry referred to in subparagraph (4)(c). By so doing, the *complainant* acknowledges that he or she has been informed of his or her rights and remedies in terms of the *Domestic Violence Act* and that he or she understands the contents thereof.
- (6) If the *complainant* refuses to sign in the Occurrence Book or in the Pocket Book or is unable to do so, a third person, who witnessed the rights and remedies being explained to the *complainant*, must be requested to sign in the Occurrence Book or Pocket Book to certify that he or she has witnessed this and that the *complainant* refused to sign in the Occurrence Book or Pocket Book, whichever may be applicable.

## 11. Specific powers and duties of members in terms of the *Domestic Violence Act*

### (1) Seizure of arms and dangerous weapons in terms of a court order

- (a) The court may, in terms of section 7(2)(a) of the *Domestic Violence Act*, order a member to seize any arm or dangerous weapon in the possession or under the control of a *respondent*.
- (b) Any such firearm seized must be handed in at the police station to be dealt with in accordance with section 11 of the Arms and Ammunition Act, 1969.
- (c) Any dangerous weapon seized must be handed in at the police station and a SAPS 13 tag must be attached to such weapon and the weapon must be retained in police custody for such period of time as the court may determine and may only be returned to the *respondent* or, if the *respondent* is not the owner of the dangerous weapon, to the owner thereof, by order of court and on such conditions as the court may determine.
- (d) The normal procedures, as set out in Standing Orders 332-336, and which are applicable to exhibits or lost or stolen property must be followed, bearing in mind the provisions of section 9(3) of the Act which provides that such dangerous weapon may only be disposed of in accordance with an order of court.

### (2) Arresting a person with a warrant who contravenes a protection order

- (a) Where a *respondent* has contravened any prohibition, condition, obligation or order contained in a protection order, a *complainant* may hand the warrant of arrest together with an affidavit, wherein it is stated that the *respondent* contravened such protection order, to any member.
- (b) If, upon receipt of the warrant of arrest together with the affidavit, referred to in subparagraph (a) (above), it appears to the member that there are reasonable grounds to suspect that the *complainant* may suffer imminent harm as a result of the alleged breach of the protection order, the member must arrest the *respondent* for contravening the protection order on the strength of the warrant.
- (c) In considering whether or not the *complainant* may suffer imminent harm, a member must take the following into account:
  - (i) the risk to the safety, health or well-being of the *complainant*;
  - (ii) the seriousness of the conduct comprising the alleged breach of the protection order; and
  - (iii) the length of time since the alleged breach has occurred: Provided that if the respondent is under the influence of liquor to such an extent that a Notice (referred to in subparagraph (d)(below)) cannot be handed to him or her, the respondent must be arrested.

- (d) If the member is of the opinion that there are insufficient grounds to arrest the *respondent*, he or she must immediately hand a Notice to the *respondent* as provided for in Form 11 to the Regulations. The member must insert the first court day thereafter as date of appearance on the form and complete the certificate, provided for in the Notice. The member must put the duplicate original of this Notice in the docket which is opened for the contravention. This docket must be taken to court on the first court day thereafter.
- (e) Whenever a warrant of arrest is handed to a member of the Service as contemplated in subparagraph (a) (above), the member must inform the *complainant* of his or her right to simultaneously lay a criminal charge against the *respondent*, if applicable, and explain to the *complainant* how to lay such a charge.

**(3) Service of documents**

A member may be ordered by the court to serve an interim or final protection order. If a member is ordered to serve an interim protection order, the member must serve the order without delay as it only becomes binding on the *respondent* once the order has been served on him or her. As long as an interim protection order remains unserved, the *complainant* may be in danger. A final protection order becomes binding immediately upon it being issued even though it may not have been served.

**(4) Accompanying *complainant* to collect personal property**

- (a) The court may in a protection order, order a peace officer (which includes any member) to accompany the *complainant* to a specified place to assist with arrangements regarding the collection of the personal property specified in the order. It is important to note that the purpose of accompanying the *complainant* is to ensure the safety of such *complainant* and not to involve the member in any dispute regarding the ownership of such personal property. Such member must take reasonable steps to ensure the safety of the *complainant* during the collection of the property.
- (b) The *complainant* and the member may enter the premises mentioned in the protection order in order to collect the personal property of the *complainant* as stipulated in the protection order. Before entering a private dwelling, the *complainant* and the member must however audibly demand admission and must notify the occupant of the purpose for which they seek to enter the dwelling.
- (c) If, after having audibly demanded admission to a private dwelling, consent to enter is refused by the respondent, he or she contravenes the protection order and is therefore guilty of contempt of court. In such a case, the member may use such force as may be reasonably necessary in the circumstances to overcome any resistance against entry, including the breaking

open of any door or window of such premises and enter the premises and arrest the respondent, whereafter the *complainant* may collect the said personal belongings.

- (d) If a member is approached by a *complainant* to accompany him or her and it is not possible to do so immediately, the member must, if no other peace officer is available to accompany the *complainant*, arrange a reasonable time when it will be suitable to do so.
- (e) If a peace officer accompanies a *complainant* in accordance with a protection order to collect his or her personal property, the peace officer must ensure the safety of the *complainant* while he or she removes the property specified in such protection order.

## 12. Keeping of records relating to incidents of *domestic violence*

- (1) All *domestic violence* incidents which are reported to a police station must be recorded in the Domestic Violence Register (SAPS 508(b)) and it is the responsibility of the station commissioner to ensure that an accurate record is kept of all *domestic violence* incidents.
- (2) Members must fully document their responses to every incident of *domestic violence* on a "Report of Domestic Violence Incident"-form (SAPS 508(a)) regardless of whether or not a criminal offence has been committed. A file with reference 39/4/2/3 must be opened every month and all the forms SAPS 508(a) which are completed during that month, must be filed in it. The month concerned must be recorded after the reference number, for example all the SAPS 508(a) forms which are completed during January 2000 must be filed with the reference 39/4/2/3(1/2000).
- (3) If a member attends a scene of *domestic violence* and no charges are laid or arrests made, the member must record the reasons why this was not done in his or her Pocket Book (SAPS 206).
- (4) Certified copies of protection orders and of the warrants of arrest as provided for in the *Domestic Violence Act*, will be forwarded by the clerk of the court to the Community Service Centre of the *complainant's* choice. Particulars of the protection order must be entered in the appropriate columns of the Domestic Violence Register (SAPS 508(b)) where an entry has already been made in respect of the *complainant*. Where no entry exists, a new entry must be made.
- (5) A copy of every protection order and warrant of arrest that is received, must be filed in a separate file (under reference 39/4/3/1) which must be opened in accordance with the Registration and Record Control Procedure which forms part of the Record Classification System which was implemented on 15 September 1997. Every file must be allocated a case number to facilitate finding it (e.g. 39/4/3/1(1) Koos Nel). The number of the case (in the above example (1)), must correspond with the number appearing in the index system created as set out in the

fourth paragraph under section 16.2 of the Registration and Record Control Procedure. These files must be kept in a place which is accessible after hours, to ensure that they are readily available for checking purposes in the event of an alleged breach of the protection order.

- (6) Disposal of the aforementioned files must take place in accordance with the approved disposal authorisation.

### **13. Complaints regarding non-compliance by members and notification of such non-compliance to the Independent Complaints Directorate**

- (1) In terms of the *Domestic Violence Act*, a failure by a member to comply with an obligation imposed in terms of the Act or this national instruction constitutes misconduct. Disciplinary proceedings must therefore be instituted, in accordance with regulation 8 of the Discipline Regulations, against a member who fails to comply with an obligation imposed in terms of the *Domestic Violence Act* or this National Instruction.
- (2) It is the responsibility of the commander of a member to institute disciplinary proceedings against such member who failed to comply with an obligation imposed in terms of the Act or this National Instruction. Where the commander is of the opinion that disciplinary proceedings should not be instituted against such member, the commander must apply to the Independent Complaints Directorate for exemption. Such an application must contain a full report, which includes the reasons for the application for exemption, and must be forwarded to the offices of the area commissioner within 30 days after the receipt of the complaint.
- (3) The area commissioner must, if he or she agrees that no disciplinary action should be taken, submit the application referred to in subparagraph (2) above, within 14 days after the receipt of the application, to the provincial commissioner, who must, if he or she agrees that no disciplinary action should be taken, immediately submit such application to the provincial office of the Independent Complaints Directorate.
- (4) The provincial office of the Independent Complaints Directorate has agreed to inform the provincial commissioner in writing, within 30 days after the receipt of the application for exemption, whether exemption has been granted or not and, in the event that the exemption has not been granted, of the reasons why such exemption was not granted.
- (5) Progress reports pertaining to disciplinary proceedings instituted against members in terms of section 18(4) of the Act, must on a monthly basis be forwarded by a commander to the area

commissioner.

## 14. Keeping of record of complaints against members

- (1) Every station commissioner must keep a record of -
  - (a) the number and particulars of complaints received against members under his or her command in respect of any failure to comply with obligations in terms of the *Domestic Violence Act* or these instructions;
  - (b) the disciplinary proceedings instituted as a result thereof and the decisions which emanated from such proceedings; and
  - (c) steps taken as a result of recommendations made by the Independent Complaints Directorate.
  
- (2) Every allegation of misconduct regarding an alleged failure by a member to comply with any obligation in terms of the *Domestic Violence Act*, the Regulations in terms of that Act or the National Instruction issued in this respect, that was received during the previous month, must be recorded on the SAPS 508-form. This return must be submitted to the relevant area commissioner before the third working day of each month.
  
- (3) A consolidated return on SAPS 508 must be submitted by the area commissioner to the provincial commissioner before the seventh working day of each month. The provincial commissioner must furnish a consolidated return before the tenth working day of each month to the provincial office of the Independent Complaints Directorate and to the Divisional Commissioner: Crime Prevention for submission to Parliament, as required by section 18(5)(d) of the Act.
  
- (4) If disciplinary proceedings against a member have not been completed, the return of the subsequent month must again contain particulars concerning the complaint. In such a case, the monthly serial number in the first column must remain the same. (Example: The February return will, once again, refer to a complaint received in January, but which was not finalized in January before the January return was completed. Such an entry must appear on the return before any new complaints that were received in February. The January complaint will keep the January serial number, example 13/1/2000.)
  
- (5) The Codes which must be recorded in column 6, are the following:
  - 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

## STANDING ORDER (G) 341

### ARREST AND THE TREATMENT OF AN ARRESTED PERSON UNTIL SUCH PERSON IS HANDED OVER TO THE COMMUNITY SERVICE CENTRE COMMANDER

#### 1. Background

Arrest constitutes one of the most drastic infringements of the rights of an individual. The rules that have been laid down by the Constitution, 1996 (Act No. 108 of 1996), the Criminal Procedure Act, 1977 (Act No. 51 of 1977), other legislation and this Order, concerning the circumstances when a person may be arrested and how such person should be treated, must therefor be strictly adhered to.

There are several legislative provisions authorising the removal and detention of persons without actually arresting such persons, for example, the removal of a child without a warrant in terms of section 12 of the Child Care Act, 1983 (Act No. 74 of 1983) for the purposes of taking such child to a place of safety. Another example is the removal and, in certain specific instances, the detention of a mentally ill person in terms of the Mental Health Act, 1973 (Act No. 18 of 1973). It is important to note that the provisions of this Order will not be applicable in those circumstances because, although the person is being detained, such person has not been arrested by a member.

#### 2. Definitions

- (1) In this order, unless the context otherwise indicates, "**First Schedule**" means the First Schedule to the Criminal Procedure Act, 1977 (Act No. 51 of 1977).
- (2) Any reference in this order to "**reasonable suspicion/grounds**" must be interpreted to mean that a person will have "**reasonable suspicion/grounds**" to believe or suspect something or that certain action is necessary if:
  - (a) he or she really 'believes' or 'suspects' it;
  - (b) his or her belief or suspicion is based on certain facts from which he or she has drawn an inference or conclusion; and
  - (c) any reasonable person would, in view of those facts, also have drawn the same conclusion.

#### 3. Securing the attendance of an accused at the trial by other means than arrest

- (1) There are various methods by which an accused's attendance at a trial may be secured. Although arrest is one of these methods, it constitutes one of the most drastic infringements of the rights of an individual and a member should therefore regard it as a last resort.
- (2) It is impossible to lay down hard and fast rules regarding the manner in which the attendance of an accused at a trial should be secured. Each case must be dealt with according to its own merits. A member must always exercise

his or her discretion in a proper manner when deciding whether a suspect must be arrested or rather be dealt with as provided for in subparagraph (3) below.

- (3) A member, even though authorised by law, should normally refrain from arresting a person if -
- (a) the attendance of a person may be secured by means of a summons as provided for in section 54 of the Criminal Procedure Act, 1977; or
  - (b) the member believes on *reasonable grounds* that a magistrate's court, on convicting such person of that offence, will not impose a fine exceeding the amount determined by the Minister from time to time by notice in the *Government Gazette*, (at present R1500-00), in which event such member may hand to the accused a written notice [J 534] as a method of securing his or her attendance in the magistrate's court in accordance with section 56 of the Criminal Procedure Act, 1977.

#### 4. The object of an arrest

(1) **General rule**

As a general rule, the object of an arrest is to secure the attendance of such person at his or her trial. A member may not arrest a person in order to punish, scare, or harass such person.

(2) **Exceptions to the general rule**

There are circumstances where the law permits a member to arrest a person although the purpose with the arrest is not solely to take the person to court. These circumstances are outlined below and constitute exceptions to the general rule that the object of an arrest must be to secure the attendance of an accused at his or her trial. These exceptions must be studied carefully and members must take special note of the requirements that must be complied with before an arrest in those circumstances will be regarded as lawful.

(a) **Arrest for the purpose of further investigation**

If a member has a *reasonable suspicion* that a person has committed a *First Schedule* offence but realises that further investigation will be necessary before it will be possible to determine whether the suspect should be charged, such member may arrest the suspect *if the detention of the suspect is necessary to complete such further investigation*. It is thus proper for a member to arrest such a person with the purpose of conducting further investigation and, depending on the outcome of such further investigation, to charge or release the person. A member may only arrest a person for this purpose if such member has reasonable grounds to believe that the investigation will be hampered should the person not be arrested. This will normally be the case if such member has *reasonable grounds* to believe that:

- (i) the person will either abscond, do away with an article required as an exhibit, interfere with a witness or otherwise endeavour to evade or defeat the ends of justice;
- (ii) it is necessary for the purpose of the investigation of the case to establish the bodily features of that person and such person refuses to submit himself or herself voluntarily to the examination of his or her bodily features as provided for in section 37 of the said Act; or

(iii) such person is an alien (a person who is not a South African citizen) or a person who is a prohibited person in terms of section 39 of the Aliens Control Act, 1991 (Act No. 96 of 1991). Such person may be arrested without a warrant and be detained for purposes of conducting an investigation in terms of the said Act which may lead to the obtaining of a warrant from the Minister of Home Affairs authorising such person's removal from the Republic.

**(b) Arrest to verify a name and/or address**

In the circumstances provided for in section 41(1) of the Criminal Procedure Act, 1977, a member may request a person to furnish his or her full name and address. If such a person furnishes a name or address which the member reasonably suspects to be false, such member may arrest the person and detain him or her for a period of twelve hours in order to verify the name and address.

**(c) Arrest in order to prevent the commission of an offence**

In terms of section 40(1)(f) of the Criminal Procedure Act, 1977, a member may arrest a person whom he or she finds at night in circumstances which afford *reasonable grounds* for believing that such person is about to commit an offence. The purpose with the arrest in these circumstances is to prevent the commission of an offence. Such a person may only be detained until the member is satisfied that the person did not commit any offence and will not proceed to commit an offence.

**(d) Arrest in order to protect a suspect**

If a member is authorised by any legislation to arrest a person and such member has *reasonable grounds* to believe that such person may be killed or be seriously injured unless he or she is immediately arrested, such member may arrest such person in order to protect him or her. (This would normally be the case when the suspect is threatened by the victim of the offence or a mob of people that he or she will be assaulted or be killed.) Such person may normally be detained until he or she is brought before a court and the court has decided whether he or she should be released or be further detained.

**(e) Arrest in order to end an offence**

If a person may be arrested in terms of any legislation and a failure to arrest the person will result in the person continuing to commit an offence, such person may be arrested to prevent him or her from continuing to commit an offence. (This would for instance be the case where a person trespasses on property and refuses to leave the property.) Such person must be detained and be taken to court in accordance with the normal procedure.

## 5. The requirements for a lawful arrest

For an arrest to be lawful and for lawful continued detention after arrest, the following four requirements must be complied with:

**(a) The arrest (with or without a warrant) must have been properly authorised.**

There must be a statutory provision authorising the arrest. (See paragraphs 6(1) and (2) below).

- (b) **The member who effected the arrest must exercise physical control over the person who has been arrested.**  
(See paragraphs 7(1) and (2) below).
- (c) **The person who has been arrested must be informed of the reason for his or her arrest and of the rights that he or she has as an arrested person, in terms of section 35(1) of the Constitution, 1996 (Act No. 108 of 1996)**  
(See paragraph 7(4) below).
- (d) **The person who has been arrested must be brought to the appropriate place as soon as possible.**  
(See paragraph 8(7) below.)

For information regarding the period of 48-hours after arrest, within which an arrested person must be brought before a court, refer to Standing Order 361.

## 6. Manner of effecting an arrest

### (1) General rule - Arrest with a warrant

- (a) An arrest should preferably be effected only after a warrant for the arrest has been obtained in terms of section 43 of the Criminal Procedure Act, 1977.
- (b) In order to obtain a warrant of arrest a member must in writing apply to a magistrate or justice of the peace for the issuing of a warrant in terms of section 43 of the Criminal Procedure Act, 1977. A copy of the application must be filed in the docket. The said section also provides that Directors of Public Prosecutions and public prosecutors may also apply for a warrant of arrest.
- (c) Once a warrant for the arrest of a person has been issued to a member, any member may execute such warrant. It is accordingly not necessary for the warrant to be executed by a particular member.

### (2) Arrest without a warrant

- (a) It is only in exceptional circumstances where a member is specifically authorised by an Act of Parliament (for example, sections 40 and 41 of the Criminal Procedure Act, 1977) to arrest a person without a warrant, that a person may be arrested without a warrant. Any arrest without a warrant, which is not specifically authorised by law, will be unlawful.
- (b) Section 40(2) of the Criminal Procedure Act, 1977, determines that if provision is made in a statute for a member to arrest a person without a warrant, subject to certain conditions or to the existence of certain circumstances mentioned in the Criminal Procedure Act, 1977, those conditions must be present and those circumstances must exist before the arrest is made.
- (c) Section 41 of the Criminal Procedure Act, 1977, provides that a member may call upon any person-
  - (i) whom he or she reasonably suspects of having committed any offence or of having attempted to commit any offence; or
  - (ii) who may, in his or her opinion, be able to give evidence in regard to the commission or suspected commission of any offence,to furnish his or her full name and address.

- (d) If the person referred to in subparagraph (c), fails to furnish his or her full name and address, or the member reasonably suspects that a false name or address has been given, the member may forthwith arrest him or her. In the event that the person refuses to furnish his or her name or address, or furnishes a false name or address, such person is guilty of an offence and should be charged with the offence in the normal manner.

## **7. Physical execution of an arrest**

### **(1) Exercise of physical control**

The member must confine the freedom of movement of the arrested person. Section 39 of the Criminal Procedure Act, 1977, determines that, unless the person who has been arrested submits to custody, an arrest is effected by actually touching his or her person or, if the circumstances so require, by forcibly confining his or her person.

### **(2) Amount of force which may be used in effecting arrest**

- (a) As a rule there should be no need for the use of force, and, in every case where it may be necessary, only such force as may be reasonably necessary to overcome resistance to the arrest, may be used. No justification whatsoever exists for beating, kicking or otherwise ill-treating an arrested person and there is no excuse whatsoever for a member to act in this manner. Any member found guilty of an offence as a result of the use of force while effecting an arrest where the use of such force cannot be justified, must expect to be dealt with severely.
- (b) Section 49 of the Criminal Procedure Act, 1977, provides for circumstances where the use of force by a member towards a person who is resisting arrest or fleeing from arrest, may be justified. (For further information refer to the Instructions relating to the Use of Force in effecting an arrest set out in the Special Service Order contained in Circular 31/1/5/3 dated 1997-01-07).

### **(3) Entering of premises for the purpose of arrest**

- (a) Section 48 of the Criminal Procedure Act, 1977, determines that before any premises are entered with the purpose of arresting any person whom a member has authority to arrest and who is known or suspected to be in/on such premises, such member must first:-
  - (i) audibly demand entry into such premises; and
  - (ii) notify or announce the purpose for which entry is sought.
- (b) If the member fails to gain entry after complying with the requirements stated in subparagraphs (a)(i) and (ii), such member may break open, enter and search such premises for the purpose of effecting the arrest.

### **(4) Information that must be furnished to a person upon arrest**

- (a) In terms of section 35(1) of the Constitution, 1996, the information that must be furnished to a person at the time of or immediately after his or her arrest is as follows:-
  - (i) the reason for his or her arrest;
  - (ii) that he or she has the right to remain silent and that anything he or she says, may be used as evidence against him or her in a court of law;

- (iii) that he or she has a right to consult with a legal practitioner of his or her choice or that he or she may, if he or she so prefers, apply to the Legal Aid Board to have a legal practitioner assigned to the case at state expense; and
  - (iv) that he or she has the right to apply to be released on bail.
- (b) Section 39(2) of the Criminal Procedure Act, 1977, requires that the person who effects an arrest must, at the time of effecting the arrest or immediately thereafter, inform the person who has been arrested of the reason for his or her arrest. It is not necessary to use the actual words of the charge - mentioning the offence would be sufficient. If the arrest took place by virtue of a warrant, a copy of the warrant must, upon his or her demand, be handed to the person who has been arrested.
- (c) The information in subparagraph (a) must be furnished to the arrested person in a language which he or she understands. For this purpose the said information is printed on the first pages of the Pocket book (SAPS 206) in all eleven official languages. To ensure that a person is fully informed of these rights, the arresting member must read this information from the Pocket book to the arrested person in a language which the arrested person understands.
- (d) If a member -
  - (i) is unable to establish what language the person understands; or
  - (ii) cannot speak the language that the person understands;the member must read this information in English. In such a case, the member must, upon his or her arrival at the police station, inform the community service centre commander that the person does not understand English. It is the responsibility of the community service centre commander to ascertain what language the person understands in order to convey the information to the person in that language.
- (e) Should a person volunteer any statement on arrest or prior to being formally charged at the community service centre, he or she must, once again, be informed of his or her rights as set out in subparagraph (a).

## **8. Procedure after arrest**

### **(1) Recording of the fact that the arrested person has been informed of his or her rights**

- (a) A member who arrests a person must, as soon as possible after having furnished the information in paragraph 6(4)(a)(above), to the arrested person, record in his or her Pocket book the fact that the information was so furnished.
- (b) The member must request the arrested person to acknowledge that he or she has been informed of his or her rights and that he or she understands the contents thereof, by signing next to the recording in the Pocket book, referred to in subparagraph (a).
- (c) If the arrested person refuses to sign in the Pocket book, a third

person (whether a civilian or another member) who witnessed the person being informed of his or her rights, must be requested to sign next to the recording to certify that he or she has witnessed this and that the arrested person refused to sign. If a third person is not available, the member must make a recording in the Pocket book to the effect that a third person was not available to certify that the arrested person was informed of his or her rights and that the arrested person refused to sign the Pocket book.

**(2) Presumption of innocence**

- (a) An arrested person has a right to be presumed innocent until proven guilty by a court of law. A member who arrests a person must therefor, at all times, control himself or herself and must never allow his or her belief in the guilt of the arrested person to move him or her to treat the arrested person in a manner which would amount to punishing the person for what the member believes that the person has done.
- (b) Even though an arrested person must be presumed to be innocent, a member must do everything which may legally be done in order to obtain evidence which could be presented in court to prove the guilt of the arrested person. A member must also take every precaution necessary in the circumstances to ensure that the person is not allowed any opportunity to escape.

**(3) Injuries sustained prior to or during arrest**

Upon the arrest of a person, a member is obliged to ensure the safety of such person while in his or her care. The following provisions must be complied with:

- (a) The member concerned must take all reasonable precautions to ensure that the person will not be injured and will not escape before arrival at the police station.
- (b) Should the arrested person show any signs that he or she is seriously ill or is seriously injured, irrespective of whether the injury was sustained during the arrest or not, the member must follow the instructions as set out in Standing Order 349.2.
- (c) The member who effects an arrest which results in the arrested person being injured, must enter the particulars of the injuries, as well as the circumstances under which they were sustained or inflicted, as soon as possible in his or her Pocket book and in due course submit a full statement, for the information of the Public Prosecutor which must be included in the case docket. He or she must also report any injuries which the arrested person had sustained prior or during the arrest to the community service centre commander upon arrival at the community service centre.

**(4) Search of the arrested person**

In terms of section 23 of the Criminal Procedure Act, 1977, a member may search an arrested person. The purpose of such a search is twofold, namely to find any article that may be in such person's possession and which could be used as evidence, and to find any article which such person could use to injure himself or herself or any other person.

- (a) Every arrested person must always, immediately upon his or her arrest, at least be searched to determine whether he or she has any concealed weapons on him or her.
- (b) The search of an arrested person must be undertaken in a decent manner which displays respect for the inherent dignity of the person as required by section 29 of the Criminal Procedure Act, 1977, and a person may only be searched by a person of the same gender.

**(5) The use of restraining measures**

- (1) In order to curb the increasing number of escapes from police custody, a person must, upon his or her arrest, be placed in handcuffs and/or leg-irons (the latter depends on the circumstances). The circumstances when and the manner in which restraining measures may be used are set out in Standing Order 350.
- (2) Irrespective of whether restraining measures are used to secure an arrested person, members in charge of arrested persons must always remain alert until such persons are safely placed in a cell.

**(6) Informing an employer in the case of arresting an employee**

If a member has to arrest a person while such person is on duty and is in charge of his or her employer's property or business during the latter's absence, the member must take reasonable steps to inform his or her employer of the arrest and take reasonable steps to ensure that the employer's interests are safeguarded.

**(7) Transporting the arrested person**

- (1) In terms of section 50(1) of the Criminal Procedure Act, 1977, a person who has been arrested must as soon as possible be brought to-
  - (a) a police station; or
  - (b) in the case of an arrest by warrant, to the place stipulated in the warrant.
- (2) The member, transporting the arrested person must drive carefully and must take the safest and shortest possible route to the police station or any other place specified in the warrant.

**9. Handing suspect over to the community service centre commander**

- (1) Upon arrival at the police station, the member must hand the arrested person to the community service centre commander or the member in charge of the detention facilities at an office under the control of the Service, and provide such person with the following information:-
  - (a) the name of the member who has arrested the person;
  - (b) the name of the person arrested;
  - (c) the reason for the arrest;
  - (d) the date, time and place of arrest; and
  - (e) whether the person sustained any injuries prior to or during the arrest (see paragraph 8(3)(c) above).
- (2) The member must also, upon arrival at the police station, complete the Arrest Statement (SAPS 3M(i)) referred to in paragraph 10 below.
- (3) If a person has been arrested on suspicion and it subsequently transpires that the suspicion was unfounded, he or she must immediately be released and if he or she has already appeared in court, the Public Prosecutor must be informed forthwith. (See Standing Order 308.14).

## **10. Completion of Arrest Statement (SAPS 3M(i))**

- (1) The Arrest Statement (SAPS 3M(i)) must be completed after the arrest of every suspect by the member who made the arrest. If the arrest was made by someone other than a member, the member to whom the arrested person was handed to, must complete the statement. In such an event a statement must be taken from the person that effected the arrest.
- (2) Any force used during the arrest to overcome resistance or to prevent an escape, which resulted in injuries being sustained by the person during the arrest, must be recorded in a separate statement made by the member who applied the force. (Read together with paragraph 8(3)(c) above).
- (3) The instructions, printed at the beginning of the Arrest Statement (SAPS 3M(i)), must be strictly adhered to.
- (4) After the Arrest Statement (SAPS 3M(i)) has been completed, it must be filed under section "A" of the docket.

# South African Suid-Afrikaanse



# Police Service Polisiediens

Privaatsak  
Private Bag

X9004 CAPE TOWN

Faks No.  
Fax No.

021 417-7000

My reference/My verwysing:0464051-3

THE OFFICE OF THE  
PROVINCIAL COMMISSIONER

Enquiries/Navrae:

PROVINCIAL TRAINING  
Lt-Col Retief  
WESTERN CAPE

Tel:

021 417-7252

8000  
23 OCTOBER 2006

**The Head  
Provincial Training  
Research and Development  
Western Cape**

**Att: Brig Arendse**

**PERMISSION TO DO RESEARCH: DOMESTIC VIOLENCE:NO 0463052-3 LT-COL RT RETIEF**

1. I am currently registered for PhD (Social Work) in the Department of Social Work at Stellenbosch University.
2. Herewith a request for permission to be granted to embark on a research study in the South African Police Service.
3. The topic of the research is as follows: Police officers' experiences and perceptions of Policing domestic violence in the Western Cape.
4. The goal of the intended research is to gain an understanding of the experiences and perceptions of frontline police officers, who have to serve and protect victims of domestic abuse in terms of the Domestic Violence Act, No. 116 of 1998.

5. The intended research will include:
  - A theoretical overview and situational analysis of the nature and extent of domestic violence within a social context.
  - A description of the response of the South African Police Service to the domestic violence phenomenon within a historical context.
  - An exploration of service delivery provided by police officers to victims of domestic violence within a legislative context.
  - An investigation of the perceptions and experiences of frontline police officials in terms of their roles and responsibilities as stipulated in the Domestic Violence
  
6. The population for this study will be the total number of frontline police officers, who are responsible for the policing of domestic violence at the top five 'gender based violent crime police stations' in the Western Cape i.e. Khayelitsha, Kuils River, Mitchells Plain, Nyanga, and Guguletu. It is also requested that Oudtshoorn SAPS and George SAPS be included in this study as the aforementioned five police stations are all situated in urban areas of the Western Cape Province.
  
7. A total of four police officers from the above identified police stations (i.e. a total of twenty-eight participants) will be required to ensure a representative sample for the study.
  
8. As a registered social worker, I am bound by the general Ethical Code of the South African Council for Social Service Professions. The privacy and identity of participants will be protected as needed. All research data collected will be kept in a safe place.
  
9. Only information required for the study to achieve its purpose will be collected.
  
10. A written copy of the general findings of the research will be made available to you on completion of the study.

11. Your consideration to provide permission to pursue this study and to grant access to the target population will be appreciated.

12. Attached herewith please find a copy of the research proposal for this study.

  
\_\_\_\_\_  
RT RETIEF  
PROVINCIAL TRAINING  
WESTERN CAPE

LIEUTENANT-COLONEL

**APPROVED / NOT APPROVED**

*Violence against particularly women and children is a serious concern and priority for both government and broader society. This research will go a long way in the formulation of an effective and responsive policing approach to domestic violence. I am looking forward to the findings and recommendations of this research.*

  
\_\_\_\_\_  
PJ ARENDSE  
SECTION HEAD: TRAINING  
WESTERN CAPE

DIRECTOR

Date: 2006/10/25

**APPENDIX 2**

**From:** WC: Prov HRD SDF  
**Sent:** 26 April 2010 03:09 PM  
**To:** ANONYMOUS  
**Subject:** DOMESTIC VIOLENCE: EXPERIENCES AND PERCEPTIONS OF ATTENDING POLICE OFFICIALS  
**Importance:** High

**REF:** 11/1/3/1  
**ENQ:** LT COL RETIEF  
082 463 6556

**FOR ATT: STATION COMMISSIONERS**

1. The Provincial Training Section of the SAPS of the Western Cape Province will be embarking on a research study as approved by the Office of the Provincial Commissioner on 24 October 2006. This has been a long awaited initiative which will be facilitated by Lt Col Retief.
2. The purpose of the study is to gain an understanding of the experiences and perceptions of frontline police officers, who have to serve and protect victims of domestic violence in the Western Cape Province.
3. The benefits of the study include:
  - a. Insight into the subjective experiences and perceptions of participants.
  - b. Identification of competency gaps and training needs with subsequent recommended guidelines to in-house social workers and human resource practitioners for the development and capacity building of frontline police officers.
  - c. Amendments of policing guidelines for the effective policing of domestic violence.
  - d. Improved service delivery to victims of abuse.
4. The method of data collection includes interviews with 28 frontline police officials. The interviews will take place at the respective police stations. All information that is obtained will remain confidential.
5. You are requested to identify one volunteer per shift to participate in this study. Your nominations should reach this office on or before 30 May 2011.
6. Please find attached the letter of permission as approved by Maj PJ Arendse for your easy reference. Please contact me should you need further clarification.
7. Your cooperation will be invaluable in ensuring improved service delivery to all victims of domestic violence.

**Lt-Col RT Retief**  
**Section Head: Research and Development**  
**South African Police Service**  
**Western Cape**

Private Bag X9004 - Cape Town - 8000  
Room 242 – 2<sup>nd</sup> Floor, Customs House - Heerengracht Street, Foreshore



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STELLENBOSCH UNIVERSITY  
CONSENT TO PARTICIPATE IN RESEARCH

---

**Policing domestic violence: The experiences and perceptions of police officers in the Western Cape Province.**

You are asked to participate in a research study conducted by Rita Theresa Retief currently registered for PhD (Social Work) in the Department of Social Work at Stellenbosch University.

The results of the research study will contribute to a research dissertation. You will be one of twenty-eight frontline police officials selected as a possible participant in this study as you are responsible for the policing of domestic violence in the Western Cape Province.

### **1. PURPOSE OF THE STUDY**

The purpose of the study is to gain an understanding of the experiences and perceptions of frontline police officers, who have to serve and protect victims of domestic abuse in the Western Cape Province.

### **2. PROCEDURES**

If you volunteer to participate in this study, we would ask you to do the following things:

- Avail yourself to participate in an interview that could last from one(1) hour to an hour and a half. Information will be collected by the researcher using a questionnaire during the interview with you.
- Grant permission to have the interview with you recorded on audio cassette.
- Ask questions regarding uncertainties or to express feelings resulting from the interview.
- Indicate if you feel uncomfortable with any part of the interview process or the venue.

- Be open and honest about your experiences.

### **3. POTENTIAL RISKS AND DISCOMFORTS**

The interview will take place at your place of work/ police station.

### **4. POTENTIAL BENEFITS TO SUBJECTS AND/OR TO SOCIETY**

The individual benefits to subjects include insight into their subjective experiences and perceptions.

Identification of competency gaps and training needs with subsequent recommended guidelines to in-house social workers and human resource practitioners for development and capacity building of frontline police officers.

Proposed amendments of policing guidelines for the effective policing of domestic violence.

Improved service delivery to victims of abuse.

### **5. PAYMENT FOR PARTICIPATION**

No payment will be received by research subjects for their participation in the study as it is completely voluntary.

### **6. CONFIDENTIALITY**

The questionnaire is anonymous. Any information that is obtained in connection with this study and that can be linked to you will remain confidential and will be stored in a safe place where your identity will not be revealed. This information will only be accessible to the researcher and her supervisor as it is privileged information. Only the researcher will have access to the recordings and audio tapes will be erased on finalisation of dissertation.

Recorded data will only be disclosed with your permission or as required by law.

You will have the right to review/edit your audio taped recording. You can obtain information from the researcher after the project has been concluded.

The findings of the research will be presented in a dissertation with the later

possibility of publication in professional journals. Confidentiality will be maintained in publication by using pseudonyms.

## **7. PARTICIPATION AND WITHDRAWAL**

You can choose whether to be in this study or not. If you volunteer to be in this study, you may withdraw at any time without consequences of any kind.

You may also refuse to answer any questions you do not want to answer and still remain in the study. The investigator may withdraw you from this research if circumstances arise which warrant doing so.

## **8. IDENTIFICATION OF INVESTIGATORS**

If you have any questions or concerns about the research, please feel free to contact Rita Theresa Retief at 082 463 6556 as needed.

## **9. RIGHTS OF RESEARCH SUBJECTS**

You may withdraw your consent at any time and discontinue participation without penalty. You are not waiving any legal claims, rights or remedies because of your participation in this research study. If you have questions regarding your rights as a research subject, contact Ms Maléne Fouché [mfouche@sun.ac.za; 021 808 4622] at the Division for Research Development.

### **SIGNATURE OF RESEARCH SUBJECT OR LEGAL REPRESENTATIVE**

The information above was described to the participant by Rita Theresa Retief in [Afrikaans/English/Xhosa/other] and I am in command of this language or it was satisfactorily translated to me. I was given the opportunity to ask questions and these questions were answered to my satisfaction.

I hereby consent voluntarily to participate in this study. I have been given a copy of this form.

---

**Name of Subject/Participant**

---

**Name of Legal Representative (if applicable)**

---

**Signature of Subject/Participant or Legal Representative**

---

**Date****SIGNATURE OF INVESTIGATOR**

I declare that I explained the information given in this document to \_\_\_\_\_ [name of the subject/participant] and/or [his/her] representative \_\_\_\_\_ [name of the representative]. [He/she] was encouraged and given ample time to ask me any questions. This conversation was conducted in [Afrikaans/\*English/\*Xhosa/\*Other] and no translator was Used.

---

**Signature of Investigator**

---

**Date**

**UNIVERSITY OF STELLENBOSCH/  
UNIVERSITEIT VAN STELLENBOSCH**

**DEPARTMENT OF SOCIAL WORK/  
DEPARTEMENT MAATSKAPLIKE WERK**

**INTERVIEW SCHEDULE/  
ONDERHOUDSKEDULE**

**Police officers' experiences and perceptions of policing domestic violence in the Western Cape Province / *Polisiebeamptes se ervarings en persepsies ten opsigte van die polisiëring van gesinsgeweld in die Wes Kaap.***

All the information recorded in the questionnaire will be regarded as confidential. Identification of respondents and individual views will not be made known. / *Alle inligting wat deur die vraelys ingewin word sal as vertroulik beskou word. Respondente se name en individuele standpunte sal nie bekend gemaak word nie.*

**1. IDENTIFYING DETAILS/ INDENTIFISEERENDE BESONDERHEDE**

1.1 Station / Stasie: \_\_\_\_\_

1.2 Rank / Rang:

1.3 Gender / Geslag:

1.4 Race / Bevolkingsgroep:

1.5 How long have you been dealing with domestic violence incidents / *Hoe lank hanteer u gesinsgeweld insidente?*

**2. GENERAL EXPERIENCES / ALGEMENE ERVARINGE**

2.1 How many domestic violence incidents do you deal with on average per shift / *Hoeveel gesinsgeweld voorvalle hanteer u gemiddeld per skof?*

2.2 Which of the following forms of domestic violence have you dealt with? Please prioritise i.t.o. frequency / *Watter van die volgende vorms van gesinsgeweld het u al hanteer? Prioritiseer asseblief volgens frekwensie.*

Physical abuse / <i>Fisiese mishandeling</i>	
Emotional abuse / <i>Emosionele mishandeling</i>	
Economic abuse? Financial abuse / <i>Finansiele Mishandeling</i>	
Sexual abuse / <i>Seksuele mishandeling</i>	
Stalking / <i>Agtervolging</i>	
Damage to property / <i>Beskadiging van eiendom</i>	
Intimidation / <i>Intimidasie</i>	
Unauthorised entry / <i>Onwettige toegang</i>	
Harassment / <i>Teistering</i>	
Other (explain) / <i>Ander (verduidelik)</i>	

- 2.3 What form of domestic violence is the most challenging to handle? Motivate / Watter vorm van gesinsgeweld is die mees uitdagendste om te hanteer? Motiveer.
- 2.4 How does intervening in domestic violence incidents compare to intervening in any other reported case? / *Hoe vergelyk intervensie in gesinsgeweld insidente van intervensie in enige ander aangemelde saak?*
- 2.5 What is the average reaction time at your station on receipt of a domestic violence complaint? / Wat is die gemiddelde reaksietyd van u standplaas sodra 'n gesinsgeweld klagte ontvang is?

**3. ROLES AND RESPONSIBILITIES / ROLLE EN VERANTWOORDELIKHEDE**

- 3.1 What do you understand your roles and responsibilities to be in implementing the DVA of 1998?/ *Wat beskou u as u rolle en verantwoordelikhede t.o.v die implementering van die GGW van 1998?*
- 3.2 Which of the roles and responsibilities is the most difficult/challenging when assisting domestic violence victims? / *Watter van die rolle en verantwoordelikhede is die moeilikste/uitdagendste wanneer u hulp verleen aan slagoffers van gesinsgeweld?*
- 3.3 Describe a domestic violence situation (personal or work related) where you found it difficult to adhere to any DV Regulations or NI/1999?/ *Beskryf 'n gesinsgeweld situasie (persoonlik/werkverband) waar u dit moeilik gevind het om volgens die gesinsgeweld regulasies of NI/1999 op te tree.*
- 3.4 What does it feel like to know that you are responsible to diffuse domestic violence situations (i.e. bring the situation under control and to provide maximum protection to all involved)?/ *Hoe voel dit om te weet u verantwoordelik is om gesinsgeweld situasies te ontlont (bv. situasies onder beheer te bring en maksimum beskerming aan all betrokkenes te bied).*
- 3.5 How would you describe your service delivery to vulnerable victims (children, aged, disabled) in the policing of domestic violence?/ *Hoe sal u, u dienslewering beskryf aan kwesbare slagoffer (kinders, bejaardes, gestremdes) in die polisiëring van gesinsgeweld?*
- 3.6 Which practical obstacles (systemic or personal) do you experience that hinders you in the compliance of your duties?/ *Watter praktiese hindernisse (sistemies of persoonlik) ervaar u wat u verhinder in die uitvoering van u pligte?*

- 3.7 Describe any DV incident where you made a decision in the handling of the incident that you would do differently, should you be given a similar situation/  
*Beskryf enige gesinsgeweld situasie waar u 'n besluit in die hantering daarvan sou wou verander, indien u weer 'n soortgelyke situasie sou ondervind?*
- 3.8 In your experience, what are the major challenges regarding record keeping of DV incidents?/  
*In u ervaring, wat is die hoof uitdagings rakende die rekordhouding van gesinsgeweld insidente?*
- 3.9 What practical strategies have been implemented at your station to acknowledge and address the seriousness of DV incidents?/  
*Watter praktiese strategieë is geïmplementeer by u stasie om erkenning te gee aan die erns van gesinsgeweld en om dit te hanteer?*
- 4. TRAINING / OPLEIDING**
- 4.1 What training have you received on domestic violence, DV Regulations or any SAPS directives issued in relation to the DVA of 1998?/  
*Watter opleiding het u ontvang in terme van gesinsgeweld, GG Regulasies of enige ander SAPD direkteiewe uitereik i.v.m die GGW van 1998?*
- 4.2 How did the training equip you to deal with actual domestic violence situations as stipulated in the DVA of 1998?/  
*Hoe het die opleiding u toegerus om werklike gesinsgeweld situasies te hanteer soos uiteengesit in die GGW van 1998?*
- 5. PERCEPTIONS / PERSEPSIES**
- 5.1 What is your opinion regarding the DVA of 1998? /  
*Wat is u opinie aangaande die GGW van 1998?*
- 5.2 How do the actions or inactions of complainants affect your policing of the DV incident? /  
*Hoe affekteer die aksies of nie-aksies van klaers u in die polisieering van GG insidente?*
- 5.3 How do you determine if the life of a complainant is in “imminent danger”? /

Hoe bepaal u of die lewe van 'n klaer in potensiële gevaar is?

- 5.4 What is the most common misconception(s) held by communities you serve in terms of your policing of DV complaints? / *Wat is die mees algemene wanpersepsies wat die gemeenskap huldig rakende u dienste i.t.v gesinsgeweld klagtes?*
- 5.5 What kind of impact are you making in addressing DV incidents by the way you presently police domestic violence? / *Watter soort impak maak u in die hantering van gesinsgeweld op die manier waarop u dit tans polisieer?*

**6. COMMENTS / KOMMENTAAR**

**THANK YOU FOR YOUR CO-OPERATION /**  
**DANKIE VIR U SAMEWERKING**