



independent complaints directorate

Department:
Independent Complaints Directorate
REPUBLIC OF SOUTH AFRICA

DVA REPORTS ICD

JANUARY 2009 –
DECEMBER 2010

PRESENTATION TO THE PORTFOLIO COMMITTEE

PROGRAMME 3

Presented by Mr. M Dlamini & Me. N Mbuli

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LEGISLATIVE MANDATE

Domestic Violence Act 116 of 1998 - Section 18

- Failure by a member of the South African Police Service (SAPS) to comply with an obligation imposed in terms of the Domestic Violence Act 116 of 1998 (DVA) or the National Instructions referred to in subsection (3), constitutes **misconduct** as contemplated in the South African Police Service Act, 1995
- The ICD must forthwith be informed of any such failure reported to the SAPS
- Unless the ICD directs otherwise in any specific case, the SAPS must institute disciplinary proceedings against any member who allegedly failed to comply with an obligation
- The ICD must, every 6 months, submit a report to Parliament regarding:
 - the **number and particulars of matters** reported to it, and
 - set out the **recommendations** made in respect of such matters

The National Commissioner of the SAPS must, every 6 months, submit a report to Parliament regarding steps taken as a result of recommendations made by the ICD.

TYPES OF NON-COMPLIANCE

The DVA Report presents a factual analysis of cases of non-compliance with the Domestic Violence Act (DVA) by members of the South African Police Service (SAPS) and the recommendations made to address same.

The type of cases of non-compliance with the DVA addressed in these reports include:

- failure to arrest the abuser if an offence of violence has been committed,
- failure to arrest the alleged transgressor where a warrant has been issued,
- failure to dispatch a police vehicle to a scene of domestic violence,
- failure to establish whether the person has a valid license to possess the firearm,
- failure to inform a victim on where and how to access alternative shelter, if available,
- failure to inform the victim of their options,

TYPES OF NON-COMPLIANCE-CONTINUED

- failure to inform victim on where and how to access counseling services, where required,
- failure to inform victim on where and how to obtain a protection order,
- failure to keep a copy of the protection order after it has been obtained from court,
- failure to locate victim and establish whether they are safe,
- failure to note reason why no charge or arrest was made,
- failure to note the incident in a domestic violence register (SAPS508),
- failure to open a docket and refer the matter to the National Prosecuting Authority for decision to prosecute,

TYPES OF NON-COMPLIANCE-CONTINUED

- failure to search and seize arms (firearms) and ammunition,
- failure to seize a dangerous weapon and/or firearm,
- failure to take a witness statement,
- failure to inform the victim on where and how to access medical assistance,
- failure to issue a notice against the alleged transgressor to appear in court,
- failure to complete the J88 (medical report) and other relevant information.

WHAT THE ICD DOES

- Referral for investigation/disciplinary action;
- Conducting DVA audits;
- Processing applications for exemption;
- Awareness campaigns; and
- Conducting workshops with SAPS members.

NATIONAL DVA INTAKE JAN 2009- DEC 2010

PROVINCE	Jan-Jun 2009	July-Dec 2009	Jan-Jun 2010	July-Dec 2010	Total	Prov. Share
Eastern Cape	3	4	3	2	12	5%
Free State	13	7	9	11	40	17%
Gauteng	17	22	9	15	63	27%
KwaZulu-Natal	2	2	6	3	13	6%
Limpopo	1	4	3	4	12	5%
Mpumalanga	3	1	3	1	8	3%
North West	2	3	2	4	11	5%
Northern Cape	8	5	6	6	25	11%
Western Cape	9	17	13	13	52	22%
Total	58	65	54	59	236	100%

NON-COMPLIANCE WITH DVA BY DESCRIPTION JAN 2009 – DEC 2010

NON-COMPLIANCE WITH DVA BY DESCRIPTION		
Failure to arrest the abuser if an offence of violence has been committed	71	30%
Failure to arrest the alleged transgressor where a warrant has been issued	59	25%
Failure to dispatch a police vehicle to a scene of domestic violence	4	2%
Failure to establish whether the person has a valid license to possess the firearm	1	0%
Failure to inform a victim on where and how to access alternative shelter, if available	4	2%

NON-COMPLIANCE WITH DVA BY DESCRIPTION cont.

NON-COMPLIANCE WITH DVA BY DESCRIPTION		
Failure to inform the victim of their options	4	2%
Failure to inform victim on where and how to access counseling services, where required	2	1%
Failure to inform victim on where and how to obtain a protection order	7	3%
Failure to keep a copy of the protection order after it has been obtained from court	3	1%
Failure to locate victim and establish whether they are safe	9	4%

NON-COMPLIANCE WITH DVA BY DESCRIPTION cont.

NON-COMPLIANCE WITH DVA BY DESCRIPTION		
Failure to note reason why no charge or arrest was made	9	4%
Failure to note the incident in a domestic violence register (SAPS508)	6	3%
Failure to open a docket and refer the matter to the National Prosecuting Authority for decision to prosecute	24	10%
Failure to search and seize arms (firearms) and ammunition	4	2%
Failure to seize a dangerous weapon and/or arms (firearms)	6	3%

NON-COMPLIANCE WITH DVA BY DESCRIPTION cont.

NON-COMPLIANCE WITH DVA BY DESCRIPTION		
Failure to take a witness statement	2	1%
Failure to inform the victim on where and how to access medical assistance	1	0%
Failure to issue a notice against the alleged transgressor to appear in court	19	8%
Failure to complete the J88 (medical form) and other relevant information	1	0%
Total	236	100%

APPLICATIONS FOR EXEMPTION

PROVINCE	Jan-Jun 2009	July-Dec 2009	Jan-Jun 2010	July-Dec 2010	Total
Eastern Cape	-	-	2	3	5
Free State	10	-	2	4	16
Gauteng	7	-	4	4	15
KwaZulu-Natal	-	-	-	-	-
Limpopo	1	-	-	-	1
Mpumalanga	-	-	1	1	2
North West	1	-	-	-	1
Northern Cape	3	-	-	-	3
Western Cape	3	2	-	1	6
Total	25	2	9	13	49

OVERVIEW :

Intake versus Applications for Exemption

PROVINCE	2009		2010		Difference
	Intake	Applications	Intake	Applications	
Eastern Cape	7	-	5	5	-7
Free State	20	10	20	6	-24
Gauteng	39	7	24	8	-48
KwaZulu-Natal	4	-	9	-	-13
Limpopo	5	1	7	-	-11
Mpumalanga	4	-	4	2	-6
North West	5	1	6	-	-10
Northern Cape	13	3	12	-	-22
Western Cape	26	5	26	1	-46
Total	123	27	113	22	-187

COMPARISON : Intake versus Applications for Exemption

PROVINCE	JAN – JUNE 2009		JULY – DEC 2009		Difference
	Intake	Applications	Intake	Applications	
Eastern Cape	3	-	4	-	-7
Free State	13	10	7	-	-10
Gauteng	17	7	22	-	-32
KwaZulu-Natal	2	-	2	-	-4
Limpopo	1	1	4	-	-4
Mpumalanga	3	-	1	-	-4
North West	2	1	3	-	-4
Northern Cape	8	3	5	-	-10
Western Cape	9	3	17	2	-21
Total	58	25	65	2	-96

COMPARISON : Intake versus Applications for Exemption

PROVINCE	JAN- JUNE 2010		JULY – DEC 2010		Difference
	Intake	Applications	Intake	Applications	
Eastern Cape	3	2	2	3	0
Free State	9	2	11	4	-14
Gauteng	9	4	15	4	-16
KwaZulu-Natal	6	-	3	-	-9
Limpopo	3	-	4	-	-7
Mpumalanga	3	1	1	1	-2
North West	2	-	4	-	-6
Northern Cape	6	-	6	-	-12
Western Cape	13	-	13	1	-25
Total	54	9	59	13	-91

OVERVIEW: DISPOSAL JAN 2009 – JUNE 2009

- **GAUTENG** - out of the 17 cases received, 7 cases were closed as unsubstantiated, and in 10 cases the ICD awaits response from SAPS.
- **WESTERN CAPE** - out of the 9 cases received, 2 cases were closed as unsubstantiated and 1 case as substantiated, and in 6 cases the ICD awaits response from SAPS.
- **KZN** - out of the 2 cases received, no cases were closed and in 1 case the ICD awaits response from SAPS. The complainant provided incorrect details and ICD unable to continue investigation.
- **EC** - out of the 3 cases received, the ICD awaited response from SAPS in all cases.
- **LIMPOPO** - 1 case received and it was closed as unsubstantiated.
- **MPUMALANGA** - out of the 3 cases received, the ICD awaits response from SAPS in all cases.
- **NORTH WEST** - out of the 2 cases received, 1 case was closed as unsubstantiated and the ICD awaits response from SAPS in 1 case.
- **FREE STATE** - out of the 13 cases received, 10 case were closed as unsubstantiated, and the ICD awaits response from SAPS in 3 cases.
- **NORTHERN CAPE** - out of the 8 cases received, 3 cases were closed as unsubstantiated and in 5 cases the ICD awaits response from SAPS.

OVERVIEW: DISPOSAL JULY 2009 – DEC 2009

- **GAUTENG** - out of the 22 cases received, 4 cases were closed as unsubstantiated, and 1 was pending closure as substantiated, in 17 cases the ICD awaits response from SAPS.
- **WESTERN CAPE** - out of the 17 cases received, 3 cases were closed as unsubstantiated and in 14 cases the ICD awaits response from SAPS.
- **KZN** - out of the 2 cases received, the ICD awaits response from SAPS in 2 cases.
- **EC** - out of the 4 cases received, 1 case was closed as substantiated, and in 3 cases the ICD awaits response from SAPS.
- **LIMPOPO** - out of 4 cases received, 2 cases were closed as unsubstantiated, and in 2 cases the ICD awaits response from SAPS.
- **MPUMALANGA** - 1 case received, and the ICD awaits response from SAPS in this matter.
- **NORTH WEST** - out of the 3 cases received the ICD awaits response from SAPS in all 3 cases.
- **FREE STATE** - out of the 7 cases received, the ICD awaits response from SAPS in 6 cases, and 1 case was withdrawn by complainant.
- **NORTHERN CAPE** - out of the 5 cases received, 2 cases were closed as unsubstantiated and in 3 cases the ICD awaits response from SAPS.

OVERVIEW: DISPOSAL JAN 2010 – JUN 2010

- **GAUTENG** - out of the 9 cases received, 1 case was closed as unsubstantiated, and 2 were closed as substantiated, in 6 cases the ICD awaits response from SAPS.
- **WESTERN CAPE** - out of the 13 cases received, 1 case was closed as unsubstantiated and in 12 cases the ICD awaits response from SAPS.
- **KZN** - out of the 6 cases received, 3 cases were closed as unsubstantiated and in 3 cases the ICD awaits response from SAPS.
- **EC** - out of the 3 cases received, 1 case was closed as unsubstantiated, and in 1 case the ICD awaits response from SAPS. One matter is still under investigation by the ICD.
- **LIMPOPO** - out of the 3 cases received and the ICD awaits response from SAPS in all 3 cases.
- **MPUMALANGA** - out of the 3 cases received, in 1 case the member as given a verbal warning and in 1 case the ICD awaits response from SAPS. One matter is still under investigation by the ICD.
- **NORTH WEST** - out of 2 the cases received the ICD awaits response from SAPS in both cases.
- **FREE STATE** - out of the 9 cases received, the ICD awaits response from SAPS in all 9 cases.
- **NORTHERN CAPE** - out of the 6 cases received, 1 case was closed as unsubstantiated and in 5 cases the ICD awaits response from SAPS.

OVERVIEW: DISPOSAL JULY 2010 – DEC 2010

- **GAUTENG** - out of the 15 cases received, 2 cases were closed as unsubstantiated, and 1 was closed as substantiated, in 12 cases the ICD awaits response from SAPS.
- **WESTERN CAPE** - out of the 13 cases received, 5 cases were pending closure as substantiated, 5 were under investigation and in 3 cases the ICD awaits response from SAPS.
- **KZN** - out of the 3 cases received, 1 case was closed as unsubstantiated and in 2 cases the ICD awaits response from SAPS.
- **EC** - out of the 2 cases received, 1 case was closed as unsubstantiated, and in 1 case the ICD awaits response from SAPS.
- **LIMPOPO** - out of the 4 cases received, 2 cases were closed as unsubstantiated and the ICD awaits response from SAPS in 2 cases.
- **MPUMALANGA** - out of the 1 case received, and the ICD awaits response from SAPS.
- **NORTH WEST** - out of 4 the cases received the ICD awaits response from SAPS in all 4 cases.
- **FREE STATE** - out of the 11 cases received, 3 cases were closed as unsubstantiated, and 1 was closed as substantiated the ICD awaits response from SAPS in 7 cases.
- **NORTHERN CAPE** - out of the 6 cases received, 1 case was closed as substantiated and in 5 cases the ICD awaits response from SAPS.

MATTERS CONSIDERED DURING AUDIT

- Is a copy of Domestic Violence Act (DVA) readily available in Community Service Centre (CSC)?
- Is there an updated list of service providers in CSC?
- Is there an updated list of service providers in each vehicle?
- Is a copy of National Instruction 7/1999 readily available in CSC?
- Is a Domestic Violence Registers, SAPS 508(b) in CSC?
- Are all reported DVA incidents recorded in the Domestic Violence Register 508(b)?
- Are SAPS forms 508(a) readily available in CSC and properly maintained?
- Are all responses to domestic violence incidents recorded on SAPS forms 508(a)?
- Are the SAPS 206 (Pocket Book) of members thoroughly maintained?
- Are monthly procedures of File 39/4/2/3 on DVA incidents maintained? (Returns)
- Are procedures of SAPS 10 (Occurrence Book) on DVA thoroughly maintained?
- Are all protection orders served (zero outstanding protection orders)?

MATTERS CONSIDERED DURING AUDIT cont.

- Are copies of every protection order received filed? (file 39/4/3/1)
- Are copies of every warrant of arrest received filed? (file 39/4/3/1)
- Are female members assigned on each shift?
- Is a victim friendly care centre readily available?
- Is a register maintained of all complaints against members in terms of non-compliance to DVA?
- Are all non-compliance DVA records of members recorded on form SAPS 508?
- In cases of non-compliance by members, were disciplinary proceedings instituted?
- If no steps have been taken against members, did they apply for exemption?
- Were recommendations / steps taken / exemption from disciplinary procedures recorded?
- Are monthly returns in relation to disciplinary action adhered to by commanders?

PROACTIVE OVERSIGHT ACTIVITIES

Station Audits Jan 2009 - Dec 2010

PROVINCE	JAN-JUNE 2009	JULY- DEC 2009	JAN-JUNE 2010	JULY- DEC 2010	TOTAL
Eastern Cape	9	13	23	8	53
Free State	52	42	14	32	140
Gauteng	19	33	26	18	96
KwaZulu-Natal	12	27	11	8	58
Limpopo	31	29	34	16	110
Mpumalanga	12	23	13	15	63
North West	17	26	17	19	79
Northern Cape	116	31	27	6	180
Western Cape	12	17	12	10	51
TOTAL	280	241	177	132	830

OVERALL LEVEL OF COMPLIANCE

Station Audits

- The ICD conducted **280** police station audits during **Jan - June 2009**, and found that:
 - **50** stations were complying on a level of Non-Compliant (0-49%).
 - **95** stations were complying on a level of Fairly Compliant (50-79%)
 - **104** stations were on a level of Substantially Compliant (80-99%)
 - **31** stations were Fully Complaint (100%) with the DVA prescripts.
- The ICD conducted **241** police station audits during **July - December 2009**, and found that:
 - **29** stations were complying on a level of Non-Compliant (0-49%)
 - **96** were complying on a level of Fairly Compliant (50-79%)
 - **96** stations were on a level of Substantially Compliant (80-99%)
 - **20** stations were Fully Complaint (100%) with the DVA prescripts.

OVERALL LEVEL OF COMPLIANCE

Station Audits

- The ICD conducted **177** police station audits during **January - June 2010**, and found that:
 - **24** stations were complying on a level of Non-Compliant (0-49%),
 - **57** stations were complying on a level of Fairly Compliant (50-79%),
 - **84** stations were on a level of Substantially Compliant (80-99%),
 - **12** stations were Fully Compliant (100%) with the DVA prescripts.
- The ICD conducted **132** police station audits during **July - December 2010**, and found that:
 - **25** stations were complying on a level of Non-Compliant (0-49%)
 - **37** were complying on a level of Fairly Compliant (50-79%)
 - **56** stations were on a level of Substantially Compliant (80-99%)
 - **14** stations were Fully Compliant (100%) with the DVA prescripts.

PROACTIVE OVERSIGHT FINDINGS

1. Failure to apply for exemption
2. Lack of understanding of the obligations to DVA
3. Record keeping is still a concern -
 - The 508(a) forms are not filed properly
 - The 508(b) registers are not completed properly
 - Some copies of the 508(a) forms were not filed although the matters pertaining thereto were registered in the 508(b) register
 - Domestic Violence Act and National Instruction not readily available
 - A list of service providers is not available or updated
 - Copies of protection orders and warrants of arrest were not filed properly
 - No file of domestic violence warrants kept

AWARENESS CAMPAIGNS CONDUCTED

PROVINCE	JAN-JUNE 2009 (page 11 in report)	JULY- DEC 2009 (page 14 in report)	JAN-JUNE 2010 (page 13 in report)	JULY- DEC 2010 (page 12 in report)	TOTAL
Eastern Cape	3	16	11	16	46
Free State	9	38	9	16	72
Gauteng	8	10	6	11	35
KwaZulu-Natal	7	9	16	14	46
Limpopo	13	32	15	26	86
Mpumalanga	10	32	11	16	69
North West	4	24	15	14	57
Northern Cape	47	44	22	24	137
Western Cape	2	37	15	33	87
TOTAL	103	242	120	170	635

WORKSHOPS CONDUCTED

PROVINCE	JAN-JUNE 2009	JULY- DEC 2009	JAN-JUNE 2010	JULY- DEC 2010	TOTAL
Eastern Cape	1	1	4	6	12
Free State	2	3	-	3	8
Gauteng	2	2	8	2	14
KwaZulu-Natal	3	11	1	5	20
Limpopo	2	-	-	-	2
Mpumalanga	1	-	-	-	1
North West	5	7	2	-	14
Northern Cape	2	-	-	-	2
Western Cape	2	5	2	-	9
TOTAL	20	29	17	16	82

CHALLENGES

1. Some SAPS management do not take disciplinary action against members
2. Some SAPS members do not apply for exemptions
3. Lack of understanding of the DVA by SAPS members
4. Existence of a culture of silence around domestic violence
5. Lengthy period taken to discipline SAPS members



THANK YOU