

# NATIONAL INSTRUCTION 7 OF 1999 DOMESTIC VIOLENCE

## TABLE OF CONTENTS

1. Background.....	2
2. Purpose .....	2
3. Scope.....	3
4. Regulatory framework.....	3
5. Definitions .....	4
6. Responsibilities of station commander.....	15
7. Receiving complaints of domestic violence: responsibility of Community Service Centre commander .....	17
8. Receiving a report of an incident of domestic violence at a police station .....	19
9. Responsibility of a member.....	21
10. Securing a scene of domestic violence.....	22
(1) Safety measures at a scene of domestic violence.....	22
(2) Entry into a private premises .....	23
(3) Arrest of a respondent at a scene of domestic violence .....	24
(4) Seizure of any weapon at an incident of domestic violence .....	26
11. Duty to render general assistance to the complainant .....	26
12. Duty to assist the complainant to find suitable shelter .....	27
13. Duty to assist the complainant to obtain medical treatment .....	29
14. Provide complainant with form J 471 (Form 1) and explain content to complainant .....	30
15. Specific powers and duties of members in terms of the Act.....	33
(1) Enforcement of a domestic violence safety monitoring notice .....	33
(2) Seizure of weapons in terms of a court order and consideration of the fitness of the respondent to possess a firearm .....	38
(3) Arresting a person with a warrant who contravenes a protection order ...	39
(4) Service of documents.....	41
(4) Accompanying complainant to collect personal property.....	43
16. Keeping of records relating to incidents of domestic violence.....	45

17. Complaints regarding non-compliance by members and notification of such non-compliance to the Civilian Secretariat of Police Service ..... 48

18. Keeping record of and reporting on complaints against members for failure to comply with an obligation in terms of the Act or National Instruction..... 50

19. Reporting on incidents of domestic violence ..... 52

20. Incidents of domestic violence where a member is involved ..... 54

21. Implementation..... 57

**1. Background**

- (1) Domestic violence is a serious social evil and there is a high incidence of domestic violence within the South African society. Victims of domestic violence are among the most vulnerable members of society. Domestic violence takes on many forms and acts of domestic violence may be committed in a wide range of domestic relationships.
- (2) The Domestic Violence Act, 1998 (Act No. 116 of 1998) affords a victim of domestic violence maximum protection from abuse in domestic relationships and introduces measures to ensure that the relevant organs of state give full effect to the provisions of *the Act*.
- (3) *The Act* confers certain powers and imposes certain obligations on a member who receives a complaint of domestic violence.

**2. Purpose**

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 Act*.

### 3. Scope

This National Instruction is applicable to all members of the South African Police Service (including reservists).

### 4. Regulatory framework

This National Instruction is *inter alia* informed by the following:

- (a) Constitution of the Republic of South Africa, 1996;
- (b) Criminal Procedure Act, 1977 (Act No. 51 of 1977);
- (c) Domestic Violence Act, 1998 (Act No. 116 of 1998);
- (d) Firearms Control Act, 2000 (Act No.60 of 2000);
- (e) National Instruction 2 of 2010 (Children in conflict with the law);
- (f) National Instruction 3 of 2010 (The care and protection of children in terms of the Children's Act);
- (g) National Instruction 2 of 2012 (Victim Empowerment);
- (h) National Instruction 1 of 2016 (The use of force in effecting an arrest);
- (i) National Instruction 3 of 2016: (Bail and the release of persons);
- (j) National Instruction 4 of 2016 (The Firearm Permit System and Firearm Training);
- (k) National Instruction 8 of 2016 (Medical treatment and hospitalization of a person in custody);
- (l) National Instruction 3 of 2019 (Management of members who have been declared not competent to possess an official firearm or who have been declared unfit to possess a firearm in terms of the Firearms Control Act, 2000);
- (m) National Instruction 11 of 2019 (Arrest, treatment and transportation of an arrested person);
- (n) South African Police Service Act, 1995 (Act No. 68 of 1995); and
- (o) South African Police Service Discipline Regulations, 2016.

## 5. Definitions

In this instruction, unless the context otherwise indicates, —

- (a) “*care giver*” means any person older than 18 years who, in relation to a child, a person with a disability or an older person, takes responsibility for meeting the daily needs of, or is in substantial contact with, such person;
- (b) “*child*” means a *person* under the age of 18 years;
- (c) “*Community Service Centre Commander*” means the *member* in command, during a shift, of the community service centre or the member who is performing the functions of a *community service centre commander*;
- (d) “*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;
- (e) “*Criminal Procedure Act*” means the Criminal Procedure Act, 1977 (Act No. 51 of 1977);
- (f) “*disability*” means a moderate to severe limitation of a person’s ability to function or perform daily activities as a result of a physical, sensory, communication, intellectual, mental or psychological impairment;
- (g) “*disclose by means of an electronic communications service*” means to —
  - (i) send an electronic communication to a person who is the intended recipient of the electronic communication or any other person;
  - (ii) store an electronic communication on an *electronic communications network*, where the electronic communication can be viewed, copied or downloaded; or

- (iii) send or otherwise make available to a person, a link to an electronic communication that has been stored on an electronic communication network, where the electronic communication can be viewed, copied or downloaded;
- (h) “*domestic relationship*” means a relationship between a *complainant* and the *respondent* where they –
- (i) are or were married to each other in terms of any law, custom or religion;
  - (ii) live or lived together in a relationship in the nature of a marriage although they are not, or were not, married to each other, or are not able to be married to each other (whether they are of the same or of the opposite sex);
  - (iii) are the parents of a *child* or have or had parental responsibility for the *child* (whether or not at the same time);
  - (iv) are family members related by consanguinity, affinity or adoption;
  - (v) are or were in an engagement, dating or customary relationship: including an actual or perceived romantic, intimate or sexual relationship of any duration; or
  - (vi) are persons in a close relationship that share or shared the same *residence*;
- (i) “*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:
- (i) “**physical abuse**” means —
    - physical violence or threats of physical violence towards a complainant;
    - to deprive the complainant of his or her liberty or threatening to do so;
    - to administer, attempt or threaten to administer —

- (i) any drug as defined in section 1(1) of the Drugs and Drug Trafficking Act, 1992 (Act No. 140 of 1992);
  - (ii) any Scheduled substance as defined in section 1(1) of the Medicines and Related Substances Act, 1965 (Act No. 101 of 1965), that affects or may affect a complainant's judgement or decision-making abilities or is harmful to the health or wellbeing of the complainant; or
  - (ii) any chemical or other substance that is harmful to the health or wellbeing of the complainant, to a complainant, without the complainant's permission; or
  - withholding or threatening to withhold a complainant's medication;
- (ii) **“sexual abuse”** means any conduct that abuses, humiliates, degrades or otherwise violates the sexual integrity of the complainant, irrespective of whether or not such conduct constitutes a sexual offence as contemplated in the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No. 32 of 2007);
- (iii) **“emotional, verbal or psychological abuse”** means degrading, manipulating, threatening, offensive, intimidating or humiliating conduct towards a complainant that causes mental or psychological harm to a complainant, including —
- insults, ridicule or name calling;
  - threats to cause emotional pain;
  - the exhibition of obsessive possessiveness or jealousy, which constitutes a serious invasion of the complainant's privacy, liberty, integrity or security;
  - the wilful damaging or destruction of any property in close

- vicinity of a complainant;
  - to harm or threaten to harm a household pet or other animal, whose welfare affects a complainant's well-being;
  - to disclose or threaten to disclose a complainant's sexual orientation or other private information concerning a complainant, to others against the complainant's wishes;
  - to threaten the complainant with the death or injury of another person or damage of another person's property; or
  - threats to commit suicide or self-harm;
- (iv) **"economic abuse"** which may consist of —
- the deprivation of economic or financial resources to which a complainant is entitled under law or which the complainant requires out of necessity, including education expenses, household necessities for the complainant, and mortgage bond repayments or payment of rent in respect of the shared residence or accommodation;
  - the disposal of household effects or other property in which the complainant has an interest, without the complainant's permission;
  - the use of financial resources of a complainant, without the complainant's permission; or
  - the coercing of the complainant to —
    - (i) relinquish control over assets or income; or
    - (ii) sign a legal document that would enable the complainant's finances to be managed by another person;
- (v) **"intimidation"** means —
- physical violence, or damage to property belonging, to a complainant or any other person;

- threats of physical violence, or damage to property belonging, to a complainant or any other person; or
- to deprive the complainant or any other person of their liberty or threatening to do so,

where such conduct is intended to compel a complainant to abstain from doing anything that he or she has a lawful right to do, or to do anything that he or she has a lawful right to abstain from doing;

(vi) **“harassment”** means —

- the unreasonable —
  - (i) following, watching, pursuing or accosting of the complainant or a *related person*; or
  - (ii) loitering outside of or near the building or place where the complainant or a *related person* resides, works, carries on business, studies or happens to be, which inspires the belief in the complainant that he or she or a *related person* may be harmed or their property may be damaged;
- to repeatedly contact the complainant by means of an electronic communications service, irrespective whether or not —
  - (i) a conversation ensues; or
  - (ii) any information is conveyed to the complainant;
- the repeated sending or delivering of packages, communications or other objects to the complainant, or leaving them where they may be found by, given to, or brought to the attention of, the complainant;
- the unauthorised access to a complainant’s communications or electronic communications;
- the monitoring or tracking of the complainant’s movements, activities or interpersonal associations without the



- complainant's consent, including, for example, by using technology;
- to enter any part of the joint *residence* that is exclusively used by the complainant or other property of the complainant, without the complainant's permission;
  - to unreasonably interfere with any property that is exclusively used by or in the possession of the complainant;
  - to disclose an electronic communication to the complainant, or cause the complainant to receive a communication, which—
    - (i) is abusive, degrading, offensive or humiliating;
    - (ii) violates or offends the sexual integrity or dignity of a complainant; or
    - (iii) inspires the belief in the complainant that he or she or a *related person* may be harmed or their property may be damaged; or
  - to disclose an electronic communication, or to make a communication available, to another person concerning a complainant, which —
    - (i) contains information of a private nature;
    - (ii) violates or offends the sexual integrity or dignity of a complainant;
    - (iii) is abusive, degrading, offensive or humiliating; or
    - (iv) inspires the belief in the complainant that he or she or a *related person* may be harmed or their property may be damaged,

and communications in this context, refer to anything that is used to impart information or ideas, and includes a letter, text, photo, video recording, audio recordings, but excludes an electronic communication;

- (vii) “**sexual harassment**” means any —
- unwelcome sexual attention from a *respondent* who knows or ought reasonably to know that such attention is unwelcome;
  - unwelcome explicit or implicit behaviour, suggestions, gestures, remarks made, communications sent or delivered, or electronic communications disclosed, to the complainant —
    - (i) of a sexual nature; or
    - (ii) regarding the complainant’s or *related person’s* sexual orientation, gender or gender expression,by a *respondent*, that has the effect of offending, intimidating or humiliating the complainant;
  - implied or expressed promise of reward made to the complainant if he or she complies with a sexually oriented request; or
  - implied or expressed threat of reprisal made to, or actual reprisal against, the complainant for refusal to comply with a sexually oriented request;
- (viii) “**related person abuse**” means to —
- threaten the complainant with causing of physical violence to, or the damage of property of, a *related person*;
  - threaten a *related person* with physical violence or causing damage to the property of, such a person;
  - threaten a *related person* with causing of physical violence to, or the damage of property of, a complainant; or
  - commit an act of physical violence against, or cause damage to property of, a *related person*, where such actions can in the circumstances be regarded as abuse to cause harm to the complainant;
- (ix) “**spiritual abuse**” means —
- advocating hatred against the complainant because of his or her

- religious or spiritual beliefs, that constitutes incitement to cause harm to the complainant;
  - preventing the complainant from exercising his or her constitutional right to freedom of conscience, religion, thought, belief and opinion, including to give external manifestation to his or her religious or spiritual convictions and beliefs; or
  - manipulating the complainant's religious or spiritual convictions and beliefs to justify or rationalise abusing the complainant;
- (x) “**damage to property**” consisting of the —
- the wilful damaging or destruction of property; or
  - threats to damage or destroy property, belonging to, or which is in the possession or under the control of, the *complainant*, or in which the complainant has a vested interest;
- (xi) “**elder abuse**” means abuse of an *older person* as contemplated in section 30(2) of the Older Persons Act, 2006 (Act No. 13 of 2006), occurring within a *domestic relationship*;
- (xii) “**coercive behaviour**” means to compel or force a complainant to abstain from doing anything that he or she has a lawful right to do, or to do anything that he or she has a lawful right to abstain from doing;
- (xiii) “**controlling behaviour**” means behaviour towards a complainant that is aimed at making the complainant dependent on, or subservient to, the *respondent* and includes —
- isolating the *complainant* from sources of support;
  - exploiting the resources or capacities of the *complainant* for personal gain;
  - depriving the *complainant* of the means needed for

- independence, resistance or escape; or
  - regulating the everyday behaviour of the *complainant*;
- (xiv) **expose a child to domestic violence** means to intentionally cause a child to —
- see or hear domestic violence; or
  - experience the effects of domestic violence;
- (xv) **entry into the complainants’** —
- (i) residence (albeit permanent or temporary *residence*) without his or her consent, where the parties do not share the same *residence*; or
  - (ii) workplace or place of study, without his or her consent, where the parties do not share the same workplace or place of study; or
- (xvi) any other behaviour of an intimidating, threatening, abusive, degrading, offensive or humiliating nature towards a *complainant*, where such conduct harms, or inspires the reasonable belief that harm may be caused to the *complainant*;
- (j) **“educator”** means any person, including a person who is appointed to exclusively perform extracurricular duties, who teaches, educates or trains other persons or who provides professional educational services, including—
- (i) professional therapy and education psychological services, at all public and independent schools as defined in the South African Schools Act, 1996 (Act No. 84 of 1996);
  - (ii) all public and private colleges and all public and private further education and training institutions established, declared or registered in terms of the Further Education and Training Colleges Act, 2006 (Act No. 16 of 2006); and

- (iii) all public and private higher education institutions defined in the Higher Education Act, 1997 (Act No. 101 of 1997);
- (k) “*electronically*” in relation to service of any document, means to serve by any electronic medium, including fax, email, SMS, multimedia messaging service (such as Whatsup) or other social media;
- (l) “*electronic communications*” means electronic representations of information in any form and includes without limitation voice, sound, data, text, video, animation, visual images, moving images and pictures or a combination or part thereof, that is disclosed by means of an electronic communications service;
- (m) “*electronic communications identity number*” means a technical identification label which represents the origin or destination of electronic communications;
- (n) “*electronic communications network*” means an *electronic communications network* as defined in section 1 of the Electronic Communications Act, 2005 (Act No. 36 of 2005), and includes a computer system;
- (o) “*electronic communication service*” means any service which consists wholly or mainly of the conveyance by any means of electronic communications over an *electronic communications network*, but excludes broadcasting services, as defined in section 1 of the Electronic Communications Act, 2005;
- (p) “*older person*” means a male person who is 65 years of age or older, or a female person who is 60 years or older;

- (q) “*related person*” means any member of the family or household of a complainant, or a person in a *close relationship* with the complainant;
- (r) “*residence*” means any part of any structure, including a building, house, room, shed, hut, tent, mobile home, caravan, boat or other place, that is used as a place of *residence* by a natural person, irrespective whether or not other persons also occupy that structure;
- (s) “*respondent*” means any person who is or has been in a *domestic relationship* with a *complainant* and who —
- has committed or allegedly committed; or
  - has used or allegedly used a *third party actor* to commit or allegedly to commit, an act of domestic violence against the complainant;
- (t) “*the Act*” the Domestic Violence Act, 1998 (Act No. 116 of 1998);
- (u) “*the Firearms Control Act*” the Firearms Control Act, 2000 (Act No. 60 of 2000);
- (v) “*third party actor*” means any person —
- who is not or has not been in a domestic relationship with a *complainant*;
  - who conspired with, was procured by, or used by, the *respondent* to commit an act of domestic violence against the complainant; and
  - who —
    - (i) committed or allegedly committed an act of domestic violence against the complainant; or
    - (ii) aided or allegedly aided the *respondent* in the commission of an act of domestic violence against the *complainant*; and

- (w) “*weapon*” means —
- any airgun, ammunition, imitation firearm, muzzle loading firearm, firearm or handgun as defined in section 1 of the *Firearms Control Act*; or
  - any object, other than that which is referred to above, which is likely to inflict grievous bodily harm or a dangerous wound, if it were used to commit an assault.

## 6. Responsibilities of station commander

- (1) Every station commander must liaise with local representatives of the Department of Social Development, 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 trauma counselling, medical services and suitable shelter) to *complainants*.
- (2) After having identified the organisations referred to in subparagraph (1), the station commander 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 commander 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 commander who must update it at least once every six months.
- (5) The station commander must ensure that a copy of –
- (a) *the 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 (7); and
  - (e) the list referred to in subparagraph (3);
- are at all times available in the Community Service Centre.
- (6) The station commander must ensure that a copy of —
- (a) the list referred to in subparagraph (3);
  - (b) Form 1 (J571-forms); and
  - (c) SAPS 508(a),
- are at all times available in every police vehicle at his or her station which is utilized to attend to complaints.
- (7) The station commander 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* (including *complainants* with special needs) which he or she deems necessary to determine in respect of his or her specific station area.
- (8) 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 commander 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 (7) and, if he or she amends the orders, a copy of the updated version thereof.
- (9) The station commander must ensure that members undergo regular training on the manner in which complains of *domestic violence* must be dealt with.

## **7. 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 6(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
  - (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;
    - (ii) who the *complainant* is; and
    - (iii) whether the *respondent* is in possession of a firearm.
- (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 9(2)(a)-(d) (below) are taken.

## 8. Receiving a report of an incident of domestic violence at a police station

- (1) Every Community Service Centre commander must ensure that copies of the documentation referred to in paragraph 6(5) (above) are at all times available in the Community Service Centre.
- (2) An incident of domestic violence is usually reported by —
  - (a) the *complainant*;
  - (b) a family member, friend or colleague of the *complainant*; or
  - (c) a person who witnessed or received information about the incident of domestic violence.
- (3) The person reporting the alleged incident of domestic violence, normally does so voluntarily (except in the circumstances referred to in subparagraph (5)) and is accordingly normally willing to provide all the information at his or her disposal to the police.
- (4) In terms of section 2A(1) of *the Act*, —
  - (a) a medical practitioner;
  - (b) health care personnel;
  - (c) a social worker;
  - (d) an official in the employ of a public health establishment;
  - (e) an *educator*; or
  - (f) a *care giver*,who, in the course of the performance of his or her duties or the exercise of his or her functions, obtains information which, after having evaluated it himself or herself, causes him or her to believe or suspect on reasonable grounds that a child, person with a *disability* or an *older person* may be a *complainant* is required to complete a Form 2 (Report and risk assessment by functionary), setting out the reasons for his or

her belief or suspicion and submit the report, by hand or electronically, to a social worker or a police official.

- (5) (a) In addition to subparagraph (4), an adult person who knows, believes or suspects on reasonable grounds that an act of domestic violence had been committed against a child, a person with a *disability* or an *older person*, must, in terms of section 2B(1) of *the Act*, report such knowledge, belief or suspicion as soon as possible, by hand or electronically, to a social worker or a police official in the format of an affidavit as set out in Form 3 (Affidavit by adult to report knowledge, belief or suspicion of acts of domestic violence).
- (b) A failure to comply with an obligation as set out in subparagraph (5)(a), constitutes an offence, and an adult person convicted of such offence may be sentenced to a fine or five years' imprisonment.
- (c) An adult person reporting his or her knowledge, belief or suspicion that an act of domestic violence has been committed against a child, a person with a *disability* or an *older person*, may sometimes do so out of fear of being prosecuted if he or she fails to do so. In this regard, it is important to ensure that the identity of the person who made the report be kept confidential.
- (6) Any incident of domestic violence reported to the Service must be viewed in a serious light and the member receiving the report may under no circumstances turn such a person away. Such a member must ensure that action is taken in accordance with subparagraph (8) below.
- (7) Any person who reports the alleged domestic violence to a member must be treated in a professional manner and must be reassured that the report is viewed in a serious light and will be thoroughly investigated.

- (8) 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
  - (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 (9).
- (9) If an incident of *domestic violence* is reported in the manner referred to in subparagraph (8), 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;
    - (ii) who the *complainant* is; and
    - (iii) whether the *respondent* is in possession of a firearm.
- (10) 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 9(2)(a)-(d) (below) are taken.

## 9. 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 10 (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 11 (below));
  - (b) if it is reasonably possible to do so, hand Form 1, contemplated in paragraph 14 (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 12 and 13 (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.

## 10. Securing a scene of domestic violence

### (1) Safety measures at a scene of domestic violence

- (a) 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.
- (b) Upon arriving at the scene, the member must attempt to locate the *complainant* and determine whether the *complainant* is in any danger.
- (c) 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 9(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*.

- (d) 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*. If there are reasonable grounds to suspect that an offence has been committed against the *complainant*, the member must obtain a statement from the *complainant* or any other witness and ensure that a docket is opened in this regard and must act in accordance with subparagraph (3) below.

**(2) Entry into a private premises**

- (a) If a member —
- (i) receives information that an offence containing an element of violence (including common assault) has been committed against the *complainant*; and
  - (ii) reasonably suspects that a person who may furnish information regarding that alleged offence is in any private *residence*,

the member may, without a warrant, enter that *residence* to interrogate that person and obtain a statement from him or her.

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.

- (b) The member contemplated in subparagraph (2)(a) —
  - (i) must audibly demand admission to the *residence* and notify the purpose for which he or she seeks to enter that *residence*; and
  - (ii) may, if admission is not provided by any occupier of the *residence*, use force that is reasonably necessary to overcome any resistance against entry to the *residence*. This may include the breaking of any door or window of the *residence*.
  
- (c) The *member* must make an entry in his or her Pocket Book (SAPS 206) setting out what he or she observed on the premises (including any injuries suffered by a person, threats made by the *respondent* or damage caused to property), what information was conveyed to the member and the particulars of the persons interrogated by the member. If the *member* is satisfied that there are no reasonable grounds to believe that any person on the premises is in any danger, he or she must withdraw and make an entry in his or her Pocket Book (SAPS 206) setting out the reasons why he or she is so satisfied. If the *member* is satisfied that any person on the premises is in danger, the *member* must take action in accordance with subparagraph (3) below.

**(3) Arrest of a respondent at a scene of domestic violence**

- (a) A member must take reasonable steps to secure a scene of *domestic violence*. This may require the separation of the *complainant* and *respondent*.



- (b) In terms of section 3(1) of *the Act*, a member **may arrest** without a warrant any person —
- (i) who is or has been in a *domestic relationship* with the *complainant*; and
  - (j) whom the member reasonably suspects of having committed any offence against the *complainant*. The power to arrest in these circumstances is not limited to offences where violence is an element or circumstances as provided for in section 40(1) of the Criminal Procedure Act, 1977). (See National Instruction 11 of 2019 (Arrest, treatment and transportation of an arrested person) for general information concerning “arrest”).
- (c) A member **MUST**, in terms of section 3(2) of *the Act*, without a warrant, arrest any *respondent* at the scene of an incident of domestic violence, if the member reasonably suspects that the *respondent* committed an offence containing an element of violence against any *complainant* (including the offence of common assault). If the member reasonably suspects that more than one *respondent* committed an offence containing an element of violence against a *complainant*, all *respondents* must be arrested.
- (d) In this regard, see also National Instruction 3 of 2010 (Children in need of care and protection) in respect of children that may be affected by such the arrest and furthermore, see National Instruction 3 of 2016 in respect of the prohibition of the release of an accused on police bail in cases that relate to domestic violence.

**(4) Seizure of any weapon at an incident of domestic violence**

- (a) Where a *member* has reason to believe that a person —
- (i) has threatened or expressed the intention to kill or injure himself or herself or any other person by means of a firearm or any other weapon; or
  - (ii) 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 physical or 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 110(1) of the *Firearms Control Act*, 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 102(1)(a) - (e) of the said Act (which *inter alia* provides that the National Commissioner may declare a person to be unfit to possess a firearm).
- (b) A member who seizes a firearm in accordance with subparagraph 4(a), must ascertain whether such firearm is licensed and, if not, record the relevant charge in the docket.

**11. Duty to render general assistance to the complainant**

- (1) In terms of *the 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. 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 6(7) (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 indicating a CAS number if a case docket is opened; or
  - (b) if it is rendered at another place, be recorded in the Pocket Book (SAPS 206) of the member rendering the assistance.
- (5) A member who attend to a *complainant* of *domestic violence* must follow the procedure for referral of the *complainant* for support services as set out in National Instruction 2 of 2012 (Victim Empowerment).

## 12. Duty to assist the complainant to find suitable shelter

- (1) In terms of *the Act*, a member must assist the *complainant* to find suitable shelter or make arrangements for the *complainant* to find suitable shelter.

- (2) A member must comply with any station orders issued in this regard, as provided for in paragraph 6(7) (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 with a CAS number if a case docket is opened; or
  - (b) if it is rendered at another place, be recorded in the Pocket Book (SAPS 206) of the member rendering the assistance.

### 13. Duty to assist the complainant to obtain medical treatment

- (1) In terms of *the 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 commander in this regard as provided for in paragraph 6(7) (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.

#### **14. Provide complainant with J471 (Form 1) 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 Act*, the member must, where reasonably possible to do so, hand to the *complainant* a copy of the form J 471 as provided for in *the Act*.
- (2) The remedies at the disposal of a *complainant* in terms of *the Act* are as follows:
- (a) the right to lay a criminal charge;
  - (b) the right to apply for a protection order and simultaneously, if the complainant and respondent share the same *residence*, to apply for a domestic violence safety monitoring notice to ensure the safety, health and wellbeing of the complainant; or
  - (c) the right to lay a criminal charge as well as apply for a protection order and apply for a domestic violence safety monitoring notice, if applicable.

It is important to inform the *complainant* that laying a criminal charge is not a prerequisite for applying for a protection order or a domestic violence safety monitoring notice.

- (3) As the Form 1 must be handed over 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 Form 1 (J571-forms) 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 Form 1 (J571-forms) 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 with a CAS number if a case docket is opened; 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 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.



- (7) If another person is acting on behalf of a *complainant* and requests assistance from a member, the member must follow the same procedure in respect of such a person as set out in subparagraph (1) to (6) (above).

## 15. Specific powers and duties of members in terms of the Act

### (1) Serving and enforcement of a domestic violence safety monitoring notice

- (a) A court may, in terms of section 4A of *the Act*, order the station commander of a police station within the area of jurisdiction of the court, to direct a member under his or her command, for a period as specified in the domestic violence safety monitoring notice (“the notice”) to do any or all of the following:
- (i) contact the *complainant* at regular intervals by means of electronic communication as set out in the notice issued by court, to enquire about the wellbeing of the *complainant*; and
  - (ii) regularly, as set out in the notice issued by court, visit the joint *residence* to see and communicate in private with the *complainant*.
- (b) The clerk of the court will serve the notice on the relevant station commander by hand or *electronically*. A station commander must assign a member immediately after receipt of the notice to serve the notice on the *respondent* as set out in sub-paragraph (4) below.
- (c) The member assigned to serve the domestic violence safety monitoring notice, must —
- (i) as soon as possible, contact the *complainant* by any means as set out in the Annexure to the notice to determine

- whether he or she is in danger and record the details of such contact in his or her Pocket Book or the Occurrence Book;
- (ii) if the *complainant* indicates that he or she is in danger, personally immediately respond to the call of the *complainant* or ensure that members are dispatched to the scene. If the member is satisfied, once at the scene, that any person is in danger, the *member* must take action in accordance with subparagraph 10(3);
  - (iii) as soon as possible, but not later than 24 hours after being assigned, serve a copy of the notice on the *respondent* without the Annexure thereto by hand or *electronically*;
  - (iv) explain to the *respondent* (verbally if the notice is handed over personally or in writing, if the notice is served *electronically*) that the member —
    - (aa) is authorised to contact and visit the *complainant* regularly to enquire about his or her wellbeing;
    - (bb) may enter the joint *residence* to see and communicate with the *complainant* in private and may use force that is reasonably required in the circumstances to ensure that he or she is able to see and communicate with the *complainant* during such visit;
    - (cc) must record his or her observations and conversations with the *complainant* and is authorised to take action accordingly; and
    - (dd) must report to court on his or her observations and the information that he or she has given to the *complainant* in this regard;
  - (iv) contact the *complainant* immediately after the notice was served on the *respondent* to inform him or her accordingly;

- (v) if the member was unable to serve the notice within the required 24 hours (as set out in subparagraph (iii) above), contact the complainant, (either in person or telephonically) for assistance on the whereabouts of the *respondent*, to enable the serving of the notice on the *respondent*. An entry must be made in the Pocket Book of the member setting out the response of the complainant and if the complainant was requested by the member in person, the complainant must be requested to sign below the entry in his or her Pocket Book;
  - (vi) as soon as is reasonably possible but no later than 12 hours after service on the *respondent*, submit a return of service to the clerk of the court by hand or *electronically*; and
  - (vii) if the member is unable to serve the notice on the *respondent* despite the assistance of the complainant, the member must, within 12 hours of the inability to serve, file a return of non-service, explaining the reason for non-service of the notice on the *respondent*. The member must also make an entry in his or her Pocket Book on steps taken to locate the *respondent* and the outcome of such steps.
- (d) The member must record the details of his or her actions taken to comply with subparagraph (c) (above) in his or her Pocket Book or the Occurrence Book. If action is taken or assistance is rendered by the *member* in the presence of the *complainant*, the member must request *the complainant* to sign in his or her Pocket Book below the entry made by the member.
- (e) A member may, in order to comply with the order of the court as contemplated in subparagraph (a)(ii), —
- (i) enter the joint *residence* to see and communicate with the

- complainant* in private; and
- (ii) use minimum force that is reasonable in the circumstances to overcome resistance against such entry where the member is prevented from seeing the *complainant*. This may, for example, include the breaking of a door or window of the joint *residence*.
- (f) During an interaction with the *complainant*, irrespective of whether the interaction takes place in person or by means of electronic communication, the member must enquire from the complainant on the following:
- (i) whether the *complainant* or a *related person* has been hurt or threatened with harm;
  - (ii) where there was any damage or threat of damage to property; and
  - (ii) any household pet or other animal whose welfare affects the *complainant's* well-being was harmed or threatened with harm.
- (g) The responses of the *complainant* must be recorded by the member (as set out in subparagraph (d)) after every interaction, as well as the time and date of the interaction. If it appears to the member that the complainant has been hurt or threatened, the member must, depending on the circumstances of the incident, if —
- (i) medical assistance is required, act in accordance with paragraph 13;
  - (ii) a referral to a shelter is required, act in accordance with paragraph 12; or
  - (iii) the conduct of the *respondent* constitutes an offence, advise the *complainant* of the right to open a criminal

complaint.

- (h) A member must make an entry in —
  - (i) the Occurrence Book every time that the complainant has been contacted by electronic mail; or
  - (ii) his or her Pocket Book (SAPS 206) every time that the complainant has been visited and must record his or her observations and what the complainant communicated to him or her. The complainant must be requested to sign in his or her Pocket Book after every visit.
  
- (i) After the expiry of the period stated in the notice, the *member* must, on a single Form 11 (Report by member of South African Police Service to court) complete the steps taken to contact the complainant and the outcome of the monitoring of the safety of the complainant. The Form 11 must be submitted to the clerk of the court by hand or electronically within 48 hours after the expiry of the period stated in the notice.
  
- (j) A copy of the report must be filed in a separate file with reference 39/4/2/3 which must be opened every month and all the domestic violence safety monitoring notices received at the station within a specific month must be filed in it (as set out in paragraph 16(7) below). Proof of receipt of the report by the clerk of the court must also be filed.

**(2) Seizure of weapons in terms of a court order and consideration of the fitness of the respondent to possess a firearm**

- (a) The court may, in terms of section 7(2)(a) of *the Act*, order a member to seize any *weapon* in the possession or under the control of a *respondent*.
- (b) Any such *weapon* seized must be handed in at the police station and, where the *weapon* is an airgun, ammunition, initiation firearm, muzzle loading firearm or handgun as defined in the *Firearms Control Act*, the matter to be dealt with in accordance with section 102 or section 103 of the *Firearms Control Act*, whichever may be applicable.
- (c) Any *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 *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 National Instruction 8 of 2017 (Property and Exhibit Management) and Standing Order (General) 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 *weapon* may only be disposed of in accordance with an order of court.
- (e) Once a final protection order has been issued against a *respondent*, the clerk of the court will inform the relevant station commander and Divisional Commissioner: Visible Policing and Operations thereof. The relevant station commander must, once such order has been received, —

- (i) determine whether the *respondent* holds any licence, permit, competency certificate or other authorisation in terms of the *Firearms Control Act* for any firearm;
- (ii) institute an inquiry into the fitness of the *respondent* to possess a firearm in terms of section 102 of the *Firearms Control Act*; and
- (iii) inform the Divisional Commissioner: Visible Policing and Operations of the decision contemplated in subparagraph (ii).

**(3) 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 the protection order and warrant of arrest are in electronic form, it is not necessary that the documentation is certified.
- (c) 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* is suffering or may suffer harm as a result of the alleged breach of the protection order by the *respondent*, the member must immediately arrest the *respondent* for allegedly committing the offence referred to in section 17(1)(a) of *the Act* (contravening the protection order) on the strength of the warrant.
- (d) In considering whether or not the *complainant* is suffering or may suffer harm, a member must take the following into account:

- (i) the risk to the safety, health or wellbeing of the *complainant* or *related person* or damage of their property;
- (ii) the seriousness of the conduct comprising the alleged breach of the protection order;
- (iii) the length of time since the alleged breach has occurred; and
- (iv) the nature and extent of the harm previous suffered in the domestic relationship by the *complainant* or *related person*:

Provided that if the *respondent* is under the influence of liquor to such an extent that a Notice (referred to in subparagraph (e) (below)) cannot be handed to him or her, the *respondent* must be arrested.

- (e) 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 Appear before Court to the *respondent* as provided for in Form 36 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 include 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.
- (f) 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.



**(4) Service of protection orders**

- (a) A member may be ordered by the court to serve an interim or final protection order.
- (b) If a member is ordered to serve a protection order, the member—
- (i) must, if the *complainant* and *respondent* share the same *residence*, serve the original —
    - (aa) interim protection order together with certified copies of the application and any supporting affidavit that accompanied the application and record of the evidence, in person on the *respondent* personally, as soon as possible, but no later than 24 hours; or
    - (bb) final protection order in person on the *respondent* personally, as soon as reasonably possible, but no later than 48 hours; and
  - (ii) may, if the *complainant* and *respondent* do not share the same *residence*, serve the original —
    - (ee) interim protection order, certified copies of the application and any supporting affidavit that accompanied the application and record of the evidence, on the *respondent*, by hand or *electronically* as soon as possible, but no later than 24 hours; or
    - (ff) final protection order in person on the *respondent*, by hand or *electronically* as soon as possible, but no later than 48 hours.
- (c) As long as a protection order remains unserved, the *complainant* may be in danger. A protection order is only in force and may be enforced once it has been served on the *respondent*.

- (d) The member must complete a Form 40 (Return of Service) upon the return of service of the protection order on the *respondent* by hand or electronically and file it with the clerk of the court no later than 24 hours after service or attempted service. The member may file a document with the clerk of the court in any of the following manners:
- (i) hand delivery to the clerk of the court;
  - (ii) submitting the document to an electronic mail address or fax number of the clerk of the court; or
  - (iii) uploading the document on the online portal, if available.
- (e) A member may be required, upon return of service of the documents as set out in subparagraph (d) (above), to serve —
- (i) a certified copy of the interim or final protection order; and
  - (ii) the original warrant of arrest, —
    - (aa) by hand on the complainant personally, if the complainant and *respondent* share the same *residence*; or
    - (bb) on the complainant by hand or *electronically*, if the complainant and *respondent* do not share the same *residence*.
- (f) If a member serves any document *electronically* as provided for in subparagraphs (b) or (e), the member must —
- (i) obtain a delivery report, screenshot or fax transmission report to confirm that the document was successfully delivered electronically to the person intended to be served;
  - (ii) complete a return of service;
  - (iii) attach a delivery report, screenshot, fax transmission report or other proof of delivery to the return of service; and

- (iv) file a copy of the delivery report, screenshot, fax transmission report or other proof of delivery to the return of service.
  - (g) If a member is unable, despite reasonable steps taken to locate the *respondent*, to serve a document by hand on him or her (as required in terms of subparagraph (b)), the member must file a return of non-service with the clerk of the court. The member must also record the steps taken to locate the *respondent* in his or her Pocket Book.
  - (h) A copy of the SAPS 5 (Investigation diary) must be attached to all protection orders received for service and all steps taken in respect of the serving of the protection order must be recorded. The record provided by the SAPS 5 must be inspected to determine the steps taken in respect of the serving of such orders. In addition, the member serving the protection order must make an entry in his or her pocket book and ensure that an entry in the Occurrence book is also made for record purposes.
- (5) 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 protection 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*, where after 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.

## 16. 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 commander to ensure that an accurate record is kept of all *domestic violence* incidents.
  
- (2) If a *complainant* arrives at a police station to lay a criminal charge resulting from a *domestic violence* incident and indicates that the incident was first reported at an office of a municipal police service the member must —
  - (a) request the *complainant* to hand over the copy of the Report of Domestic Violence Incident-form (SAPS 508(a)) which was furnished to him or her by the member of the municipal police service. If the *complainant* does not have a copy thereof, the member must contact the particular office of the municipal police service to get a copy thereof;
  - (b) record the incident of *domestic violence* in red ink in the Domestic Violence Register (SAPS 508(b));
  - (c) in Column 6 (Pocket Book reference Column) of the Domestic Violence Register, record the monthly serial number of the relevant entry in the Domestic Violence Register of that specific office of the municipal police service (as captured on the copy of the SAPS 508(a)); and
  - (d) open a docket and have it registered on the CAS system.
  
- (3) 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 and 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 November 2022 must be filed with the reference 39/4/2/3(11/2022).

- (4) 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) and Occurrence Book.
- (5) Certified copies of protection orders and of the warrants of arrest as provided for in *the Act*, will be forwarded by the clerk of the court to the Community Service Centre of the *complainant's* choice.
- (6) When a protection order or domestic violence safety monitoring notice is received, its particulars must be entered in the process register (SAPS 264) in accordance with SO (G) 307 before it is filed.
- (7) A copy of every protection order, domestic violence safety monitoring notice and warrant of arrest that is received, must be filed together in one 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. 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.

- (8) Information must be recorded in the SAPS 508(b) in the following manner:
- (a) When a *complainant* has been attended to, the SAPS 508(a) must be completed and the particulars of the incident must be recorded in the SAPS 508(b) irrespective of whether a previous entry was made in relation of the parties involved in the incident of *domestic violence*. All columns must be completed in respect of every entry.
  - (b) When a protection order is received at the station, a new entry must be made in the SAPS 508(b), irrespective of whether a previous entry was made in relation of the parties involved in the incident of *domestic violence* and all the columns must be completed.
  - (c) When the contravention of a protection order is reported, a new entry must be made in the SAPS 508(b), and all columns must be completed accordingly.
- (9) All records relating to *domestic violence* incidents must be inspected in accordance with existing prescripts. These include first level inspection (to be conducted in accordance with SO (G) 301 and SO (G) 256) and second level inspection (conducted in accordance with National Instructions 2 of 2015 and 13 of 2016 respectively). Provincial inspections must be conducted in accordance with SO (G) 225.
- (10) Disposal of the aforementioned files must take place in accordance with the approved disposal authorisation.

## 17. Complaints regarding non-compliance by members and notification of such non-compliance to the Civilian Secretariat of Police Service

- (1) In terms of *the 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 the Discipline Regulations against a member who fails to comply with an obligation imposed in terms of *the Act* or this National Instruction.
- (2) Any allegation of misconduct contemplated in subparagraph (1) must be investigated and finalised as soon as possible.
- (3) 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.
- (4) Where the commander is of the opinion that disciplinary proceedings should not be instituted against such member, the commander must apply to the Civilian Secretariat for Police for exemption.
- (5) An application contemplated in subparagraph (4) above, must contain a full report with reasons for the application for exemption. The following documentation must, where applicable, be attached to the application:
  - (a) a copy of the relevant page or entry of the Occurrence Book;
  - (b) a copy of the relevant entry of the pocket book of the member involved;
  - (c) a copy of the warrant of arrest, if applicable;
  - (d) the statement of the investigating officer involved in the case (where a docket was opened); and



- (e) a copy of the statement of the *complainant*.
- (6) The application for exemption must be forwarded to the offices of the district commissioner within 30 days after the receipt of the complaint.
- (7) The district commissioner must, if he or she agrees that no disciplinary action should be taken, submit the application referred to in subparagraph (6) 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 secretariat.
- (8) The provincial office of the Civilian Secretariat for Police has agreed to inform the provincial commissioner on the status of an application for exemption if no response has been received from the provincial secretariat within 30 days after the receipt of the application for exemption on 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.
- (9) 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 the station commander or relevant commander of a unit to the district commissioner.
- (10) The provincial commissioner must, on a monthly basis, report to the provincial office of the Civilian Secretariat of Police Civilian Secretariat for Police on the implementation of their recommendations.
- (11) The provincial commissioner must designate members to attend the Provincial Compliance Forum, established with the provincial office of

the Civilian Secretariat for Police to discuss matters relating to the implementation of the *Act*.

## **18. Keeping record of and reporting on complaints against members for failure to comply with an obligation in terms of the Act or National Instruction**

- (1) The failure by any member, irrespective of his or her rank or position, to comply with any obligations imposed by *the Act* or this National Instruction must be viewed in a serious light and disciplinary steps must be instituted against such a member.
- (2) Every allegation of misconduct regarding an alleged failure by a member to comply with any obligation in terms of *the Act*, the Regulations issued in terms of *the Act* or the National Instruction issued in this respect, must be reported by the commander of the relevant member on a form SAPS 508(e).
- (3) The form SAPS 508(e) must be completed within 48 hours of the commander becoming aware of such an allegation. The form must, upon completion by the commander, be forwarded to the following relevant offices:
  - (a) The Provincial Head: Visible Policing;
  - (b) the Provincial Head: Discipline Management; and
  - (c) the relevant district commissioner.
- (4) Every station commander 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 Act* or this instruction;

- (b) the disciplinary proceedings instituted as a result thereof and the decisions which emanated from such proceedings (which must be available for inspection purposes); and
  - (c) steps taken as a result of recommendations made by the provincial office of the Civilian Secretariat for Police.
  
- (5) Every allegation of misconduct regarding an alleged failure by a member to comply with any obligation in terms of *the Act*, the Regulations issued in terms of *the Act* or the National Instruction issued in this respect, that was received during the previous month, must be recorded on the SAPS 508. This return must together with supporting documents be submitted to the relevant district commissioner before the third working day of each month.
  
- (6) A consolidated return on a SAPS 508 must be submitted by the district commissioner to the provincial commissioner before the seventh working day of each month. The provincial commissioner must furnish a consolidated return with supporting documents before the tenth working day of each month to the provincial office of the Civilian Secretariat for the Police Service and to the Divisional Commissioner: Visible Policing and Operations for submission to Parliament, as required by section 18(5)(d) of *the Act*.
  
- (7) The outcome of disciplinary proceedings instituted as a result of the alleged failure of a member to comply with any obligation imposed by *the Act* or National Instruction must, within 48 hours of becoming aware of such outcome, be reported by the commander of the relevant member by means of the SAPS 508(f). The completed SAPS 508(f) must be submitted to the following relevant offices:
  - (a) The Provincial Head: Visible Policing;
  - (b) the Provincial Head: Discipline Management; and

- (c) the relevant district commissioner.
- (8) 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 finalised 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 complaint reported in January will keep the January serial number, example 13/1/2022.)
- (9) The Codes which must be recorded in column 6 of the SAPS 508 are the following:
- DS1 Corrective counselling after initial interview (not serious)
  - DS2 Verbal warning after initial interview (not serious)
  - DS3 Written warning (not serious)
  - DS3A Final Written Warning (not serious)
  - DS4A Departmental investigation (serious): still under investigation
  - DS4B Departmental investigation (serious): guilty (state sentence)
  - DS4C Departmental investigation (serious): not guilty.

## 19. Reporting on incidents of domestic violence

- (1) Before the third working day of each month, the station commander must submit a return with supporting documents to the relevant district commissioner containing the following information:
- (a) the number of incidents of *domestic violence* reported to that station during the previous month;
  - (b) the number of incidents of *domestic violence* referred to the station during the previous month by offices of a municipal police

- service, where applicable (the number of entries in red ink in the register);
- (c) the number of members trained on the handling of incidents of *domestic violence* at that station during the previous month;
  - (d) the number of dockets relating to *domestic violence* opened and registered on the CAS system during the previous month;
  - (e) the number of arms and dangerous weapons seized and kept in the SAPS 13 store as a result of an incident of *domestic violence*;
  - (f) the number of inquiries lodged in terms of section 102 of the *Firearms Control Act* to determine the fitness of the *respondent* to possess a firearm and the status of such inquiries;
  - (g) the number of cases where a court has declared a *respondent* unfit to possess a firearm in terms of section 103 of the *Firearms Control Act*;
  - (h) number of final protection orders served by members of that police station;
  - (i) number of interim protection orders served by members of that police station;
  - (j) number of members involved in *domestic violence* (as alleged perpetrators);
  - (k) number of members who allegedly failed to comply with *the Act* and this National instruction;
  - (l) number of incidents reported of members who are *complainants of domestic violence*;
  - (m) number of incidents where members were allegedly killed by a person who were in a *domestic relationship* with the member; and
  - (n) number of incidents where a member is suspected of having killed a person who were in a *domestic relationship* with the member.

- (2) A consolidated return with supporting documents of the aforementioned information received from all stations in the district must be submitted by the district commissioner to the provincial commissioner before the seventh working day of each month.
- (3) The provincial commissioner must furnish a consolidated with supporting documents return of the aforementioned information received from all areas before the tenth working day of each month to the Divisional Commissioner: Visible Policing and Operations.

## 20. Incidents of domestic violence where a member is involved

- (1) A member who attends to an incident of *domestic violence* where a member is allegedly involved (either as the *complainant* or the *respondent*), must treat the *complainant* and the *respondent* in the same manner as he or she would treat any other member of the public.
- (2) If the member attended to an incident of *domestic violence* where another member is allegedly involved as a *respondent*, the member attending to the incident must make an entry in his or her pocket book in that effect and must report it to his or her commander.
- (3) The commander of the member who attended to the incident of *domestic violence* must ensure that a form SAPS 508(c) is completed and forwarded to the commander of the member who allegedly perpetrating *domestic violence* within 48 hours after having been informed of the involvement of the member in the incident.

- (4) The commander of the member who is allegedly involved in the incident of *domestic violence* must ensure that a copy of the completed form SAPS 508(c), must within 48 hours of receipt of the form, submit copies of the form to the following offices:
- (a) the Provincial Head: Visible Policing;
  - (b) the Provincial Head: Discipline Management;
  - (c) the Provincial Head: Health and Wellness; and
  - (d) the relevant district commissioner.
- (5) Any member against whom a protection order has been issued (irrespective of whether it is an interim or final protection order) or against whom a criminal charge involving *domestic violence* has been laid, must report this to his or her commander and must provide a copy of the protection order or details of the charge to his or her commander. A commander who have been informed accordingly must take steps to consider the placement of the member where he or she will not be dealing with *complainants* of *domestic violence* and furthermore investigate whether an official firearm may be issued to the member or not. The decision and motivation must be recorded and reported to the district commissioner and Provincial Commissioner. National Instruction 4 of 2016 relating to the firearm permit system and firearm training and paragraphs 7 and 8 of National 3 of 2019 relating to the management of members who have been declared not competent to possess an official firearm or who have been declared unfit to possess a firearm in terms of the *Firearms Control Act* must also be complied with. A firearm may therefore not be issued to a member who is not regarded as a fit and proper person to possess a firearm in terms of section 9(2)(d) to (p) of the *Firearms Control Act*. If a *member* is not a fit and proper person to possess a firearm in terms of section 9(2)(d) to (p) of *the Act* (or a declaration was made in terms of section 102 or 103 of *the Act* in respect

of a member), he or she may not be issued with a permit to carry a firearm.

- (6) If a commander receives a sworn statement alleging that a *member* is unfit and proper to possess a firearm in terms of section 102(1) of the *Firearms Control Act*, or at any stage becomes aware that the *member* is unfit and proper to possess a firearm, he or she must, as a precautionary measure, dispossess the *member* of his or her official firearm, including any private firearms, pending an enquiry in terms of section 102 of the *Firearms Control Act*.
- (7) The member who attended to the incident must complete a form SAPS 508(d) if the *complainant* of the *domestic violence* is a member. The completed form must be forwarded to the relevant Provincial Heads of Visible Policing and Discipline Management and the relevant district commissioner of the province where the *complainant* is stationed.
- (8) The commander of the member who is the *complainant* in the incident of *domestic violence* must inform the member of available support services (such as Employee, Health and Wellness (EHW)) and must encourage the member to obtain such assistance.
- (9) Commanders must ensure that the forms SAPS 508(c) and SAPS 508(d) are treated confidentially to protect the identity of the parties involved. The purpose of these forms is primarily to ensure that support services are offered and to protect the well-being of the parties involved.



## **21. Implementation**

- (1) Every Provincial Commissioner must monitor compliance and where a member acted in contravention of the National Instruction, ensure that the commander of the member institutes disciplinary steps and criminal charges, where applicable, against the member.
  
- (2) The Divisional Commissioner: Visible Policing and Operations may issue Standard Operating Procedures regarding any aspect relating to the National Instruction and may develop and implement measures to monitor and evaluate compliance with the National Instruction.