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NATIONAL INSTRUCTION 7/1999

DOMESTIC VIOLENCE

1. Background

The Domestic Violence Act, 1998 (Act No. 16 of 1998), (hereinafter referred to as the *Domestic Violence Act*) imposes certain obligations on a member who receives a complaint of domestic violence. This instruction is intended to provide clear direction to a member on how to respond to a complaint of domestic violence in order to comply with the obligations imposed upon him or her in terms of the *Domestic Violence Act*.

2. Definitions

In this instruction, unless the context otherwise indicates, –

complainant means any person who is or has been in a domestic relationship with another person and who is alleged to be or to have been subjected by such other person (hereinafter referred to as the *respondent*) to an act of *domestic violence* and includes any child in the care of the *complainant*;

domestic violence means any one or more of the following forms of conduct performed by a *respondent* in respect of a *complainant* which consists of:

- (a) **physical abuse**, consisting of any act or threatened act of physical violence;
- (b) **sexual abuse**, consisting of conduct that abuses, humiliates, degrades or violates the sexual integrity of the *complainant*;
- (c) **emotional, verbal and psychological abuse**, consisting of a pattern of degrading or humiliating conduct which may consist of –
 - repeated insults, ridicule, or name calling;
 - repeated threats to cause emotional pain; or
 - the repeated exhibition of obsessive possessiveness or jealousy which is such as to constitute a serious invasion of the privacy, liberty, integrity or security of the *complainant*;
- (d) **economic abuse**, which may consist of –
 - the unreasonable withholding of economical or financial resources from a *complainant* who is legally entitled thereto or which the *complainant* requires of necessity, including the withholding of household necessities from the *complainant* or refusal to pay mortgage bond repayments or rent in respect of the shared residence; or
 - the unreasonable disposal of household effects or other property in which the *complainant* has an interest;
- (e) **intimidation**, by uttering or conveying a threat or causing the *complainant* to receive a threat which induces fear;

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- (f) **harassment**, consisting of a pattern of conduct which induces fear of harm to the *complainant*, including repeatedly –
- watching or loitering outside of or near the building or place where the *complainant* resides, works, carries on business, studies or happens to be;
 - making telephone calls to the *complainant*, whether or not conversation ensues, or inducing another to do so;
 - sending, delivering or causing the delivery of letters, telegrams, packages, facsimiles, electronic mail or other objects to the *complainant*,
- (g) **stalking**, by repeatedly following, pursuing or accosting the *complainant*;
- (h) **damaging of property**, consisting of the wilful damaging or destruction of property belonging to a *complainant* or in which the *complainant* has a vested interest;
- (i) **entry into the residence of the *complainant* without consent where the parties do not share the same residence**; or
- (j) **any other controlling or abusive behaviour towards a *complainant***; where such conduct harms, or may cause imminent harm to the safety, health or well-being of the *complainant*;

domestic relationship means a relationship between a *complainant* and the respondent where they –

- (a) are or were married to each other in terms of any law, custom or religion;
- (b) live or lived together in a relationship in the nature of a marriage (whether they are of the same or of the opposite sex);
- (c) are the parents of a child or have or had parental responsibility for the child (whether or not at the same time);
- (d) are family members related by consanguinity, affinity or adoption;
- (e) are or were in an engagement, dating or customary relationship: including an actual or perceived romantic, intimate or sexual relationship of any duration: or
- (f) share or recently shared the same residence;

residence also institutions for children, the elderly and the disabled; and

respondent means any person who is or has been in a *domestic relationship* with a *complainant* and who allegedly commits or has committed *domestic violence* against the *complainant*.

3. Responsibilities of station commissioner

- (1) Every station commissioner must liaise with local representatives of the Department of Welfare, the local Community Police Forum and any other relevant local institution, to identify local organisations which are willing and able to provide counselling and other support services (including medical services and suitable shelter) to *complainants*.

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- (2) After having identified the organisations referred to in subparagraph (1), the station commissioner must liaise with the said organisations to determine –
- (a) the specific services that are rendered by each;
 - (b) whether the services are rendered after hours, during weekends and on public holidays;
 - (c) whether the services are rendered free of charge or at a fee; and
 - (d) the contact particulars of each.
- (3) The station commissioner must compile a list of the relevant organisations and include in it, in respect of each organisation, at least the information referred to in subparagraph (2) as well as information relating to hospitals, ambulance services and medical practitioners that may be utilised to provide medical treatment to *complainants*.
- (4) The original list referred to in subparagraph (3) must be kept by the station commissioner who must update it at least once every six months.
- (5) The station commissioner must ensure that a copy of –
- (a) the *Domestic Violence Act*;
 - (b) the Regulations promulgated in terms thereof;
 - (c) this National Instruction;
 - (d) the station orders issued by him or her in terms of subparagraph (6); and
 - (e) the list referred to in subparagraph (3);
- are at all times available in the Community Service Centre and that a copy of the list referred to in subparagraph (3) is at all times available in each police vehicle at his or her station which is utilized to attend to complaints.
- (6) The station commissioner must, taking into account the unique circumstances prevailing in his or her specific station area, available resources, etc., issue station orders –
- (a) requiring a member under his or her command to inform a *complainant* of the services rendered by organisations mentioned in the list and how to inform the *complainant* thereof (e.g. by providing the *complainant* with a copy of the list or allowing the *complainant* to peruse the list or reading the information from the list to the *complainant*);
 - (b) setting out the steps that must be taken by such member to assist the *complainant*, when requested thereto by the *complainant*, to gain access to any service rendered by an organisation mentioned in the list or to obtain medical treatment should this be required; and
 - (c) in general, instructing members under his or her command on any other matter relating to the treatment of *complainants* of *domestic*

violence which he or she deems necessary to determine in respect of his or her specific station area.

- (7) Where a police station area forms part of a larger area consisting of more than one police station area and a radio control unit has been established to patrol and attend to complaints in such larger area, every station commissioner of a station in such larger area must, for information purposes, provide the commander of such radio control unit with a copy of –
- (a) the list referred to in subparagraph (3) and, when he or she has updated the list, a copy of the updated version thereof; and
 - (b) a copy of the station orders issued in accordance with subparagraph (6) and, if he or she amends the orders, a copy of the updated version thereof.

4. Receiving complaints of *domestic violence*: responsibility of Community Service Centre commander

- (1) Every Community Service Centre commander must ensure that copies of the documentation referred to in paragraph 3(5) (above) are at all times available in the Community Service Centre.
- (2) If an incident of *domestic violence* is –
- (a) telephonically reported to the Community Service Centre or to a radio control unit by the *complainant* or any other person; or is
 - (b) reported in person to the Community Service Centre by someone other than the *complainant*,
- the Community Service Centre commander or member receiving the report must endeavour to obtain sufficient information concerning the incident to make it possible to comply with subparagraph (3).
- (3) If an incident of *domestic violence* is reported in the manner referred to in subparagraph (2), the Community Service Centre commander or person answering the telephone, must, –
- (a) without any unreasonable delay, ensure that a police vehicle from the appropriate radio control unit or station is despatched to the *complainant* to attend to the matter;
 - (b) ensure that the crew of such vehicle is informed –
 - (i) whether any violence or threatened violence is allegedly or has allegedly been involved in the incident; and
 - (ii) who the *complainant* is.
- (4) If a *complainant* reports an incident of *domestic violence* in person at the Community Service Centre, the Community Service Centre commander must ensure that the steps set out in paragraph 5(2)(a)-(d) (below) are taken.

5. Responsibility of a member

- (1) A member who attends a scene of domestic violence must first of all determine whether the complainant is in any danger and take all reasonable steps to secure the scene as set out in paragraph 6 (below) and to protect the complainant from any danger.
- (2) Once the scene has been secured, the member must –
 - (a) render such assistance to the complainant as may reasonably be required in the circumstances (this is more fully set out in paragraph 7 (below));
 - (b) if it is reasonably possible to do so, hand the Notice, contemplated in paragraph 10 (below), to the complainant and explain the contents of such notice to the complainant;
 - (c) assist the complainant or make arrangements for the complainant to find a suitable shelter and to obtain medical treatment, as set out in paragraphs 8 and 9 (below); and
 - (d) investigate the alleged incident of domestic violence and gather all available evidence in respect of any offence which may have been committed during such incident.

6. Securing a scene of *domestic violence*

- (1) Due to the high risk inherent to and volatility of domestic violence incidents, a member must be extremely careful when responding to a call to a scene of domestic violence and should, whenever reasonably possible, not go alone to the scene.
- (2) Upon arriving at the scene, the member must attempt to locate the complainant and determine whether the complainant is in any danger.
- (3) If the complainant is located and he or she is not inside a building or similar structure, the complainant must be interviewed to determine whether he or she is in any immediate danger. If the complainant does not seem to be in any immediate danger, the steps set out in paragraph 5(2)(a)-(d) (above) must be followed. If the complainant is in any danger, the member must take the necessary steps to ensure the safety of the complainant.
- (4) If it is established that the complainant is inside a building or similar structure, the member must determine whether there are reasonable grounds to suspect that an offence has been committed against the complainant.
- (5) If a member has reasonable grounds to suspect that an offence has been committed and that the complainant may furnish information regarding the offence, such member –

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- (a) may, where necessary, if the complainant is inside a building or similar structure, exercise his or her powers in terms of sections 26 and 27 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977) (hereinafter referred to as the Criminal Procedure Act), to enter the premises and building and interview and take a statement from the complainant, as this will enable him or her to determine whether the complainant is in any danger and what steps to take to protect the complainant from harm or further harm: Provided that a member may not, if the complainant is inside a private dwelling and the member is refused entry into the dwelling, forcibly enter the dwelling in terms of the said provisions;
- (b) must, if the complainant is inside a private dwelling and the member is refused entry into the dwelling, take reasonable steps to communicate with the persons inside the dwelling to determine whether any person inside the dwelling is in any imminent danger, and –
- (i) may, if he or she has reasonable grounds to believe that any person inside the dwelling is in imminent danger and that a forcible entry is necessary to protect the person, use minimum force to gain entry to the dwelling in order to protect the complainant or any other person from imminent physical harm (Circumstances which may indicate to the need for such action include cries for help, visible injuries or weapons, obvious signs that a struggle has occurred or the account of a witness that a crime has been committed and that the complainant could reasonably be expected to be injured and in need of urgent medical attention.); or
- (ii) must, if he or she is satisfied that there are no reasonable grounds to believe that any person inside the dwelling is in any imminent danger, withdraw and make an entry in his or her Pocket Book (SAPS 206) setting out the reasons why he or she is so satisfied.
- (6) If the member does not have reasonable grounds to believe that an offence has been committed and that the complainant is inside a building or structure (including a private dwelling), the member may not act in terms of sections 26 and 27 of the Criminal Procedure Act and must request permission to enter the building or structure and, –
- (a) if given permission to do so, enter the building or structure and interview the complainant to determine whether he or she is in any immediate danger. If the complainant does not seem to be in any immediate danger, the steps set out in paragraph 5(2)(a)-(e) (above) must be followed. If the complainant is in any danger, the member must take the necessary steps to ensure the safety of the complainant; and

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- (b) if refused permission to do so, act as set out in subparagraph (5)(b) (above).
- (7) Securing a scene of *domestic violence* may require the separation of the *complainant* and *respondent* and may include arresting the *respondent* in terms of section 3 of the *Domestic Violence Act* and section 40(1)(q) of the *Criminal Procedure Act* if the *complainant* appears to be in danger of imminent harm unless the *respondent* is arrested. In terms of the aforementioned provisions, a *member* is empowered to arrest without a warrant any person who is or has been in a domestic relationship with the *complainant* and whom the member reasonably suspects of having committed an offence containing an element of violence against the *complainant* (therefore including the offence of common assault). (See Standing Order 341 for general information concerning "Arrest").
- (8) Where a *member* has reason to believe that a person —
- (a) 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 dangerous weapon; or,
 - (b) who is in possession of a firearm and whose possession thereof is not in his or her interest or in the interest of any other person as a result of his or her 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, 2000 (Act No. 60 of 2000), 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).
- (9) A member who seizes a firearm in accordance with subparagraph (8), must ascertain whether such firearm is licensed and, if not, include the offence in the docket.

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

- (1) In terms of the *Domestic Violence Act* a *complainant* may approach the Service for assistance at any time, irrespective of when or where the incident took place. Where a criminal charge is laid by the *complainant*, it is the responsibility of the member receiving the complaint to open a docket and have it registered for investigation and the member may not avoid doing so by directing the *complainant* to counselling or conciliation services.

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- (2) When a member locates a *complainant* after having received a complaint of *domestic violence* or the *complainant* reports an incident of *domestic violence* at the Community Service Centre, such assistance as may reasonably be required in the circumstances must be rendered to the *complainant*.
- (3) To comply with this duty, a member –
- (a) must render such assistance as may be required by station orders provided for in paragraph 3(6)(c) (above) including assistance to the *complainant* to lay a criminal charge; and
 - (b) may, where it is reasonable to do so, contact a family member or friend of the *complainant* to render support to the *complainant*.
- (4) Any assistance rendered to the *complainant* in terms of subparagraphs (1) - (3) must –
- (a) if it is rendered at the Community Service Centre, be recorded in the Occurrence Book; or
 - (b) if it is rendered at another place, be recorded in the Pocket Book (**SAPS 206**) of the member rendering the assistance.

8. Duty to assist the *complainant* to find suitable shelter

- (1) In terms of the *Domestic Violence Act*, a member must assist the *complainant* to find suitable shelter or make arrangements for the *complainant* to find suitable shelter.
- (2) To comply with this duty, a member must comply with any station orders issued in this regard, as provided for in paragraph 3(6) (above), and must at least –
- (a) provide the *complainant* with the names, contact numbers and/or addresses of any organisation in the area which may be able to provide suitable shelter and relevant support and/or counselling services;
 - (b) at the request of the *complainant* and, where it is reasonably possible to do so, contact on behalf of the *complainant* an organisation which may render relevant assistance to the *complainant*; and
 - (c) at the request of the *complainant*, assist in arranging transport for the *complainant* to a suitable shelter or an organisation that may be able to render relevant support and/or counselling (e.g. by contacting the family or friends of the *complainant* with a request to transport the *complainant*, arranging for a taxi at the expense of either the *complainant* or a willing family member or friend, etc.). A member may, only as a last resort, transport a *complainant* in a police vehicle to find a suitable shelter if such a vehicle is available and there is no other means of transport. In such an event the

complainant must be informed that he or she is being transported at his or her own risk.

- (3) Any assistance rendered to the *complainant* in terms of subparagraphs (1) and (2) must –
- (a) if it is rendered at the Community Service Centre, be recorded in the Occurrence Book; or
 - (b) if it is rendered at another place, be recorded in the Pocket Book (SAPS 206) of the member rendering the assistance.

9. Duty to assist the *complainant* to obtain medical treatment

- (1) In terms of the *Domestic Violence Act* a member must assist the *complainant* to obtain medical treatment or make arrangements for the *complainant* to obtain medical treatment.
- (2) To comply with this duty, a member must comply with any station orders issued by the station commissioner in this regard as provided for in paragraph 3(6) (above) and must at least –
- (a) ask the *complainant* whether he or she requires medical treatment; and, if so,
 - (b) assist or make arrangements for the *complainant* to receive medical treatment; and
 - (c) if a criminal charge has been laid, issue a J88 and SAPS 308 to the *complainant* for completion by a registered medical practitioner. (Where possible and provided transport is available, the member must arrange for the *complainant* to be taken to the registered medical practitioner.) A member may, only as a last resort, transport a *complainant* in a police vehicle to receive medical treatment if such a vehicle is available and there is no other means of transport. In such an event the *complainant* must be informed that he or she is being transported at his or her own risk.
- (3) Any assistance rendered to the *complainant* in terms of subparagraphs (1) and (2) must –
- (a) if it is rendered at the Community Service Centre, be recorded in the Occurrence Book together with a description of any injuries to the *complainant* that the member may have observed; or
 - (b) if it is rendered at another place, be recorded in the Pocket Book (SAPS 206) of the member rendering the assistance together with a description of any injuries that the member may have observed.

10. Provide *complainant* with Notice and explain content to *complainant*

(1) In order to ensure that a *complainant* is informed of his or her rights as well as the remedies at his or her disposal in terms of the *Domestic Violence Act*, the member must, where reasonably possible to do so, hand to the *complainant* a copy of the Notice as provided for in the *Domestic Violence Act* (Form 1 to the Regulations in terms of the Act) in the official language of the *complainant's* choice.

(2) The remedies at the disposal of a *complainant* in terms of the *Domestic Violence Act*, are as follows:

- (a) the right to lay a criminal charge;
- (b) the right to apply for a protection order; or
- (c) the right to lay a criminal charge as well as apply for a protection order.

It is important to inform the *complainant* that laying a criminal charge is not a prerequisite for applying for a protection order.

(3) As the Notice must be provided to the *complainant* in the official language of his or her choice, the member must ascertain what language the *complainant* understands.

(4) Once a member has determined what language the *complainant* understands, the following steps must be taken:

- (a) If the language is one of the official languages of the Republic, the member must –
 - (i) if the member can speak and understand that language, hand a copy of the Notice to the *complainant* in that language and explain the contents thereof to the *complainant*;
 - (ii) if he or she cannot speak and understand that language and –
 - (aa) someone is available who can speak and understand that language, request such person to explain the contents of the Notice to the *complainant* in that language: or
 - (bb) if no one is available who can speak and understand that language, take all reasonable steps to find someone who can speak and understand that language. If such a person is found, paragraph (aa) must be complied with.

For the purpose of this paragraph, use must be made of the different translations of the Notice into the official languages of the Republic.

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- (b) If the language is not one of the official languages of the Republic the member must –
 - (i) if he or she can communicate in that language, convey the contents of the Notice to the complainant in that language;
 - (ii) if he or she cannot communicate in that language and –
 - (aa) someone is available who can communicate in that language, request such person to convey the contents of the Notice to the complainant in that language; or
 - (bb) if no one is available who can communicate in that language]take all reasonable steps to find someone who can communicate in that language. If such a person is found, paragraph (aa) must be complied with.
 - (c) Any steps taken in terms of subparagraphs (a)(ii)(bb) or (b)(ii)(bb) must –
 - (i) if they are taken at the Community Service Centre, be recorded in the Occurrence Book; or
 - (ii) if they are taken at another place, be recorded in the Pocket Book (SAPS 206) of the member taking the steps.
- (5) The member must request the complainant to sign in the Occurrence Book or in his or her Pocket Book, whichever may be applicable, at the relevant entry referred to in subparagraph (4)(c). By so doing, the complainant acknowledges that he or she has been informed of his or her rights and remedies in terms of the Domestic Violence Act and that he or she understands the contents thereof.
- (6) If the complainant refuses to sign in the Occurrence Book or in the Pocket Book or is unable to do so, a third person, who witnessed the rights and remedies being explained to the complainant, must be requested to sign in the Occurrence Book or Pocket Book to certify that he or she has witnessed this and that the complainant refused to sign in the Occurrence Book or Pocket Book, whichever may be applicable.

11. Specific powers and duties of members in terms of the Domestic Violence Act

- (1) **Seizure of arms and dangerous weapons in terms of a court order**
- (a) The court may, in terms of section 7(2)(a) of the Domestic Violence Act, order a member to seize any arm or dangerous weapon in the possession or under the control of a respondent.
 - (b) Any such firearm seized must be handed in at the police station to be dealt with in accordance with section 102 or section 103 of the Firearms Control Act, 2000, whichever may be applicable.

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- (c) Any dangerous weapon seized must be handed in at the police station and a SAPS 13 tag must be attached to such weapon and the weapon must be retained in police custody for such period of time as the court may determine and may only be returned to the respondent, if the respondent is not the owner of the dangerous weapon, to the owner thereof, by order of court and on such conditions as the court may determine.
 - (d) The normal procedures, as set out in Standing Orders 332-336, and which are applicable to exhibits or lost or stolen property must be followed, bearing in mind the provisions of section 9(3) of the Act which provides that such dangerous weapon may only be disposed of in accordance with an order of court.
- (2) **Arresting a person with a warrant who contravenes a protection order**
- (a) Where a respondent has contravened any prohibition, condition, obligation or order contained in a protection order, a complainant may hand the warrant of arrest together with an affidavit, wherein it is stated that the respondent contravened such protection order, to any member.
 - (b) If, upon receipt of the warrant of arrest together with the affidavit, referred to in subparagraph (a) (above), it appears to the member that there are reasonable grounds to suspect that the complainant may suffer imminent harm as a result of the alleged breach of the protection order, the member must arrest the respondent for contravening the protection order on the strength of the warrant.
 - (c) In considering whether or not the complainant may suffer imminent harm, a member must take the following into account:
 - (i) the risk to the safety, health or well-being of the complainant;
 - (ii) the seriousness of the conduct comprising the alleged breach of the protection order; and
 - (iii) the length of time since the alleged breach has occurred: Provided that if the respondent is under the influence of liquor to such an extent that a Notice (referred to in subparagraph (d) (below)) cannot be handed to him or her, the respondent must be arrested.
 - (d) If the member is of the opinion that there are insufficient grounds to arrest the respondent, he or she must immediately hand a Notice to the respondent as provided for in Form 11 to the Regulations. The member must insert the first court day thereafter as date of appearance on the form and complete the certificate, provided for in the Notice. The member must put the duplicate original of this Notice in the docket which is opened for the contravention. This docket must be taken to court on the first court day thereafter.

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- (e) Whenever a warrant of arrest is handed to a member of the Service as contemplated in subparagraph (a) (above), the member must inform the complainant of his or her right to simultaneously lay a criminal charge against the respondent, if applicable, and explain to the complainant how to lay such a charge.

(3) Service of documents

A member may be ordered by the court to serve an interim or final protection order. If a member is ordered to serve an interim protection order, the member must serve the order without delay as it only becomes binding on the respondent once the order has been served on him or her. **As long as an interim protection order remains unserved, the *complainant* may be in danger. A final protection order becomes binding immediately upon it being issued even though it may not have been served.**

(4) Accompanying complainant to collect personal property

- (a) The court may in a protection order, order a peace officer (which includes any member) to accompany the complainant to a specified place to assist with arrangements regarding the collection of the personal property specified in the order. It is important to note that the purpose of accompanying the complainant is to ensure the safety of such complainant and not to involve the member in any dispute regarding the ownership of such personal property. Such member must take reasonable steps to ensure the safety of the complainant during the collection of the property.
- (b) The complainant and the member may enter the premises mentioned in the protection order in order to collect the personal property of the complainant as stipulated in the protection order. Before entering a private dwelling, the complainant and the member must however audibly demand admission and must notify the occupant of the purpose for which they seek to enter the dwelling.
- (c) If, after having audibly demanded admission to a private dwelling, consent to enter is refused by the respondent, he or she contravenes the protection order and is therefore guilty of contempt of court. In such a case, the member may use such force as may be reasonably necessary in the circumstances to overcome any resistance against entry, including the breaking open of any door or window of such premises and enter the premises and arrest the respondent, whereafter the complainant may collect the said personal belongings.
- (d) If a member is approached by a complainant to accompany him or her and it is not possible to do so immediately, the member must, if no other peace officer is available to accompany the

- complainant*, arrange a reasonable time when it will be suitable to do so.
- (e) If a peace officer accompanies a *complainant* in accordance with a protection order to collect his or her personal property, the peace officer must ensure the safety of the *complainant* while he or she removes the property specified in such protection order.

12. Keeping of records relating to incidents of *domestic violence*

- (1) All *domestic violence* incidents which are reported to a police station must be recorded in the Domestic Violence Register (SAPS 508(b)) and it is the responsibility of the station commissioner to ensure that an accurate record is kept of all *domestic violence* incidents.
- (2) 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 during that month, must be filed in it. The month concerned must be recorded after the reference number, for example all the SAPS 508(a) forms which are completed during January 2000 must be filed with the reference 39/4/2/3(1/2000).

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- (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).
- (5) Certified copies of protection orders and of the warrants of arrest as provided for in the *Domestic Violence Act*, will be forwarded by the clerk of the court to the Community Service Centre of the *complainant's* choice. Particulars of the protection order must be entered in the appropriate columns of the Domestic Violence Register (SAPS 508(b)) where an entry has already been made in respect of the *complainant*. Where no entry exists, a new entry must be made.
- (6) A copy of every protection order and warrant of arrest that is received, must be filed in a separate file (under reference 39/4/3/1) which must be opened in accordance with the Registration and Record Control Procedure which forms part of the Record Classification System. 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.
- (7) Disposal of the aforementioned files must take place in accordance with the approved disposal authorisation.

13. Complaints regarding non-compliance by members and notification of such non-compliance to the Independent Complaints Directorate

- (1) In terms of the *Domestic Violence Act*, a failure by a member to comply with an obligation imposed in terms of the Act or this National Instruction constitutes misconduct. Disciplinary proceedings must therefore be instituted in accordance with the Discipline Regulations against a member who fails to comply with an obligation imposed in terms of the *Domestic Violence Act* or this National Instruction.
- (2) It is the responsibility of the commander of a member to institute disciplinary proceedings against such member who failed to comply with an obligation imposed in terms of the Act or this National Instruction, Where the commander is of the opinion that disciplinary proceedings should not be instituted against such member, the commander must apply to the Independent Complaints Directorate for exemption. Such an application must contain a full report, which includes the reasons for the

application for exemption, and must be forwarded to the offices of the area commissioner within 30 days after the receipt of the complaint.

- (3) The area commissioner must, if he or she agrees that no disciplinary action should be taken, submit the application referred to in subparagraph (2) above, within 14 days after the receipt of the application, to the provincial commissioner, who must, if he or she agrees that no disciplinary action should be taken, immediately submit such application to the provincial office of the Independent Complaints Directorate.
- (4) The provincial office of the Independent Complaints Directorate has agreed to inform the provincial commissioner in writing, within 30 days after the receipt of the application for exemption, whether exemption has been granted or not and, in the event that the exemption has not been granted, of the reasons why such exemption was not granted.
- (5) Progress reports pertaining to disciplinary proceedings instituted against members in terms of section 18(4) of the Act, must on a monthly basis be forwarded by the station commissioner or relevant commander of a unit to the area commissioner.

14. Keeping record of and reporting on complaints against members

- (1) Every station commissioner must keep a record of –
 - (a) the number and particulars of complaints received against members under his or her command in respect of any failure to comply with obligations in terms of the *Domestic Violence Act* or this instruction;
 - (b) the disciplinary proceedings instituted as a result thereof and the decisions which emanated from such proceedings; and
 - (c) steps taken as a result of recommendations made by the Independent Complaints Directorate.
- (2) Every allegation of misconduct regarding an alleged failure by a member to comply with any obligation in terms of the *Domestic Violence Act*, the Regulations in terms of that Act or the National Instruction issued in this respect, that was received during the previous month, must be recorded on the SAPS 508-form. This return must be submitted to the relevant area commissioner before the third working day of each month.
- (3) A consolidated return on SAPS 508 must be submitted by the area commissioner to the provincial commissioner before the seventh working day of each month. The provincial commissioner must furnish a consolidated return before the tenth working day of each month to the provincial office of the Independent Complaints Directorate and to the

Divisional Commissioner: Crime Prevention for submission to Parliament, as required by section 18(5)(d) of the Act.

- (4) If disciplinary proceedings against a member have not been completed, the return of the subsequent month must again contain particulars concerning the complaint. In such a case, the monthly serial number in the first column must remain the same. (Example: The February return **will**, once again, refer to a complaint received in January, but which was not finalized in January before the January return was completed. Such an entry must appear on the return before any new complaints that were received in February. The January complaint will keep the January serial number, example 13/1/2000.)
- (5) The Codes which must be recorded in column 6, are the following:
 DS1 Remedial steps after initial interview (not serious)
 DS2 Verbal warning after initial interview (not serious)
 DS3 Written warning (not serious)
 DS4A Departmental investigation (serious): still under investigation
 DS4B Departmental investigation (serious): guilty (state sentence)
 DS4C Departmental investigation (serious): not guilty

15. Reporting on incidents of domestic violence

- (1) Before the third working day of each month, the station commissioner must submit a return to the relevant area 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 (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; and
 - (d) the number of dockets relating to domestic violence opened and registered on the **CAS** system or in the CR during the previous month.
- (2) A consolidated return of the aforementioned information received from all stations in the area must be submitted by the area commissioner to the provincial commissioner before the seventh working day of each month.
- (3) The provincial commissioner must furnish a consolidated return of the aforementioned information received from all areas before the tenth working day of each month to the Divisional Commissioner: Crime Prevention.