

AN EXPLORATIVE STUDY OF THE IMPLEMENTATION OF THE
DOMESTIC VIOLENCE ACT 116 OF 1998 BY THE SOUTH AFRICAN POLICE
SERVICE

by

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DECLARATION

I, MT van Niekerk (37839918), hereby declare that the dissertation titled “*An explorative study of the implementation of the Domestic Violence Act 116 of 1998 by the South African Police Service*” is my own work and that all the sources used or quoted herein have been indicated and acknowledged by means of complete references.

I further declare that this study has not previously been submitted for any degree or for examination at any other University.

MT VAN NIEKERK

STUDENT NUMBER: 37839918

DATE: _____

Survivor Psalm

I have been victimized
I was in a fight that was
not a fair fight.
I did not ask for the fight.
I lost.
There is no shame in losing
such fights.
I have reached the stage of
survivor and am no longer a
slave of victim status.
I look back with sadness
rather than hate.
I look forward with hope
rather than despair.
I may never forget, but I need
not constantly remember.
I was a victim.
I am a survivor.

(Ochberg, 2018).

DEDICATION

This study is dedicated to:

Each and every police officer doing this noble work and walking the extra mile under difficult circumstances. I salute you!

Each and every victim of domestic violence. May this study contribute towards you receiving the service that you deserve from the SAPS. May you get the courage to say enough is enough and transform from a victim to a SURVIVOR!

ACKNOWLEDGEMENTS

To my heavenly father who, whilst I was suffering from cancer, invasive surgery and intense personal trauma during the preparation of this study, blessed me beyond belief by giving me another chance at life and for making me a survivor!

To my parents, Okkie and Ria Vermaak, and my uncle and aunt, Kleintjie and Antonie van Rooyen – I love you!

To the reason for my being and my greatest achievement, my two children, Bianca and Albert. Thanks for sharing your precious time with my studies. I am so privileged that God gave me the opportunity to be your mother. I love you...to the moon and back, and more!

To my supervisor, Prof van Graan – thanks for all your guidance, your patience, your excellent example, and for believing in me. I admire your humbleness in dealing with people the most.

ABSTRACT

In this study, the research problem sought to explore the degree of implementation of the Domestic Violence Act 116 of 1998 by members of the South African Police Service (SAPS). The Domestic Violence Act clearly stipulates the responsibilities of members of the South African Police Service in terms of the policing and management of domestic violence.

Data was collected by means of a literature study and individual interviews conducted with SAPS members at the station level. These police officials are responsible for implementing the provisions set out in the DVA. The researcher also drew on her investigative experience in the SAPS, including the investigation of domestic violence. In addition, the researcher conducted a comprehensive literature study of national legislation, internal SAPS policies and directives that govern and promote the regulation of domestic violence in South Africa, the policing of domestic violence, media and newspaper reports as well as library resources and international studies.

The findings of the research indicate that participants had a diverse understanding of domestic violence. This study also serves as testimony that the majority of the participants perceived and experienced the implementation of the DVA by the SAPS in various ways. However, participants understand their role and responsibilities to efficiently implement the provisions of the DVA. It was further determined that most of the participants knew their responsibilities regarding record keeping in incidences of domestic violence, and that members of the SAPS knew the procedure to follow in order to serve protection orders. It is, however, questionable whether they will be able to do so when necessary as most of them have not served it themselves as there are specific members at the station level who have been designated the duty of serving protection orders. However, it became evident that SAPS members are confronted with various challenges, at the station level, which hinder the proper implementation of the DVA.

The recommendations made in this study may provide the SAPS with knowledge regarding the challenges and shortcomings that police officials experience in effectively implementing the provisions set out in the DVA, the role and responsibilities of SAPS members to efficiently

implement the DVA, as well as the training and resources necessary to effectively execute the DVA.

Keywords

Domestic violence; Domestic Violence Act 116 of 1998; physical abuse; sexual abuse; emotional abuse; verbal abuse; psychological abuse; economic abuse.

LIST OF ABBREVIATIONS

CAS	-	Case Administration System
CD	-	Community Development
CSP	-	Civilian Secretary of Police
DART	-	Domestic Abuse Response Teams
DOH	-	Department of Health
DOJ & CD	-	Department of Justice and Constitutional Development
DSD	-	Department of Social Development
DVA	-	Domestic Violence Act
EHW	-	Employee Health and Wellness
GBV	-	Gender Based Violence
OB	-	Occurrence Book
HIV	-	Human Immunodeficiency Virus
NAP	-	National Action Plan
NGO	-	Non Governmental Organisation
NSP	-	National Strategic Plan
PFV	-	Protection Against Family Violence Act
POWA	-	People Opposing Women Abuse
SAPS	-	South African Police Service
SONA	-	State of the Nation Address
TLAC	-	Tswaranang Legal Advocacy Centre
VAWG	-	Violence against Women and Girls
WHO	-	World Health Organization

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CHAPTER ONE GENERAL ORIENTATION

1.1 INTRODUCTION

This chapter provides an overview of the research methodology and design followed in this study. This chapter commences with background information that provides a context for the identified research problem. The problem statement is followed by a discussion of the aim and objectives guiding this study. Justification for the research methodology followed in this study is furthermore illustrated and discussed with a focus on various aspects thereof, such as data collection methods, sampling strategies as well as validation and reliability strategies. This chapter concludes with an overview of the ethical considerations of this study, in accordance with the principles of ethical practice.

According to Vetten (1998:12), there is a failure on the part of society and its institutions to protect women from domestic violence. As a result of this failure to protect women from domestic violence, women are sometimes either murdered, or feel compelled to kill their abusers. However, children and men are also victims of domestic violence. A study conducted by the Tswaranang Legal Advocacy Centre (TLAC) indicates that 17 percent of protection orders were applied for by men as victims of domestic violence. The study further indicates that 48,8 percent of abuse is experienced by others in addition to the applicant; these victims are most often children (64,9%) or other adult family members (42,7%) (Vetten, Van Jaarsveld, Riba & Makunga, 2009:3).

Mathews and Abrahams (2001:7) describe the criminal justice system's response to domestic violence as "unsympathetic and hostile" and as failing to uphold the rights of women due to a reluctance to intervene because of entrenched attitudes. Feddler, Locherenberg, Stanton, Jewkes and Abrahams (as quoted by Mathews & Abrahams, 2001:7) indicate that the unsympathetic treatment of women by the criminal justice system is considered to be "secondary victimisation", with the police identified as the most problematic for women as they continue to regard family-based violence as a "domestic problem".

1.2 BACKGROUND TO THE STUDY

All too often, individuals co-habiting in domestic relationships endure a certain degree of ongoing abuse on a daily basis. In 1998, South African legislation sought to eradicate the occurrence of domestic abuse with the promulgation of the Domestic Violence Act, 116 of 1998 (hereafter referred to as the DVA) (South Africa, 1998). As stated in the DVA, it recognises that domestic violence is a serious social evil, with a regrettably high incidence in South Africa, and victims of domestic violence are among the most vulnerable members of our society. Previous legislation did not provide effective relief to victims, therefore, the new Act sought to afford victims of domestic violence the maximum protection that the law can provide and to introduce measures that seek to ensure that the courts and police officials give full effect to the provisions of this Act (*Domestic Violence – The new approach*, 2012).

The DVA has specific powers and duties for South African Police Service (SAPS) members in terms of the Act, which include the following:

1. The court may, in terms of section 7(2) (a) of the DVA, order a member to seize any firearm or dangerous weapon in the possession of or under the control of the respondent.
2. A member may arrest a respondent who 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.
3. If the member is of the opinion that there is insufficient ground to arrest the respondent, he/she must immediately hand a written notice to the respondent (Form 11), and must hand the certificate, provided for in the notice, to the respondent. The member must forward a duplicate original of this notice to the clerk of the court.
 - (a) Whenever a warrant of arrest is handed to a member of the Service as contemplated in par
 - (b), the member must inform the complainant of his/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. A member may be ordered by the court to serve an interim or final protection order. A court may order a peace officer (which includes any member) in a protection order, to accompany the complainant to a specified place in order to assist with the arrangements regarding the collection of the personal property specified in the order. Such member must take reasonable steps to ensure the safety of the complainant during the collection of the property.

1.3 PROBLEM STATEMENT

De Vos, Strydom, Fouche and Delpont (2002:327) describe problem formulation as the broad conceptualisation of the problem that should be redefined by the researcher. The research problem narrows down our general interest in a research topic in order to focus on a particular research problem which is small enough to be investigated. This process leads to the setting of the research questions (Welman, Kruger & Mitchell, 2005:13).

According to the researcher's experience, domestic violence is most often a crime that is committed within the four walls of our homes; it can vary to include crimes such as assault, attempted murder, rape and murder. For this reason, it is also a crime that is often not reported as the victim is either too ashamed or bears the consequences on her/his own, without notifying anyone, whether it be family, friends or the police. Crimes against women and children, such as domestic violence, are categorised as a priority crime by the South African Police Service (*Domestic violence: The new approach*, 2012). Although South Africa has an Act on domestic violence since 1998, there are no official statistics available from the SAPS to indicate the extent of this crime. However, it is very difficult to obtain any statistics on domestic violence as the police did not categorise it as a crime, individually, when compiling its crime statistics (Machisa, 2011:2).

Lau (2009:1) mentions that one in four women in the general South African population has experienced physical violence at some point in her life. A study conducted on female homicide further indicates that a woman is killed by her intimate partner every six hours. Another study by TLAC found that in over two-thirds (69,5%) of victims of domestic violence at least one other prior incident of abuse was referred to. It shows that most of the applicants turned to the courts when the abuse was repeated, rather than treating a court order as the first option. The report further indicates that more than a third of the applications (37,2%) stated that a weapon had been used

during the abuse, to either threaten (63,4%) or hurt (50,2%) the applicant. The weapons mentioned in the applications varied from knives and other sharp instruments (42%), to blunt instruments (39,9%), to fire-arms (24,4%) (Vetten, Van Jaarsveld, Riba & Makhunga, 2009:4).

A study by Jewkes, Sikweyia, Morrel and Duncan (2009:2), conducted amongst men in three districts in the Eastern Cape and KwaZulu-Natal, on understanding men's health and the use of violence to establish whether there is a link with rape and HIV in South Africa, indicates that 42,4 percent of men had been physically violent towards an intimate partner (current, ex-girlfriend or wife). When asked about physical violence in the past year, 14 percent of men disclosed perpetration. The report further states that the murder of women by husbands and boyfriends is an extreme consequence of partner violence, and that half of women homicide victims are killed by their male intimate partners. Over 40 percent of men reported having been physically violent to a partner and 40-50 percent of women report having been victims. Intimate partner violence is often also sexual and emotional, and it usually occurs in the context of relationships marked by controlling behaviours by men and women and a pervasive sense of fear amongst women. The report further indicates that almost all children are subjected to physical violence at home. More than one in four children experience violence more than once daily and weekly; sticks, belts and other objects are used in these incidences, and the children are often injured. Fifteen percent of children reported times in their lives when one or both parents were too drunk to care for them, and one in two children experience emotional abuse, neglect or witness violence against their mothers at home.

The Tswaranang Legal Advocacy Centre and Gender Advocacy Programme (2011:1) briefed the parliamentary monitoring committee on the outcome of their ten-year review of the implementation of the DVA by the judiciary and law enforcement officials. It reiterated that nearly half of all South African women murdered were killed by their intimate partners. This was the highest rate reported in research internationally, to date. In contrast, there was marked indifference on the part of law enforcement officials and the judicial staff as well as inadequate resources and funding for the proper implementation of the DVA, such as inadequate record keeping of domestic violence incidents at police stations and the failure of the SAPS to submit reports regarding such incidents to parliament every six months, as required by the DVA. The last time that the SAPS submitted a report to parliament was in 2006. It was established that the report did not actually

highlight what has been done regarding domestic violence, but only indicated what the SAPS was supposed to do.

In this report, Robinson (as quoted by Tswaranang Legal Advocacy Centre and Gender Advocacy Programme, 2011:3) raised concerns regarding the implementation of the DVA by members of the SAPS. This report clearly indicated that although the DVA was in place, the implementation thereof by members of the SAPS was lacking. Reports were also received that the protection order system was not functioning efficiently. Pienaar (as quoted by Tswaranang Legal Advocacy Centre and Gender Advocacy Programme, 2011:3) acknowledged that compliance with the regulations of the DVA was not at an acceptable level, and that it fluctuated depending on who was on duty at a particular time. A compliance register has been implemented, to which all stations should adhere. It is the responsibility of the SAPS, according to the DVA, to record all incidents of domestic violence reported to them; this must be done in the Domestic Violence Register. The introduction of this register will ensure that there is a more accurate version of statistics relating to domestic violence than the current system where no statistics are available.

A study done by the Tswaranang Legal Advocacy Centre (2009: 2) indicates that, according to section 12 of the National Instruction, all reported domestic violence incidents must be recorded in the Domestic Violence Register (SAPS 508 (b)), not only those for which criminal cases have been opened. However, according to this study, out of 416 incidents of domestic violence (as obtained from the Occurrence Book (OB) register) only 19 incidents (5%) were recorded in the register.

In light of this, it is clear that the implementation of the DVA by the SAPS is characterised by various challenges and shortcomings. This study explores the implementation of the provisions of the DVA by members of the SAPS.

1.4 AIM AND OBJECTIVES OF THE RESEARCH

The aim and objectives guiding this study follow for discussion.

1.4.1 Aim

Oliver (2004:102) states that research aims are one of the most significant attributes of research. He further indicates that research aims essentially express what the researcher wants to learn from the research conducted. Leedy and Ormrod (2010:48) state that once the research problem is identified, the aim of the research must be carefully phrased and that it represents the one goal of the total research effort. Similarly, Denscombe (2010:14) indicates that the aims must reflect a broad statement from the researcher as to the goal of the research in question.

The aim of this research is to explore the degree of implementation of the DVA by members of the SAPS. From the above discussion, there appears to be value in exploring the degree to which the SAPS adheres to the implementation of the DVA in order to determine the challenges and shortcomings experienced by the SAPS in the effective implementation thereof. The researcher will study the extent to which the implementation provisions of the DVA are being realised, in practice, by members of the SAPS.

1.4.2 Objectives

Welman, Kruger and Mitchell (2005:195) state that the researcher should disclose the objectives of the research.

The objectives of this study are:

- To explore, identify and describe the challenges and shortcomings that police officials experience in striving to effectively implement the provisions set out in the DVA.
- To explore and understand the role and responsibilities of the SAPS to efficiently implement the DVA.
- To explore international best practices regarding the implementation of domestic violence policies.
- To determine what training and resources should be provided to members of the SAPS to effectively execute the DVA.
- To make recommendations to assist the SAPS to improve the implementation strategies of the DVA.

1.5 DEMARCATION OF THE STUDY

This study was restricted to the following time and geographical demarcations:

1.5.1 Time

This study focussed on the implementation of the DVA by members of the SAPS. The DVA came into effect in 1998, and aims to increase the amount of help the police and the courts can give to child and adult victims of domestic violence. Furthermore, the DVA also aims to reduce the high number of incidents of domestic violence in society, and to afford maximum protection to the victims of domestic abuse, as well as to uphold the rights of all persons. The DVA sets out the remedies available to a victim, and how the victim may gain access to help (*Domestic violence: The new approach*, 2012).

This study was conducted between January 2014 and October 2017. As a result, the collected data remained relevant to this study.

1.5.2 Geographical Demarcation

This study was restricted to the jurisdiction of the Sophiatown, Brixton, Langlaagte, Johannesburg Central, Booyens and Fairlands police stations in Johannesburg. These police stations resort under the Johannesburg Central cluster which, in turn, resorts under the Provincial Commissioner, Gauteng. Gauteng has 127 police stations and 33 213 sworn police officers (*Profile: SAPS Gauteng*, 2012). The researcher was a detective in the SA Police Service in the Johannesburg area for 21 years and, according to her experience, these stations have a high number of domestic violence incidents reported annually. Members of the SAPS at the station level are usually domestic violence victims' first line of reporting such incidents, and are responsible for implementing the provisions set out in the DVA.

1.6 PURPOSE OF THE RESEARCH

Denscombe (2002:38) states that efficient social research needs a clear and precise vision of the purpose of the research, which entails the following:

- The purpose needs to be specific and focused.
- It needs to be appropriate for the investigation

- There must be an element of originality in the purpose.
- It should reflect what is possible when looking at the available facilities (time and resources) and access to the necessary sources of data.

Denscombe (2002:28) further mentions that any research must have a clear vision and purpose, and the reader has to be informed of the purpose of the research. According to Maxfield and Babbie (1995:70), Babbie (2010:92), Neuman (2000:21), Ruanne (2005:11) and Garbers (1996:295), the purpose of research in the criminal judicial process is to identify and to explain. Maxfield and Babbie (1995:70) as well as Denscombe (2002:26) add an additional purpose, namely, empowerment.

The researcher explored current practices, in the SAPS, with a focus on adherence to the implementation of the DVA. Furthermore, the researcher makes recommendations as to how the implementation of this Act, by members of the SAPS, could be improved.

Denscombe (2002:27) and Denscombe (2010:11) further explain that research is driven by the desire to draw conclusions about the value of one thing when compared to alternatives. The researcher investigated practises – with specific attention to aspects such as, training, record keeping, non-compliance and serving of protection orders – related to the implementation of the DVA in order to identify the shortcomings and challenges that police officials at the station level experience regarding the implementation of the DVA. Denscombe (2010:11-12) also suggests that the researcher should collect facts on how things are being done and the reason for these processes being followed.

In line with Denscombe's suggestion, the researcher collected facts by exploring whether the DVA is implemented appropriately by members of the SAPS, by means of conducting semi-structured interviews with police officials concerned with domestic violence. The researcher consulted both national and international literature, journal articles, books, government publications as well as completed theses and dissertations, with the goal of exploring the implementation of the DVA.

Denscombe (2002:27) and Denscombe (2010:12) state that the aim of research is to arrive at recommendations for good practice that will tackle a problem or enhance the performance of the organisation and individuals through changes to the rules and procedures within which they

operate. Based on the findings of this study, the researcher made recommendations for the improvement of the implementation of the DVA by SAPS members. According to Denscombe (2002:28), the aim is to empower those who are the subject of the investigation and to ensure their welfare. The findings of this study could empower members of the SAPS to effectively implement the DVA.

1.7 RESEARCH QUESTIONS

Grix (2004:173) states that research questions are intended to guide your enquiries, while Heppner and Heppner (2004:69) point out that the purpose of research questions is to explore the relations amongst or between constructs. Furthermore, Gast (2010:70) mentions that the function and purpose of research questions is to align the researcher's focus with the purpose and objectives of the research.

According to Denscombe (2002:31), research questions are matters that are directly investigated by the research; in other words, they are specific items being observed, measured and interrogated in order for the researcher to shed light on the broader topic.

This study addressed the following primary research question:

- Do SAPS members on station level effectively implement the DVA?

In addition, this study answered the following sub-questions:

- Are members of the SAPS sufficiently trained to execute the provisions of the DVA?
- Does an appropriate Domestic Violence Register exist at station level, and is it efficiently maintained?
- Do members of the SAPS issue and serve protection orders according to the provisions of the DVA?
- What are the challenges/shortcomings experienced by SAPS members in effectively implementing the DVA?

1.8 CHALLENGES ENCOUNTERED DURING THE STUDY

The researcher experienced the following challenges during the study:

- At one police station, a female member responsible for victim empowerment ignored an officer's instruction to assist the researcher with interviewing participants and the member never turned up to assist.
- At another police station, the researcher experienced extremely rude behaviour by a female member and was shown away to return on another day. This member also ignored an officer's instruction to assist. I was only assisted after speaking to the station commander. However, other members were most helpful and cooperated during the interview process.
- Whilst conducting interviews at one of the police stations, an officer asked a male member to take part in the interviews. After the researcher informed the member of the reason for her visit, he admitted that he thought the researcher was a social worker sent to assist him since he is a victim of domestic violence. The researcher encouraged the member to seek professional help, however, he cried and left the office.

1.9 KEY THEORETICAL CONCEPTS

Ruane (2005:51) states that the researcher must choose definitions that fit with the research. The following concepts are central to this study:

1.9.1 Domestic Violence

The Domestic Violence Act, No 116 of 1998 (South Africa, 1998), defines domestic violence as: “physical abuse, sexual abuse, emotional, verbal and psychological abuse, economic abuse, intimidation, harassment, stalking, damage to property, entry into the complainant's residence without consent, where they do not share the same residence or 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.”

1.9.2 Physical Abuse

Scott, Polsky and Markowitz (2004:1) define physical abuse as the intentional use of physical force with the potential to cause death, disability, injury, or harm.

1.9.3 Sexual Abuse

Use of physical force (including intimidation and pressure) to compel a person to engage in a sexual act against her or his will, whether or not the act is completed (Scott, Polsky & Markowitz, 2004:1).

1.9.4 Emotional and Psychological Abuse

Emotional and psychological abuse involve trauma to the victim caused by acts, or coercive tactics (Scott, Polsky & Markowitz, 2004:2).

1.9.5 Intimidation

Section 1(1) of the Intimidation Act 72 of 1982 (South Africa, 1982), as amended, defines a person guilty of intimidation as follows:

Any person who –

- (a) without any lawful reason and with intent to compel or induce any person or persons of a particular nature, class or kind or persons in general to do or abstain from doing an act or to assume or to abandon a particular standpoint –
 - (i) assaults, injures or causes damage to any person; or
 - (ii) in any manner threatens to kill, assault, injure or cause damage to any person or persons of a particular nature, class or kind; or
- (b) acts or conducts himself in such a manner or utters or publishes such words that it has or they have the effect, or that it might reasonably be expected that the natural and probable consequences thereof would be, that a person perceiving the act, conduct, utterance or publication –
 - (1) fears for his own safety or the safety of his property or the security of his livelihood, or for the safety of any other person or the safety of the property of any other person or the security or the livelihood of any other person.

1.9.6 Malicious Damage to Property

According to Snyman (2008:545), a person commits malicious injury to property if he unlawfully and intentionally damages

- (a) property belonging to another; or
- (b) his own insured property, intending to claim the value of the property from the insurer.

1.9.7 Trespassing

Section 1(1) of the Trespass Act 6 of 1959 (South Africa, 1959) provides that any person who without the permission –

- (a) of the lawful occupier of any land or building or part of a building; or
- (b) of the owner or person in charge of any land or any building or part of a building that is not lawfully occupied by any person,
- (c) enters or is upon such land or enters or is in such building or part of a building, shall be guilty of an offence unless he has lawful reason to enter or be upon such land or enter such a building or part of a building.

1.10 VALUE OF THE RESEARCH

Denscombe (2002:43) explains that for research to be relevant it must be relevant in terms of existing knowledge, solve practical needs, and the research timelines need to be relevant. In other words, it needs to address current problems within the organisation. It may also fit in with the interests and abilities of the researcher, and how he/she may benefit from it.

Once the implementation of the DVA by members of the SAPS has been explored and identified, the study and its results could, firstly, benefit the SAPS who are experiencing challenges in the policing of domestic violence, which forms part of crimes against women and children, and which are categorized as priority crimes. Consequently, the SAPS will obtain direct evidence of the shortcomings of and challenges experienced in the implementation of the DVA. The SAPS could thus be guided by this explorative process in resolving these shortcomings and challenges in the execution of regulations as set out in the DVA; furthermore, the findings of this study could also be utilised as a management instrument to improve and support the implementation of this Act.

As a result, the SAPS could have enhanced knowledge of the shortcomings and challenges its members experience in the execution of the DVA. Recommendations were made that could guide the SAPS on how to overcome such shortcomings and challenges in the effective implementation of the DVA, which may have an impact on domestic violence and other related crimes.

Secondly, the study and its results could benefit organisations, such as NGO's (Non Governmental Organisations), that are responsible for developing and implementing domestic violence programmes and who provide support to victims of domestic violence, given that the evaluation of the implementation of the DVA by the SAPS could raise consciousness, enhance organisational learning, and be used as practical guidance for similar domestic violence related programmes.

The outcomes of this study could also benefit the South African community since the identification of challenges and shortcomings experienced by SAPS members in the implementation of the DVA could lead to improved policing of domestic violence related crimes.

1.11 RESEARCH METHODOLOGY

Research methodology is the framework associated with a particular set of paradigmatic assumptions that one will use to conduct research (O'Leary, 2004:85).

1.11.1 The Explorative Nature of the Study

According to Gray (2004:32), exploratory studies seek to explore what is happening and to ask questions about it.

This research aimed to explore and identify the degree to which the implementation provisions of the DVA are being realised in practice by members of the SAPS, as stated in the aim of this study.

1.11.2 Research Design and Approach

Singleton and Straits (1999:91), as confirmed by Mouton (2001:51), are of the opinion that a research design is a complete strategy or outline that is worked out before data are collected; it consists of a clear statement of the research problem, as well as plans for gathering, processing and interpreting the observations intended to provide solutions to the problem. Mouton (1996:107) further explains research design as a set of guidelines and instructions that need to be followed in addressing the research problem.

Empirical research was conducted in this study. Maxfield and Babbie (1995:4) indicate that empirical design is the production of knowledge based on experience or observation. Empirical research entails getting out of the chair, going out of the office and purposefully seeking the

necessary information available on the outside (Denscombe, 1998:27). To answer the research questions, the researcher undertook fieldwork and purposefully sought the necessary information.

Denscombe (2010:109) further states that the qualitative approach will make room for flexibility and adaptability within the research. The researcher followed a qualitative research approach by collecting data by means of semi-structured interviews with police officials at eight police stations, namely, Fairlands, Sophiatown, Booyens, Brixton, Langlaage, Johannesburg Central, Moffatview and Mondeor in Gauteng.

Leedy and Ormrod (2010:135) state that, by following a qualitative approach, the researcher focusses on phenomena that occur in natural settings – that is, in the real world. By following this approach, the researcher has engaged with participants in their natural settings based on their knowledge and experiences regarding the implementation of the DVA.

1.12 POPULATION AND SAMPLING PROCEDURES

Gray (2004:82) defines population as the total number of possible units or elements included in the study. Maxfield and Babbie (2005:17) further indicate that the research population may be a specific group targeted for the research, while Bachman and Schutt (2011:110) are of the opinion that a population consists of the set of individuals to which the researcher wants to generalise her findings.

For the purpose of this study, the population was all SAPS officials in Gauteng who deal with incidents of domestic violence. Gauteng has 127 police stations with 33 213 sworn police officers (*Profile: SAPS Gauteng*, 2012).

1.12.1 Target Population

Welman and Kruger (2002:46, 52) state that the population refers to the study object, which may be individuals, groups, organisations, human products and events. A population encompasses the total collection of all units of analysis about which the researcher wishes to make specific conclusions.

It was not practically feasible for the researcher to study the entire population due to the large geographical area and large number of the population. As a result, the researcher had to limit the study to the target population. The target population consists of police officials at Sophiatown SAPS, Brixton SAPS, Booyens SAPS, Johannesburg Central SAPS, Langlaagte SAPS, Moffatview SAPS, Mondeor SAPS and Fairlands SAPS, within the Johannesburg Central cluster. From the researcher's experience of working in the Johannesburg Central cluster, these stations have a high number of domestic violence cases reported annually. These police stations resort under the jurisdiction of the various clusters, as mentioned in section 1.5.2 of this chapter, and resort under the command of the SAPS Gauteng Provincial Head Office.

1.12.2 Sampling

Due to the large geographical area of Gauteng, the impracticality and potential high cost of interviewing the entire target population, the researcher drew a sample from the target population. The researcher applied non-probability sampling, in the form of purposive sampling, in order to draw a sample of SAPS officials. Punch (2014:161) explains purposive sampling as sampling that is conducted in a deliberate way, with some purpose or focus in mind. As a result, the purposive sampling method was applied due to the SAPS members' frequent exposure to incidents of domestic violence. According to O'Reilly and Kiyimba (2015:81), a frequently used measure of sample size sufficiency is saturation. The researcher collected data from the sample until saturation point had been reached.

The sample included police officials from Sophiatown SAPS, Langlaagte SAPS, Johannesburg Central SAPS, Brixton SAPS, Booyens SAPS, Moffatview SAPS, Mondeor SAPS and Fairlands SAPS, respectively. At the time of this study, Sophiatown SAPS had 195 police officials, Langlaagte SAPS had 91 police officials, Mondeor SAPS had 181 police officials, Johannesburg Central SAPS had 686 police officials, Moffatview SAPS had 110 police officials, Brixton SAPS had 138 police officials, Booyens SAPS had 266 police officials and Fairlands SAPS had 94 police officials. In order to form the sample used in this study, five police officials were drawn from each police station, which led to a total of 40 participants.

1.13 DATA COLLECTION

Maxfield and Babbie (2005:209) emphasise that the value of research depends on how the data is gathered. The manner in which the data is collected will depend on the type of research. Punch (2011:57-59) further states that, during qualitative research, observations are made, questions are asked and an investigation is done into the topic (question). With qualitative research, one moves from data to concepts.

For the purpose of this study, the following data collection methods were utilised:

1.13.1 Literature Study

Goddard and Melville (2001:19) indicate that a literature study allows the researcher to get a feel for the topic and the issues involved, and to understand how the processed research would relate to these. In this study, the researcher consulted different literature sources relevant to the research such as official SAPS documents, legislation, journal articles, media reports and international best practices in order to gain an improved understanding of the nature and extent to which the DVA is implemented.

1.13.2 Individual Interviews

Denscombe (1998:109) indicates that interviews are more than a conversation. Interviews involve a set of assumptions and understandings about a certain situation. The researcher utilised semi-structured interviews during the data collection phase of this study. Denscombe (1998:113) states that, with semi-structured interviews, the interviewer has a clear list of issues to be addressed and questions to be answered. However, the interviewer is prepared to be flexible in terms of the order in which the topics are considered and, more importantly, allows the interviewee develop ideas and speak more widely on the issues raised by the researcher. Answers are open-ended, and greater emphasis is placed on the participant elaborating on points of interest.

Semi-structured individual interviews were conducted with five police officials per police station. These police officials are responsible for implementing the provisions set out in the DVA. The researcher electronically recorded these interviews, for transcription purposes.

The researcher formulated the interview questions in advance, based on the research questions, research topic and overall research problem, as described by Leedy and Ormrod (2010:150) and Maree (2007:87).

1.13.3 Personal Experience

The researcher has 21 years' experience in criminal investigation in the SAPS and has extensive experience in the investigation of crimes ranging from petty crimes, such as assault, to high profile cases, such as murder, possession of drugs, domestic violence and rape. Whilst employed by the SAPS, the duties of the researcher included gathering comprehensive and complete evidence at crime scenes during investigations, gathering and compiling case dockets, linking, tracing and arresting suspects, and preparing case dockets for court.

The researcher was a commander within different units in the SAPS, for 17 years, and a group leader of different groups of detectives. The researcher's duties included the managing of comprehensive and complete evidence at crime scenes and conducting court driven investigations. The researcher has used her personal experience and knowledge to the advantage of the SAPS, to train detectives, trace and arrest suspects, and to ensure that effective investigations are carried out for all relevant crimes, including incidences of domestic violence.

1.14 DATA ANALYSIS

Dey (1993:30) as quoted in Gray (2009:327), describes analysis as the process of breaking data down into smaller units to reveal their characteristic elements and structure. According to Gray (2009:499), the basis for analysis can be laid by descriptions. However, the researcher needs to go further than description because she wants to interpret, to understand and to explain. With analysis, one is able to obtain more insight into their data; it is possible to break data into its constituent parts and make connections between the concepts, thus providing the basis for new descriptions.

De Vos et al. (2011:397) describe data analysis as the process of bringing order, structure and meaning to the mass of collected data. The data collected for this study was analysed qualitatively by means of Tesch's eight-step process (Tesch, 1990:142-145), which includes the following steps:

- Get a sense of the whole.
- Pick one document from a prescribed interview, read through it carefully and identify its meaning.
- Make lists of topics that emerge and cluster similar topics together.
- Code the same information to see whether new categories and codes emerge.
- Find descriptive words and categories by grouping them together.
- Make a final decision and alphabetise these codes.
- Assemble the data material belonging to each category in one place and perform preliminary analysis.
- Record existing data if necessary.

The researcher read through all the information gathered and summarised the different points taken from interviews and the relevant literature. An interview document was identified; the researcher then identified important information and analysed the meaning of the contents thereof. The researcher also listed all the different topics that arose from the literature as well as the interviews, and then grouped topics of the same kind together. The researcher then organised the necessary information gathered under the different headings. The researcher then arranged the information in chronological order. All the relevant data material was collated and an analysis of the different groups of topics was conducted. All the data was recorded during the analysis.

1.15 METHODS TAKEN TO ENSURE TRUSTWORTHINESS

According to Guba and Lincoln (in Kumar, 2011:184), trustworthiness in a qualitative study is determined by four indicators – credibility, transferability, dependability and confirmability – and it is these four indicators that reflect validity and reliability in qualitative research.

1.15.1 Credibility

According to Trochim and Donnelley (in Kumar, 2011:185), credibility involves establishing that the results of qualitative research are credible or believable from the perspective of the participant in the research. Since qualitative studies explore the perceptions, experiences, feelings and beliefs of people, it is believed that the participants are the best judges in determining whether or not the research findings have been able to accurately reflect their opinions and feelings.

The researcher has drawn on the following validation strategies, as set out by Creswell (2014:200), to enhance the credibility of this study:

- *Prolonged time in the field*: The researcher spent a lengthy period of time in the field in order to develop a comprehensive understanding of the implementation provisions of the DVA that are realised in practice by members of the SAPS. This prolonged time in this particular field setting enabled the researcher to convey detail about the participants, which lends credibility to the narrative account of events.
- *Member checking*: The researcher used member checking to regulate the accuracy of the findings by taking the findings and emerging themes back to the participants and providing them with the opportunity to validate the findings for accuracy.
- *Researcher bias*: The researcher has, from the onset, clarified the bias she brought to the study. She has explained and commented on past experiences, biases, assumptions, prejudices, and orientations regarding the policing of domestic violence, which could have likely shaped the researcher's interpretation and approach to the study (Creswell, 2013:251).
- *Triangulation*: The researcher triangulated different sources of data and examined evidence from the sources, and used this to build a coherent justification for the emerging themes. The merging of various sources and the participants' perspectives added value to the credibility of the study.

1.15.2 Transferability

'Transferability' refers to the degree to which the results of qualitative research can be generalised or transferred to other contexts or settings (Trochim & Donnelley, in Kumar, 2011:185).

The researcher used comprehensive and thick description to communicate the research findings and expressed in detail the participants' responses to the interview questions, by providing verbatim quotations. This in-depth narrative allows readers to make decisions regarding the transferability of the findings.

1.15.3 Dependability

In qualitative research, 'dependability' is a concept used in relation to reliability (Botes, 2003:183). Ritchie, Lewis, Nichollis and Ormston (2014:354-355) are of the opinion that reliability remains relevant for qualitative research if the researcher can show the audience as much as possible of the procedures that have led to a particular set of conclusions, which the researcher intends to do in her research.

The data was rigorously and consistently interpreted so that the raw data and the meanings that the participants attached to it was dependable and consistent. Participants' replies were recorded and transcribed to ensure a detailed account of events. These transcripts were verified to ensure that they accurately mirrored participants' responses.

1.15.4 Conformability

'Conformability' refers to the degree to which the results could be confirmed or corroborated by others (Trochim & Donnelley, in Kumar, 2011:185). Conformability is also similar to reliability in quantitative research; it is only possible for the results to be compared if both researchers follow the process in an identical manner (Kumar, 2011:185).

To ensure conformability in this study, the researcher kept careful records of the research process followed in order to ascertain whether the interpretation of the findings, the recommendations made and the conclusions could be drawn to their sources, and if they were supported by the analysis. The researcher further protected the data retrieved during the interviews electronically; records of the transcribed interviews were stored for review by other researchers to validate or to corroborate the results of the study.

1.17 ETHICAL CONSIDERATIONS

May (2010:59) sees ethical aspects in social research as the standards set to establish what is morally correct or incorrect. The researcher understands the importance of ethics in research and has familiarised herself with the Guidelines for Ethics in Research, Unisa (2007:9-16). These guidelines address the following issues:

- Basic principles for research

- Relationship between researchers and participants
- Informed consent
- Privacy, anonymity and confidentiality
- International collaborative research involving human participants.

The following ethical aspects mentioned by Leedy and Ormrod (2005:101-102) were adhered to:

- To ask people (participants) for their participation in the research
- Not to force people to participate
- Not to mislead the participants
- The participants must have knowledge regarding the research assignment
- The participants' privacy must be guaranteed
- The participants must not be submitted to physical and psychological stress
- The privacy of the participants must not be affected
- Privacy, confidentiality and anonymity must prevail.

The researcher ensured that the participants were protected from physical or psychological harm. The researcher obtained the necessary permission before conducting the interviews. The participants were provided with the relevant information regarding the research being conducted. The researcher also respected the participants' right to privacy (Leedy & Ormrod, 2005:101). No unethical tactics or techniques were used when interviewing the participants (Welman et al., 2005:201). The researcher also remained honest throughout the study (Leedy & Ormrod, 2005:101). Participants were informed in advance that they have the right to withdraw from participation in the study, at any time, without obligation to provide reasons. No penalty was passed for non-participation.

1.18 SUMMARY

This chapter introduced the research methods and design that followed in the study. A comprehensive overview of the background that informed the identified research problem justified the research aim and objectives of the study. A discussion of the data collection methods and instrument applied, as well as aspects pertaining to sampling procedures and strategies to ensure

the validity and reliability of the study provided further contextualisation of the research methodology followed. This chapter concluded with a discussion of the ethical framework adhered to in the study.

Chapter Two provides an overview of the legislative framework that governs domestic violence in South Africa.

CHAPTER TWO OVERVIEW OF LEGISLATION GOVERNING DOMESTIC VIOLENCE IN SOUTH AFRICA

2.1 INTRODUCTION

The advent of democracy in South Africa has brought about various changes to the legislative framework in the country. These legislative changes also influenced how domestic violence is regulated. In 1998, a new act that deals directly with incidents of domestic violence was proclaimed, namely, the Domestic Violence Act 116 of 1998.

This chapter commences with an overview of the legislation that governs and promotes the regulation of domestic violence in South Africa. In addition, this chapter provides an outline of SAPS directives and internal documents focusing on the policing of domestic violence. Domestic violence is a significant challenge and the victims thereof are very vulnerable. Until 1998, there were not any sufficient laws to address domestic violence; thus, it was a crime that often went unnoticed, ignored and unpunished by the law. To add to this, it is a crime that occurs most frequently in the inner circle of a family home and the victims more often than not keep it under wraps from the family, the police and friends.

2.2 LEGISLATIVE AND POLICY FRAMEWORK REGULATING DOMESTIC VIOLENCE IN SOUTH AFRICA

The following South African legislative framework regulates and promotes the management of domestic violence.

2.2.1 The Constitution of the Republic of South Africa, Act 108 of 1996

The Constitution of the Republic of South Africa, Act 108 of 1996 (South Africa, 1996) deals with the victims of crime and specifically mentions that the SAPS should show respect for victims of crime and understanding of their needs. It also deals with upholding and safeguarding the fundamental rights of every person as guaranteed by the court and indicates that the SAPS's interactions with the victims of crime should reflect respect for these victims and their needs.

The interpretation of the Constitution means that the police must have the necessary respect with regard to the fundamental rights of every person, as described by the Constitution.

The police must exercise their powers within the scope of objectives of the Service, as prescribed by Section 205(3) of the Constitution, that is, to:

- Prevent, combat and investigate crime;
- Maintain public order;
- Protect and secure the inhabitants of the Republic and their property; and
- Uphold and enforce the law.

Thus, the provisions of the Constitution clearly stipulate that the SAPS have the responsibility to combat and investigate incidents of domestic violence. The Constitution further demands that the police execute these responsibilities towards victims of domestic violence with the necessary respect in order to protect such victims, uphold their rights, maintain public order and to enforce the law.

An overview of the Domestic Violence Act, 116 of 1998, follows for discussion in order to illustrate how this Act defines and regulates domestic violence. This Act also clarifies the responsibilities of the SAPS in terms of the policing and management of domestic violence.

2.2.2 The Domestic Violence Act, 116 of 1998

The Domestic Violence Act, 116 of 1998 (South Africa, 1998) refers to a domestic violence relationship as: – a relationship between a complainant and a respondent in any of the following ways:

- (a) The parties are or were married to each other, including marriages according to custom, law and religion;
- (b) They (including participants being of the same sex) live or lived together in a relationship the same as marriage, although they are not, were not, married to each other, or were or are not able to marry each other;
- (c) They are the parents of a child or parents who have the parental responsibility for the mentioned child;
- (d) They are family members related by consanguinity, affinity or adoption;

- (e) They are or were in an engaged, dating or customary relationship of any duration; or
- (f) They share or recently shared the same residence.

Section 1 of this Act also stipulates that domestic violence includes physical, sexual, emotional, verbal and psychological abuse as well as economic abuse, intimidation, harassment, stalking, damage to property, trespassing (entry without permission where the parties are not sharing the same house), any other controlling or abusive behaviour towards a complainant, where it harms or cause imminent harm, to the safety, health or well-being of the complainant.

Furthermore, Section 2 of this Act indicates that it is compulsory that a member of the SAPS dealing with an incident of domestic violence:

- Determines whether the complainant is in immediate danger and takes the necessary steps to secure the scene;
- Enters a property/building if he/she suspects that an offence has been committed and that the complainant may furnish the police official with information pertaining to the offence, and obtain a statement from the complainant;
- Protect the complainant or any other person(s) from imminent physical harm, should the complainant be in imminent danger;
- Secure the scene as well as separate the complainant, respondent and witnesses, which includes arresting the alleged offender - in terms of Section 3 of this act as well as Section 40(1)(q) of the Criminal Procedure Act, 51 of 1977 (South Africa, 1977); and
- If he/she has reason to believe that a person used a fire-arm/dangerous weapon, he/she may seize the weapon without a warrant of arrest.

The SAPS member should, when a complainant of a domestic violence incident may suffer imminent harm, bear in mind that there might be a risk to the safety, health or well-being of the complainant. Furthermore, the SAPS member should take into consideration the seriousness of the conduct comprising the alleged breach of the conditions in the protection order, as well as the length of time since the breach occurred.

Section 2 of the Act stipulates that at an incident or report of domestic violence, the SAPS member must:

- Render the necessary assistance to the complainant, depending on the circumstances – this includes making arrangements for the complainant with a suitable shelter as well as obtaining the necessary medical treatment;
- Hand a notice to the complainant, if possible, in the language of his/her choice;
- Explain the contents of the notice to the complainant, and the solutions at his/her disposal in terms of the DVA.

Section 3 of the DVA grants permission to a police official to arrest an alleged offender without a warrant of arrest. It is important to note that the perpetrator who committed an act of domestic violence could be a male or a female. Domestic violence is often associated with female victims; however, males are often victims of domestic violence.

Section C of the Act makes provision for the different remedies available to the complainant:

- The right to lay a criminal charge;
- The right to apply for a protection order; and
- The right to apply for a protection order as well as lay a charge.

The DVA clearly stipulates the responsibilities of members of the SAPS in terms of the policing and management of domestic violence. This Act prescribes that the SAPS member could hand a copy of the notice, as provided for in the DVA, in the chosen official language, to the complainant who also needs to sign the applicable entry in the SAPS Occurrence Book (OB) or the pocket book of the member. It is important to note that all domestic violence incidents reported to the SAPS must be recorded in the Domestic Violence Register, that is, SAPS 508 (b). Members must record in full detail their responses to each incident of domestic violence on a Report of Domestic Violence form (SAPS 508(a)).

The DVA makes further provision for the procedures to be followed when issuing protection orders. The Act provides measures to give victims of domestic violence the opportunity of maximum protection and it has outlined certain procedures that must be followed in order to

minimize incidents thereof. In addition, this Act places the responsibility on the SAPS to inform the complainant/victim of their rights and to render the necessary assistance in finding suitable shelter and medical treatment, if necessary. The police need to inform the complainant or victim of the procedures that need to be followed and the solutions available to them.

The Act also gives a member of the SAPS the right to arrest a suspect of domestic violence as well as to deal with the procedures that need to be followed by a victim when applying for a protection order, the service thereof and the issuing of a warrant of arrest, should the provisions of this Act not be adhered to. It also addresses the seizing of exhibits, including fire-arms and dangerous weapons used in the commission of an offence related to domestic violence. It states that:

- After obtaining the statement, the SAPS officer will decide whether or not to effect an arrest, seize exhibits, and will assist the victim;
- The SAPS officer will keep a copy of the protection order, and a copy of any arrest warrant as proof;
- The SAPS officer will make an entry in the Incident register to indicate that the matter has indeed been reported.

The Act also deals with procedures at the scene of an incident of domestic violence as well as other assistance that will be provided. It also provides for reporting, should the SAPS not adhere to the policy.

The Children's Act, 38 of 2005 (South Africa, 2005) follows for discussion. Although this study deals specifically with domestic violence, children are often victims of this crime. An objective of the Children's Act, 38 of 2005 is to promote the protection, development and well-being of children. Children who are victims of domestic violence are also protected in terms of the Children's Act; the following discussion illustrates how this Act protects children against incidents of domestic violence.

2.2.3 The Children's Act, 38 of 2005

The Children's Act, 38 of 2005 (South Africa, 2005) came into operation on 1 April 2010 when it replaced the former Child Care Act.

Section 150 of this Act stipulates in paragraph (f) that a child is in need of care and protection if the child lives in or is exposed to circumstances which may seriously harm that child's physical, mental or social well-being, and (g) if there is reason to believe that the child will live in or be exposed to circumstances that could seriously harm the physical, mental or social well-being of the child, if the child is returned to the parent, guardian or caregiver. Paragraph (i) also provides that a child is in need of protection should the child be maltreated, abused, deliberately neglected or degraded by a parent, care-giver, a person who has parental responsibility and rights or a family member of the child or by a person under whose control the child is.

Section 151 of this Act allows for the removal and placement of a child into temporary safe care without obtaining a court order. This section provides for the child to be removed and placed in temporary safe care without a court order if there are reasonable grounds to believe that the child-

- (a) Is in need of care and protection; and
- (b) Needs immediate emergency protection.

Section 153 also deals with the fact that a member may remove an alleged offender from the home of or place where the child resides, if it is in the best interests of that child. It is the responsibility of the said police officer to issue a written notice (SAPS 581) to the alleged offender requiring him/her to leave the premises and restrict him/her from entering the home or having contact with the child until court proceedings have started.

The provisions set out in the Children's Act thus resemble the definition of domestic violence provided by the Domestic Violence Act, 116 of 1998 (South Africa, 1998), as set out in paragraph 1.9.1. The Children's Act specifically pays attention to incidents of domestic violence against children. The stipulations of this Act, directly related to incidents of domestic violence perpetrated against children, prescribe the necessary care and protection of children who are exposed to (or reasonably believed to be exposed to) circumstances that could (or have) seriously harm the physical, mental or social well-being of the child.

The Criminal Procedure Act, 51 of 1977 (South Africa, 1977) follows for discussion.

2.2.4 Criminal Procedure Act, 51 of 1977

Section 50(1) (q) of the Criminal Procedure Act, 51 of 1977 (South Africa, 1977) provides that a person who is reasonably suspected of having committed an act of domestic violence, as contemplated in Section (1) of the Domestic Violence Act, 116 of 1998, which constitutes an offence in respect of which violence is an element to be arrested without a warrant of arrest being obtained.

The Criminal Procedure Act (CPA) specifically makes provision for the element of violence to be present in terms of incidents of domestic violence. Furthermore, the CPA specifies that if a person is reasonably suspected of having committed an act of domestic violence, such person has committed an offence and should be arrested without a warrant of arrest.

2.2.5 Service Charter for Victims of Crime in South Africa

The Service Charter for Victims of Crime in South Africa, also referred to as the Victims' Charter of Rights (South Africa, 2007), is a government initiative that outlines the minimum standards of service to which the victims of crime are entitled when visiting police stations or any other civil service providers for assistance. The rights of victims are also included in various statutes and human rights protection instruments, such as the Constitution (Act 108 of 1996), The South African Police Service Act, the SAPS Regulations and National Instructions and Standing Orders. The charter includes the following rights of victims of crime:

A victim has the right to be treated with fairness and respect for their dignity and privacy. This means that they have the right to fair treatment by all role players who must, in turn, have respect for their dignity and privacy, and treat them sensitively;

- It is the right of a victim to supply information during the investigation of a case – this includes supplying evidential materials, medical examinations and making a statement;
- The victim also has a right to receive information from the SAPS when he/she reports a crime. This information includes the arrest of a suspect, whether or not the victim needs to attend an identification parade, feedback regarding the court process, how to claim confiscated property, and reasons for medical examination; and

- A victim also has the right to protection. Should a victim report a crime to the police it is their duty to:
 - Inform the victim that they may apply for a protection order should their safety or the safety of a family member be threatened. This includes the protection of victims by placing them in a place of safety, and their receiving of allowances when in a place of safety. It also includes the fact that victims may not be traumatized in any way.
 - It is a victim's right to obtain assistance by referring them to other service providers for support and on-site crisis intervention such as medical first aid and counseling.

The Victims' Charter of Rights outlines what the key rights of victims of domestic violence are, which forms of victim support are currently available to such victims, and which kinds of victim support are needed by domestic violence victims to ensure that their rights are provided for.

In line with the Victims' Charter of Rights, the Minimum Service Standards for Victims of Crime 2004 (South Africa, 2004) was also developed. A brief synopsis of these Service Standards follows for discussion, so as to illustrate the significance of the Service Standards for victims of domestic violence.

2.2.6 The Minimum Service Standards for Victims of Crime

These Service Standards (South Africa, 2004) set out responsibilities that each government department, such as the SAPS, NPA, Departments of Health, Justice and Constitutional Development, Social Development and Correctional Services, should provide when victims, including victims of domestic violence, present themselves at public institutions, such as courts, police stations and hospitals, etc.

The Minimum Service Standards for Victims of Crime clearly stipulates the responsibilities of the SAPS, and other government departments, in terms of dealing with victims of crimes such as domestic violence. These Service Standards also provide guidelines on how the police and other relevant departments should provide efficient services to victims, including victims of domestic violence. This document not only outlines the basic rights and principles of victims, but also supplies detailed information to enable victims, including victims of domestic violence, to exercise their rights and to enable service providers to uphold such victims' rights.

2.2.7 National Action Plan to manage compliance with domestic violence related legislation

This plan was compiled due to the absence of effective policies and strategies for the policing and prosecution of domestic violence. This included the conduct of officers, public prosecutors and magistrates. It is crucial for police managers to monitor the levels of reporting of this heinous crime.

The aims and objectives of this plan are:

- To identify existing programmes, projects and initiatives in terms of the policing of domestic violence as well as establish the shortcomings and problems in relation thereto.
- To view South African research on domestic violence and to review the recommendations on domestic violence made by government.
- To review comparative research, specifically concentrating on international best practice for the prevention of domestic violence, as well as the service thereof.
- To compile a working definition for Domestic Violence, which will guide policy formulation and strategic planning.

This document further discusses the negative response by both the police and justice system regarding the policing and prosecution of domestic violence. It also discusses the proposed working definition for Domestic Violence, and includes the existing initiatives, projects and support services provided by the SAPS (with specific mention of the FCS units, (trauma facilities in Sunnyside) and the lessons to be learnt from this. It identifies the lessons to be learnt for policy development and strategizing. It further mentions that specialized facilities can offer the following services:

- Professional statement taking
- First-hand counselling
- Information and advisory services
- Efficient referral to counselling and shelters.

The plan further mentions that at the first meeting of its kind, on 27 August 1997, which was held in relation to the NCPS domestic violence process, it was decided that a pre-scoping phase will be launched for the purpose of surveying existing initiatives and identifying areas for the testing of

the second phase of the project. The document needs to be regarded as a draft document that will be refined later.

This plan further mentions that the Prevention of Family Violence Act, 133 of 1993, was the primary contribution towards compiling a framework to address domestic violence. Because the Act failed to address certain issues, the Department of Justice made proposals to amend legislation pertaining to domestic violence. It also addresses the role of the Department of Welfare, which deals with counselling services as well as NGOs – Rape crisis, Lifeline, POWA, Ilitha Labantu, to mention a few – which deal with empowerment issues and include public awareness and education. The issue of shelters was, however, identified as the biggest problem.

It addresses issues identified by a paper prepared by Joanne Feddler, from the Tswaranang Legal Advocacy.

The plan suggests the following considerations:

1. The Protection Against Family Violence Act (PFV Act) should provide for:
 - A clear definition of domestic violence,
 - Escorting of the victim,
 - The cost of obtaining interdicts,
 - Guidelines for issuing peace orders, and
 - Referral policies.
2. Domestic violence should be made a schedule 1 offence.
3. Operational definitions to make room for the legal implications of the range of offences relevant to domestic violence.
4. Looking at the benefits of both opening a docket and/or a file.
5. Firearm confiscation.
6. District surgeon forms to be completed in duplicate.
7. Possibilities of trauma centres at all police stations.
8. Structures and accountability for the FCS.
9. Training for officials

10. Statistics with regard to domestic violence at station level, prosecutions and the efficient referral of victims, to be compiled by integrated information systems.

2.3 SOUTH AFRICAN POLICE SERVICE DIRECTIVES ADDRESSING DOMESTIC VIOLENCE AND RELATED OFFENCES

The following SAPS policies and directives focus on the policing of domestic violence and on related offences as defined under the definition of domestic violence. These orders emphasise the responsibilities of SAPS members in terms of the safety and provision of services to victims. They also instruct members of the SAPS on how to treat victims, how victims should be assisted and the services available to such victims.

The South African Police Service National Instruction 7 of 1999 (South African Police Service, 1999) contains clear instructions to members of the SAPS on how incidents of domestic violence should be managed. This directive follows for discussion.

2.3.1 South African Police Service National Instruction 7 of 1999: Domestic Violence

Members should comply with all the obligations set on them in terms of the DVA. The Act places responsibility on the station commander to liaise with local representatives of the Department of Welfare, the local Community Policing Forum and any other relevant stakeholders in order to provide counselling and support services to complainants. He/she must liaise with these organizations and compile and make available a list of relevant organizations. According to section 5, the station commander must further ensure that: a copy of –

- (a) The Domestic Violence Act;
- (b) The regulations promulgated in terms thereof;
- (c) The National Instruction;
- (d) The station orders issued by him or her in terms of subpar (6); and
- (e) The list referred to in subpar (3) is at all times available in each police vehicle and station which is utilized to attend to complaints.

Section 3 (6) of the National Instruction states that it is the responsibility of the station commander to issue station orders – depending on the station’s unique circumstances-

- (a) Which informs members to inform complainants of the services of organizations;

- (b) Setting out the steps that must be taken by such members to assist the complainant in getting assistance from organizations or if they are in need of medical assistance;
- (c) Any arrangements necessary which he/she deems necessary to assist with the treatment of complainants of domestic violence;
- (d) This act also places specific responsibilities on the Community Service Centre commander. It will be his/her responsibility to make sure that there is a copy of the documents referred to in subparagraph 5 (a) to (e) available in the Community Service Centre.

He/she must further ensure that, should any incident of domestic violence be reported, be it telephonically or otherwise, immediate attention is given to the incident. He/she should further ensure that the members attending to the complaint must have the necessary information pertaining to the incident available to them.

The Domestic Violence Act, 116 of 1998 also places certain responsibilities on any member attending to these complaints, namely, that he/she needs to ascertain whether the complainant is in any form of danger, to secure the scene and to protect the complainant from danger. As soon as the scene is safe and secured the member(s) should:

- Provide the necessary assistance required by complainants;
- Hand the necessary Notice to the complainant and explain the contents thereof;
- Assist the complainant to find a shelter; and
- Investigate the reported domestic violence incident.

The Domestic Violence Act, 116 of 1998 also provides for the necessary steps to be taken to ensure that a scene is secured. It is advisable that members do not visit these scenes alone; furthermore, they should locate the complainant and ensure that he/she is not in any danger. Should the complainant be in any danger, it is the duty of the member to ensure the safety of the complainant. It further allows the member to enter a building or similar structure, should it be necessary, to obtain a statement or establish whether the complainant is in danger. Should the member be denied access to the specific dwelling/structure he/she may take the necessary steps to enter the premises. Should there be no threat, he/she may leave the premises after making the necessary entry in his/her pocket book (SAPS206). Should the member not have reasonable grounds, he/she must request permission to enter such a dwelling.

Section 7 of the Domestic Violence Act, 116 of 1998 deals with the duties of members to register criminal proceedings and to contact a family member to render support to that person. It is also compulsory to make the necessary entries in the pocket book of the member or, if it is done at the station, in the Occurrence Book.

Section 8 deals with the fact that it is the responsibility of a SAPS member to assist the complainant to find a suitable shelter. Should a station have specific orders (as specified in station orders), these should be complied with. This must at least include that the complainant be given the details of an organization that might provide suitable shelter or, per the complainant's request, the police member can contact the shelter and arrange transport for the complainant to the shelter. The details regarding the arrangements that have been made for the complainant need to be entered into the Occurrence Book or pocket book.

Section 9 of the Domestic Violence Act, 116 of 1998 also places a duty on the police member to assist the complainant to arrange for the necessary medical treatment. The complainant should be asked whether he/she requires medical treatment, and the member should then assist the complainant to get the required treatment. The member should also supply the complainant with a J88 and SAPS 308 form, which needs to be completed by the medical practitioner. The relevant entries as to what transpired also need to be reflected in either the member's pocket book or the OB.

Section 10 of the Domestic Violence Act, 116 of 1998 provides detailed information regarding the notice that needs to be given to the complainant, explaining his/her rights. The remedies available to the complainant include:

- The right to lay a criminal charge;
- The right to apply for a protection order; or
- The right to lay a criminal charge as well as apply for a protection order.

The language of the complainant needs to be taken into consideration and, if necessary, these rights need to be explained to the complainant in a language that he/she understands. The complainant needs to sign an entry in the Occurrence Book to acknowledge that he/she had their rights explained to them.

Section 11(1) of the Domestic Violence Act, 116 of 1998 deals with the specific powers and duties of members of the SAPS in terms of the Domestic Violence Act; this includes the seizing of weapons and handing these in as exhibits to the SAPS 13. Sub-section (11) deals with the arrest of the respondent who contravenes the protection order. This is very important, especially if it is clear that the complainant will suffer imminent harm if the respondent is not arrested.

Section 11(3) of the Domestic Violence Act, 116 of 1998 explains that the interim or final protection order may be served by a member of the SAPS.

In Section 11(4) of the Domestic Violence Act, 116 of 1998, the instruction makes provision for the police to accompany the complainant to collect their personal property. It must be borne in mind that the member's presence is to ensure the safety of the complainant and not to involve him/herself in any dispute. The member and complainant must make their presence known in an audible tone at the relevant property and demand admission; they need to inform the occupant of their reason for entering the dwelling/property. Should the respondent refuse entry, this person is in contempt of court for contravening the protection order.

Section 12 of the Domestic Violence Act, 116 of 1998 places the duty of keeping record of incidents relating to domestic violence upon the SAPS. It stipulates that all domestic violence incidents need to be recorded in the Domestic Violence Register (SAPS 508), and places the responsibility of ensuring that an accurate record is kept of all incidents of domestic violence on the station commander. The member should also open a docket and have it registered on the Case Administration System (CAS) system. All the necessary responses to domestic violence incidents need to be documented on a "Report of Domestic Violence Incident" form (SAPS 508(a)) whether a criminal offence has been committed or not. Should a member attend a domestic violence incident and not open any charges, the relevant entry needs to be made in his/her pocket book. Records must be kept of all protection orders and warrants of arrest received. It must be filed and kept in a place that is accessible at all hours.

Section 13 of the Domestic Violence Act, 116 of 1998 deals with the non-compliance of members of the SAPS and the notification of such non-compliance to the Independent Police Investigative Directorate (IPID). In terms of the Domestic Violence Act, it constitutes misconduct if a member fails to comply with an obligation imposed on him/her by the Act. Therefore, in accordance with

the Disciplinary Regulations, disciplinary proceedings will be instituted against any member who fails to comply with an obligation mandated by the Domestic Violence Act or the National Instruction. It further indicates that it is the responsibility of the member's commander to institute disciplinary proceedings against a member who fails to comply with an obligation imposed in terms of the Act or the National Instruction. Should the area commissioner agree that no disciplinary steps be taken, he/she needs to submit an application to the provincial commissioner who will, in turn, supply the application to the Secretariat.

Section 14 of the Domestic Violence Act, 116 of 1998 places the responsibility of keeping record of complaints against members on every station commander. This includes the number and particulars of complaints received, the disciplinary proceedings instituted and the steps taken as a result of the recommendation made by the Secretariat. All allegations of misconduct need to be recorded on a SAPS 508 form and the consolidated form needs to be submitted to the area as well as provincial commissioner to the Secretariat. This will, in turn, be submitted to Parliament as required by the Domestic Violence Act. Section 15 deals with the reporting of incidents of domestic violence, which needs to be done by the station commander and reported to the area commissioner, by whom it will in turn be reported to the provincial commissioner, and then to the Divisional Commissioner: Crime Prevention.

The South African Police Service National Instruction 7 of 1999: Domestic Violence outlines the specific protocol that the SAPS should comply with when dealing with domestic violence. This SAPS directive compels members to comply with this instruction.

The SAPS National Instruction 3 of 2008, which deals with sexual offence as a result of domestic violence, follows for discussion.

2.3.2 South African Police Service National Instruction 3 of 2008: Sexual Offences

Section 3 of the SAPS National Instruction 3 of 2008 on Sexual Offences (South Africa. South African Police Service, 2008) states that it is the responsibility of the Station Commander to identify and liaise with organizations that are willing and prepared to deal with victims of sexual offences so as to provide counselling, medical and other services to them.

According to this directive, the station commander must also ensure that a list containing the contact details of support organizations and a copy thereof is always available in the Community Service Centre (CSC), together with the following:

- The Domestic Violence Act;
- The Regulations promulgated therefore; and
- This specific SAPS National Instruction (3 of 2008)

The station commander should also, according to section 3.6 issue station orders related to informing the victim of the services rendered by the organizations in the list, outline the steps that need to be taken by SAPS members, and instruct members on how to treat the victims.

Section 5 of this Instruction also deals with victim assistance; it indicates that members should be mindful of their interaction with the victim and his/her family and friends. The victim needs to be taken to a separate room or office and may have a family member or friend present, should they so wish. In Section 5.3(b), it clearly states that if the victim and alleged offender are in a domestic relationship, the member must advise the victim in accordance with the National Instruction on Domestic Violence. It also stipulates that the member must reassure the victim by stating that he/she is now safe, and that they did the correct thing in reporting the matter to the police. The member should also listen to what the victim says and write down everything that the victim says, as it may be used as evidence at a later stage. No victim may be turned away, and the member must at all times be courteous, act professional and engage with the victim in a sensitive manner. He/she must also ensure that a docket is registered and inform the victim of the case number as well as the details of the investigating officer; furthermore, the victim must be informed of the procedure that will be followed for medical examinations, and so forth, as well as any progress in the investigation.

It also clearly states the procedure that needs to be followed should a sexual offence be reported telephonically. This includes: the responsibilities of the first member on the scene; dealing with the complainant; safeguarding the crime scene; the role of the investigating officer; the medical examination of the victim; the procedure to follow should the complainant wish to be tested for HIV after the alleged offence; the testing of the perpetrator for HIV; the prevention of the contamination of exhibits; the taking of a statement from the victim; and the aftercare of the victim.

Section 19 (2) focuses on the sexual offence as a result of Domestic Violence. It states that it is the duty of the Service to take the necessary steps to ensure that the vulnerable victim is protected. Paragraph (a) indicates that the member at the scene has to act in accordance with the National Instruction on Domestic Violence. Paragraph (b) indicates that if the victim is a child, a trained FCS member must be contacted. If necessary, the child needs to be removed and the provisions of the appropriate legislation relating to children needs to be applied. In the case of mentally disabled persons, it might be necessary for an urgent application to the High Court. Furthermore, the Instruction provides detailed information related to the use of identification parades and preparation for court proceedings, as well as assisting victims during court proceedings.

The South African Police Service National Instruction 3 of 2010 (South Africa, 2010) places certain obligations on SAPS members to ensure the care and protection of children in terms of the Children's Act. This SAPS directive compels members of the SAPS to follow a specific approach to ensuring the care and protection of children who are victims of any form of abuse.

2.3.3 South African Police Service National Instruction 3 of 2010: The Care and Protection of Children in terms of the Children's Act

According to the SAPS National Instruction 3 of 2010 (South Africa, 2010), it is the duty of a member to follow an approach that is conducive to conciliation and problem solving by avoiding confrontation and keeping the best interests of the child in mind. This instruction deals with the processes and procedures that need to be followed if it is clear that a child is abused, neglected and/or in need of care. It describes the processes that need to be followed in terms of opening cases, as well as removing the child and/or the offender.

This directive provides clear guidelines for members of the SAPS to follow a specific approach in order to ensure the care and protection of children who are victims of any form of abuse, in terms of the Children's Act. This directive is thus also applicable to incidents of domestic violence.

The South African Police Service National Instruction 1 of 2014 (South Africa. South African Police Service, 2014) specifically addresses, among other provisions, the care and protection of elderly persons who are victims of crime, including victims of domestic violence. This directive follows for discussion.

2.3.4 South African Police Service National Instruction 1 of 2014: Protection of Older Persons

The SAPS National Instruction 1 of 2014 (South Africa. South African Police Service, 2014) addresses the matter of the protection of older persons who are victims of crimes, such as domestic violence. It is a reality that elderly people are also victims of domestic violence. They are often victims of financial abuse, physical abuse and emotional abuse committed by their families, or people with whom they share a relationship or a house. These acts of abuse constitute domestic violence as set out in the DVA.

This National Instruction prescribes the following:

1. In all matters concerning older persons:
 - a) Respect, protect and fulfil the older person's rights subject to lawful limitations;
 - b) Respect the older person's dignity;
 - c) Treat them in a fair and equitable manner;
 - d) No older person should be treated with unfair discrimination, including health and disability.
2. In any matter where older persons are concerned:
 - a) Take an approach where problem solving will be conducive and conciliatory, so as to avoid confrontation;
 - b) Immediate action should be taken if possible.
3. Older persons do not necessarily have the same knowledge as other people.
4. Police members should treat older persons in a manner which is in the best interest of the older person.
5. An older person should not be humiliated or intimidated at any time by a member of the Police. When dealing and communicating with older persons their ability to understand needs to be taken into consideration.
6. Steps need to be taken to protect the privacy and dignity of the older person by the police.
7. Members should always explain the contents of notices to an older person and/or the person who supports him/her, taking into consideration that they might not understand the court procedures. Time should also be allowed for questions.
8. Older persons should be addressed in a language that they understand. If the member cannot do this, he/she should communicate with the older person in English.

According to this National Instruction, it is the responsibility of the station commander to liaise with the necessary departments in order to identify local organizations that are willing to assist. He/she needs to establish the type, costs and availability of these services, and make sure that the particulars are available at all times. Should an elderly person be the victim of a crime, such as domestic violence, he/she needs to be informed that they are allowed to open a criminal case and that they may apply for a protection order in terms of the Domestic Violence Act, 116 of 1998.

Should a member establish that an older person is in need of care and protection, he/she needs to report the matter to the social worker and make the necessary entry in the OB. After consulting with the social worker, the member may either remove the older person or the alleged offender. Should the older person be in need of medical assistance, the member should ensure that medical care is provided. An alleged offender may also be removed, should an older person be in need of care and protection, and should it be in his/her best interests. This should also be reported to the social worker. The offender needs to be given an explanation of the contents of the SAP 593¹, and the relevant details related to the offender's compliance thereto.

The SAPS National Instruction 1 of 2014, therefore, clearly prescribes the responsibilities of SAPS members when dealing with incidents of domestic violence in which elderly persons are involved; it also stipulates how SAPS members should take care of such persons to ensure their safety and dignity.

The SAPS Policy Document on Domestic Violence (South Africa. South African Police Service, 2014) further conceptualises the concept of domestic violence and prescribes how SAPS members should approach such incidents. In addition, this directive advocates for the dedication of SAPS members to cases of domestic violence and places emphasis on the treatment of victims.

2.3.5 Policy document of the South African Police Service: Domestic Violence

In recent years, the SAPS has taken a much stronger approach to domestic violence and has formulated a Policy Document on Domestic Violence (South Africa. South African Police Service, 2014) specifically focussed on how to deal with incidents of domestic violence and the victims thereof. In this policy document, the SAPS clearly explains what constitutes domestic violence

¹ Written Notice in terms of Section 27 of Older Persons Act, Act 13 of 2006

and stipulates members' responsibilities in terms of the treatment of victims. This document further advocates the SAPS's commitment to more attentive engagement with cases of domestic violence. The SAPS commits to treating victims with sensitivity and care by prescribing the following responsibilities:

Police officials will:

- Treat victims with respect and protect their dignity;
- Listen to what victims say;
- Not insult, blame or suggest that the victim was the reason for the incident;
- Assist the victim with empathy and care;
- Inform victims about their rights and options.

In an effort to ensure that all police officials adhere to the DVA, the SAPS has put the following measures in place:

- A victim will be requested to sign the OB at the police station where the matter is reported;
- Victims will be provided with a notice containing their rights and explaining the rest of the procedures;
- Members will try their utmost best in order to ensure that the victim understands their rights, a translator who understands the language of the victim will be provided to communicate all the necessary information with the victim.

The SAPS Policy Document on Domestic Violence emphasizes the organisation's commitment to addressing domestic violence. The significance of this directive lays in the specific approach it indicates members should follow when dealing with victims of domestic violence, as well as the specific responsibilities of SAPS members towards victims of domestic violence.

The SAPS Code of Conduct (South Africa. South African Police Service, 1997) briefly follows for discussion describing how this directive compels members of the SAPS to prevent acts, such as domestic violence, which might threaten the safety of citizens, and to investigate criminal conduct, such as domestic violence.

2.3.6 Code of Conduct of the South African Police Service

The Code of Conduct of the SAPS (South Africa. South African Police Service, 1997) clearly stipulates that every police member should commit her/himself to creating a safe and secure environment for all people of South Africa. This can be achieved by taking the appropriate steps to address the causes of crime. A police member should also prevent all acts that might constitute a threat to the safety and security of any community. Members of the SAPS should also investigate criminal conduct that threatens the safety or security of members of the community, and bring the perpetrators to justice. This aspect of the Code of Conduct is applicable to all crimes, including incidents of domestic violence. Domestic violence includes different types of criminal conduct, which includes assault, attempted murder, rape, intimidation, malicious damage to property and murder. These are crimes where the perpetrator may be a husband or wife, life partner or a child of the victim, and vice versa.

In terms of the Code of Conduct of the SAPS, members are obliged to ensure the safety of victims of domestic violence and to investigate perpetrators who commit such acts.

Various official internal SAPS documents deal with the management and policing of domestic violence, the responsibilities of SAPS members, victim empowerment, challenges experienced in the implementation of the DVA and related service delivery issues, as well as the extent of SAPS compliance in terms of the DVA. These documents follow for discussion, to provide an overview of the internal dynamics of domestic violence, as experienced by the SAPS.

2.4 SOUTH AFRICAN POLICE SERVICE INTERNAL DOCUMENTS REFERRING TO THE POLICING OF DOMESTIC VIOLENCE

The following official internal SAPS documents provide insight into the nuances of the management and policing of domestic violence, as experienced by the SAPS.

2.4.1 The implementation of the Domestic Violence Act 116 of 1998 – Circular 1/1/4/1 (188) of 2006

The SAPS Circular 1/1/4/1 (188) (South Africa. South African Police Service, 2006), dated 7 September 2006, explains the implementation of the DVA. This internal communiqué clarifies the responsibilities of members of the SAPS when dealing with the arrest of a respondent without a

warrant or the arrest of a respondent after the alleged contravention of a protection order. It includes the procedures when dealing with fire-arms in the case of a domestic violence incident and the completion of the Form 1 – Notice to complainant in a case of Domestic Violence, the Report of Domestic Violence (SAPS 508(a)), the Domestic Violence Register (SAPS 508(b)). It furthermore contains information regarding returns that needs to be completed should any misconduct be reported against members of the SAPS dealing with the domestic violence incidents or should it be alleged that members did not comply with the obligations set out in the DVA.

South African Police Service Circular 1/1/4/1 (188) places emphasis on the implementation of the provisions set out in the DVA. This communiqué also emphasizes the powers and responsibilities afforded to members when effecting the arrest of perpetrators who commit acts of domestic violence, as well as members' responsibilities when fire-arms are involved in such acts. Guidance is further provided on the compulsory completion of the prescribed forms by SAPS members, as relevant to domestic violence. The non-adherence to the obligations prescribed in the DVA is also reflected upon in this document.

A media statement released by the Divisional Commissioner of the Western Cape confirms the stipulations of the DVA and the responsibilities of the SAPS in terms of this Act. This media statement follows for discussion.

2.4.2 SAPS Media Statement on Domestic Violence

The Divisional Commissioner of the Western Cape, Arno Lamoer, released a press statement on 19 August 2008 (Lamoer, 2008) to ensure the public of the SAPS's adherence to the stipulations prescribed by the Domestic Violence Act, 116 of 1998. In his statement, Lamoer reiterates that it is the responsibility of the SAPS to ensure that the police meet these requirements. He further indicates that the police's responsibility in respect of domestic violence includes the following:

- The SAPS have to display courtesy and act swiftly in response to complaints of abuse and violence against women and children;
- The victim should be a primary figure that receives reassurance and protection from danger;

- The SAPS should ensure that victims are provided with information regarding the options available to them, and provide practical assistance to the victims;
- The SAPS should perform their practical functions such as the taking down of statements when criminal charges are laid;
- It is the duty of SAPS members to disarm the alleged perpetrators, of dangerous weapons such as fire-arms. They should protect victims and accompany a victim to collect her/his belongings from a place where the perpetrator stays;
- The SAPS should inform victims that they have the option of applying for a protection order, or they can lay criminal charges against the perpetrator, or both. Should victims of domestic violence apply for a protection order, the SAPS should assist them by indicating the nearest court that would be able to assist them. Should a criminal charge be opened, the SAPS needs to remove the statement that will be used during the investigation and prosecution.

The Commissioner indicates that all victims (male or female), irrespective of their sexual orientation, should report domestic violence. Police members are required to treat victims with respect and dignity. He includes the fact that society also needs to play its role through institutions that provide counselling to these victims, as each person is part of a community. These institutions should assist the victim by providing him/her with shelter and medical treatment. The Commissioner also mentions that it is extremely difficult for the SAPS when a complainant withdraws a charge of domestic violence during the investigation process. This withdrawal might be followed by a series of abusive and violent behaviour that could lead to fatalities. It is very important for victims not to be intimidated into withdrawing charges. According to the media statement, the abuse of alcohol contributes to the increased level of domestic violence. The statement further includes an explanation of the various types of domestic violence, such as physical, sexual, emotional, verbal and psychological abuse, as well as economic abuse and intimidation. It also includes guidelines for the procedures to be followed when a domestic violence case is reported to the police. The statement also advises as to what a person should do when in the presence of an abuser.

This SAPS media statement reaffirms the responsibilities of the SAPS in terms of domestic violence, as set out by the various policy directives mentioned above, such as the DVA, the Criminal Procedure Act and various SAPS National Instructions. The significance of this media statement lies in the fact that the SAPS acknowledges its duties and responsibilities to the community and towards the victims of domestic violence; it also confirms that the victims of such incidents are their priority.

The SAPS Circular 26/3/3/1 of 2009 (South Africa. South African Police Service, 2009) specifically deals with victim empowerment, and follows for discussion.

2.4.3 Roll out of the Revised SAPS Victim Empowerment Programme Manual: Division: Visible Policing – Circular 26/3/3/1 of 2009

The SAPS Circular 26/3/3/1 of 2009 (South Africa. South African Police Service, 2009) deals with the roll out of the SAPS Victim Empowerment Programme (VEP) manual by the Division: Visible Policing, as it is one of the priority programs of the National Crime Prevention Strategy of the South African Police Service (National Crime Prevention Strategy, 1996). The manual contains guidelines for integrating victim empowerment into every day police practices and procedures; it promotes a victim-centred approach with the result of improving service delivery to victims. It contains a policy framework that has to be adhered to and it makes clear that non-compliance will lead to disciplinary action against members. It is the responsibility of the Provincial Commissioner to ensure that all stations and units receive a copy of the manual as well as the implementation guidelines thereof.

The SAPS Circular 26/3/3/1 of 2009 emphasises victim empowerment and support through the implementation of the VEP manual in order to improve service delivery to victims of crime, including victims of domestic violence. This manual further provides guidelines for a victim-centred approach and places emphasis on communicating its contents to members, as well as the adherence to such guidelines by SAPS members.

Circular 1/1/4/1 (1) of 2010 (South Africa. South African Police Service, 2010) specifically addresses service delivery challenges that victims of domestic violence have experienced at the hands of the SAPS, in response to claims of substandard service delivery. These challenges largely refer to the failure of the SAPS to act in accordance with the provisions of the DVA.

2.4.4 South African Police Service Correspondence regarding Domestic Violence Act, 116 of 1998 – Circular 1/1/4/1 (1) of 2010

Circular 1/1/4/1 (1) dated 28 September 2010 (South Africa. South African Police Service, 2010) states that the SAPS National Head Office is inundated with allegations of the failure of SAPS members to provide the necessary service to victims of domestic violence. It also refers to allegations of substandard service delivery in the policing of domestic violence, as made by various Parliamentary Portfolio Committees, complaints in the media, complaints by members of the public, other departments and non-governmental organizations. It further mentions that some of the complaints are linked to fatalities in instances in which the SAPS has allegedly failed to intervene in matters and, consequently, failed to prevent deaths. According to the SAPS, this has a significant influence on the image of the police: it questions the commitment of members of the SAPS to delivering a proper service to victims and to offering them the necessary protection. Furthermore, this circular clearly states that it is the responsibility of functional members to comply with both the DVA and the National Instructions. It also places a responsibility on station commanders to identify and ensure that members receive proper training. They should also act immediately to rectify any transgressions committed by members, and deal with any complaints received from the public swiftly.

Circular 1/1/4/1 (1) of 2010 pays particular attention to claims made against the SAPS with reference to the service delivery challenges experienced by victims of domestic violence. In response to these claims, SAPS senior management instructs commanders to ensure continuous training and monitoring on the policing of domestic violence at the station level, as well as the reporting and addressing of non-compliance.

Circular 1/1/4/1/ (1) of 2011 (South Africa. South African Police Service, 2011), which speaks to the SAPS implementation of the DVA and the SAPS National Instruction 7 of 1999 on Domestic Violence (South Africa. South African Police Service, 1999) follows for discussion.

2.4.5 Compliance with the Domestic Violence Act and the National Instruction on Domestic Violence – Circular 1/1/4/1/ (1) of 2011

Circular 1/1/4/1(1), dated 27 September 2011, mentions that the Parliamentary Portfolio Committee on Policing has visited police stations on various occasions and observed the extent to

which the DVA and the SAPS National Instruction 7 of 1999 on domestic violence are being implemented; they have found several shortcomings in this regard.

A meeting between the SAPS and the Portfolio Committee, on police implementation of the DVA, was held on 23 August 2011. It considered reports compiled by the ICD (who also attended the meeting) which includes recommendations by the ICD. The SAPS, however, failed to provide any feedback in this regard to the ICD. The ICD informed the meeting that their recommendations made on domestic violence, which include complaints against members of non-compliance with the obligations imposed by the Act or National instruction, were not responded to by the SAPS. The Committee requested feedback from all SAPS Provincial Commissioners regarding the recommendations made by the ICD. It further contains measures to ensure that the DVA is properly implemented by the police; this includes the appointment of specific personnel to deal with domestic violence and complaints, and that a Deputy National Commissioner is designated to take full command and control over the proper implementation of the DVA by the police. Moreover, this circular outlines the procedures that need to be followed and the reports that should be compiled by stations and Provincial Commissioners; it also provides details related to the visiting of stations to ensure the proper implementation of the Act. Members who require training on the Act should be identified and a program should be developed to ensure that they are properly trained on all aspects of domestic violence. The circular also provides details regarding the process that should be followed if any recommendation by the ICD, IPID or the Secretariat for Safety and Security is not adhered to by stations. The circular also contains instructions that regular inspections need to be done to ensure that the Act is fully implemented and that all Victim Friendly Rooms (VFRs) that cater for the victims of domestic violence should be properly managed and that a professional service is provided. These VFRs should be properly maintained and available to victims on a 24-hour basis.

The contents of Circular 1/1/4/1(1), dated 27 September 2011, specifically speaks to several shortcomings in the implementation of the DVA and the National Instruction 7 of 1999 on domestic violence by the SAPS, as identified by the Parliamentary Portfolio Committee on Policing. This circular clearly stipulates that the SAPS experiences difficulties in efficiently implementing the provisions of the DVA and National Instruction 7 of 1999 at the station level.

These shortcomings warrant the intervention of the Parliamentary Portfolio Committee on Policing and places specific obligations on the SAPS to improve the implementation of these directives with a particular focus on service delivery to victims of domestic violence, training interventions of members, and the appointment of designated officers to ensure proper implementation.

Circular 1/1/3/1(1) of 2012 (South Africa. South African Police Service, 2012) follows for discussion; this circular informs the implementation of the South African government's National Action Plan (South Africa, 2012) for the management of the compliance of SAPS members to legislation on issues such as gender based violence and domestic violence.

2.4.6 National Action Plan to monitor compliance with the Domestic Violence Act 116 of 1998, the Sexual Offences Act 32 of 2007, Child Justice Act 75 of 2008 and the Children's Act 38 of 2005 – Circular 1/1/4/1(1) of 2012

Circular 1/1/4/1 (1) of 2012, dated 28 March 2012 (South Africa. South African Police Service, 2012), confirms that one of the strategic priorities of the SAPS is crimes committed against women and children. These include incidents of domestic violence against these vulnerable groups. This focus is enforced by the Justice Crime Prevention and Security Cluster's programs within Outcome 3 of the South African government's strategic plan, which states: "All people are and feel safe". A workshop (facilitated by the SAPS) was held on 5 and 6 October 2011 to address the challenges experienced by the SAPS in providing services to victims of gender based violence and child abuse.

A task team was established to finalize the National Action Plan for the management of compliance to legislation on issues including gender based violence. This plan was drafted to enhance the compliance of SAPS members in the implementation of the Domestic Violence Act 1998 (Act 116 of 1998), the Child Justice Act 2005 (Act 38 of 2005) and the Criminal Law (Sexual Offences and Related Matters) Amendment Act 2007 (Act 32 of 2007). All inputs were taken into account and the finalized plan was to be immediately adopted, implemented and rolled out.

Circular 1/1/3/1(1) of 2012 (South Africa. South African Police Service, 2012) further re-emphasizes the SAPS's and South African government's commitment to addressing incidents of domestic violence against vulnerable groups such as women and children. In addition, this circular

speaks directly to measures to enhance the compliance of SAPS members regarding the implementation of the DVA.

Circular 3/1/5/1/343(11) dated 8 September 2012 (South Africa. South African Police Service, 2012) follows for discussion. This circular speaks to the SAPS National Instruction on public education and awareness campaigns specifically related to crimes against women and children.

2.4.7 National Instruction: Public Education and Awareness Campaign: Crimes against Woman and Children – Circular 3/1/5/1/343(11) of 2012

Circular 3/1/5/1/343(11) dated 8 September 2012 informs the reader that on 25 February 2008, during the opening of the Commission on the Status of Women at the United Nations (UN) Headquarters, the UN Secretary-General, Ban Ki-Moon, launched the UNITE campaign to end violence against women. The campaign which ran until 2015 presented opportunities to fight one of the biggest human rights violations in the world. This circular further emphasizes the importance of public awareness, the significance of the public being educated on crimes committed against women and children, and the importance of breaking the silence. This communiqué also states that community education campaigns can be of great assistance in building awareness and changing the attitudes and social norms of people. The media, including radio and television stations, and social networks can disseminate the contact numbers of domestic violence hotlines. In addition, the circular highlights the significance of awareness-raising campaigns, such as the 16 Days of Activism for No Violence against Women and Children. The number of reported cases on this matter normally shows an increase shortly after this international awareness-raising campaign. However, this circular indicates that the link between these campaigns and the reporting and proper record keeping of the associated crimes, such as domestic violence, is not at all established. As a result, this circular calls for the National Instructions to be changed to include the reporting of these crimes.

The contents of Circular 3/1/5/1/343(11) focuses specifically on public awareness-raising and education campaigns in support of ending violence against women and children. The significance placed on these public awareness and education drives confirms the SAPS's commitment to addressing such crimes. The contents of this circular further indicate the SAPS's recognition that

these crimes require a multi-dimensional approach that would assist the police to effectively address domestic violence.

Circular 1/1/4/1 (1) dated 15 June 2013 (South Africa. South African Police Service, 2013) follows for discussion. This circular primarily draws members' attention to service delivery to victims of domestic violence, the responsibilities of the SAPS towards victims and the training requirements of members.

2.4.8 Policing the Domestic Violence Act 116 of 1998: Improving Service Delivery to Victims of Crime – Circular 1/1/4/1(1) of 2013

Similar to other SAPS circulars, as set out in sections 2.4.2, 2.4.3 and 2.4.5 of this study, Circular 1/1/4/1 (1) of 2013 reaffirms the responsibilities of the SAPS towards victims of domestic violence, the provision of efficient service delivery to such victims, as well as the ongoing training of members and monitoring of implementation provisions. The contents of this circular emphasise the training of members with regard to the policing of domestic violence as well as the responsibilities of the station commander to identify the training requirements and arrange for such training. This circular further reveals that members who were interviewed did not receive the requisite training. Furthermore, this circular refers to the fact that frontline members (Community Service Centre (CSC) Commanders) should have the necessary experience and training in domestic violence; inexperienced members should work under the watchful eye of experienced members and senior officers. The contents of this circular further reveal that, during station visits, it was clear that station commanders do not hold members responsible for proper service delivery; it was also suggested that student constables not be used to handle domestic violence cases. Education and awareness campaigns are also seen as important and the circular indicates that proper records of these activities need to be kept.

Provincial commanders are requested to task the relevant Provincial Heads: Visible Policing and Cluster commanders to conduct the necessary monitoring and evaluation visits to police stations in order to ensure that quality services are provided to victims in terms of the DVA and other legislation, including the Child Justice Act 2008 (Act no. 75 of 2008), the Children's Act 2005 (Act No. 38 of 2005) and the Criminal Law (Sexual Offences and Related Matters) Amendment Act 2007 (Act No. 32 of 2007). This circular emphasises that compliance inspections should

include the perusal of registers to ensure the proper administration of the relevant legislation, as well as monitoring and addressing non-compliance. Provincial commissioners are responsible for submitting a comprehensive report on the stations visited, which includes the relevant findings, recommendations and/or remedial steps taken to improve service delivery in the respective stations.

Furthermore, this circular states that the Division: Visible Policing and Inspectorate will continue with their random visits to police stations for the purpose of:

- Determining whether the Act is correctly implemented;
- Inspecting Human Resource Development's commitment to the training of members;
- Identifying shortcomings in the implementation of the Act;
- Inspecting the relevant registers used in dealing with Domestic Violence cases;
- Interacting with frontline members and management to establish their knowledge on domestic violence;
- Where necessary, intervene and correct station members on how the Act should be properly implemented; and
- Request feedback on whether corrective measures have been taken.

Provincial Commissioners are tasked to closely monitor their respective Cluster and Station management, in terms of the items listed below, with regard to domestic violence incidents involving SAPS members and employees:

- Details of all withdrawals, who withdrew these and why?
- Have commanders thoroughly investigated whether the victim was intimidated into withdrawing the case?
- Should the SAPS take disciplinary measures even after case was withdrawn?
- Were fire-arms seized and why?

The following feedback is required in cases of domestic violence in which fire-arms have been confiscated:

- The outcomes of the Section 102 (after serving final Protection Order) or Section 103 (opening of case docket) enquiry in terms of the Fire-arms Control Act, 2000.

- The outcome (as well as process) of the investigation with regard to the Discipline Regulation and any criminal investigation related thereto for each member involved.
- The current placement (as well as the nature of duties) of the member concerned away from the operational environment or where fire-arms are in close proximity of the member concerned (depending on the outcome of the disciplinary process).
- Whether the particular member's fire-arm permit has been withdrawn.

The Division of Personnel Management should monitor all incidents of non-compliance as well as the respective progress and outcome of disciplinary processes by members. This circular clearly stipulates that the SAPS will not tolerate any members being perpetrators of domestic violence nor will it take responsibility for members who do not comply with this Act. Non-compliance will be seen as a dereliction of duty.

All Provincial Commissioners are requested to closely monitor the management of the Victim Friendly Rooms (VFR) or make alternative arrangements when such a room is not available. It is important to note that the performance plans of all Provincial Commanders, Cluster and Station Commanders will be assessed on how they manage SAPS obligations pertaining to the necessary legislation.

The significance of the contents of this circular is captured in the reiteration of the responsibilities of the SAPS towards victims of domestic violence, the provision of efficient service delivery to such victims, the ongoing training of members and the monitoring of implementation provisions. Furthermore, this document takes a firm stance against SAPS members who are guilty of committing domestic violence and prescribes certain procedures to be followed in such an event.

Circular 1/1/4/1 (1) (a) of 2013 dated 15 May 2013 (South Africa. South African Police Service, 2013) follows for discussion. This circular provides a summary of reports by the SAPS and the Secretariat for Safety and Security on the implementation of the DVA by the SAPS. These reports resulted from an appearance by the SAPS and the Secretariat for Safety and Security before the Parliamentary Portfolio Committee on Police.

2.4.9 Policing the Domestic Violence Act 116 of 1998: Meeting with the Parliamentary Portfolio Committee on Police: Improving Service Delivery and Assistance to Victims – Circular 1/1/4/1 (1) (a) of 2013

Circular 1/1/4/1 (1) (a) of 2013 reports on the Secretariat for Safety and Security and the SAPS that appeared before the Parliamentary Portfolio Committee on Police in order to report on the implementation of the DVA.

In addition, the Portfolio Committee requested a report with a case-by-case breakdown containing information of cases withdrawn, an indication if the victim intimidated, whether the members involved needed assistance from the EHW, and an indication of whether it was necessary for departmental steps to be taken against such members. Moreover, 20 police stations where the VFRs were not functional, or not used for the purpose for which they were intended, were identified. The SAPS report further revealed that, in a total of 145 police stations, only 37% (4 380) of the SAPS members were trained on the implementation of the DVA.

The contents of Circular 1/1/4/1 (1) of 2013 clearly indicates government's firm stance to ensure that efficient services are provided to the victims of domestic violence and that assistance is given to such victims. The Portfolio Committee's detailed requirements of SAPS reports also signify the government's attention to the monitoring of the management and policing of domestic violence.

Circular 1/1/4/1 (1) of 2013 dated 15 June 2013 (South Africa. South African Police Service, 2013) follows for discussion. This circular similarly speaks to Circular 1/1/4/1 (1) (b) of 2013 dated 15 May 2013, as discussed in section 2.4.9.

2.4.10 Policing the Domestic Violence Act 116 of 1998: Improving Service Delivery to victims of crime: South African Police Service – Circular 1/1/4/1 (1) of 2013

Circular 1/1/4/1 (1) of 2013 raises concerns regarding the fact that the police are not complying with the provisions set out in the DVA. These concerns include:

- Failure by members to provide the necessary services to the public;
- SAPS top management are criticized by the different Portfolio Committees and NGOs for poor compliance;
- Police negligence led to fatalities in domestic violence incidents;

- Members of the SAPS are not referred for counselling by EHW after dealing with incidents of domestic violence.

This circular further urges station commanders to ensure that members are adequately trained and to investigate matters of non-compliance as well as to inform the public of the complaint mechanisms available to them. Provincial Commanders must task Provincial Heads: Visible Policing as well as Cluster Commanders to conduct station visits to ensure that the Act is complied with.

The contents of Circular 1/1/4/1 (1) of 2013 indicate that members of the SAPS do not provide adequate services to the victims of domestic violence. As a result, the responsibilities of the SAPS, as set out in the provisions of the DVA, are not complied with. Consequently, the non-compliance of SAPS members impacts significantly on victims of such incidents, which has led to fatalities from time to time. This circular also reiterates that SAPS members who are exposed to incidents of domestic violence should receive counselling, which is not the case.

Circular 7/2/1 dated 24 June 2014 (South Africa. South African Police Service, 2014) follows for discussion. The focus of this circular is on the wellbeing of SAPS members who deal with incidents of domestic violence, and on sensitizing these members to effectively manage such incidents.

2.4.11 Establishment of Intra Departmental Quarterly Meetings: Domestic Violence – Circular 7/2/1 of 2014

Circular 7/2/1 confirms that the main purpose of the SAPS EHW is to enhance the social function and wellbeing of employees of the SAPS. The EHW has identified that domestic violence can have a significant impact on members dealing with these incidents and on their overall work performance. As a result, the EHW has decided to establish a Desk on Domestic Violence that will focus on sensitizing members by providing “softer skills” to members of the Community Service Centre on dealing with victims of domestic violence. Meetings will be held to address the needs and concerns of the SAPS. It will further address important issues, trends and implementation issues. These intra-departmental meetings will assist the service to:

- Provide accurate domestic violence statistics to parliament;
- Ensuring compliance through training and sensitizing;
- Increase referral to EHW for the addressing secondary challenges such as absenteeism;

- Provide support to the roleplayers who work with domestic violence.

The contents of Circular 7/2/1 also emphasises the wellbeing of SAPS members who are exposed to domestic violence incidents and the provision of the necessary skills to these members so that they are able to effectively manage domestic violence incidents.

Circular 1/1/4/1 (1) dated 6 October 2014 (South Africa. South African Police Service, 2014) follows for discussion.

2.4.12 Policing the Domestic Violence Act 116 of 1998: Improving Service Delivery to Victims of Crime: South African Police Service – Circular 1/1/4/1 (1) of 2014

Circular 1/1/4/1 (1) of 2014 confirms that the various provinces do not adhere to reporting on the non-compliance of members with the DVA. This circular again instructs provinces to keep proper records of members' non-compliance with the DVA and supply the necessary reports to SAPS Head Office .

This circular confirms the SAPS's firm stance regarding non-compliance with the DVA by its members. The non-reporting of members who do not comply with the provisions of the DVA, however, indicates the responsible commanders' ignorance of this instruction.

Circular 1/1/4/1/ (1) dated 23 March 2015 (South Africa. South African Police Service, 2015) follows for discussion.

2.4.13 Comments and inputs: Impact Assessment report on the Domestic Violence Learning Programme (DVLP) by Division Human Resource Development (HRD)

Circular 1/1/4/1(1) of 2015 deals with an impact assessment on the Domestic Violence Learning Program (DVLP) conducted by the HRD Division at Benoni Academy on 13 and 14 November 2013; this was done to ensure that the Domestic Violence Learning Program supports the strategic direction of the SAPS.

According to this impact assessment, it is imperative and effective that a Domestic Violence Programme supports the strategic direction of the SAPS. In order for the DVLP to remain relevant, effective and in support of the strategic direction of the DAPS, the following remarks and recommendations need to be taken into consideration:

- The duration of the Domestic Violence Learning Programme should be extended to two weeks;
- Experienced members should be identified and trained to handle domestic violence complaints;
- For effective service delivery, it is imperative that all members be trained;
- During training, it is important to emphasize the need for early intervention including the application of a protection order to prevent continual abuse and violence;
- Awareness campaigns and public education (by members dealing with domestic violence) need to be implemented in order to sensitize members on the forms as well as the dangers of domestic violence;
- Because the relationship between members and prosecutors is not healthy, it is suggested that the Justice Cluster Forum should be revived;
- Real life scenarios (on decided cases) should be included in the training programme, for members on the ground, to ensure that each member gains knowledge, skills and understanding on how to implement this Act;
- It is important to train members to be objective when dealing with incidents of domestic violence;
- An instruction should be issued which prevents male members from taking female victims into their custody when dealing with these complaints;
- Proper records should be kept of all protection orders issued by authorities;
- Registers regarding domestic violence should always be available in the CSC;
- Detailed information should be given to members attending to domestic violence complaints in order for them to take precautionary measures;
- The Domestic Violence Act and the National Instruction 7 of 2007 should be adhered to by all members who attend to domestic violence complaints.

The following recommendations were also made for the relevant role players:

- Adequate knowledge and skills on how to handle domestic disputes was provided by the learning programme;

- It is important that all supervisors should attend the Domestic Violence Learning Programme in order for them to become acquainted with the new legislation;
- When identifying members to attend the learning programmes, experience and skill need to be taken into consideration;
- Lists of all the stakeholders that would be of assistance during domestic disputes need to be made available in the CSC;
- Awareness campaigns and public education should be initiated to sensitize communities regarding the importance of the Domestic Violence Act

2.5 SUMMARY

This chapter provided an overview of the legislative framework that governs domestic violence in South Africa. The National Instructions compiled by the SAPS to ensure effective service delivery on matters of domestic violence were also discussed in detail in this chapter.

Chapter Three presents an overview of the policing of domestic violence.

CHAPTER THREE THE POLICING OF DOMESTIC VIOLENCE

3.1 INTRODUCTION

This chapter focuses on the nature and extent of domestic violence in South Africa as well as the impact of this phenomenon on broader society. An overview of the policing of domestic violence in South Africa further describes how the SAPS responds to and manages incidents of domestic violence. An overview of the response to domestic violence by the criminal justice system further illustrates how the criminal justice system responds to domestic violence and provides a synopsis of its responsibilities to victims. This chapter concludes with an overview of the domestic violence landscape internationally, and illustrates the nature and extent of domestic violence and the

subsequent policing thereof by means of international examples. In order to illustrate the global challenge in response to domestic violence, the UN Secretary-General, Ban-ki Moon (2008), mentioned that “There is one universal truth, applicable to all countries, cultures and communities: violence against women is never acceptable, never excusable, and never tolerable.” The researcher is of the opinion that men and children should also be included in this important statement by Moon. Garcia-Moreno et al. (2013:8) states that “Gender Based Violence is a breach of the fundamental right to life, liberty, security, dignity, non-discrimination, physical and mental integrity, and is therefore a direct breach of the Constitution of the Republic of South Africa.”

3.2 THE NATURE OF DOMESTIC VIOLENCE IN SOUTH AFRICA

Vetten (2014:1) describes domestic violence as a broad term that encompasses intimate partner violence, child abuse, elder abuse and violence between siblings. In addition to its presence in different types of family relationships, domestic violence also takes a range of forms. Thus, Vetten (2014:1) cautions that measuring the extent of domestic violence requires paying attention to different sorts of familial and intimate relationships, and different types of abuse. Vetten (2014:2) also confirms that police data does not offer a comprehensive guide to this terrain.

In addition, according to *A guide to family law: Domestic violence and abuse* (2016) there is broad consensus that women are often subjected to severe forms of abuse and are likely to be injured by an abusive partner. In this regard, it is difficult to determine how many instances of domestic violence actually involve male victims. However, Bendall (2010:103) reports that while women constitute the majority of domestic violence victims, it is important to recognize that it is by no means an exclusively female problem. It has been reported that cases of domestic violence against men are on the rise in South Africa, but statistics on this are not available because many victims do not come forward and the resources to assist them are lacking. The international non-governmental organisation Lifeline reports that one in every four women in South Africa is assaulted by their boyfriend or husband every week. Gender based violence cuts across race, culture, religion and class. It is a known fact that some men are also victims of domestic violence. However, the prevalence of violence against men by a female intimate partner is not known due to under reporting by male victims (*Domestic Violence*, 2010). There is broad consensus that women are more often subjected to severe forms of abuse and are more likely to be injured by an

abusive partner than men or children. Determining how many instances of domestic violence actually involve male victims is difficult. Some studies have shown that women who assault their male partners are more likely to avoid arrest even when the male victim contacts the police. Another study concluded that female perpetrators are viewed by law enforcement as the victims rather than the actual offenders of violence against men. Other studies have also demonstrated a high degree of community acceptance of aggression against men by women (*A guide to family law: Domestic Violence and Abuse*, 2016).

According to Jewkes, Penn-Kekana, Levin, Ratsaka and Schreiber (1999), it appears from studies and work conducted by organisations offering support to victims that the incidence of domestic violence is very high in South Africa. Community based studies have revealed that, in some areas, almost a quarter of women report having been abused by a current or ex-partner in their lifetimes, and that up to a half are affected by emotional or financial abuse. A survey of 269 women who had contacted helping agencies in three major cities found emotional or physical abuse to be the most prevalent form of domestic violence experienced by women, with 90 percent of the sample having experienced this abuse (Bollen et al., 1999).

According to Botha (2008:11) thousands of women and children suffer abuse annually in South Africa. Despite the serious nature of domestic violence, the SAPS does not capture incidents of this heinous act as a separate crime category. Vetten (2014:2) further confirms “there is no crime termed ‘domestic violence’. Instead, its multiple forms are captured across a range of different categories of criminal offences such as assault (either common or with intent to cause grievous bodily harm), pointing a firearm, intimidation, rape or attempted murder (among other charges). When violated, protection orders issued in terms of the DVA are dealt with as charges of contempt of court. This is because the abuser has ignored an instruction from the court to refrain from assaulting or otherwise harming the complainant. When the SAPS reports on crime statistics each year, it does not say how many of these crimes were perpetrated in the context of domestic violence. Very little can therefore be gleaned from the SAPS’ crime statistics” The researcher motivates this omission by the SAPS as the reason that no accurate statistics are available to actually portray the true nature and extent of this crime. Bollen et al. (1999) confirm that statistics on domestic violence are notoriously difficult to obtain. Domestic violence is not a crime as such,

and police statistics reflect only reported crimes, such as assault, rape or malicious damage to property. There are many actions that constitute domestic violence that are not defined as crimes, examples of these are: forced isolation, verbal abuse, stalking and economic abuse. Domestic violence is often not just a once-off event, but a series of events, or a continuous pattern of abuse. Domestic violence may also exist as a continuum with one serious violent incident at one end, and on-going and multiple abuses at the other. This pattern of abuse is not recognised in South African criminal law, which tends to isolate individual incidents. In addition, most crimes of domestic violence are not reported to the police for fear of intimidation, shame, fear of not being believed, self-blame, or fear of retaliation.

A guide to family law: Domestic Violence and Abuse (2016) identifies the following forms of domestic violence:

- Physical abuse

Any act or threat of physical violence intended to cause physical pain, injury, suffering or bodily harm. Physical abuse can include hitting, slapping, punching, choking, pushing and any other type of contact that results in physical injury to the victim. Physical abuse can also include behaviours such as denying the victim medical care when needed, depriving the victim of sleep or other functions necessary to live, or forcing the victim to engage in drug/alcohol use against his/her will. It can also include inflicting physical injury onto other targets, such as children or pets, in order to cause psychological harm to the victim.

- Sexual abuse

Any conduct that abuses, humiliates, degrades or otherwise violates the sexual integrity of the victim. Sexual abuse is any situation in which force or threat is used to obtain participation in unwanted sexual activity. Coercing a person to engage in sexual activity against their will, even if that person is a spouse or intimate partner with whom consensual sex has occurred previously, is an act of aggression and violence. Sexual violence is defined by the World Health Organization as: any sexual act, attempt to obtain a sexual act, unwanted sexual comments or advances, or acts to traffic, or otherwise directed, against a person's sexuality using coercion, by any person regardless of their relationship to the victim, in any setting, including but not limited to home and work.

Marital rape, also known as spousal rape, is non-consensual sex in which the perpetrator is the victim's spouse. As such, it is a form of partner rape, and amounts to domestic violence and sexual abuse. Marital rape has been described as one of the most serious violations of a women's bodily integrity and yet it is a term that many people still have a problem comprehending, with some still describing it as a 'contradiction in terms'.

- Emotional, verbal and psychological abuse

Usually a pattern of degrading or humiliating conduct towards the victim privately or publicly, including repeated insults, ridicule, name calling and/or 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 victim's privacy, liberty, integrity and/or security. Other acts that fall under emotional abuse include controlling what the victim can and cannot do, withholding information from the victim, deliberately doing something to make the victim feel diminished or embarrassed, isolating the victim from friends and family, implicitly blackmailing the victim by harming others when the victim expresses independence or happiness, and denying the victim access to money or other basic resources and necessities.

Emotional abuse includes conflicting actions or statements that are designed to confuse and create insecurity in the victim. These behaviours lead victims to question themselves, causing them to believe that they are making up the abuse or that the abuse is their fault.

Emotional abuse also includes forceful efforts to isolate the victim, to keep them from contacting friends or family. This is intended to eliminate those who might try to help the victim leave the relationship and to create a lack of resources for the victim to rely on if they were to leave. Isolation eventually damages the victim's sense of internal strength, leaving them feeling helpless and unable to escape from the situation. Women and men undergoing emotional abuse often suffer from depression, which puts them at increased risk for suicide, eating disorders, and drug and alcohol abuse.

- Economic abuse

Includes the unreasonable deprivation of economic or financial resources to which the victim is entitled under law or requires out of necessity, including household necessities, mortgage bond

repayments, rent money in the case of a shared residence, and/or the unreasonable disposal of household effects or other property in which the victim has an interest. Economic abuse may involve preventing a victim from resource acquisition, limiting the amount of resources available to him/her, or exploiting the victim's economic resources. The motive behind preventing a victim from acquiring resources is to diminish his/her capacity to support him/her, thus forcing the victim to depend on the perpetrator financially. In this way, the perpetrator can prevent the victim from obtaining education, finding employment, maintaining or advancing a career and acquiring assets. The abuser may also put the victim on an allowance and closely monitor how he/she spends money. Sometimes the abuser will spend the victim's money without his/her consent and create debt, or even completely spend the victim's savings to limit available resources.

- Intimidation

Uttering or conveying a threat, or causing a victim to receive a threat, which induces fear. The abuser may use a variety of intimidation tactics designed to scare the victim into submission. Such tactics may include smashing things in front of the victim, destroying property, hurting the victim's pets or showing off a weapon. The clear message is that if the victim does not obey, there might be violent consequences.

- Harassment

Engaging in a pattern of conduct that induces a fear of harm in the victim, including repeatedly watching the victim, loitering outside of or near the building/place where the victim resides, works, carries out business, studies or happens to be; repeatedly making telephone calls or inducing another person to make telephone calls to the victim, whether or not conversation ensues; repeatedly sending, delivering or causing the delivery of letters, emails, texts, packages or other objects to the victim.

- Stalking

There is no real legal definition of stalking. Neither is there any specific legislation to address this behaviour. The term is used to define a particular kind of harassment. Generally, it refers to a long-term pattern of persistent and repetitive contact with, or attempts to contact, a particular victim. Examples of the types of conduct often associated with stalking include: direct communication; physical following; indirect contact through friends, work colleagues, family or technology (email

or SMS (Short Message System)); and other intrusions into the victim's privacy. The abuse may also take place on social networks like Facebook, on-line forums, Twitter, instant messaging, SMS, BlackBerry Messenger (BBM) or via chat software. The stalker may use websites to post offensive material, create fake profiles or even make a dedicated website about the victim. In addition *A guide to family law: Domestic Violence and Abuse* (2016) includes stalking as:

- Damage to property;
- Wilful damaging or destruction of property belonging to the victim or in which the victim has a vested interest;
- Entry into property;
- Entry into the victim's residence without consent, where the parties do not share the same residence;
- Any other controlling or abusive behaviour.

Any conduct that harms, or may cause imminent harm to, the safety, health or well-being of the victim. 'Imminent harm' includes situations where:

- the perpetrator is in possession of a firearm and has threatened to use the firearm against the victim, or his/her dependants or other family members;
- the perpetrator has used a weapon against the victim in previous incidences of domestic violence (not restricted to dangerous weapons, such as firearms or knives);
- the victim was critically injured by the perpetrator on a previous occasion, or on the occasion in question;
- the victim and his/her children have been 'kicked out' of the shared residence by the perpetrator or anyone affiliated with him;
- the victim has sufficient evidence (i.e. witness statements) that the perpetrator has threatened to harm her; and
- the victim fears for the safety of her children.

Indeed, according to Botha (2008:6), the social and economic issues in our communities only encourage domestic violence incidents and will not disappear soon. Moreover, Botha is of the opinion that the ability of the SAPS to deal with matters of abuse and domestic violence, and the

efficient processing thereof, can be used to address the problem. As an illustration of the shortcomings in terms of accurate statistics related to incidents of domestic violence, Botha (2012:6) mentions that the SAPS misled the Portfolio Committee during October 2007 (whilst the then National Commissioner Jackie Selebi was in attendance) by presenting police stations' compliance with the DVA as very good. The figures supplied by the SAPS and those supplied by the ICD differed significantly.

According to Jewkes (2002:1423), a few social and demographic characteristics exist which define risk groups for domestic violence. Jewkes is further of the opinion that poverty is an exception that increases risks by the effects of conflict; these conflicts primarily occur as a result of financial constraints or jealousy and, according to the gender role transgressions, are more violent than in peaceful relationships. Jewkes further explains that the risk of violence is increased by heavy alcohol consumption as it reduces inhibitions, clouds judgement and impairs the ability to interpret social cues. Jewkes indicates that it is often used to resolve the crisis of male identity and violence is more of a risk in societies where the use of violence is a socially-accepted norm. Jewkes (2002:1426) also mentions that many researchers have looked into the matter of domestic violence as being a learned social behaviour for men and women. The cycle of violence continues as the sons of women who are battered are more likely to beat their own partners, whilst the daughters of women who are battered are more likely to be the victims of violence in their adult lives. Furthermore, women who are beaten by their parents during childhood are also more prone to be beaten during adulthood. Jewkes (2002: 1426) further states that experiences of violence during childhood teach children that violence is normal.

Mazibuko and Umejesi (2015:6586) are of the view that the sense of acceptance of the culture of violence against women has received some attention during the years but does not receive the attention it deserves. They also mention that domestic violence in South Africa is rooted in patriarchy, unemployment as well as underemployment, the uneven distribution of power in African marriages, poverty, the financial independence of women as well as exposure to the alleged "culture of violence".

Vetten (2017:15) indicates that the SAPS has improved their reporting methods on domestic violence; this does not however represent unambiguous evidence of a higher standard of service

to complaints. In contrast, it is suggested that because of the punitive approach taken by members of the SAPS in not complying with this Act, members now avoid these cases out of fear of the possible repercussions thereof. To avoid these matters, SAPS members simply refer the victims to the magistrate's courts in order to obtain protection orders. Vetten (2017:15) reveals that in 2016 the Gauteng police settled out of court (undisclosed amount) in a matter that had resulted in the murder of a woman, after numerous, unsuccessful attempts to convince the Sophiatown SAPS to act on a protection order. Vetten (2017:15) is of the opinion that although the SAPS have managed to comply with certain aspects of the law, they have not necessarily learnt how to police domestic violence in ways to better protect the complainants. The researcher agrees with Vetten (2017:15) who indicates that the difference between treating the information generated by the different forms of the DVA, statements and registers is nothing more than proof that the DVA is practised. She adds that it may be that the approach is practised in a manner that regards these documents as a source of information on how to ensure the safety of victims of domestic violence. Information contained in these forms may promote an understanding of the circumstances surrounding domestic violence and the needs of repeat victims of domestic violence.

3.3 THE EXTENT OF DOMESTIC VIOLENCE IN SOUTH AFRICA

Vetten (2014:50) indicates that prior to the DVA there was no legal remedy for domestic violence in South Africa. The only option available to victims of domestic violence was a general interdict from the High Court or the ineffective peace order, which reduced domestic violence to a form of neighbourly incivility on the same level as barking dogs and loud parties. Vetten also mentions that the National Crime Prevention Strategy (NCPS) of 1996 also underscored the centrality of violence against women. According to a report compiled by Khumalo, Msimang and Bollbach (2014:1), South Africa has one of the highest rates of gender based violence in the world. Khumalo et al. also conclude that the economic costs of this violence to society are alarmingly high. In the same report, Khumalo et al. indicate that, in 2009, the female homicide rate was five times the global rate, while the national intimate partner violence homicide rate was more than twice that of the United States of America. According to them, gender based violence is a problem of great magnitude in South Africa.

According to Vetten (2014:51), the DVA consolidated domestic violence as a human rights violation. Vetten further indicates that the DVA reiterated that victims of domestic violence are amongst the most vulnerable members of society.

Hamber and Lewis (1997:3) state that approximately one million women were affected by domestic violence in 1996 and make the valid point that the ill-treatment of victims of domestic violence, by the police, often constitutes secondary victimization. According to Hamber and Lewis, the insensitivity of the police and the ill-treatment of the victims, combined with ignorance of the legal rights of these women can result in feelings of helplessness.

A study conducted by Genderlinks (2012:1) indicates that more than three quarters (77%) of women in Limpopo; 51% of women in Gauteng; 45% of women in the Western Cape, and 36% of woman in KwaZulu-Natal reportedly experienced some form of violence, be it emotional, economic, physical or sexual at least once in their lifetime, either inside or outside intimate relationships. A significant proportion of men in Gauteng (78%) and KwaZulu-Natal (41%) reported being the perpetrators of violence against women in their lifetime, compared to men as perpetrators of violence against women in Limpopo (48%) and the Western Cape (35%).

According to *A guide to family law: Domestic violence and abuse* (2016), South Africa has one of the highest incidences of domestic violence in the world and, sadly, domestic violence is the most common and widespread human rights abuse in South Africa. Every day, women are murdered, physically and sexually assaulted, threatened and humiliated by their partners, within their own homes. Organisations estimate that one out of every six woman in South Africa is regularly assaulted by her partner. In at least 46 percent of cases, the men involved also abuse the children living with the woman. Although the exact percentages are disputed, there is a large body of cross-cultural evidence to suggest that women are subjected to domestic violence significantly more frequently than are men. It is, however, not possible to obtain statistics of incidences classified as domestic violence from the SAPS as there are quite a few offences that fall under the term, which include assault, attempted murder, rape and malicious damage to property, to name a few. The NGO Gender Links has recommended that the SAPS introduces a category for domestic violence which the SAPS has welcomed but has not yet implemented (Gender Links, 2012:5). Four years after the official launch of the South African National Action Plan (NAP) to end gender based

violence, the implementation, monitoring and evaluation thereof remains unsatisfactory (Gender Links, 2012:6). According to this report, the government has neither dedicated funds nor established a coordinating structure for the plan.

According to Vetten (2014:2), studies reveal that domestic violence related incidences, such as intimate partner violence, are significantly under reported. Vetten based her findings on a study that indicated that between April 2008 and March 2009, 12 093 women in Gauteng, (0,3% of the adult female population) reported to the SAPS that they have been assaulted by an intimate partner whilst 18,1% of women in Gauteng reported having experienced intimate partner violence during the same period. Vetten (2014:2) further mentions that a case study in one location in Mpumalanga shows that police statistics underestimate the incidents of intimate partner violence. This study indicated that from 1 January 2006 to 31 July 2007, 942 reports were received by the SAPS, courts and hospitals regarding some form of intimate partner violence. It is interesting to see that only 6,7% of these cases were included in police statistics as only a mere 63 women registered their cases. This case study also revealed that women make use of different institutions for assistance with matters related to domestic violence. For example: 200 000 people apply for protection orders at court annually, according to the figures received from the Department of Justice and Constitutional Development. Vetten (2014:3) indicates that should the census figures be taken into consideration, this means that in 2011, approximately 417 people in every 100 000 applied for protection orders.

Shockingly, Vetten (2014:3) further states that in 1999 the female homicide rate in South Africa was six times the global average and half of these deaths were caused by intimate partner violence. This means that one in four women is killed by their male partners every day. When it comes to violence in the family, Vetten (2014:3) indicates that two thirds of women were applying for protection orders against intimate male partners whilst only half of the men applied for protection orders against their intimate female partners. Vetten also found that children were identified as both the victims and perpetrators in studies conducted on the implementation of the DVA. Younger children were identified as the most abused. Vetten further mentions that, in 1998, one in four women (25%) in Limpopo, Mpumalanga and the Eastern Cape reported being assaulted by a male partner during their lifetime.

Vetten (2014:6) confirms that domestic violence is a complicated phenomenon and is made even more so by the emotional, filial and economic ties that exist between different people. As a result of this complexity, domestic violence cannot be readily resolved by one criminal justice intervention, which is often how crimes between strangers are addressed. Vetten confirms that:

- There is no data available on the full extent of all forms of domestic violence in South Africa;
- Police statistics do not reflect the necessary information outlining incidences of domestic violence that need to be rectified;
- There are no policies and programs to address the economic causes of domestic violence;
- Services available to victims of abuse (e.g. shelters) do not have the necessary funding and have a limited impact upon and scope of the actual problem.

According to Garcia-Moreno (2013:11), gender based violence features quite prominently in women's lives in South Africa. The following findings reveal the shocking extent of domestic violence in the country:

- A study in Gauteng, in 2010, found that more than 50% of the affected women have experienced violence at least once in their lifetime (Garcia-Moreno, 2013:11);
- Abrahams, Jewkes, Martin, Mathews, Vetten and Lombard (2009:546), in Garcia-Moreno (2013:11), indicate that 50,3% of female homicides were the result of intimate partner violence;
- A sample of 42,3% of men working in Cape Town municipalities in 2006 indicated that, in the last ten years, they were the perpetrators of physical violence towards their partners.

Mowana (2015:1) indicates that the murder rates of both women and children are on the rise, according to the latest crime statistics. These statistics, however, contradict the President's statement during his 2013 State of the Nation Address (SONA) that "We are making progress in fighting crimes against women and children." Mowana (2015:1) further indicates that although several plans, policies and laws were introduced since 1994, nothing regarding gender-based violence has significantly changed.

Mowana (2015:2) is of the opinion that a different approach is needed to prevent and actually reduce Gender-Based Violence (GBV). Mowana suggests that this approach should be a coalition of campaign partners or organisations, such as the Sonke Gender Justice, People Opposing Woman Abuse (POWA), Thusanang and Tshwaranang Legal Advocacy Centre, all of which called for the creation of a National Strategic Plan (NSP) for gender based violence. Mowana further reports that, in 2015, a Gender Links report stressed that such a plan will be an “important tool to gain much needed political commitment and funding”. These organisations also recommended that the NSP should be fully costed, developed through an open, inclusive and consultative process, and that proper accountability must be created by reviving and reconstituting the National Council on Gender-Based Violence.

According to Mowana, combating GBV needs to be a priority if we want to achieve the vision contained in Chapter 12 of the National Development Plan, which intends for people living in South Africa to feel safe and have no fear of crime, where “women can walk freely in the street and where children can play safely outside”. It is thus clear that GBV is a breach of the fundamental rights of South Africans.

In addition, Le Roux (2015:1) states that despite political measures such as the ratification of the convention on violence against women, the introduction of the 365 Day National Action Plan to stop GBV and the institution of a National Council on Gender-Based Violence as well as measures such as setting up a special government department for this, violence against women is not decreasing. Le Roux is further of the opinion that, in South Africa, this kind of violence continues unabated and with little or no consequence for the perpetrator. Le Roux further mentions that South Africa is known for its horrendous gender-based crimes, specifically those of a sexual nature. Moreover, the author indicates that violence against women is severely under reported.

Le Roux (2015:2) is of the opinion that, whilst good measures are being implemented, violence against women lacks a united, comprehensive, multi-disciplinary response from both civil society – as government at both policy and grassroots levels – to curbing violence against women. According to Machisa, Jewkes, Morna and Rama (2011:9), more than half of the women in Gauteng (51,3%) have experienced a form of violence – be it emotional, economic, physical or sexual in their lifetimes. Of men, 7,5% in Gauteng admitted to being the perpetrator of violence

against women. Although it is difficult to establish the extent of emotional violence, it amounts to an average 43,7% of women who experience this kind of violence and 65,2% of men who admit to being the perpetrators thereof. Moreover, a Gauteng Gender Violence Study project conducted by Gender Links (GL) and the Medical Research Council (MRC) revealed that a quarter of women in the province reported being victims of sexual abuse and a shocking 37,4% of men have admitted to being the perpetrators thereof. This crime is still often regarded as a private matter and only 3,9% of women who were interviewed reported the violence they experienced to the SAPS (Machisa et al., 2011:9).

Vetten (2017:1) is of the opinion that more women in South Africa experience violence at the hand of their intimate partners than men. She further notes that, according to figures from 2009, 57% of women who were killed, died at the hands of their partners (domestic violence) and further notes that this murder rate was five times the global average.

Vetten (2017:9) explains that prior to 2012 organisational accountability was established by forwarding bi-annual reports compiled by the ICD and the SAPS. The ICD was renamed as the Independent Investigative Directorate in 2012, when the national office and the IPID were established. She also explains that because IPID was established to provide more comprehensive oversight over the SAPS (the Portfolio committee already noted in 2008 that IPID was a “toothless bulldog” – according to the SAPS). The CSP was inaugurated to ensure the effectiveness of Section 208 of the Constitution. The CSP was now responsible for the bi-annual reports to Parliament; the CSP, in turn, transferred this function to the provincial departments of community safety. The CSP can monitor police compliance with the act but it cannot conduct investigations. Prior to late 2016, the CSP was not even formally empowered to receive complaints. In effect, this transfer of functions to the CSP raised concerns regarding the status of domestic violence in the policing environment.

According to Vetten (2017:10), 275 536 applications were made for protection orders in 2015/2016 and, of these, 99 076 (35,9%) were made final, while approximately 39 550 warrants of arrest were issued for violations of protection orders. Vetten (2017:10) raises concerns as to whether members of the SAPS are complying with their duties, as data from the ICD and CSP has not been collected routinely or consistently. The reporting is also not of the same standard from

one year to the next, and the quality of the information is variable, as noted by the Parliament's Portfolio Committee. Other than PowerPoint presentations, there are no signatures on formal reports by the CSP after 31 March 2015.

Vetten (2017:10) further highlights that, from 1 January 2001 when the data was collected, until the dissolution in March 2012, the ICD produced 23 reports for Parliament; these reports focussed on the SAPS's compliance with the relevant legislation. The data was only available from 1 January 2002 until December 2011; it showed that a total of 403 complaints of non-compliance were received by SAPS with regard to the Domestic Violence Act. The most common complaint was that the SAPS failed to arrest the abuser in 52,1% of the cases. Thereafter, in 13,6% of the cases, the SAPS refused to open criminal cases and in another 12.3% the complaints indicated that the SAPS failed to assist the survivors of domestic violence to find suitable shelter or obtain medical treatment. Vetten further mentions that there is information to suggest that the SAPS failed to provide information to the ICD in 694 (67%) domestic violence complaints. In this respect, the transfer of oversight from the ICD to the CSP led to an even lower response rate by the SAPS. It is a matter of concern that not one complaint recorded in the CSP's second and third report has been forwarded to the CSP by the SAPS, as clearly stipulated in the DVA.

According to Vetten (2017:11) a significant contributor to this state of affairs is the failure of the SAPS to amend National Instruction 7/1999 to include the changes; this, in turn, affects cooperation between the SAPS and the national offices of community safety. Furthermore, the SAPS has not issued internal directives compelling cooperation. Standard Operating Procedures were agreed to in 2015 (although amendments were not yet done). Vetten (2017:12) states that, between April 2012 and March 2015, only three of the 725 stations visited were found to be fully compliant with the DVA and National Instructions.

3.4 THE IMPACT OF DOMESTIC VIOLENCE

“There could be a few things more destabilising than being attacked by a person you trust. Violence of any kind leaves scars, but an assault on a loved one sends the victim's world into chaos. All the familiar points of reference are destroyed and nothing is any longer as it seemed and nothing makes sense” (Anon, 2010:15). This author further agrees with the work of other authors referenced in

this chapter, by stating that statistics indicate that the bulk of violent crimes against women are committed by people they know, and in whom they have placed their trust. This indicates that for many women in our country their homes are not a place of trust, but the most dangerous place in the world. Anon (2010:15) also challenges the Minister of Women, Children and People with Disabilities to “collect the data, talk to the academics and the women survivors and especially to the male perpetrators; listen to the police, the doctors and the religious leaders and prepare a campaign which lasts all year, with measurable goals to end domestic violence.”

According to Mewa (2013:1), one in every four women in our country gets battered by their husbands and one in every four women in our country is a survivor of domestic violence. Interestingly, she mentions that a female victim stays in this abusive relationship for approximately ten years, battered approximately 39 times, before seeking help. Mewa indicates that children in these abusive relationships are often also the victims of the same abuser. Naidoo (2010:1) is of the opinion that there is a spike in domestic violence during the festive season as a result of the receipt of year-end bonuses and the subsequent increase in liquor consumption. The fact that people are on leave and, therefore, spend more of their time at home, also increases incidents of domestic violence. This is, of course, despite the fact that in South Africa the 16 Days of Activism for No Violence Against Women and Children (an annual event) is commemorated from 25 November until 10 December.

3.4.1 Impact of Domestic Violence on the Economy

Thorpe (2014), as quoted in Garcia-Moreno (2013:32), indicates that the estimated cost to the South African government, for matters related to gender based violence, is a total of R513 551 244. These figures include spending by the following government departments:

- South African Police Service (SAPS) – R110 727 545
- Department of Social Development (DSD) – R132 377 000
- Department of Justice & Constitutional Development (DOJ & CD) – R106 855 823
- Department of Health (DOH) – R115 945 270, and
- National Prosecuting Authority (NPA) – R47 645 606.

Khumalo et al. (2014:1) report that, when looking at a conservative estimate, gender based violence costs South Africa between R28,4 and R42,4 billion per year (between 0,9% and 1,3% of

the GDP). To accentuate the impact of domestic violence, Khumalo et al. (2014:5) further illustrate that, assuming that 1 in 5 women experience violence per year, the minimal annual cost to the economy will be R28,4 billion – these costs could be used to:

- Provide wage subsidies to 100% of currently unemployed youths;
- Build over half million Reconstruction and Development Programme (RDP) houses;
- Pay all child support grants until 2022;
- Pay more than 200 000 primary school teachers' salaries;
- Pay the tuition fees of 900 000 Engineering students;
- Pay National Health Insurance for 25% of the population OR for 50% of people living below the poverty line, which includes ALL persons living in extreme poverty;
- Pay ALL disability grants until 2016.

Furthermore, Mowana (2015:2) indicates that a recent study conducted by the financial services firm KPMG estimated the cost of violence against women in 2013/13 to be between R28,4 billion and R42,4 billion.

3.4.2 Impact of Domestic Violence on Children

Garcia-Moreno et al. (2013:9) also mention that a man's risk of becoming the perpetrator of domestic violence also starts during childhood, most likely when they have been witness to violence between parents and if they themselves were exposed to physical or sexual abuse during childhood. Violence is a learned behaviour and the inter-generational transmission of violence has a significant impact on both society and the economy.

3.4.3 Impact of Domestic Violence on Society/Communities

Anon (2010:1) is of the view that communities feels the negative effects of domestic violence on children, as these children may be at a higher risk of getting involved in alcohol or drug abuse, and/or juvenile delinquency.

3.4.4 Impact of Domestic Violence on Victims, Families and the Community

Anon (2018:1) mentions that children are suffering at home, and that domestic violence should be brought under control. These children often show the same emotional, physical and behavioural

problems as children who have been victims of abuse; they are the secondary victims of abuse.

Children who grow up in violent homes:

- Do not know what to expect at home – the mood of their parents/caregivers can momentarily change from being loving to one of rage;
- They may experience fear and tension because of the continual anger and violence. They may be constantly living a nightmare, constantly afraid and may not trust anyone;
- They are in danger – they could be caught in the middle of an abusive adult relationship and may be hurt or killed; They are confused about receiving mixed messages. At school they are taught that violence is wrong whilst at home assault is used to keep a person in line and to ensure that they stick to the rules;
- They are isolated – for instance, when the abuser shuts the family off from the rest of the world;
- They can also establish a love/hate relationship with the abuser as they sometimes feel close to the abuser and at other times they hope that the abuser will disappear or die.

Children and young people witness domestic violence daily (Anon, 2018:1); researchers refer to them as witnesses or observers. This exposure can include watching or hearing the violence, direct involvement (e.g. trying to contact the police) or experiencing the aftermath (e.g. seeing the bruises). It is also mentioned that children who witness domestic violence may have higher levels of behavioural and emotional problems as well as impact ranges (e.g. age, sex, and their role in the family).

Anon (2018:1) is also of the opinion that children's responses to domestic violence may differ. Some children feel responsible for the violence; in addition, they think that they may make it easier for the mother by pretending that they are coping and not saying how they feel about it. However, these children are experiencing shame, guilt and self-blame and have conflicting feelings about their parents/care-givers. The author further explains that domestic violence will even have an effect on the child's adulthood. This child may use/abuse alcohol or drugs, have depression and may engage in criminal behaviour, suffer from low self-esteem, have sexual problems and may act violently towards younger siblings, other children as well as pets, and may even feel the need to assault them. Anon (2018:1) further states that the violence may be passed from one generation to

the next as boys who witness their mother's abuse may be more likely to assault their female partners than boys growing up in homes where there is no violence. It is also said that domestic violence seriously threatens the well-being and health of children. Parents should thus address the relationship they have by being proactive and constructive; they should avoid any direct or indirect harm to their children.

3.5 CRIMINAL JUSTICE RESPONSE TO DOMESTIC VIOLENCE

The DVA was introduced with the aim of affording women protection from domestic violence by creating obligations on law enforcement bodies to protect women (victims) as far as is possible (Dissel & Ngubeni, 2003). Dissel and Ngubeni further explain that the DVA allows a complainant to apply to the court for a protection order requesting relief or protection. An interim order may be granted and, after an enquiry, a final order may be granted against the respondent. The protection order may prohibit the respondent from committing any act of domestic violence; from entering a specified place; or from committing an act set out in the order. A warrant of arrest is issued simultaneously with the order, and brought into effect if the complainant reports that the respondent has breached any provision of the order. If he or she is found guilty of a contravention, then the court may convict the respondent and sentence him or her to a fine or a term of imprisonment. In terms of the Act, no prosecutor is permitted to refuse to institute an action, or to withdraw a charge unless authorized by the Director of Public Prosecution. While the Act criminalizes the breach of an order, it does not create an offence of domestic violence. Where the offender commits an act that is recognised by criminal law as a criminal offence, a woman can report the case to the police, and it may proceed to a criminal trial.

Vetten, Van Jaarsveld, Riba and Makunga (2009) indicate that in research conducted in Mpumalanga, Gauteng and the Western Cape only 12% to 79% of protection orders were made final, although in seven of the ten courts, less than 50% were made final.

Vetten (2005) reports that, in 2004, a total of 157 000 applications were received for protection orders in terms of the Domestic Violence Act. She further indicates that, due to the SAPS's lacklustre record of intervention in domestic violence, the DVA placed a number of obligations on the police to ensure their response. Initially, police compliance with this Act was monitored by the

ICD (now IPID); however, since 2012 it has been the responsibility of the Civilian Secretariat of Police (CSP). Together with this, the SAPS National Commissioner is compelled to submit reports on a bi-annual basis to Parliament regarding all complaints made against police officers, the subsequent disciplinary proceedings, and the SAPS's response to the recommendations made by the ICD.

3.5.1 Courts and Domestic Violence

The DVA and the Regulations under the DVA contain information pertaining to the duties of magistrates in domestic violence cases. According to Morei (2014:937), it is the duty of the magistrate to issue an *ex parte* interim protection order should the court be satisfied that prima facie evidence shows that a respondent has committed the act of domestic violence and will cause undue hardship towards the complainant should the protection order not be issued immediately. The same magistrate should grant a final protection order if the court is satisfied with the proper service of the interim protection order as if the application includes *prima facie* evidence that the respondent has/is committing an act of domestic violence.

Morei further indicates that monitoring systems for the issuing of protection orders within the criminal justice system are inadequate to their task. It was discovered that the magistrates were not sufficiently trained on issues of domestic violence; the courts are cramped; they suffer due to heavy caseloads; magistrates cannot focus solely on cases of domestic violence; and the lack of resources to implement the act does not sufficiently address matters related to domestic violence. However, Narsee (2013:4) refers to research conducted by the Legal Resource Centre, which indicates that there are more victims who seek relief from domestic violence but, for some, the criminal justice system is worsening their anguish in these matters. This research conducted by the Legal Resource Centre further refers to magistrates and court personnel who treat domestic violence matters as frivolous and unimportant.

According to Vetten (2014:4), the findings of a study conducted in Mpumalanga from 1 January 2006 until 31 July 2007 illustrates how police statistics underestimate the incidence of intimate partner violence in any one area. The study revealed that magistrates are “overburdened” with court matters on a daily basis; were “less victim-centred”; displayed “a general lack of awareness” and insensitivity with regard to matters of domestic violence, which was also evident amongst law

enforcement officials. Vetten further established that in most cases in which the victims reported matters of non-physical forms of violence, the magistrates were reluctant to grant interim orders related thereto. Vetten specifically highlighted a case in which a magistrate advised numerous complainants that the courts are not meant to settle relationship issues. Experts reported that court personnel held “personal attitudes” and made “value judgements” regarding domestic violence; it was mentioned that a victim who complained that she had received threatening SMS messages on her phone was told, by a clerk of the court, that “no abuse had actually taken place” and that “(the man) was merely making threats” and had “not actually done anything yet”. Other clerks of the court even blamed the victims of domestic violence for the incidents.

Courts play an important role in addressing intimate partner violence. According to Morei (2014:934), only the Magistrate’s Court and the Family Court can address matters of domestic violence. Khubeka and Cole (2010:6) submit that not all courts have specific court rooms in which to hear cases of domestic violence, and that such cases are dealt with between criminal cases. In some courts there is only one magistrate; he/she will therefore only attend to domestic violence cases on specific days. Mari (in Khubeka & Cole, 2010:6) indicates that whilst domestic violence is escalating, the time has come to establish more specialised courts to effectively deal with domestic violence. Mari added that government needed to prioritise both domestic violence and the establishment of specialised courts as the first step towards solving the problem.

Vetten (2014: 5) mentions that other studies have attempted to address the reason why women did not return to court for protection orders to be made final. Interviews with 365 women of four courts in the Western Cape found that, in a third of the cases, the abuse ended after the application was made whether the order was served or not. One fifth of the women indicated that the respondent made a promise to end the abuse, and 10% of the women indicated that the applicant begged them not to finalise the order. Family members also tried to mediate or convince the applicant not return to court. From the researcher’s experience, family members often intervene in these types of cases and try to dissuade the applicant from going ahead with the proceedings. In 18% of these cases the applicant was threatened by the respondent should they return to court, and in 10% of these cases the abuse became worse. Vetten further highlights that the courts were also not helpful when women wanted to obtain final protection orders because, in 16% of the cases, the applicants

reported that they had to go to court three to four times, that is, excluding the phone calls made by them regarding the same incident. 9% of these women gave up during the lengthy waiting process and did not return to court; therefore, they did not have the interim protection order and neither did they receive the return date thereof.

Mowana (2015:2) states that in 2014 some progress was made as the Department of Justice and Correctional Services indicated that R100 million was allocated to reintroduce sexual offences courts. This was supposed to:

- Provide specialised victim support services;
- Improve the effectiveness of witnesses in court;
- Reduce the turnaround time for the finalisation of cases; and
- Improve the conviction rate.

Mowana (2015:2) mentions that the court can only react after the violence was committed. Morei (2014:930) states that in *S v Baloyi* the Court indicated the ineffectiveness of the criminal justice system to address family violence that deepens the subordination and helplessness of the victims and the role of the State to protect women from domestic violence. Morei (2014:932) is of the opinion that the Family Violence Act is the first piece of legislation that specifically addressed domestic violence in South Africa. This act permitted parties in a civil, customary or common law marriage to seek an interdict in the magistrate's court. When the interdict was granted, a conditional warrant of arrest was issued for the respondent. Should the respondent breach the interdict, the applicant would file a statement at the police station that gave the police the authority to execute the warrant by arresting the respondent who would be brought before a magistrate within 24 hours of the arrest. However, this proved to be limited as it did not include same sex couples, or children, or couples who did not live together. Thus, violence within the family context was not sufficiently addressed by this Act. The Act was replaced by the Domestic Violence Act that came into operation on 15 December 1999, which includes a wider range of familial and domestic relationships. Morei (2014:933) is of the opinion that although this Act indicates the government's commitment to and seriousness regarding domestic violence, it has failed to address the issue of domestic violence, as evident in the following statistics:

- 1 in 4 South African women (25%) is assaulted by their husband/boyfriend on a weekly basis;
- 43% of the 159 women surveyed in South Africa experience beating and marital rape;
- 1 in every 5 women in South Africa is beaten by her partner;
- 1 in every 5 women in South Africa is abused by her husband/partner.

Morei (2014:934) further indicates that children also suffer; the 2010/2011 SAPS statistics showed a record total of 50 000 crimes against children. Fifty two percent of these crimes were of a sexual nature. He mentions that government responds to these matters with haste and in a disingenuous fashion, but it seems unable to prevent the scourge of domestic violence. Morei (2014:938) recommends that programs should be established by the justice system to educate victims on the Act and their legal rights.

3.5.2 Victims and Perpetrators of Domestic Violence

Garcia-Moreno (2013:9) indicates that GBV has an important effect on children, irrespective of whether they are the victims or witnesses in these cases. Witnessing family violence during childhood increases the possibility of these sons and daughters becoming either perpetrators or victims of violence:

- It is 3.11 times more likely that a woman who experienced violence during her childhood has experienced violence in the last year, and is 2.78 times more likely to experience violence in her lifetime.
- It is 1.89 times more likely for a woman who has witnessed violence during her childhood to experience violence in her lifetime.

Taylor and Tipton (1999:6) mention that it can usually be assumed that victims of domestic violence are female (as is the case in the vast majority of incidents). However, male victims exist and they were previously disadvantaged because of social taboos and difficulties in accepting a woman as the physically dominant in a relationship. They further indicate that both male and female abusers as well as victims have the same life experiences that could include having been victims of abuse when they were young. Taylor and Tipton (1999:6) further mention that although a significant number of victims of domestic violence are women, children are often stuck in the middle and may be directly affected by these acts of cruelty. They may also be witness to many

years of abuse that could have a negative impact on their emotional, psychological and educational development.

Morei (2014:928) states that crime statistics do not include cases of domestic violence because these are not presented in the national crime statistics of the SAPS. It does happen that these crimes are not even reported to the police for fear of intimidation, self-blame, and/or fear of retaliation. It is also true that some actions that constitute domestic violence, such as verbal and economic abuse, forced isolation and stalking, are not defined as crimes. According to him, the 6.6% reduction does not mean that there are fewer incidents of domestic violence taking place. He mentions that, according to estimation, a woman is killed by her intimate partner every six hours in South Africa; this constitutes the highest rate of death due to domestic violence in the world. Morei (2014:928) suspects that there might even be more horrific incidents that are not reported and that do not receive as much media attention as the more well-known cases such as the murder of Reeva Steenkamp by her award winning Olympic gold medallist boyfriend, Oscar Pretorius, or Anene Booysen's rape, or the rape, beating and death of Thandiswa Qubuda in Grahamstown, or the murder of Ivy Molefe by her husband and three others, to name but a few. In addition, the murder of children is on the rise, for example, the bodies of two toddlers were found in a communal toilet in the Diepsloot informal settlement in 2013 .

Morei (2014:929) mentions that women in South Africa are unwilling or unable to confront this violence committed against them. In addition, the fact that there are few places to which victims can turn for assistance and, if such safe places do exist, they are far apart. Moreover, police officers are often not trained to deal with the severe psychological damage done to the victims. Moreno (2014:929) states that, from early in their lives, South African men are exposed to institutions and relationships that place women below their fellow men. These men then regard women as their possessions, and want to control and maintain them. This stems from cultural beliefs that the police do not understand.

Morei (2014:934) states that South Africa needs to ensure compliance with the Domestic Violence Act, which includes protecting children from both physical and mental violence, injury and abuse, neglect or negligent treatment, maltreatment or exploitation, or sexual abuse whilst in the care of their parents. It is further explained that, should a child be a witness to abuse between adults (of

which the perpetrator is often the father or the person the mother has a relationship with), this will be a violation of Section 29 (1) (b) and 29 (1) (d) of the Constitution, which provides for the protection of children's rights. Morei (2014:934) indicates the need to create a safe environment for both women and children in South Africa; in this regard, he highlights the 16 days of Activism for No Violence against Woman and Children campaign as promoting this safe environment. This campaign begins on 25 November each year, which is the international Day for the Elimination of Violence against Women, and continues until International Human Rights Day on 10 December. Although the campaign only runs for 16 days, the plan (which seeks to combat abuse within the space of a year) has the objective of trying to get perpetrators to change their behaviour; it involves men in order to try to eradicate violence, and it attempts to supply survivors with the relevant information regarding services and organisations that can assist in decreasing the impact of violence in their lives.

Semela (2014:9) mentions that the Departments of Police, Roads and Transport established a dedicated team to implement an awareness campaign which kicked off in April 2014 and included 109 station areas. This campaign was run by the Child Protection and Sexual Offences Unit of the SAPS. According to Saki Mohono (in Semela, 2014:9), the spokesperson of the Department, the aim of the campaign was to educate communities on domestic violence and to inform them of their judicial rights in all matters related to domestic violence. Morei (2014:938) recommends that women be empowered from an early age. They need to be taught to stand up against bad cultural practises which also affect their human rights. It is necessary to encourage younger women to study and be self-reliant.

Artz (1999:10) highlights the following as obstacles that women need to overcome when trying to seek help in domestic violence matters:

- No or limited taxi or bus services and, if available, these are expensive;
- Slow response time from both the police and ambulance services;
- Telecommunication services are poor and costly;
- Long distances to reach public services, which makes childcare a problem should it be necessary to travel;
- Insufficient support services for abused women and no accommodation that is safe should it be necessary to leave their homes;

- Because of the high unemployment rate, women are struggling to pay for basic needs such as travel, accommodation, separation costs or relocation.

When thinking of victims of domestic violence we tend to immediately think about women and often forget that victims also include men and children. Geldenhuys (2012:24) states that abusive women hit, kick, punch, push or bite their victims. She also indicates that these women can also make use of weapons to commit violence; these weapons include knives, pans, bottles, vases and cake rollers, or anything that can be used to strike. She indicates that abused men are not usually smaller, and neither are they physically weaker than their women abusers. They seldom use their size or strength to strike back, even though they are physically hurt.

Geldenhuys (2012:24) indicates that a man can be the victim of domestic violence when his female partner:

- Calls him names, insults or puts him down;
- Refuses him to see family or friends;
- Tries to control how his money is spent, where he goes and even decides what he wears;
- Stops him from going to work;
- Is jealous or possessive and regularly accuses him of being unfaithful;
- Threatens him with violence or a weapon;
- Hits, kicks, shoves, slaps, chokes or otherwise hurts him, his children or his pets;
- Assaults him while he is sleeping;
- Forces him to have sex or participate in sexual acts against his will.

The researcher is of the view that incidents where men are the victims are usually underreported due to the fact that the man is expected to be the stronger one in the relationship, men are embarrassed to admit and report that his wife/partner is abusing him, and men are afraid of negative public opinion and ridicule. Geldenhuys (2012:24) states that there are a few reasons why men do not report this violence towards them and that one of the main reasons is that they are afraid that no one will believe them or take them seriously. She indicates that men who ask for help are often ridiculed and mocked, especially since men are socialised not to show their weaknesses and to be the stronger gender in a relationship. According to Geldenhuys (2012: 24), it is embarrassing for

most of them to admit the abuse and they might feel that they are less of a man by “allowing” themselves to be abused. It is also possible that the man may be threatened (either by threats directed at him or his children) and the abuser might also threaten to kill herself should the victim report the matter to the police.

Geldenhuis (2012:24) also indicates that there are insufficient places for men to go to as victims, and that there is basically no shelter for battered men. She indicates that in Johannesburg there is the Moshate Men’s Rights Organisation who counsels and gives advice and support to male victims of abuse. Geldenhuis (2012:24) indicates that men’s experiences as victims of domestic violence are very different from those of women; men’s experiences are not sufficiently acknowledged and there is little support for these men.

3.6 POLICING DOMESTIC VIOLENCE IN SOUTH AFRICA

The SAPS Act 68 of 1995 places an obligation on judicial officers to both empower and assist the victims of domestic violence. Moreover, Section 205(3) of the Constitution explains the objectives of the SAPS in respect of domestic violence. Masondo (2011:5) states that a report issued by the Independent Complaints Directorate showed that out of the 132 police stations that they audited, only 14 complied with the requirements of the DVA. This report included the following:

- Copies of protection orders were lost;
- Copies of warrants of arrest were lost;
- A shortage of women officers to deal with domestic violence cases was identified; and
- The domestic violence incidents were not recorded in the Domestic Violence Register.

This report above found that the lack of training and inadequate management by station commanders was the reason for the non-compliance with the DVA. According to Morei (2014:929), violence against women and children is a violation of a number of provisions in the Constitution. It indicates that despite all these obligations pertaining to the DVA, that is, on the part of the police, in 2005 neither the SAPS nor the ICD had complied with the statutory obligations set out for them, and on which they had to report to Parliament every six months. They only reported on this matter in 2007 and it was clear that the oversight bodies, including the ICD, had limited capacity to fulfil these functions. Morei (2014:935) mentions that police stations are

battling to deal with domestic violence complaints; they do not understand the law and cannot cope with the paperwork. It is further highlighted that the Civil Secretariat visited 145 police stations to establish whether the DVA was implemented; they also visited 155 police stations over 6 months (this figure included three police stations in Johannesburg: Lenasia, South Lenasia and Douglasdale) – overall, several complaints were received from the public regarding domestic violence complaints that they lodged at these stations. The aim of these visits was to identify any gaps in the implementation of the DVA and to establish recommendations for improved implementation. Numerous challenges has been identified during these visits:

- Very few members interviewed at police stations had knowledge of the implementation of the DVA, as expected from the SAPS National Instruction;
- The Secretariat discovered that the documents kept by the SAPS did not reflect SAPS official logos;
- SAPS members (including some station commanders) did not have the requisite knowledge to complete the necessary complaint registers;
- Members of the SAPS did not know where to send complainants for assistance – the reason provided for this was that there are not sufficient shelters available for victims;
- Both protection orders and warrants were not filed at most of the police stations;
- There was no register used for complaints against the police for non-compliance with the Domestic Violence Act at any of the police stations visited. Instead, complaints were included in the disciplinary register as normal service delivery complaints, which is an entirely separate issue to that of domestic violence;
- 50% of the members were trained, but they did not have the basic knowledge of the means available to complainants, which is included in Form 1. Their training was purely academic and did not include any practical examples;
- At numerous police stations, victim-friendly rooms with a private space to interview the victims did not exist at all;
- At some police stations, SAPS members were themselves perpetrators of domestic violence;
- There was a high withdrawal rate, as the victims were financially dependent on their abusers.

Morei (2014:936) further indicates that because the Department of Social Development is not compelled by the DVA to provide shelter to victims, coupled with the fact that there are no counselling services in rural areas, women are often left without any assistance. Due to the uncertainty regarding who needs to serve protection orders, victims were forced to do this themselves, which further subjected them to violence by their abusers. Another fact that was highlighted was, that according to the DVA, a victim may apply for a protection order at any time of the day or night but in reality, the courts only operate during working hours and it proved difficult for magistrates without resources to grant applications outside of working hours. Furthermore, the SAPS could not manage to contact members of the NPA who were supposed to be on standby; this led to complainants having to wait until the following Monday for assistance. The DVA also does not set out a specific time in which a protection order needs to be served; it only indicates that it needs to be done “without delay”.

According to Morei (2014:936), recommendations were made to strengthen the oversight responsibilities of the Civilian Secretariat; however, it appears as if all the role players are failing the victims of domestic violence. Nonetheless, victims are still unaware of their right to obtain a protection order. Moreover, some women have to stay with the perpetrator as they are financially dependent on this person, or they fear for their lives. Women in rural areas are even more disadvantaged as they do not benefit from the provisions set out in the DVA or the state resources spent on the implementation thereof. Some victims face challenges such as the language used in the court not being accessible to them, not understanding procedures, and the fact that they need to travel extensively in order to reach a Magistrate’s or Family Court. No provision is made for traditional or customary courts to issue protection orders.

Machisa et al. (2011:14) found that 73,9% of the women sampled for their study had knowledge of the Domestic Violence Act (DVA). It was of great concern to these researchers that very few women (36,3%) knew about the Sexual Offences Act, which impacts on stranger and intimate partner rape. Interestingly, a mere 9,8% of police stations in Gauteng are compliant with the DVA. Factors that contribute to the under-reporting of domestic violence are the absence of the necessary facilities, personnel and resources to assist victims of domestic violence.

According to the SAPS report for 1 April 2007 to 31 March 2008, a total of 182 588 violent crimes were committed against women, 91 534 of these crimes were common assault, and 62 368 were assault with the intent to do grievous bodily harm, while another 2 606 cases of indecent assault were reported from April to December 2007. Machisa et al. (2011:16) report that the SAPS agreed to improve its data collection on domestic violence. An analysis of the SAPS dataset covering all crimes coded as domestic violence, which were committed in Gauteng, created problems; the reason for this is that quite a number of offences in South African law can be categorised as domestic violence. Examples of this include common assault, assault with the intent to do grievous bodily harm, crimen injuria, rape of wife by husband, to name but a few. The SAPS agreed to the following four key ways in which they will improve the collection of data on domestic violence, during a round table meeting in January 2011. The four key ways are:

- **The nature of the relationship will be added to records of domestic violence.** This is important as, currently, all crimes occurring in a domestic setting are recorded as domestic violence.
- **A category will be created for femicide.** Although murder is a category under the Domestic Violence Act, it is not easy to establish whether a crime is a female murder or femicide. This will enable accurate femicide statistics without reading through all reported murder cases.
- **Pornography and sex work will be removed from sexual offences statistics.**
- **A section on domestic violence will be included in annual crime reports.** This should be available in the 2010/2011 report.

Luphahla (2014:1) refers to an educational outreach programme, hosted by the Department of Transport, Safety and Liaison in Ritchie, after an increase in the number of reported cases of domestic violence in the area, where they informed the community of the Domestic Violence Act. The Department collaborated with various stakeholders such as the SAPS, other departments and non-governmental organisations in order to ensure that as many as people as possible are informed.

Machisa et al. (2011:16) confirm that, due to the exceptionally high prevalence of domestic violence towards women in Gauteng, it is necessary to:

- Engage with the South African Police Service in order to improve the collection of administrative data;
- Obtain buy-in from the Inter Departmental Committee (IDMT) to address gender violence in government, and to distribute the study across South Africa's provinces, in order to provide the necessary data to measure the progress made towards achieving the SADC target – which is to halve gender violence by 2015;
- Work through SADC in order to distribute the study across its regions; and
- Use the GBV indicators project to compliment the 365 Day National Action Plan to End Gender Violence in South Africa.

Geldenhuis (2012:24) indicates that shortly after the appointment of the former minister of police, Nathi Mthethwa indicated the need to explore attitudes within the SAPS as a key priority in addressing domestic violence. At the centre of this concern is the need to educate the police to accept cases where men are abused just as seriously as that of women and to make sure that women who abuse men are prosecuted. She further indicates that, in July 2012, men took to the streets of Hillbrow to seek protection from their abusive wives; in addition, children who witnessed the abuse of their father by their mother also joined the march, as well as women whose brothers were abused by their wives.

3.6.1 The Mandate of Policing Domestic Violence in South Africa

Morei (2014:935) indicates that there are no specific provisions pertaining to the training of SAPS members in the DVA. In this regard, Morei (2014:938) recommends that police officials are trained to ensure that they make the correct decisions in order to best protect the victims of domestic violence and abuse, and to ensure that they properly inform the victims of their rights in a clear manner. Morei (2014:938) recommends that there exists a need for broader communication between the SAPS, the NPA, the Department of Justice and Constitutional Development, the Department of Social Development, NGOs and the Department of Health to coordinate their activities to eliminate domestic violence from our society. According to Vetten (2005:5), legislation placed certain obligations in the DVA to ensure that the police overcome the challenge of their neglect of domestic violence. If the SAPS fails to comply with the DVA, it must submit six monthly reports to Parliament regarding complaints of non-compliance that are made against the police.

3.6.2 Protection Orders

According to Narsee (2013:4), the annual report of the Department of Justice and Constitutional Development of 2012-2013 shows an increase of 18% in applications for protection orders. In this regard, Morei (2014:931) refers to *Narodien v Andrews* where the Cape High Court declared that the Magistrate's Court was not competent to make an order, under the Domestic Violence Act, by granting visitation rights to a parent unless this order was ancillary to a domestic violence protection.

Vetten (2014:5) mentions that less than half of those who apply for protection orders are actually granted the protection they need. She further mentions that the figures seem to be on the increase. She also explains that some of the factors that cause a low number of protection orders to be made final are the result of the woman's failure to return to court as well as the withdrawal of charges against the abusive partner. Instead of blaming these women, Vetten (2014:5) indicates the following as factors that need to be taken into consideration as influencing the finalizing of protection orders:

- The court where the application was made;
- Whether the interim protection order was served or not;
- Whether the applicant was present in court;
- Whether the applicant was a victim of intimate partner violence or intra familial abuse.

There are several concerns regarding the implementation of the Domestic Violence Act. Thorpe (2014:19) mentions that between 226 402 and 217 987 new protection orders were granted between 2009 and 2011. In contrast, Thorpe (2014:19) shows that only 79 098 to 87 711 of these orders were finalised. Vetten (2005:6) mentions that South Africa has 11 official languages, but protection orders are only available in two. Not only does the language cause difficulty but the reading and written completion of forms poses a significant challenge for women with different degrees of literacy. The forms are also not available in Braille and sign language interpreters are scarce.

Cookie Edwards, quoted by Kubheka and Cole (2010:6), states that a backlog in the issuing of protection orders to women in KwaZulu-Natal meant that victims often had to wait one whole day for their case to be heard.

3.6.3 Challenges Regarding the Implementation of the DVA by the SAPS

Machisa, Jewkes, Morna and Rama (2011), in Garcia-Moremo (2013:53), found that police statistics for 2010 indicated that 0,3% of women in Gauteng reported Domestic Violence, which is evident of significant under-reporting of GBV. Morei (2014:937) mentions that, despite the fact that the government condemns violence against women, as well as the adoption of policies and the relevant legislation, there is a significant change to curb domestic violence. According to Morei (2014:937), this system is “poorly resourced, overburdened and desperately in need of training”. Furthermore, the following factors influence the implementation of the Act, which limits its reach to abused victims:

- Access to Justice by victims – South Africa has a complex social context where most women victims stay in rural areas, which pose a big challenge to the implementation of the legislation. No provision is made for traditional courts to issue protection orders when a complaint is made under the customary law. Because of the large number of people subjected to customary law, and those living in rural areas, it cannot be ignored. The limitations regarding socio-cultural practice include language and economic reasons to access Magistrate’s Courts, while Family Courts are only available in urban areas.
- Traditional influence – In South Africa, men across the racial arena are raised to believe that they are superior to women, and to think that women should submit to them. Therefore, they use both physical and sexual violence to show their male power; because of this, the violence increases.
- Poverty, social inequality and dependence on the abuser – The purpose of the Act is to supply greater protection to the victims of abuse. Because the victim is often financially dependent on the abuser, it is difficult for a woman to leave her abuser. This is even more applicable in rural areas where women are largely unemployed and they stay in abusive relationships for financial reasons. It is also clear that there is insufficient coordination and cooperation between the different role players.

Several researchers, such as Gopal and Chetty (2006), Mesatywa (2008), as well as Mathews and Abrahams (2001), have opinions regarding the non-compliance of police officials when dealing with incidents of domestic violence. According to the researchers, police officials still hold onto the belief that GBV is a private matter that needs to be sorted out between the parties involved.

Gopal and Chetty (2006:124) found that the police lacked interest in becoming involved in these matters and actually advised the victims to find domestic solutions. They found that police will attend to complaints very late and, even after days have passed, and they would not arrest the abuser. Mesatywa (2008) found that police officials did not follow the procedures set out in the DVA, and they sent female victims back home to resolve their differences with their abusive partners.

Vetten (2005:7) is of the opinion that despite the police and courts being under resourced, other factors such as police perceptions of domestic violence, fragmented service provision from the courts, the police and health sector, as well as the lack of information provided to victims, all undermine the implementation of the Domestic Violence Act. Vetten (2014:10) finds that the DVA contains elements of good practice, however, it is difficult to evaluate the effectiveness of the DVA as it has not been effectively implemented. Therefore, it can also not provide maximum protection of the law to the survivors of domestic violence.

3.7 THE INTERNATIONAL LANDSCAPE OF DOMESTIC VIOLENCE

Khumalo et al. (2014:1) mentions that GBV (specifically domestic violence) is one of the most expensive problems on a global level and has an enormous fundamental impact on economic growth, which can last for several generations. They further mention that an excess of 30 studies, most of which were conducted in developed countries, attempted to quantify the cost of violence against women. The focus was primarily directed to the cost of services and economic losses due to lost output, a decrease in productivity and lower earnings as a result of violence. The estimates between countries differ but the magnitude stays clear. Their study estimates the cost of violence to be between 1-2% of GDP, whilst this is known to be an underestimate, bearing in mind the conservatism of methodology and the significant under-reporting of violence.

Garcia-Moreno, Pallito, Devries, Stockl, Watts and Abrahams (2013:2) mention, in their report on global and regional estimates of crimes against women, that:

- 35% of women in the world have experienced physical and/or sexual intimate partner violence or non-partner violence;
- Most of this violence was intimate partner violence, which in some regions shot up to 38%;

- 38% of murders of women worldwide were committed by intimate partners;
- The victims (women) of physical or sexual assault by their partners were reported to have important health problems such as babies with a low birth weight (16%), were more likely to have an abortion, experience depression and have a bigger chance of attracting HIV when compared to women who have not been victims of violence at the hands of their partners.

According to Garcia-Moreno et al. (2013:2), it is clear from the report that violence is a worldwide problem reaching epidemic proportions and requiring urgent attention. The authors mention that the world needs to take action to ensure a life free of violence being a human right for every woman, man and child. Garcia-Moreno et al. (2013:4) mention that the United Nations Secretary General, Ban-ki Moon, issued a worldwide call to take action to end violence against women by launching the UNiTE to End Violence against Women campaign.

Garcia-Moreno et al. (2013:25) highlight that this kind of violence is apparent with its related incidents of health conditions and one of the most common effects thereof are fatal and non-fatal injuries. Approximately 50% of the women in abusive relationships in the USA suffer physical injuries from their partners, which often range between multiple different injuries. The most usual location for these types of injuries is the head, neck and face, followed by musculoskeletal and genital injuries.

Garcia-Moreno et al. (2013:31) make the following key findings in their report:

- 38% of all murders worldwide are reported to have been committed by intimate partners;
- 42% of women who have been physically or sexually abused by their partners have suffered injuries as a result of the violence;
- Compared to women who have not experienced partner violence, women who have experienced this kind of violence have higher rates of certain important health problems as well as risk behaviours, for example, they have a 16% chance of having a baby with a low birth weight, more than twice the possibility of having an induced abortion, and are more than twice as likely to suffer from depression.

3.7.1 Canada

Garcia-Moreno et al (2013:31) indicate that in certain regions these women are 1.5 times more likely to contract HIV, and 1.6 times more likely to contract syphilis, in comparison women who do not experience partner violence. Statistics Canada shows that nearly 88 000 persons were victims of domestic violence in Canada in 2013.

3.7.2 United Kingdom

Taylor and Tipton (1999:3) indicate that there are approximately one million incidents of domestic violence in the UK per year, according to a British survey. They also refer to the recommendations provided in the Home Office Circular 60/90, where most police forces in both England and Wales established domestic violence units, or employed dedicated officers to deal with these incidents.

Taylor and Tipton (1999:6) mention that police are most often the first to respond to scenes of domestic violence and have a responsibility to the victims, and that their intervention and attitude is important in addressing the problem. If the victim is not treated well, they may never call the police again. Another consequence could be that the police provide the incorrect guidance to the victims. They further indicate that there have been reports of women being killed by their partners or killing themselves because of the failure of society to lend effective assistance. They therefore believe that the role of the police officer is very important when an incident of domestic violence is reported.

Lai (2015:1) states that acts of domestic violence happened every eight minutes and 14 seconds in 2013 – this means that a total of 64 556 domestic violence offences took place; furthermore, according to her, children were present in approximately a quarter of these incidents. In 2012, the mayor of London made a commitment that he would make London a safer place for women and children. In his Police and Crime Plan, in March 2013, the Mayor set out the mission and priorities for policing and crime reduction in the country. One of these priorities was to tackle violence against women and girls (VAWG) from 2013 to 2017. The objectives of The Way Forward strategy are:

1. London to take a global lead to prevent and end VAWG;
2. Improving access to support;
3. Addressing the consequences of violence (health, social and economic);

4. The protection of women and girls at risk;
5. Harsher measures when dealing with perpetrators.

The Mayor's strategy document indicates that, during 2012/3, 48 873 domestic violence related crimes were reported to the Metropolitan Police Service (MPS) in London. It further elaborates by indicating that 33% of violence resulting in injuries happens in the home, whilst the police do not have knowledge of 81% of domestic abuse victims. It also mentions that 25% of girls have experienced physical abuse in their lifetime.

3.7.3 United States of America

Smith (2015:1) refers to an audit conducted in Los Angeles by stating that services for victims of domestic violence are "disjointed and inconsistent". She indicates that they have a Domestic Violence Unit in New York, which has advocates in their offices and that they work with Domestic Abuse Response Teams (DART). Smith (2015:1) compares the figure spent on domestic violence interventions and shelters in New York, \$12.75 per capita, with that of Los Angeles, \$1.04 per capita, whilst the Los Angeles County spends big amounts on these issues. She also mentions that the funding for the DART programme in Los Angeles amounts to approximately \$1.7 million (while the total budget of the LAPD is 1.8 billion). According to her, the mayor of Los Angeles, Eric Garcetti, promised that he would assist DART with funding through the Los Angeles Mayor Fund – this happened after a spike in violent crimes. Mervosh (2015:1) indicates that despite Dallas Mayor Mike Rawlings' efforts regarding domestic violence, reports indicate that thousands of victims are not receiving the assistance they need. A study conducted by researchers of the University of Texas indicated that more than 7 500 victims of domestic violence were turned away from June 2014 to May 2015.

3.8 SUMMARY

This chapter provided an overview of the policing of Domestic Violence in South Africa and internationally in countries such as Canada, the United Kingdom and the United States of America. It also included the nature, extent and impact of domestic violence in South Africa as well as the response of the Criminal Justice system to domestic violence. The policing of domestic violence

in South Africa was also discussed, with a focus on the mandate of the SAPS concerning domestic violence, protection orders and other challenges related to the implementation of the DVA.

The ensuing chapter, Chapter Four will provide a presentation, discussion and summary of the findings of this study.

CHAPTER FOUR PRESENTATION, DISCUSSION AND INTERPRETATION OF THE FINDINGS

4.1 INTRODUCTION

In this chapter, the presentation, analysis, and integration of the qualitative data (semi-structured individual interviews, as discussed in paragraph 1.10.4 of Chapter One of this study) as well as the interpretation of the findings are presented and discussed by means of emergent themes to categorise patterns or trends that can be identified or secluded in order to indicate the realisation of the goal and objectives of this study, as mentioned in paragraph 1.4 of Chapter One. In order to realise these goals, semi-structured individual interviews were conducted with various participants at the station level.

In order to promote the trustworthiness of the study, the research methodology, as discussed in paragraph 1.10 of Chapter One, was implemented and adhered to in the collection and analysis of the data. During the process of data collection, the objectives and resultant questions were used as a guideline to structure the discussion. From the participant' answers to the questions, and the resultant process of data analysis, the following themes discussed in this chapter emerged.

4.2 THE OUTCOME OF THE INDIVIDUAL INTERVIEWS AND INTERPRETATION OF THE FINDINGS

In the next section of this discussion, the themes that emerged from the interviews are presented and illustrated with verbatim quotes from the interview transcripts. From the onset, an explanation of each theme is provided, followed by the participants' responses to the questions. In addition, direct verbatim reflections of the participant' responses are also presented herein, in order to illustrate these responses and to transfer the reader to the research setting. The findings derived

from the participant' responses to the interviews are incorporated into this discussion, and are complemented with relevant literature sources in order to form a comprehensive interpretation of the findings. Finally, following the presentation of each theme, a critical interpretation is presented, which concludes the discussion of each theme.

The first theme to be discussed explores how participants understand domestic violence.

4.2.1 Exploring participants' understanding of domestic violence

Domestic violence is a broad term that comprises an array of elements. In addition to its presence in different types of relationships, domestic violence is comprised of a range of different forms. Domestic violence is further governed by a national legislative framework as well as internal SAPS directives. Therefore, for police officials to comprehensively understand domestic violence, in order to appropriately police this form of violence, they need to understand what domestic violence entails. Consequently, this theme presents the participants' degree of understanding and familiarity with domestic violence.

The answers to the following question gave rise to this theme: *In your own words, how would you define domestic violence?*

On close analysis of the participants' answers to this question, it was evident that the majority of the participants had an understanding of what domestic violence entails, others had a limited understanding and, in one instance, a participant had no understanding of what domestic violence is. The majority of the participants included in the sample with whom individual interviews were conducted at the various police stations, as per Chapter One, had a diverse understanding of domestic violence.

One participant revealed a clear understanding of what constitutes domestic violence by responding that:

“Domestic violence is where couples, friends and families are involved in a domestic dispute. This dispute can be physical, emotional, financial and otherwise. ...victims can include men and women, children and old people. The couple can be married, life partners or even gay people.”

The majority of the participants correctly indicated that domestic violence should involve some

relationship between the parties, however, these participants could not always specify among who such relationships should exist. “... *relationship (love/family/parents/siblings)*”, “... *relationship between two parties ...*”, “... *happens in a dwelling between relatives or people in a relationship ...*”. Another participant agreed that domestic violence takes place “... *between two parties having a relationship.*”, whilst another similarly indicated that “... *it [domestic violence] is between two partners that are in a relationship.*”

In addition to the first participant, another participant raised the fact that domestic violence is not restricted solely to married people and could occur in other relationships as well: “... *between two people that have a relationship whether they are married or not.*” Another participant was, incorrectly, of the opinion that domestic violence is restricted to those who live in the same dwelling: “... *people who are staying together or related ... only people who are sharing the same shelter.*”

On the contrary, one participant correctly indicated that “... *it [domestic violence] occurs even if they do not stay in same shelter*”. This participant further confirmed that domestic violence involves a broader focus, by explaining that “*The husband and wife can be separated but still domestic violence can occur*”. Another participant reacted as follows: “... *[domestic violence occurs] between people that are staying together or [happens in] a relationship between two people or [had a] previous relationship*”, whilst another participant agreed with the other participants by indicating that domestic violence occurs amongst people involved in different relationships: “... *in families, amongst people that are married, staying together or let me say in a relationship. Domestic violence occurs in that type of background.*” One participant reiterated that “... *people must have a relationship, [for example], boyfriend and girlfriend, uncle and nephew ... as long as there are a relationship between those two partners.*”

Quite a few participants rightfully indicated that domestic violence constitutes a form of abuse. These participants correctly explained that such abuse includes verbal abuse, financial abuse, physical abuse, emotional abuse and stalking. However, one participant limited the abuse brought about by domestic violence to one’s husband or wife:

“... *[domestic violence] includes physical [abuse], emotional [abuse], financial [abuse], stalking, and adds malicious damage to property...*”, “*It can be physical,*

emotional, verbal ...”, “... when a person is abused – financial, emotional, physically by his/her spouse.”

Another participant indicated his restricted understanding of this concept by saying that *“[Domestic violence] is the physical, emotional deed that has a negative effect on the victim.”* In addition, another participant suggests that domestic violence is a form of punishment directed at women and insinuates that only women could be victims of domestic violence: *“Bad treatment ... if your husband does not want to give what [he] is supposed to be given. Let the woman suffer.”* This participant later mentions that domestic violence *“... can include physical violence as well.”* One participant indicated a limited understanding of domestic violence by restricting the occurrence of domestic violence to when life partners reside together: *“It [domestic violence] occurs when you are staying with a life partner and there is financial, physical and verbal abuse.”*

Eight participants compared domestic violence to the words “fight” or “fighting” or “violent fighting” and replied *“... that the fight can be physical, emotional and financial.”* Similar to this participant, three other participants were of the opinion that domestic violence only occurs between those who are in a relationship and reside together *“... is any quarrel between people that are staying together in a relationship ... always fighting ...”* *“... [domestic violence] is whereby two parties residing together are in conflict – verbal, physical/emotional or financial.”* One of the participants added that the abuse brought about by domestic violence can also be *“mentally”*. Interestingly, one participant acknowledged the occurrence of domestic violence at the workplace of a partner: *“... any violent confrontation between partners ... even at work.”* In contradiction to the above participant’s views, another participant illustrated a limited understanding of domestic violence by restricting domestic violence to family quarrels between a husband and wife: *“[Domestic violence] Is to deal with problems in the family. Where father and mother have some differences in the house.”* Another participant rightfully confirmed that domestic violence could constitute a number of different crimes: *“Gesinsgeweld sluit verskeie kategorieë misdade in”*. [*“Domestic violence includes various categories of crime”*].

The majority of the participants agreed that most victims of domestic violence are woman, but that the category of victim includes all people. Examples of the opinions of participants include the following: *“Victims can include all people.”*, *“... die slagoffers is meestal vrouens maar kan almal*

insluit.” [“... the majority of victims are women but could include everyone”], “... victims include children, mothers, fathers and the community.”, “victims can be old people as well”, “... includes all kinds of victims”, “...victims can be male, female, old people, children – all”, “Between man and woman or man and ex-wife, ex-girlfriend or current wife or girlfriend.”

One participant mentioned “*life partners*” as victims of domestic violence while a few participants also mentioned that “*gays*” could be the victims of domestic violence. One participant illustrated a real-life example where an elderly person was the victim of domestic violence: “... *two weeks ago I had an incident between the father and his child (there is no mother). The child (19 years old) was fighting and breaking everything ... old people can be included [as victims of domestic violence].*” Contrary to the opinion of the previous participant, another participant confirmed that children could also be victims of domestic violence: “*Children can be victims and we had dockets like that.*”

From this, it became apparent that the participants’ understanding of domestic violence varied. The participants’ degree of understanding the principles and dynamics of domestic violence, however, is the responsibility of the SAPS. The incomprehensibility of a vast number of participants concerning domestic violence, opposed to a minority of participants’ sufficient familiarity with domestic violence, might be as the result of inadequate awareness of domestic violence and/or training interventions to sufficiently acquaint and empower members with sufficient knowledge of domestic violence. The lack of a thorough understanding of domestic violence amongst many participants raises questions about the quality of the services they render to victims of domestic violence.

The literature presented in Chapter Two of this study accentuates the significance of SAPS members being familiar with all aspects of domestic violence. As illustrated in 2.4.4, Circular 1/1/4/1 (1) dated 28 September 2010 (South Africa. South African Police Service, 2010) states that it is the responsibility of the SAPS Provincial Office to ensure that members are provided with sufficient domestic violence training in order to ensure that services are of a high quality. The literature review on the policing of domestic violence, as presented in Chapter Three of this study, further comprehensively explains “domestic violence” and the various forms of domestic violence.

As illustrated in 3.2, Vetten (2014:1) describes domestic violence as a broad term that encompasses intimate partner violence, child abuse, elder abuse and violence between siblings. In addition to its presence in different types of family relationships, domestic violence also takes a range of forms. These include: physical and sexual abuse, economic abuse, defined as unreasonably depriving family members of the economic and financial resources to which they are legally entitled (including by unreasonably disposing of household effects or other property), emotional, verbal and psychological abuse, described by the DVA as consisting of a pattern of degrading or humiliating conduct, repeated threats or the repeated exhibition of possessiveness or jealousy so as to constitute a serious invasion of the complainant's privacy, liberty, integrity or security, any other controlling behaviour such as intimidation, harassment, stalking, damage to property, and entering the victim's home without permission. Vetten (2014:2) thus cautions that measuring the extent of domestic violence therefore requires paying attention to different sorts of familial and intimate relationships, as well as different types of abuse. In addition, *A guide to family law: Domestic Violence and Abuse* (2016), as presented in 3.2, identifies and explains a variety of behaviours that constitute domestic violence and generally includes acts such as physical abuse, emotional, verbal and psychological abuse, economic abuse, intimidation, harassment and stalking.

Without a comprehensive understanding of domestic violence amongst SAPS members, efficient service delivery is not likely to be provided. The literature review on the policing of domestic violence, as presented in Chapter 3, emphasises that domestic violence involves more complex dynamics than the limited understanding held by the majority of the participants. However, should the SAPS allow the status quo of members' limited understanding of domestic violence to remain, the services provided to victims of domestic violence could deteriorate, since members could misinterpret incidents of domestic violence and consequently act inappropriately towards victims and perpetrators. It follows that SAPS members should receive sufficient support from the SAPS to effectively deal with domestic violence.

4.2.2 Evaluating participants' familiarity with the Domestic Violence Act

The implementation of this Act should be executed with the necessary urgency, consultative communication, training and transparency. Participants' perceptions and experiences of the implementation of the DVA refer to what the participants' thoughts, feelings and assessments are

regarding the implementation of the Act by the SAPS. In other words, how do participants evaluate, judge and interpret the specific sections of the Act, which they are forced to do by the organisation (SAPS)? The participants' interpretations and assessments of the implementation of the DVA differ to a great extent. Some participants view the Act as being effectively implemented while others are of the opinion that the implementation of the DVA is totally inadequate.

The answers to the following questions gave rise to this theme: *“Are you familiar with the Domestic Violence Act?”* and *“Have you undergone training in terms of the Domestic Violence Act?”*

The narratives presented under this theme will serve as testimony that the majority of the participants perceived and experienced the implementation of the DVA by the SAPS differently. It is clear, from interviews with the participants who are members of stations, that the vast majority of the participants know what the DVA is and that they have undergone training on the implementation of the Act.

Twenty-six participants indicated with a mere *“Yes”* that they are familiar with the Domestic Violence Act, whilst some added answers such as:

“A lot – did not do course but have much experience after years of service in the SAPS.

It is in my blood. I feel like an expert on this topic”

“Own experience in the SAPS, not in depth”

“A little bit at college” and “here and there”.

Another participant motivated her answer as follows: *“At this present moment not yet. I know the procedure to follow when I deal with a complainant of domestic violence...”* while her colleague added the following *“A little bit. I must be friendly and politely question her...”* Another participant feels that *“domestic violence is a serious case that you must, wherever you are, on duty or not, take serious”*. One of the participants indicated that *“Not 100%. If there is a situation I will recall information and know what to do. I have enough experience dealing with it...”*

Of all the participants who were interviewed, only one indicated that he/she is not familiar with the DVA. Another participant indicated that he is not really familiar with the DVA because he

does not investigate it, however, he went on to inform the researcher that he investigates murder and has a few cases in which the murder was actually related to domestic violence and that, in one specific case, he has already managed to secure a sentence – this in fact proves that he does have knowledge of the DVA. Another participant adds that he only knows “*A little bit*” of this topic, while another indicates that he knows of domestic violence through in-service training but that more training (refresher) is needed.

During the interviews conducted with participant at stations, the majority of the participants indicated that they have attended training – be it in college, which seems to be very basic or the 5 day training at Napier Road in Parktown (SAPS Training). All of these participants indicated that the training empowered them and most of them feel that refresher training is needed; one indicated the following: “*...I want to know more*”. Some of the participants were of the view that “*...refresher training is needed as we tend to forget the safety of the victim*”. Two participants indicated that they do not need refresher training while another agreed with them but contradicted himself by adding that one tends to get rusty if they do not work with these incidents on a daily basis. Eight participants indicated that they did not receive training on the Domestic Violence Act, six of them said that they would like to attend training, while one is of the opinion that he does not need training as he learnt enough through his experience. Another one was nominated for training but, due to serious illness, could not attend the training and added: “*but I feel I can effectively assist any complainant...*” due to his years of experience with this crime in the SAPS. Nearly all the participants who received training would appreciate refresher training courses and they feel that the training has empowered them whilst one participant feels that he does not need refresher training. Another participant who has never attended a course but feels that he knows what to do because of his experience added that “*attending a course will be valuable... I do get knowledge but the important thing is to do the right thing when you have to deal with a case*”.

One of the participants who underwent training and feels that it is very helpful, but who also feels that refresher training is needed, was of the opinion that “*we do not take this matter seriously. We make fun of a person (victim) especially if it is a man. Sometimes we do not take the emotional and financial stalking serious but it is serious*”. One participant agreed with his colleague and stated that refresher training is needed in that “*it is serious because we do not know what happens behind*

closed doors". One of the participants who feels that training is important suggested that videos need to be used during training. He stated that he was trained fifteen years ago in college, and that he feels that he does not need refresher training as "... *I will know what to do*". Interestingly another participant feels that "...*there are not sufficient training interventions to go to*" and that training is needed; he further adds "...*we do not know what to do there. It influences me as the training is very important as there is situations where we do not know what to do*".

One participant who feels that she needs training has indicated a specific gap that is very important but is not addressed at her station. This participant indicates:

"Yes – I specifically have a problem with foreigners. They come here and you can see and understand that it is domestic violence but is hard for them (foreigner) to express them. I do not know their language and I try and translate it into Zulu but they do not even understand that. I try to put myself in their shoes but it is difficult". She goes on by saying *"If you struggle to understand it is difficult to come to a conclusion. They see we do not understand and then we encounter problems because they complain to the station commander."*

Another aspect that was highlighted by this specific participant is the Victim Empowerment Room VEP. She indicates the following:

"...it is only available and working from Monday to Friday, not on weekends. It is hard to go to this office for them to explain domestic violence for us to learn more", and continues *"...remember I am in the CSC where there is a floor manager. We are 6 in CSC...then the complainant must sit down and they need to restart their story...they get impatient"*. She adds *"domestic violence is emotional, physical, intimidation (different categories). I also need training on the specific different forms of domestic violence and what crimes it includes such as assault GBH, intimidation, common assault"*. She concludes by saying *"This is deeper as there is a relationship between the participant and the victim"*.

From the interviewee narratives quoted above, it can be concluded that the participants need training on the DVA. The vast majority of the participants are of the opinion that refresher training

courses are a necessity. It also seems that a number of participants rely on the experience they gained in the SAPS while dealing with these cases. They are in agreement that domestic violence is a priority and that victims and cases must receive the necessary attention to prevent these issues from becoming a tragedy.

The literature presented in Chapter Two of this study stipulates that training is necessary for members of the SAPS. As mentioned in 2.4.3, Circular 26/3/3/1 of 2009 (South Africa. South African Police Service, 2009) deals with the roll out of the SAPS Victim Empowerment Programme (VEP) manual by the Division: Visible Policing as it is one of the priority programs of the National Crime Prevention Strategy of 1996. The manual contains guidelines for integrating victim empowerment into every day police practices and procedures; it is advised to have a victim-centred approach with the result of improving service delivery to victims. It contains a policy framework that has to be adhered to, and it is clear that non-compliance will lead to disciplinary action being taken against members. It is the responsibility of the Provincial Commissioner to ensure that all stations and units receive a copy of the manual and to ensure the implementation thereof.

Another circular contained in 2.4.3, Circular 1/1/4/1 (1) of 2010 deals with the importance of service delivery to victims of domestic violence. The SAPS senior management instructs commanders to ensure continuous training and monitoring on the policing of domestic violence at the station level, as well as the reporting and addressing of non-compliance. Circular 1/1/4/1 (1) of 2013 contained in 2.4.8 emphasises the responsibilities of the SAPS to victims of domestic violence, the provision of efficient service delivery to such victims, as well as the ongoing training of members and the monitoring of implementation provisions. Emphasis is placed on the training of members on the subject of the policing of domestic violence, while the circular tasks the station commander with the responsibility of identifying the training requirements and arranging for this training. This circular also mentions that frontline members (Community Service Centre (CSC) Commanders) must have the necessary experience of and training in domestic violence. Inexperienced members should work under the watchful eye of experienced members and senior officers. The content of this circular further reveals that, during station visits, it was clear that

station commanders are not holding members responsible for proper service delivery; it was also suggested that student constables not be used to handle matters related to domestic violence.

The literature review presented in Chapter three deals with the necessity of training in order for members of the SAPS to effectively implement this Act. As presented in 3.5.2, Morei (2014:929) feels that police officers are not trained to deal with the severe psychological damage that happens to victims. Morei (2014:935) also mentions, as presented in 3.6.1, that 50% of the members interviewed in his research received training on these issues in Form 1, and that the training was only academic and did not include practical examples. In this regard, Morei (2014:935), as outlined in 3.6.1, is of the opinion that the Domestic Violence Act provides no specific provisions for the training of SAPS members. According to the researcher, this is a significant shortcoming that needs to be addressed. Morei (2014:938), as mentioned in 3.6.3, further recommends that SAPS members need to be trained on the provisions of the Domestic Violence Act. In his opinion, police officials need to be trained to ensure that they make the correct decisions to best protect the victims of domestic violence and abuse, and to properly inform these victims of their rights. Morei (2014:937), states that this system is poorly resourced, overburdened and desperately in need of training.

Without training on how to deal with the victims of domestic violence and on what to do to ensure the effective implementation of the DVA, the Act will never be implemented correctly and sufficiently. Domestic violence includes a large majority of crimes and issues with regard to the victims, while the SAPS are mandated to care for the safety and medical treatment of victims of this crime, as well as arrange and provide for their safety and medical treatment, arranging and providing safe houses (shelters) for them. As can be seen in Chapter 3, it is very important for SAPS members to be trained in all aspects of the DVA.

4.2.3 Roles and responsibilities to efficiently implement the provisions of the DVA

The interviews of participants, as described in paragraph 4.2.2 above, indicate the level of knowledge into the DVA as well as the training or the lack thereof experienced by members of the SAPS. The provision of sufficient training is the responsibility of the SAPS to efficiently implement the provisions of the DVA. The participants requested to name the roles and responsibilities should the answer be that they understand their roles and, if they indicate that they

not, to indicate why they do not understand these responsibilities.

This sub-theme was deduced from the following question posed to the participants: *“Do you understand your role and responsibilities to efficiently implement the provisions of the DVA? If yes, name some of these responsibilities. If not, what is the reason why you do not understand your role and responsibilities?”*

The answers, procedures and shortcomings in the view of the participants concerning their role and responsibilities to efficiently implement the provisions of the DVA are explained in the ensuing discussion, which includes direct quotations from the transcribed interviews as answers to the aforementioned question.

It appears that the majority of the participants know their roles and responsibilities as they mostly agree that:

- The victim needs to be made comfortable and, where possible, interviewed in a private room;
- The victim should be given the option to either open a case (where the statement will be taken down, a docket opened and the suspect arrested as well as a place of safety arranged for the victim). Should the victim not want to open a case, he/she can be referred to the Family Court to obtain a Protection Order. They are aware of the fact that even if the victim does not want to open a case, a Place of Safety can still be arranged.
- The necessary registers, SAPS 508 (a) and (b), need to be completed, in addition to which a pocket book (SAPS 206) entry and OB entry (SAPS 10) need to be made.

Importantly, one participant stated:

“A client of domestic violence should be attended to, you are not allowed to send the client home without consulting senior officers. Victim will be taken to the office or VEP office...we can phone standby members to come in and attend to the complainant in the VEP office. Another participant adds: “a victim will not be interviewed in public” whilst her colleague added “I will not interview the victim in public ... take statement in private place...”.

One of the participants feels that the member on duty should “*Calm the victim down and if possible offer her water*” while another participant agrees: “*I will give her water*”. It is further explained: “*...if it is a lady I will try and get a female police officer to interview and assist her ... open a case, arrests the suspect ... does not want to open a case ... advise her to obtain a protection order ... take the statement*”. Another participant is in agreement with this view and says: “*... victim calmed down ... talk to her and hear what happened. Interview her in a separate room ... advice to apply for a protection order. If she wants to open a case, take statement and arrest suspect. If a PO is available and the respondent violated the provisions thereof... arrest the suspect*” and, lastly, this interviewee indicates that should the victim not want to open a case she will be placed in a Place of Safety.

A different participant indicated the following: “*... whether PO has been served, incident will be recorded in the DV register SAPS 508 (a) and (b) and pocket book (SAPS 206) and OB (SAPS 10) and advise the victim to apply for a PO or not and this participant feels that ... everything needs to be taken serious.*” The participant further agrees with most of the other participants by indicating “*open a case ... obtain statement ... arrest, refer victim to obtain a PO and refer to VEP facilities*” and then importantly adds again: “*If we do not take these things serious we will get into serious trouble*” and includes “*... complete registers, comply with the Act and complete forms.*” A different participant stated that they “*will ensure that the victim is comfortable ... take her to a place where she can talk privately. I will get her water ... interview her in private – on her request, open a case, take statement*” and further added that “*I do not need a PO to make an arrest. If there is a PO, I will immediately arrest the suspect.*” The participant also indicated that she will complete the registers and arrange for a Place of Safety (POS) for the victim.

One participant explained: “*After taking the statement I will open the docket ... if suspect at residential address ... call crime office to arrest ... if suspect is not there we can take her to a shelter*” whilst another will “*take the victim to the VEP room, interview him/her ... advise on opening a case, PO, shelter and medical attention*”. The participant also indicated that should the victim not want to open a case, a POS can still be arranged. Another participant will also “*calm victim down and also find out where victim is. I will call social workers on standby (available day and night)*”. In her opinion, the social workers will arrange for a POS even if the victim does not

want to open a case. She will also advise the victim to obtain a PO at the family court. One of the other participants agreed with the other participants as quoted here, but added that he will ask *“If it is the first time or have it happened before and whether a case was then opened or not”*. He will also establish where the suspect is and reiterated that *“medical attention is the first priority”*.

Another participant feels *“that if the victim has been assaulted he/she will not be referred to the family court, but a case will be opened, the statement taken and suspect arrested”*. This participant reiterated that the victim would not be informed to first obtain a J88 from a hospital or medical practitioner. In the opinion of the researcher, and from her experience, this often happens in the CSC where members first send the victims for a medical report (J88) even if medical treatment is not needed immediately. The participant also indicated *“it is more difficult to get a POS if the complainant does not want to open a case.”* This participant informed the researcher that Ikhaya Lethemba specifically does not take a victim if there is no case number, and the participant also made the following statement: *“I have seen what happens if a victim is not given attention immediately. If nobody assists the consequences have been seen and heard about.”*

The opinion of another participant was as follows:

“... if the victim is happy relating story to me I will assist and if not I will try and get assistance of a female officer to help her ... remove victim to a private office. I will talk to her with empathy and interview to establish what happened ... I will also ask if this is the first time for this to happen and find out whether there is a PO or not.”

A different participant indicated that they are prepared to *“... also go with the victim to try and sort out the matter with the participant.”* This was the only participant with this view.

Another participant stated: *“It depends on the complainant. The suspect may be chasing her. I will ask her if she wants to open a case and then she can go to hospital with the J88, if she was injured and needs medical attention.”* He also indicated that *“it is more difficult to get a POS if the complainant does not want to open a case”*. He informed the researcher that Ikhaya Lethemba specifically does not take a victim if there is no case number. He further states *“... then it is very difficult. We usually refer them to the Department of Social Development in Commissioner Street. There is also Sunlight in Hillbrow – the SAPS take you there. The following day myself or the CSC will arrange for another POS.”* This participant also indicated that the statement is taken in the

CSC. Should it be necessary, for example, with a rape case, there is a specific room where the statement will be taken and the victim is comfortable. A colleague of this participant agrees with this and states the following: *“If the victim is emotional I will take the statement in a separate office, especially when the complaint is of a sexual nature it will be taken in a separate room”*.

A number of participants informed the researcher that it is the choice of the victim whether he/she wants to open a case or not. One participant said: *“The victim will decide. I will offer her the option of counselling”*. What was very interesting was the following statement made by a participant:

“I will treat the victim with respect. I will listen to the story and not be judgemental. I will show that I do care ... I will also get professional help for the victim. I will also liaise with FCS if necessary ... will take the statement in a room where it is comfortable for the complainant and separate from others.”

On the same note, another participant felt that *“It is important to be educated on this and important to know what to do”*, whilst his colleague indicated that should there be *“... physical violence, I will ensure that the victim’s removed out of the situation and to a safe place and I will ensure that she gets the necessary medical attention. If it is emotional I will refer the victim to a social worker.”* This specific participant added: *“I personally feel that the suspect should be arrested in all types of DV even if there is a PO or not.”* At one station, a member showed the researcher a little booklet issued by the SAPS to its members called the *Iqabane*; this booklet contains important information for SAPS officers, including the Domestic Violence Act. Sadly, this was the only police officer interviewed who seemed to have a copy of this booklet. One of the stations does not have a VEP room but a participant informed the researcher that she uses her colonel’s office to interview the victim in private and her colleague echoed this sentiment with the opinion: *“Ek sal slagoffer na my kantoer neem (ons het nie ‘n VEP kantoer nie). Ek sal luister wat gebeur het – nie alles is krimineel nie en dan die slagoffer in kennis stel wat haar te doen staan.”* [I will take the victim to my office (we do not have a VEP office). I will listen to what happened, not everything is criminal and I will advise the victim on what solutions is available]. At a different station, one participant felt that he is not sure about the registers as the FCS usually deals with these cases – this was different from the views of the other participants, and was not true in the opinion of the researcher. He also indicated that he will get information regarding the Places of Safety from the IB book (Information Book), whilst his colleague was of the opinion that he will interview the

victim in a cubicle as it is a private matter. It was interesting to note that this station did not have cubicles but had a VEP room, which is actually adjacent to the CSC. Another participant indicated: *“I will refer the victim to the victim support group”*; this seems to be the Social Crime Prevention group that deals with Victim Empowerment issues. A very important aspect that was only mentioned by two of the participants, namely, the involvement of fire-arms, was discussed as follows:

“During the interview I will have to establish whether the victim’s life is in danger and if the suspect is having a fire-arm.” Another participant stated that he: *“... will visit the place and check whether it is safe for the victim to be there. I will see if she can still be further abused and if there is a fire-arm and seize it.”*

From this discussion, it is clear that most of the participants know what their responsibilities to implement the DVA are but it seems that, in some instances, the SAPS members do not have the empathy required to deal with victims of domestic violence. Quite a few know that this is so important, that should they not do what is expected, they can actually lose their jobs. In the researcher’s opinion, certain participants can name all their responsibilities verbatim but they do not have any experience in these crimes.

The literature, as described in Chapter 2, also emphasizes the necessity for members of the SAPS to know what their role and responsibilities are in terms of effectively implementing this Act. As included in 2.2.2 above, the Constitution of the Republic of South Africa, Act 108 of 1996, clearly indicates that it is the responsibility of the SAPS to combat and investigate incidents of domestic violence. The Constitution further expects that the police execute these responsibilities towards victims of domestic violence with the necessary respect in order to protect such victims, uphold their rights, maintain public order and enforce the law. The DVA, 116 of 1998 as discussed in 2.2.2 above, clearly prescribes what the responsibilities of members of the SAPS are in terms of the policing and management of domestic violence. In addition, the South African Police Service National Instruction 7 of 1999 (South Africa. South African Police Service, 1999), as discussed in 2.3.1 above, contains clear instructions to members of the SAPS on how incidents of domestic violence should be managed.

The Policy Document on Domestic Violence (South Africa. South African Police Service, 2014), as clearly discussed in 2.3.5 above, specifically focuses on how to deal with incidents of domestic violence and the victims thereof. The SAPS clearly explains what domestic violence entails and stipulates members' responsibilities in terms of the treatment of victims. Furthermore, it details the commitment from the SAPS to give attention to cases of domestic violence. The SAPS commits itself to treating victims with sensitivity and care by prescribing the following responsibilities:

Police officials will –

- Treat victims and protect their dignity;
- Listen to what victims say;
- Not insult, blame or suggest that the victim was the reason for the incident;
- Assist the victim with empathy and care; and
- Inform victims about their rights and options.

The SAPS Code of Conduct (South Africa. South African Police Service, 1997), briefly explained in 2.3.6, as well as the SAPS Code of Conduct (South Africa. South African Police Service, 1997) discussed in 2.4.1, compels members of the SAPS to prevent acts, such as domestic violence, that might threaten the safety of citizens, and to investigate criminal conduct, such as domestic violence.

Circular 1/1/4/1(1) dated 27 September 2011, as discussed in 2.4.5 above, concludes that the Parliamentary Portfolio Committee on Policing, after visiting police stations on various occasions and observing the extent to which the DVA and the SAPS National Instruction 7 of 1999 on domestic violence are being implemented, found several shortcomings. It reiterates that the South African Police Service experience difficulties in efficiently implementing the provisions of the DVA and the National Instruction 7 of 1999 at the station level.

Circular 1/1/4/1 (1) of 2013, as discussed in 2.4.11 above, deals with the fact that the South African Police Service is not complying with the provisions set out in the Domestic Violence Act. These concerns are described as follows:

- Failure by members to provide the necessary services to the public;
- The different Portfolio Committees and NGOs criticised the top management of the SAPS for poor compliance;
- Negligence by SAPS members led to fatalities in incidents of domestic violence;
- SAPS members are not referred for counselling by EHW after working on incidents of domestic violence.

The literature review presented in Chapter 3, on the implementation of the DVA by the SAPS, includes all the provisions that must be adhered to by the SAPS. In 3.5.1 above, Morei (2014:935) mentions that police stations are battling with domestic violence complaints, as they do not understand the law and cannot cope with the paperwork. As presented in 3.6.3 above, researchers such as Gopal and Chetty (2006), Mesatywa (2008) and Mathews and Abrahams (2001) have their own opinions regarding the non-compliance of police officials when dealing with incidents of domestic violence. According to these researchers, police officials still display an attitude that suggests that gender based violence is a private matter that needs to be sorted out within the domestic situation.

Gopal and Chetty (2006:124) found that the police lacked interest in becoming involved in these matters and actually advised the victims to find domestic solutions. They found that police will attend to complaints very late and, even after days have passed, they would not even arrest the abuser. Mesatywa (2014) found that police officials did not follow the procedures set out in the DVA and sent female victims back home to solve their differences with their abusive partners.

Vetten (2005:7), as mentioned in 3.6.3, indicates that despite the police and courts being under resourced, other factors such as police perceptions of domestic violence, fragmented service provision from the courts, the police and health sector, as well as the lack of information to victims, all undermine the implementation of the DVA. Vetten (2014:10) further finds that the DVA contains elements of good practice but it is difficult to evaluate the effectiveness of the DVA as it has not been effectively implemented. Thus, it can also not provide maximum protection of the law to survivors of domestic violence.

From the above, it is clear that each police official should have clear knowledge of what the

Domestic Violence Act entails and how to implement the provisions thereof in order to render an effective service to the victims of domestic violence and to be able to properly implement the provisions of this Act.

The theme discussed next explores the participants' views on the Domestic Violence Register.

4.2.4 Domestic Violence Register SAPS 508(b)

The DVA clearly stipulates that there must be a Domestic Violence Register SAPS 508(b) at every police station in the country. The answers to the following questions gave rise to this theme: *“Are you familiar with the Domestic Violence Register SAPS 508(b) and, in your opinion, what is the function of the register? Does a DV register exist at your station and do you maintain the DV register?”*

From the interviews conducted with the participants at the different police stations, it became clear that a Domestic Violence Register does exist at all the stations, that it is maintained and that the register is a record keeping mechanism for statistics but also to protect members in a certain way and to indicate “regular” victims – that is, victims who are seen every weekend or at the end of the month, or on Fridays and just come back on the Monday to withdraw their complaint – an issue which frustrates members immensely.

Although short and to the point answers were given, one participant indicated that the register exists, is maintained and *“two inspections are done daily – first level and second level where they check whether it corresponds with the OB as well.”* Another participant added that it is *“maintained 100%”* and another is so positive regarding this issue that he feels that it is *“maintained 120%.”*

A different participant was of the opinion that it *“shows court proof that Act is kept”* and his colleague added that it is for *“information”* and while another stated that it was designed *“To cover members”*. Similarly, another participant viewed that the DV register *“keeps record of all domestic violence related incidents”* while another participant said it will *“establish stats”*. Another participant was of the opinion that it indicates that the SAPS has attended to and assisted

victims.

A rather interesting opinion presented by one participant was the following: *“We can see if they use the PO for different purposes (“... gebruik as afskrikmiddel vir 2 weke tot 6 maande”) [...use it as a deterrent between 2 weeks and 6 months]. Respondent does the same thing. The victim complains and the respondent gets arrested and vice versa. If they both get arrested, their finances are gone and then both withdraw the charges.”*

According to one participant:

“The function is to report and to make notes. It is also for the Department of Justice to inspect and keep stats. It is also a way where can be seen what was done by the victim and the SAPS. The information contained in this register corresponds with the pocket book and the OB entries.”

Whilst another participant felt that *“... for stats on a monthly basis ... also needed by the MEC’s office ... Each DV incident will be recorded and the necessary procedures followed need to be written down.”* A few participants indicated that officers inspect the register on a daily basis and that it must correspond with the OB (SAPS 10). Another participant was concerned with *“... whether the victim reported it more than once. The kids may have been assaulted before.”*

Only two participants had a different opinion: *“I do not think it is maintained”* and *“... not sure, there is a lady dealing with PO in the DV office ... civilian lady that keeps registers and files.”* In the researcher’s opinion, these two members did not seem to have any interest in the fact that there was a register and whether it is maintained. The rest of the answers were overwhelming and the researcher even saw the registers and files at some stations.

From the narrative above, it is clear that most of the participants know what their responsibilities are in terms of record keeping of domestic violence. Some mentioned that it was for record keeping and others knew that there was a register but was not sure where it is kept. Most of the participants indicated that there was a register, that it is for record keeping, and that it is kept by the different stations.

The literature discussed in Chapter Two also refers to the fact that it is necessary to keep records

of all domestic violence related incidents. The DVA, 116 of 1998, which is described in 2.2.2, stipulates that all domestic violence related incidents should be noted in the Domestic Violence Register SAPS 508(b). Section 12 of the DVA places the duty of keeping records of incidents of domestic violence upon the SAPS and further states that it is the responsibility of the Station Commander to record all incidents of Domestic Violence). As described in the literature in paragraph 2.4.1 above, Circular 1/1/4/1 (188) of 2006, which refers to the implementation of the DVA, 116 of 1998, clarifies the different responsibilities of SAPS members including record keeping in the SAPS 508(b).

The literature review contained in Chapter Two informs that Morei (2014:935) mentioned that the Civil Secretariat visited police stations regarding compliance with the DVA and found that SAPS members (including some station commanders) did not have the requisite knowledge to compile registers.

From the above, it is clear that a Domestic Violence Register does exist at most of the stations. It is, however, not clear whether this register is kept up to date to such an extent that all the relevant information is available should it be necessary to compile statistics or to obtain information about previous incidents.

The next theme discussed explores the participants' views on the procedures to follow when issuing and serving protection orders in terms of the Domestic Violence Act.

4.2.5 Procedures to issue and serve protection orders in terms of the Domestic Violence Act

The DVA makes provision for specific procedures to follow when issuing protection orders. The Act, which provides measures to give victims of domestic violence the opportunity of maximum protection, put in place certain procedures that must be followed in order to minimise the incidents thereof. In addition, this Act places responsibility on the SAPS to inform the complainant/victim of their rights and to assist the victim to find suitable shelter and medical treatment, if necessary. The police need to inform the complainant or victim of the procedures that need to be followed and the solutions available to them.

Participants indicated that although some of them did not serve protection orders before, they will

be able to do so if required to. Other participants clearly indicated that there are specific departments at their stations that deal with the service of protection orders. The opinions of the participants included the following:

“Yes”; “Not served”; “Learnt it before and during course”; and “Protection order has to be served”; “Respondent needs to sign”; “Some of the Protection Orders have court dates”; “I will explain to respondent when to appear in court”; “After that I will ask him if he understands and then let him sign”; “One copy is filed in the register at the station”; “Respondent receives a copy and the other is given to the victim”; “The victim will take the return of service back to court.”

Another participant added *“If he/she is not found immediately I will keep on looking for him until I can serve the Protection Order.”*

Interestingly, quite a few members indicated that they will take the victim or a person who is familiar (if the victim does not want to go) with them when going to serve the protection order. Although this might seem inappropriate, the researcher understands the reasoning behind it: this is for the victim or other person to confirm whether the protection order has in fact been served to the particular participant. If this is not done, the real perpetrator might disguise him/herself and pretend to be someone else, disappear and be difficult to find, especially if this person knows that a protection order was issued and needs to be served on him/her. A participant explains the following:

“If the complainant comes to the CSC, he/she can accompany me to the address of the respondent if he/she wants to. I will ask the respondent to sign and will give him/her a copy of the protection order. I will sign as a witness. On my return, I will file a copy of the PO in the register at the station and give the return of service to the complainant who will take it back to court.”

This sentiment is also echoed by another participant who indicated that they will explain matters to the participant in order that he understands what the PO entails. The participant added one important aspect, namely, that *“... a copy of the PO will be filed in the docket should the victim decide to open a case”*. Most of the participants also mentioned that *“a copy of the PO will be filed in the CSC”* and quite a few indicated that *“... should the respondent refuse to sign I will make a note that he refused and sign on the order myself.”*

Of particular concern was this member's statement: *"I do not think there is a file in the CSC for PO's"*. This was not the answer provided by the rest of his colleagues and it seems that the member does not know this because the file is kept up to date by colleagues or an administrative person who specifically deals with this. Another participant bluntly indicated that he has not served protection orders before and is not familiar with it as there is a specific department that deals with the matters: *"... will refer the person to 15 Market Street to apply for a PO. If they get it ... relevant department will go with ... serve and make arrests"*. His colleague from the same station agreed with this view and added that the reason why he is not familiar with it is because there is a specific department dealing with the issue of maintenance and protection orders. Another three colleagues also indicated that they do not specifically work with this but they included that they know how to serve a protection order.

A participant from another station also indicated that there is a specific department dealing with the serving of protection orders, *"... but I will establish whether the victim is in immediate danger. If the victim is not safe I will serve the PO immediately."*

Three participants share the sentiment that they will also give the participant a chance to give his/her side of the story. *"Ek verduidelik aan die respondent die doel van die beskermingsbevel en laat hom ook toe om sy kant te stel en stel hom in kennis dat daar 'n hofdatum is waar die beskermingsbevel bekragtig sal word of nie"*. [I will explain to the respondent the aim of the protection order and offer him/her the opportunity to explain his/her side of the incident and I will inform him/her of the court date where the protection order will be made final]. Another participant indicated that they will *"explain that ... they must not contravene the stipulations,"* *"... go to the address and explain what the PO entails to the respondent"* whilst his colleague *"will explain that this is still in process and that they must not contravene the stipulations"*. Another participant added *"I will also hear what the story of the respondent is and explain the purpose of this notice."* Almost all of the participants informed the researcher that the victim will take the return of service back to the Family Court after it has been served by the SAPS.

From the narrative above, it is clear that most of the participants know what their responsibility is regarding the issuing and serving of protection orders and the importance thereof. The literature discussed in Chapter Two par 2.2.2 states that the DVA, 116 of 1998, makes provision for the

procedures that should be followed when issuing protection orders. It provides measures to ensure the maximum protection to victims of domestic violence.

According to the literature review presented in Chapter Three, Masondo (2011:5) mentions that in a report compiled by the Independent Complaints Directorate it was discovered that, of the 132 police stations visited, only 14 complied with the requirements of the DVA. It also mentioned that copies of protection orders and warrants of arrest were lost.

From the above discussion, it seems clear that members of the SAPS know the procedure on how to serve protection orders. It is, however, questionable if they will be able to do so when necessary as most of them have not served these themselves as there are specific members at station level dedicated to serving all protection orders.

The last theme to be discussed in this chapter explores participants' views on the shortcomings and challenges experienced in effectively implementing the provisions set out in the DVA.

4.2.6 Shortcomings and challenges in the effective implementation of the provisions set out in the DVA

During this research, and from the researcher's experience, it was clear that there are shortcomings with regard to the effective implementation of the DVA by the SAPS. The opinions of the participants to the question "*In your opinion, do you experience shortcomings and challenges to effectively implement the provisions set out in the DVA?*" gave rise to this theme.

More than one participant indicated that, although there is a VEP office (where victims can be taken to feel comfortable and be interviewed in private), these offices are only available during office hours. It seems that certain individuals have keys to the office (e.g. the "owner" of the office). Some also often indicated that they could call the person who is working in the VEP office as they are on standby. The reason why this office cannot be made available immediately to settle victims is questionable. It might be the reason that was mentioned by one participant, that is, that police officers working shifts are misusing these facilities to sleep during the night when the CSC gets quiet.

One participant mentioned that the VEP office is very far from the CSC and that she as a female member feels unsafe going with a complainant to this office at night, even if a key is available.

Another participant indicated that *“It is not good to interview these victims in the CSC – especially in rape cases”*, and added that *“...there is no one on standby. We are not functioning properly – members are supposed to deal with this themselves.”* A different participant indicated that *“Our VEP room is not available after hours. The places of safety are closed and cannot help. The SAPS does not treat the victims in a correct way. There are challenges with experience and empathy.”*

This opinion is also shared by other participants:

“Places of Safety needs to be made available 24 hours. We also need to be able to take a victim to a place where she wants to go for example. If she has family in Germiston we must be able to take her there. Our VEP room is not available after hours and weekends. It is locked.”

Another participant added the following: *“There needs to be specialised people like FCS at station level and they must be available 24 hours”*. According to the researcher, this crime is actually investigated at the station level, thus, it is unclear why the participant has this opinion, but the answer might lie in his further response: *“It is very serious and specific people (members) need to deal with it. The facility (VEP room) is only available during office hours. Protection orders are not sufficient. We have a long way to go. We do not have one member who deals with DV alone. Everyone is dealing with it.”*

In contrast, a member indicated that the key to the VEP office is available 24 hours and the VEP member is on standby to assist, but his concern was that the Place of Safety is far. The participant indicated that this key is available and seemed to want to say the right thing as another colleague clearly indicated that the key is not available: *“... VEP room is not available 24 hours. They are not always there – the office is locked. The victims must be dealt with in the CSC and they have to wait in the CSC until the next morning. There is no privacy to make the victim feel comfortable.”*

What is interesting is the reply of another participant: *“The SAPS need to take these matters serious. We are compelled to go the extra mile and find a POS. We cannot refuse and use the excuse of no resources. We need to remember that the victim comes first and must assist. The VEP room is available 24/7 and on speed dial.”* Another participant indicated that *“We try our level best. The VEP room is available 24/7.”* However, this participant’s colleague disagreed with this version and indicated that *“... we do not have sufficient places of safety. For children we do but not for adult victims. The VEP room is only available between 8 and 4 and not 24 hours.”* Another

participant replied by stating that “... *there is a key but it is not used as SAPS members will sleep there after hours.*” Another participant admitted that there are sufficient shelters, but that at another station it is clearly indicated that there is not enough shelters and that “*counselling is only given if the complainant is interested.*”

Sadly, it was noted that, at present, domestic violence is prioritised and publicly criticised on a daily basis, and yet at least two of the police stations study in this research have no VEP room. One participant indicated that victims often sit in the CSC – sometimes up to three days if the incident happens over a weekend – while waiting for assistance. At a very small station, the member’s make use of the station commander’s office, or any other office, as an alternative but no office/room exists where victims can be out of the public eye and comfortable to relate their experience. Another participant answered that the trauma centre is not working effectively as the room is not available, whilst his colleague also confirmed “... *the trauma room is not functioning. We had a VEP office at the station but it moved to a church ... There is now no place to keep victims private and comfortable.*” These participant’s sentiments were echoed in the following response:

“The VEP room is gone. There is no facility available to take complainants to, and take their statement in private ... members in the CSC are not trained to deal with victims. Maybe the SAPS are not doing their job effectively ... maybe SAPS do not comply with the act. I am not sure what the problem is. Everyone knows what to do but the job is not done. SAPS members is not serious because in our area we get the same victims coming to open a case on a weekly (regular) basis just to withdraw the case the following day. Sometimes they are drunk and “regular” complainants.”

One participant put it as follows: “*We need to take every complaint serious, but this can be very demotivating to members who deal with this often*”. Similarly, another participant indicated that “*The victims are often wasting time of the SAPS by always withdrawing cases ... there is no VEP room at the station anymore. Sometimes the victims report domestic violence and when the SAPS comes to arrest the suspect they will hide the suspect and not inform the SAPS if he is available*”. This state of affairs has occurred occasionally during the researcher’s experience as a police official and is further echoed by another participant’s reply: “...*high withdrawal rate in these cases and then we struggle with witnesses. It is a waste of precious investigation time.*” According to

another participant, the fact that participants and victims often stay together also creates problems. Then with every small argument the police are called and they often make cases against each other just to withdraw them again. Withdrawals, according to this participant, are a great challenge. As one member indicated, you never know when it is serious and you have to regard every incident as serious.

A participant from another station made an interesting comment when he was asked to indicate possible shortcomings: *“People are trained but they do not do what they are supposed to do. Maybe they are not interested. Refresher training may be the answer – it is needed. The member’s complete the forms but leave open spaces where information is requested.”* This participant further indicated that there are *“... sufficient Places of Safety, but only if a case is opened.”* On a rather positive note, one participant was of the opinion that at his station *“...victims are treated very well ... In 2008/9 we had an incident of domestic violence where the police were publically criticised in the media regarding an incident which occurred and we, thereafter, upped our game. The VEP room is always available and there are 2 persons dedicated to deal with these matters”.*

This participant’s colleague reiterated this statement: *“Die VEP en die CPF is “jacked up” wat hierdie aangeleenthede betref. Daar is hulp soos traumaberading beskikbaar”* [Both the VEP room and CPF delivers adequate services with regard to domestic violence. Trauma counselling is also available], but he disagreed on the effectiveness thereof by adding:

“... maar die manier hoe dit gedoen word is in my opinie nie effektief. Hul ken die basics maar dit verskil van mens tot mens hoe slagoffers hanteer word. Die vuurwapen (as daar een is) moet gevat word anders kan die verdagte die slagoffer skiet. Die polisie moet die wet ken. Mens moet jou ondervinding gebruik en dit is ‘n ernstige aangeleentheid. Die lede in die aanklagkantoor moet die kennis hê anders is dit nadelig.” A participant from the same station positively reacted as follows: *“I think our service is excellent ... with regard to domestic violence. The VEP room is available, we received training. Ladies are available in the VEP office and trauma counseling is available.”* [...but the manner how it is done, is in my opinion not effective. They know the basics, but it differs from one person to another how they treat a victim. The fire-arm (if there is one) should be taken otherwise the suspect might shoot the victim. The

police must know the law. A police officer should make use of their experience as this is a serious matter. The members in the CSC should have sufficient knowledge otherwise it could be detrimental].

With regard to training, one participant indicated *“courses should be given regularly not as a once off. Maybe once in six months to keep members informed so that they know how to deal with the victim and complete the forms.”* Another participant was of the opinion that:

“We need a lot of training. Members are vulnerable. They do not know the DVA. They treat it too lightly and think it will pass. By not thinking it might backfire and turn into murder. Then the member will be held liable (responsible). Members must see that this is serious. They also do not complete the forms correctly. The court needs to assist as well. They need to implement courts just for domestic violence cases. The small claims court is not sufficient to also deal with Domestic Violence. The Act makes provision for emotional and physical abuse as well. This is a sophisticated crime that happens on a daily basis. The reality is that the respondent may send someone else to harm or silence the victim.”

Another participant viewed the lack of training as a serious shortcoming and the fact that the station lacked a place where victims can be talked to, especially during the night, is also important:

“...where it is pleasant for the victim ... to be comfortable to share private information with you. We need a nicely furnished office – this one we have is far and not available during the night. Our media officers need to speak out more about domestic violence. People out there are violated, especially men. We have “Duty Calls” (police magazine) – SAPS need to place adverts in there to inform the community on what they can do and their rights.”

Similarly, one participant identified training as a shortcoming and added that only certain members are chosen for training, and that she has to wait her turn. What she knows about domestic violence is what she learnt in the CSC.

An excuse that is often heard by police members is the lack of transport. This concern was raised by a number of participants; it is important to note that the police members were concerned about the fact that marked SAPS bakkies and vehicles need to be used to transport victims to places of

safety and to transport innocent children. According to the participants, they are not allowed to transport private people in the marked vehicles and they would prefer to have unmarked cars with to do this task. One participant motivated this viewpoint as follows: *“If for instance we need to remove a child, social services needs to do it as it is against the law to place that child in our police car. We must then ask people with private vehicles to take the victims to the station.”* Another participant also acknowledged that there are often not enough vehicles and that the complainants (victims) need to sit and wait a few hours for a vehicle to be made available to assist them.

A female participant indicated that *“sometimes police officers are not ‘soft’ enough. They try but do not show their emotions”*. This participant’s colleague explained *“... members have different personalities ... are short tempered. Sometime members take decisions on what to do ... others let complainants tell them (members) what to do. Some members are also victims of domestic violence.”* The researcher has first-hand experience of this tendency. As investigating officer, the researcher once interviewed a member who was under the impression that she was the social worker attending to his complaint of domestic violence; when he realised she was not he informed her that he is a victim, burst into tears and left. Probably the most disturbing reply supplied in response to this theme was that of an interviewee who informed the researcher that he once served a protection order and was in no uncertain terms told by the participant: *“This form is not a bullet proof.”*

From this discussion, it is clear that there are various challenges at the station level that hinder the proper implementation of the DVA.

4.3 SUMMARY

This chapter provided the presentation, analysis and integration of the qualitative data, that is, the semi-structured individual interviews and focus group interviews with members of the different stations. The participants’ answers during the individual interviews were presented and discussed by means of evolving themes and subdivisions in order to explore the outcomes of these interviews. An explanation of each theme and subdivision enhanced the contextualisation of such themes and their subcategories, and provided the reader with a clear understanding thereof. The participants’

responses to the different questions posed to them were supplied as direct verbatim quotes. A critical reflection on each of the different themes acted as a conclusion thereof.

The final chapter of this study, Chapter Five, presents the summary, findings and recommendations of the study.

5.1 INTRODUCTION

This research was directed at establishing whether members of the South African Police Service are implementing the Domestic Violence Act, 116 of 1998, according to the set provisions of this Act. This research was focussed on the implementation of the DVA by the SAPS and provides the SAPS with the opportunity to establish whether members are indeed implementing the provisions of this Act and whether its training towards the effective implementation thereof is up to standard, and sufficient. This chapter begins with a concise overview of the previous chapters in the form of a short summary of the contents thereof.

5.2 SUMMARY

Chapter One focussed on the research topic by providing the background to the study, after which an explanation of the problem statement was presented as well as clarification of the research objectives. The research objectives were:

- To explore, identify and describe the challenges and shortcomings that police officials experience to effectively implementing the provisions set out in the DVA.
- To explore and understand the role and responsibilities of the SAPS to efficiently implement the DVA.
- To explore international best practises regarding the implementation of domestic violence policies.
- To determine what training and resources should be provided to members of the SAPS in order that they are able to effectively execute the DVA.
- To make recommendations to assist the SAPS to improve the implementation strategies of the DVA.

To reach these objectives the following primary research question was identified:

- Do SAPS members at the station level effectively implement the DVA?

In addition, the following sub-questions were identified:

- Are members of the SAPS sufficiently trained to execute the provisions of the DVA?
- Does an appropriate Domestic Violence Register exist at the station level and is it efficiently maintained?
- Do members of the SAPS issue and serve protection orders according to the provisions of the DVA?
- What are the challenges/shortcomings experienced by SAPS members in effectively implementing the DVA?

Key terms and concepts critical to this research were also clarified in this chapter. The chapter concluded with a brief overview of the ethical framework governing this study.

In Chapter Two, the researcher examined the regulatory framework of the SAPS in terms of its role and responsibilities with reference to domestic violence. This chapter contains and clearly indicates the obligations, responsibilities, duties, and powers of members of the SAPS when implementing the provisions of the DVA. The provisions of the Constitution, the DVA, the Children's Act and the Minimum Service Standards are discussed in detail in this chapter. Furthermore, the different SAPS directives are discussed, which includes the different SAPS National Instructions pertaining to domestic violence and the different SAPS policy documents. The responsibilities of members contained in the SAPS code of conduct as well as the various internal documents were also discussed in detail in this chapter.

Chapter Three provided the theoretical backdrop against which the implementation of the DVA by members of the SAPS could be measured. The nature and extent of domestic violence in SA was discussed together with the impact thereof. Included in this chapter was the response of the criminal justice system regarding the implementation of the DVA by the SAPS; in this respect, the policing of domestic violence was discussed as well as the challenges pertaining thereto. The international landscape regarding domestic violence was also discussed in this chapter.

In Chapter Four, the presentation and analysis of the qualitative data gathered from semi-structured interviews was presented in order to establish the realisation of the goal and objectives of this study. To ensure the trustworthiness of this study, the proposed research methodology was implemented and adhered to in the data collection and data analysis phases. During the data

collection process, the research objectives and research questions were used to guide the structure of the discussion. The research process followed was also discussed in this chapter, which included the data collected from the various in-depth interviews with the study participants. This study explored the implementation of the Domestic Violence Act by members of the SAPS. The six main themes that were identified and discussed in this chapter are:

1. Exploring participants' understanding of domestic violence
2. Evaluating their familiarity with the Domestic Violence Act
3. Roles and responsibilities to efficiently implement the provisions of the DVA
4. Domestic Violence Register SAPS 508(b)
5. Procedures to issue and serve protection orders in terms of the Domestic Violence Act
6. Shortcomings and challenges to effectively implementing the provisions set out in the DVA.

This chapter further endeavoured to interpret the collected data and aimed to provide meaning to the themes and categories by comparing the different opinions of the participants, where possible, with the position of the relevant legislation and the available literature. Certain important differences of opinion between the participants and the theoretical framework were identified.

5.3 RECOMMENDATIONS

In this section the data as derived from the data analysis and the interpretation thereof are presented, followed by the recommendations.

5.3.1 Recommendation on participants' knowledge of domestic violence

If domestic violence is not properly understood by police officials, it could lead to the inefficient policing of this offense. As a result, each SAPS member has to be familiar with all the aspects of domestic violence in order to provide efficient services to the victims thereof. Subsequently, the following recommendations are made:

- All members should be empowered with sufficient knowledge regarding domestic violence and the DVA by means of relevant training courses;
- Refresher training should occasionally be conducted to ensure that SAPS members will always be able to deal with this crime and the victims thereof;

- Member's should also be trained to familiarise themselves with how to deal with the perpetrators of this crime so as to ensure the safety of both the member and victim;
- Sufficient training will eliminate the misinterpretation of domestic violence as well as the prescribed legislation and internal policies amongst police officials in order to provide effective services to the victims and perpetrators of domestic violence; and
- SAPS members should be empowered with sufficient knowledge to be able to distinguish between and acquaint themselves with the various types of abuse that constitute domestic violence.

5.3.2 Recommendations on participants' familiarity with the Domestic Violence Act

If SAPS members are not familiar with the Domestic Violence Act, it could lead to confusion amongst members as well as the incorrect response to incidents of domestic violence. As a result, SAPS members should be familiar with the Domestic Violence Act in order to render a sufficient service to victims and to act appropriately when engaging with perpetrators. Should members not be familiar with the conditions of this Act, it could follow that perpetrators will not be successfully prosecuted because of the SAPS member's misinterpretation of and lack of knowledge regarding the Act as well as the poor services rendered to victims of domestic violence. In this regard, the following recommendations need to be considered:

- Since legislation and policies are of a very technical nature, police officers should receive regular refresher training courses and workshops on the various sections of the Act and the interpretation thereof;
- All SAPS members should be trained on matters related to domestic violence and this training should not be limited to certain members;
- Due to the fact that SAPS members are confronted with language barriers in terms of the language spoken by foreigners, it is crucial to have an interpreter available at the cluster level to ensure that foreign victims are assisted timeously and effectively;
- Non-compliance with the DVA by SAPS members should be seen in a serious light and should lead to disciplinary action being taken against such members, provided that these members have undergone sufficient and continuous training on the Act;
- Care should be taken by supervisors and commanders for SAPS members who are also victims of domestic violence in order that they be accommodated and the necessary steps

are taken to equip them to be able to deal with victims and perpetrators of these crimes in an appropriate manner. In other words, the psychological effects of domestic violence on members needs to be considered; and

- The psychological impact of this crime on members of the SAPS who handle cases pertaining to such crimes also needs to be taken in account, and it is suggested that workshops by Social Services are implemented to debrief these members on these matters.

5.3.3 Recommendations on participants' roles and responsibilities to efficiently implement the provisions of the DVA

Each police official plays an important role in the efficient implementation of the DVA. Should a police official not be able to implement and understand his role, the proper implementation as contained in the Act will not be possible. To address this, the following is recommended:

- Constant training to ensure that SAPS members are well equipped with the necessary knowledge regarding their roles and responsibilities as pertaining to the DVA in order to enable such members to effectively implement the Act;
- SAPS members should realise that they are the custodians of the DVA and that their role is to protect and comfort the victims of domestic violence. The VER should therefore be available 24 hours at each police station. The VER should be equipped to such an extent that victims would feel comfortable and feel welcome. General office facilities at a police station should under no circumstances be used as a VER but a proper victim friendly facility, reserved exclusively for the use of domestic violence victims and their children should be available; and
- Timeous and efficient response to the needs of victims of domestic violence should be a priority amongst SAPS members in order to avoid improper actions by the SAPS and insufficient attention to such victims, which could lead to victims and/or their families being killed or further harmed by the perpetrator.

5.3.4 Recommendations on participants' maintenance of the Domestic Violence Register

The Domestic Violence Act stipulates that there needs to be a Domestic Violence Register SAPS 508 (b) at each police station in the country. Although it was found that a Domestic Violence Register exists at each station that the researcher visited, the following is recommended:

- The DVR should be completed meticulously and should contain comprehensive information pertaining to each incident;
- Commanders should regularly inspect the DVR and verify the correctness of each incident; and
- SAPS members should undergo the necessary orientation in order to complete the DVR correctly.

5.3.5 Recommendations on procedures to issue and serve protection orders in terms of the Domestic Violence Act

The DVA makes provision for particular procedures to be followed when issuing protection orders. This Act further prescribes the necessary procedures that SAPS members should follow in order to efficiently address incidents of domestic violence. Although it was found that the majority of the SAPS members are familiar with the theoretical procedure they are meant to follow when serving protection orders, these members do not have the practical experience of actually serving protection orders since most police stations have dedicated members who serve protection orders. In this regard, the following measures are recommended:

- SAPS members should undergo practical training to ensure that members can serve protection orders. Such training interventions should introduce SAPS members to the different scenarios they may have to deal with when issuing protection orders in order to ensure the safety of both the victim and the SAPS member; and
- SAPS members should be informed and sensitised of the significance of safekeeping of copies of protection orders, and that such copies should be filed in the CSC and be readily available when needed.

5.3.6 Recommendation on the shortcomings and challenges to effectively implementing the provisions set out in the DVA

Based on the findings of this study, it is evident that various shortcomings and challenges exist in terms of the effective implementation of the DVA by the SAPS. As a result, the following measures are recommended to address such shortcomings and challenges:

- The SAPS should recruit interpreters who could be available on standby should victims of domestic violence who speak foreign languages report cases of domestic violence;

- Each police station should have its own VER that should act as a haven of safety to victims. The VER should also be equipped to address the needs of children;
- Trauma counsellors should be available to provide the necessary assistance and comfort to victims of domestic violence;
- Debriefing sessions should be conducted with SAPS members who are exposed to incidents of domestic violence; and
- Station commanders should consider the psychological well-being of those SAPS members who are victims of domestic violence themselves and who have to deal with these incidents when they are on duty.

5.4 CONCLUSION

This chapter provided a summary of each chapter of the study, presented and overview of the conclusions drawn from the research, and put forward recommendations based on the findings of the study.

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APPENDIX A: APPROVAL TO CONDUCT RESEARCH IN THE SAPS

S.F. 1011-1822

SAPS 76

SUID-AFRIKAANSE POLISIEDIENS



SOUTH AFRICAN POLICE SERVICE

Private Bag 267 Braamfontein, 2017
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THE PROVINCIAL COMMISSIONER
GAUTENG PROVINCE
PARKTOWN
2017

12 May 2015

- A. The Head: Legal Service
S A Police Service
GAUTENG
- B. The Deputy Provincial Commissioner: WSPOL
S A Police Service
GAUTENG
- C. The Deputy Provincial Commissioner: Human Resource Management
S A Police Service
GAUTENG

APPLICATION FOR RESEARCH: MRS MT VAN NIEKERK: AN EXPLORATIVE STUDY OF THE IMPLEMENTATION OF THE DOMESTIC VIOLENCE ACT 116 OF 1998 BY THE SOUTH AFRICAN POLICE

- A-B: For your recommendation
- C: For your approval

1. Attached herewith is an application from Mrs MT Van Niekerk to conduct research within the SAPS.
2. The application has been evaluated by the Provincial Research Office (Strategic Management) as per attached Annexure and found to be in compliance with National Instruction 1 of 2006: Research.
3. In the opinion of the Research Office, the research will be beneficial as could assist the SAPS to enhance knowledge of the shortcomings and challenges the members experience in the execution of the Domestic Violence Act 116 of 1998, which could lead to improved policing of domestic violence related crimes.

APPLICATION FOR RESEARCH: MRS MT VAN NIEKERK: AN EXPLORATIVE STUDY OF THE IMPLEMENTATION OF THE DOMESTIC VIOLENCE ACT 116 OF 1998 BY THE SOUTH AFRICAN POLICE

4. In line with National Instruction 1 of 2006, you are afforded the opportunity to comment on the relevance and feasibility of the proposed research within your area of responsibility. Any objections against the research will be noted and you will be requested to clarify and motivate those with the Provincial Head, Organisational Development & Strategic Management.
5. In order to ensure the effective and efficient finalisation of this application you are requested to forward your comments back to Strategic Management office within the allocated timeframe.
6. Your cooperation and assistance is appreciated



PROVINCIAL HEAD: ORGANISATIONAL DEVELOPMENT & STRATEGIC MANAGEMENT: GAUTENG
SJ PHETO
Date: 2015/05/14

BRIGADIER

ANNEXURE A

APPLICATION FOR RESEARCH: MRS MT VAN NIEKERK: AN EXPLORATIVE STUDY OF THE IMPLEMENTATION OF THE DOMESTIC VIOLENCE ACT 116 OF 1998 BY THE SOUTH AFRICAN POLICE

COMMENTS & RECOMMENDATION: PROVINCIAL RESEARCH CENTRE

i	OFFICIAL FILE NO:	3342(PC165014)
	FILE COMPUTER REFERENCE NO:	7192141
	MOTIVATION FOR RESEARCH:	<ul style="list-style-type: none"> To explore the degrees of implementation of the Domestic Violence Act 116 of 1998 by members of the SAPS.
ii	APPLICATION FOUND TO BE COMPLETE:	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>
	INDemnITY UNDERTAKING SIGNED:	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>
	APPLICATION PERUSED BY:	SAC ML Ladzani
	CONTACT NO:	011 274 7629
iii	SIGNATURE:	 M.L. Ladzani
	DATE:	2015-05-14
	APPLICATION VERIFIED BY:	
	APPLICATION RECOMMENDED:	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>
iv	CONTACT NO:	
	SIGNATURE:	
	DATE:	

APPLICATION FOR RESEARCH: MRS MT VAN NIEKERK: AN EXPLORATIVE STUDY OF THE IMPLEMENTATION OF THE DOMESTIC VOILENCE ACT 116 OF 1998 BY THE SOUTH AFRICAN POLICE

A. RECOMMENDATION BY PROVINCIAL HEAD: LEGAL SERVICE
TIME ALLOCATED: 3 days

COMMENTS WITH REGARDS TO ANY LEGAL OBJECTIONS AGAINST THE RESEARCH WITH ANY ADDITIONAL LIMITATIONS TO RESEARCHER:	
APPLICATION RECOMMENDED:	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>
SIGNATURE: <i>J. de Vries</i>	DATE: 2015/05/26

B. RECOMMENDATION BY RELEVANT LINE MANAGER: DEPUTY PROVINCIAL COMMISSIONER: VISPOL
TIME ALLOCATED: 3 days

COMMENTS WITH REGARDS TO THE RELEVANCE AND FEASIBILITY OF THE RESEARCH WITHIN YOUR ENVIRONMENT:	
<i>THE RESEARCH IS RECOMMENDED AS IT WILL ENHANCE SCIENCE, INQUIRY AND PERSONAL IMPLEMENTATION OF THE ACT</i>	
APPLICATION RECOMMENDED:	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>
SIGNATURE: <i>J. Prinsloo</i>	DATE: 2015/05/26



PERMISSION TO CONDUCT RESEARCH IN THE SAPS

RESEARCH TOPIC: AN EXPLORATIVE STUDY OF THE IMPLEMENTATION OF THE DOMESTIC VIOLENCE ACT 176 OF 1998 BY THE SOUTH AFRICAN POLICE SERVICE

RESEARCHER: MRS MT VAN NIEKERK

Permission is hereby granted to the researcher above to conduct research in the SAPS based on the conditions of National Instruction 1 of 2006 (as handed to the researcher) and within the limitations as set out below and in the approved research proposal.

This permission must be accompanied with the signed Incentive, Undertaking & Declaration and presented to the commander present when the researcher is conducting research.

This permission is valid for a period of Twelve (12) months after signing.

Any enquiries with regard to this permission must be directed to Lt. Col. Peters or SAC Linda Ladzani at PetersNS@saps.gov.za / edzanin@saps.gov.za.

RESEARCH LIMITATIONS / BOUNDARIES:

Research Instruments:	Data collection Interviews (Semi-structured) Interviews (Structured) Literature Study
Target audience / subjects:	Police Officials
Geographical target:	JHB Central Cluster Stations: Sophiatown SAPS / Langlaagte SAPS / Johannesburg SAPS / Brixton SAPS / Booyebus SAPS / Fairlands SAPS
Access to official documents:	None


A) DEPUTY PROVINCIAL COMMISSIONER: HUMAN RESOURCE MANAGEMENT, GAUTENG
DS DE LANGE

MAJOR GENERAL
DEPUTY PROVINCIAL COMMISSIONER: HUMAN RESOURCE MANAGEMENT, GAUTENG

APPENDIX B: ETHICS APPROVAL: UNIVERSITY OF SOUTH AFRICA



COLLEGE OF LAW RESEARCH ETHICS REVIEW COMMITTEE

Date: 2015-02-24

Reference: ST16
Applicant: T van Niekerk

Dear T van Niekerk

DECISION: ETHICS APPROVAL

Name	T van Niekerk
Proposal	An explorative study of the implementation of the Domestic Violence Act 116 of 1998 by the South African Police Service
Qualification	MTech

Thank you for the application for research ethics clearance by the College of Law Research Ethics Review Committee for the above mentioned research. **Final approval is granted.**

The application was reviewed in compliance with the Unisa Policy on Research Ethics.
The proposed research may now commence with the proviso that:

- The researcher will ensure that the research project adheres to the values and principles expressed in the Unisa Policy on Research Ethics which can be found at the following website:
http://www.unisa.ac.za/cmsys/staff/contents/departments/res_policies/docs/Policy_Research%20Ethics_rev%20napp%20Council_27.06.2012.pdf
- Any adverse circumstances arising in the undertaking of the research project that is relevant to the ethicality of the study, as well as changes in the methodology, should be communicated in writing to the College of Law Ethical Review Committee.



University of South Africa
Pretoria Street, Muckleneuk Ridge, City of Tshwane
PO Box 197, Unisa, 0001, South Africa
PHONE: 011 251 9611

APPENDIX C: CONFIRMATION OF LANGUAGE EDITING



PO Box 77000, Nelson Mandela University, Port Elizabeth, 6031, South Africa mandela.ac.za

14 December 2017

To Whom it May Concern

I herewith confirm that I have proofread the following dissertation:

Title of Study: *AN EXPLORATIVE STUDY OF THE IMPLEMENTATION OF THE DOMESTIC VIOLENCE ACT 116 OF 1998 BY THE SOUTH AFRICAN POLICE SERVICE*

Student Name: Teresa van Niekerk

Student Number: 37839918

Institution: University of South Africa (UNISA)

Qualification: MAGISTER TECHNOLOGIAE (POLICING)

I suggested relevant changes, where I saw fit, using the "Track Changes" function in MSWord; the student could thus either accept or reject the suggested changes at her own discretion.

I trust that this is in order.

Kind regards,

A handwritten signature in blue ink, appearing to read "Nancy Morkel".

Nancy Morkel

MA English (NMMU), PGDHET (UFH), BA Hons English (UPE), BA MCC (UPE)
Editing Methodology (SU), Editing Practice (SU)
nancy.morkel@mandela.ac.za