

Going the extra mile

Police training on domestic violence

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As anticipated by the drafters of the Domestic Violence Act (DVA),² the South African Police Service holds the key to the successful implementation of the Act. Over the past ten years, researchers and independent bodies tasked with monitoring the implementation of this legislation have consistently called for more training for police officials on how to deal with domestic violence. However, the reality is that police officials already receive such training. The question that therefore arises is why these training programmes appear to be ineffective in ensuring compliance with the DVA. A recently completed research and advocacy project found that although the majority of SAPS members interviewed had a basic understanding of the DVA and its key concepts, their ability to apply its provisions in practical problem-solving scenarios was often limited, leading to the recommendation that training methodologies should be more practice-oriented if they are to improve DVA compliance.³

The Legal Advice and Training Programme⁴ (hereafter referred to as the Legal Programme) at the Saartjie Baartman Centre for Women and Children in Athlone, Cape Town, assists clients to obtain and enforce protection orders in terms of the DVA. This is a major part of the Legal Programme's work. Through these activities, the Programme noticed that many of the well-documented⁵ shortcomings in the police's response to domestic violence still persisted. These ranged from infringements of complainants' right to dignity (for example, making insensitive comments and 'blaming' them for the violence), to conduct that endangered their lives and right to freedom from violence, such as a refusal to intervene in potentially life-threatening situations of domestic violence. Failure of the SAPS to act or intervene

appropriately both potentially endangers the complainant and constitutes a breach of the duties imposed on the police by the DVA and the accompanying National Instruction issued by the Commissioner of Police in terms of the DVA.⁶ This research project was established to explore why the current SAPS training programmes appear to be ineffective in ensuring police compliance with the duties set out in the DVA and accompanying National Instruction.

Before embarking on the research, the research team scanned the Legal Programme's client files, and observed two reasons for inadequate or inappropriate police responses to domestic violence: a lack of knowledge of the DVA and the National Instruction, or a misinterpretation of the DVA's provisions. This was also the finding of a

number of research studies aimed at monitoring the implementation of the DVA in the years since its implementation in 1999. These studies almost unanimously recommended additional training for police officials.⁷ But while it appeared that additional training might remedy the problem, police officials in fact *already* receive training on the Act: at least once, as part of their basic training, and likely again as part of ongoing in-service training.

POLICE ACCOUNTABILITY AND OVERSIGHT

The research and advocacy project referred to above formed part of a broader programme administered by the Open Society Foundation, called the Criminal Justice Initiative. The Initiative's goal is to build accountability within the individual agencies of the criminal justice system (i.e. police, courts, prisons), with the intention of 'ensuring a broader humanity, efficiency and accountability within the criminal justice process as a whole'.⁸ For this reason, the research and advocacy project linked the issue of training on the DVA to police accountability. In practice, this meant that training would not be examined in isolation; researchers took the 'accountability framework'⁹ in the Act into consideration in planning the project. This influenced the project in the sense that increasing accountability in terms of the DVA was the overall vision or backdrop against which the project operated. The point of departure was that police members need to know *what they are accountable for*, which is where training plays a key role. For this reason, the role of the so-called oversight mechanisms in domestic violence was also included in the research design.

The main objective of the research and advocacy project was to evaluate existing training programmes and contribute to such programmes, where appropriate, in order to strengthen the capacity of SAPS members to comply with their duties as set out in the DVA. A second objective was to enhance police accountability in respect of dealing with domestic violence matters by reinforcing the

capacity of formal oversight mechanisms, such as the Independent Complaints Directorate (ICD) and the provincial Department of Community Safety (DCS) in the Western Cape.¹⁰

RESEARCH DESIGN

As explained above, the purpose of the research was to explore why current training programmes appear to be ineffective in ensuring police compliance with the duties set out in the DVA and accompanying National Instruction. We therefore started by examining what 'compliance' with the DVA meant.

Drawing on the experience of the Legal Programme, we determined six elements of the DVA and National Instruction that an SAPS official, at a minimum, could be expected to comply with when attending to a complaint of domestic violence (either at the Community Service Centre or at the scene of the violence). This assessment was specifically based on our understanding of clients' needs. We identified these duties as the following:

- To listen to the complainant and treat her with respect
- To provide immediate assistance
- To ensure her safety (for instance by arresting the perpetrator, where appropriate) and enquire into her injuries
- To inform her of her rights and options
- To assist her to obtain medical attention and find shelter and to refer her to other service providers, where appropriate
- To open a criminal docket and investigate the case

Two research teams (from the Community Law Centre and the Saartjie Baartman Centre respectively) conducted interviews with SAPS members and station commissioners at 20 police stations in the Western Cape. Since the study was carried out with the assistance of the provincial commissioner, his office identified the 20 stations. These stations were more or less evenly distributed among rural, peri-urban and urban areas.

The research team conducted 75 structured interviews with SAPS members who deal with domestic violence cases either at the Community Service Centre (CSC) or while conducting vehicle patrols. Of the 75 respondents 56 were men and 19 were women. Respondents had an average of 8,8 years' experience in the SAPS. Research participants were selected by the various station commissioners or CSC commanders, and for the most part, this selection depended on the availability of officials at the time of the researchers' visit. The research team also conducted 20 structured interviews with station commissioners or their representatives. In addition, three semi-structured focus group discussions were held with representatives from the national and provincial offices of the Independent Complaints Directorate and the Western Cape Department of Community Safety.

The interviews focused on:

- Training that the interviewee received (including the length of training sessions, who conducted the training, the content of the training and which aspects of the training the interviewee assessed to be most useful)
- Knowledge of the DVA and National Instruction and application in practice
- The interviewee's view of the DVA and recommendations for training¹¹

To assess whether the respondents had the knowledge and skills required to apply the DVA and National Instruction in practice, researchers asked what they understood by 'domestic violence' and 'protection' of the complainant. Further questions canvassed the knowledge and skills of respondents in respect of assisting complainants to find shelter or medical treatment, explaining one of the prescribed forms to complainants, and arresting alleged abusers for breach of the protection order. Three case studies were included to ensure that the questions were realistic and practice-oriented. The following is an example of one of the case studies. This case study was intended to determine how a respondent would approach a situation in which an alleged perpetrator needs to be arrested, where there is a protection order in place, but where there is a

history of the complainant's withdrawing the charges and a suggestion that she might be under the influence of alcohol.

Lindiwe is a 23-year old woman who lives with her boyfriend, Peter. She has repeatedly called the police station for assistance because Peter assaults her. However, on each occasion she withdrew the criminal charges because Peter is the breadwinner and she does not want him to go to jail.

One Friday evening Lindiwe arrives at the police station with a domestic violence protection order that prohibits Peter from assaulting her, and the accompanying warrant of arrest. She alleges that Peter has again assaulted her, thus breaching the protection order, and has also threatened her with a knife. She is therefore really scared of him and asks you to arrest him for breaching the order.

When you take Lindiwe's statement, you realise that her breath smells of alcohol and that her speech is slightly slurred.

FINDINGS

SAPS members

Seventy-three per cent of the SAPS members interviewed had received training on the DVA, mostly for more than one day. The majority of respondents had been trained by the SAPS Training Division. Yet it was not possible to draw sharp distinctions in levels of knowledge between those members who had been trained and those who had not.

Regarding the central research question, i.e. whether the current training programmes provide SAPS members with the knowledge and skills required to apply the DVA and the National Instruction in practice, it appeared from the interviews that the majority of the research participants (members dealing with domestic violence complaints) had a basic awareness of the DVA and the National Instruction. Their explanations of the meaning of operational concepts such as 'domestic violence', 'domestic

relationship' and 'protection of the complainant', while basic, were generally satisfactory.

However, when it came to the practical application of knowledge in a problem-solving scenario, the majority of interviewees experienced difficulties when multi-faceted variables were included; for example, the prospect of reciprocal complaints or the possible need to evaluate the complainant's state of intoxication before taking her statement. This points to limitations in the ability of those trained to *apply* their knowledge. It also confirms recommendations from research participants that training should be more 'practical' and oriented towards problem solving.

In responding to the above case study, for example, the majority of the respondents indicated that they would arrest Peter for violating the protection order. However, there seemed to be some indecision as to *when* to arrest Peter. In this regard, Lindiwe's state of sobriety (or lack thereof) presented respondents with considerable difficulties. Twenty-two per cent of the participants said that they would not take a statement from someone smelling of alcohol, while others stated that they could, but they would have to assess how intoxicated Lindiwe was. These participants said they would assist Lindiwe by finding her suitable shelter or have her stay over at the station's Trauma Room, and then take a statement from her once she had sobered up. At this point they would arrest Peter.

In evaluating the responses received, researchers took into account that there will always be some individual discretion in the assessment of an incident of domestic violence, and therefore didn't categorise responses as 'right' or 'wrong. Instead, attempts were made to identify trends. The general trend towards arresting Peter discerned above is in line with what would ordinarily be expected under the circumstances, given the fact that there is a clear breach of the protection order and, on the facts provided, an indication of imminent harm to Lindiwe. Her potential state of intoxication should be assessed: if she is unable to make a statement under oath because she is under the influence of alcohol, efforts should be made to

find a place of safety such as a victims' shelter where she can be accommodated in comfort until she can provide the police with such a statement. The Community Service Centre should have a list of potential service providers who might assist to find an appropriate shelter.

However, there were a number of responses that researchers identified as disconcerting, not only because they were incorrect interpretations of the DVA (and other laws) but also failed to provide Lindiwe with the necessary protection. Some of the participants used a 'creative' interpretation of the law and decided to arrest Peter – though not for violation of the protection order or assault, but for riotous behaviour. Two participants would arrest Peter for riotous behaviour, and once Lindiwe was sober, they would take her statement and re-arrest him for violation of the protection order. Another participant stated that he would arrest Lindiwe for riotous behaviour should she protest against the fact that they could not take steps against Peter, because she was under the influence of alcohol. Three participants stated that there was nothing that they could do as she was under the influence of alcohol. Of these three participants, one would send her back home, another participant would warn Peter, while the third officer would speak to Peter 'man to man'. In all three these cases Lindiwe would thus be exposed to the possibility of further violence from Peter without receiving any real protection from the police.

The interviews also revealed that 40 per cent of the respondents did not know what Form 1 was, or were unable to explain its content to researchers. Paragraph 10 of the National Instruction requires members to provide Form 1 to a complainant in a domestic violence case and to explain the contents thereof. This form is incorporated in the regulations to the Act. Its purpose is to ensure that complainants are informed about all the legal options available to them and about the assistance that police officials can render to them. Importantly, Form 1 makes it clear that a complainant can both apply for a protection order at court and lay criminal charges with the police (provided that the act of domestic violence committed against her also amounts to a criminal offence). During the

interview, participants were handed a copy of the form and were asked to explain the contents to the researcher, as if the researcher were a complainant in a domestic violence case.

Station commissioners

The twenty station commissioners interviewed were very experienced, with an average length of service in the SAPS of 22,9 years. The interview covered areas similar to that for SAPS members, except that applying the DVA in practice was expanded to include various aspects related to management of domestic violence cases at station level. In this regard, questions around the following topics were included:

- Responsibility for training of SAPS members at station level
- Prioritisation of domestic violence
- Ensuring compliance with the National Instruction
- The interviewee's view of the DVA and recommendations for training

Nineteen of the 20 participants had been trained on the DVA. We noted the same trends here as in the case of police officials dealing with domestic violence, i.e. that the training methodologies used were reportedly more lecture-style and based on theory rather than practical or experiential. It was interesting to note that SAPS Legal Services appeared to play a larger role in providing training for station commissioners than the Training Division.

Our questions regarding the prioritisation of domestic violence yielded important information about the management of this category of offences at station level. It also enabled researchers to identify a number of good practices relating to service of protection orders, ensuring compliance with the National Instruction (with specific reference to administrative requirements) and measuring progress in policing domestic violence.

When it came to presenting or arranging training on domestic violence at station level, we observed that certain station commissioners leave formal

training to centralised training divisions. Others take full responsibility for training at station level, including ensuring that members who attend formal training courses away from the station share this information on their return. In addition to arranging formal training for members, station commissioners also make use of informal training opportunities, such as station lectures, 'parade' meetings, informal training while checking registers, etc. We identified the training of reservists on the implementation of the DVA as an area of concern at certain stations.¹²

Oversight bodies

There are three bodies that monitor and oversee the SAPS in respect of its compliance with the DVA: the ICD, the parliamentary portfolio committee on police in the National Assembly, and civilian bodies at provincial level (for example, the Department of Community Safety, in the case of the Western Cape).¹³ The reports submitted by the ICD to the parliamentary portfolio committee (as well as the reports of the SAPS itself) during 2007 highlighted the importance of training in ensuring members' compliance with the DVA.

Through focus group discussions with members of the ICD and the DCS, we examined their views on the effectiveness of training for police on domestic violence. We also looked at whether these bodies were conducting training for police officials on domestic violence. We found that both bodies offer training aimed at enhancing police compliance with the DVA.

In the Western Cape an important development at provincial level was the establishment of a Joint Complaints Mechanism, consisting of the DCS, SAPS (various directorates, including the National Evaluation Services), ICD, and the Metro Police. This combined body, which has signed a memorandum of understanding to ensure that there is a shared vision, jointly examines instances of non-compliance with the DVA.¹⁴ A research participant reported that this body is a good forum to ensure police accountability for non-compliance, and that the levels of cooperation from all partners are generally acceptable.

The National Assembly portfolio committee on women, youth, children and people with disability recently held parliamentary hearings on the implementation of the DVA since its introduction.¹⁵ Unsurprisingly, the call for improved police training also reverberated through these hearings. Although we had excluded this committee from the research for methodological reasons, it has an important role to play in monitoring the implementation of the DVA – thus completing the accountability picture.

RECOMMENDATIONS

Based on the research findings, researchers formulated recommendations aimed among others at the SAPS Training Division (national and provincial), station commissioners and SAPS management. These include:

- Domestic violence training should be more practical and based more on practical examples
- New students should be given additional training on domestic violence as part of their basic training
- Policy guidance should be given to station commissioners regarding their responsibility for training on the DVA at station level
- A uniform measuring tool for measuring progress in policing domestic violence at station level should be developed
- Efforts should be made to avoid duplication between training offered by the ICD and SAPS Training Division
- Resources should be allocated for training done by the ICD
- The Joint Complaints Mechanism in the Western Cape should be monitored as a potential 'promising practice' to enhance police accountability in domestic violence

REFLECTING ON THE RESEARCH EXPERIENCE

The completion of this project provided insights into the levels of training that police officials had received and their ability to apply the DVA in

practice. It also offered some interesting 'snapshots' of the issues that complicate the policing of domestic violence. Although researchers did not make use of the 'immersion' methods applied by, for example, Altbeker and Steinberg (who both spent a considerable amount of time accompanying SAPS members on their duties),¹⁶ the time we spent in the Community Service Centres and in conversation with SAPS members provided us with an insider's view of certain of the operational constraints facing police officials. These included a lack of secondary support, such as shelters for women experiencing domestic violence, or organisations providing counselling for these women. This frustrated many SAPS members due to their inability to intervene in what seemed to them to be an endless cycle of violence and reluctant reconciliation.

Contrary to our expectations, the police stations located in the rural areas were not necessarily worse off compared to their counterparts in urban or peri-urban areas. We observed that one of the positive spin-offs of sector policing appears to be that police officials assigned to particular sectors get to know their sectors really well, including the households where domestic violence could be expected to erupt repeatedly. They therefore seem to be in a better position to intercede. Although not necessarily as well placed as their urban counterparts in terms of access to support organisations, these rural stations seemed to be more invested in enlisting all available assistance in the community to ensure the safety of women experiencing domestic violence.

The 'insider's view' referred to above did not always result in a sympathetic view of the way in which certain police officials approach domestic violence. There were police officials who were not even aware of the National Instruction on domestic violence. Furthermore, many officials appeared to approach domestic violence cases with a lack of patience, understanding and empathy towards complainants, which is also borne out by the information presented to the portfolio committee at its recent hearings. This raises the thorny question of 'transformative'

training – in other words, to what extent does one expect training on domestic violence not only to convey knowledge and skills, but to also transform the trainee's personal attitude towards domestic violence? We did not ultimately formulate a recommendation on this,¹⁷ but we flagged it as a question for further consideration.

CONCLUSION

The project started off by questioning the assumption that 'police need more training on domestic violence'. This was borne out by our research findings, as indicated, for example, by the 40 per cent of research participants who were unfamiliar (or insufficiently familiar) with a key 'tool of the trade' such as Form 1. Our results have also shown that 'more of the same' training will likely not address the difficulties currently experienced by victims of domestic violence who approach the police for assistance. For this reason, we have recommended adjustments in terms of training methodologies and greater emphasis on training at station level – not as a replacement for the more centralised training programmes, but as an ongoing and vital complement to these programmes.

One theme that runs like a golden thread through our own observations from the interview questions and the recommendations from research participants is the call for practice-oriented training. Although the project did not include an in-depth study of the content of existing courses, our review of current training material and our informal discussions with trainers indicate that expanding the course material is not necessarily where the answer lies. As it stands, the current training courses do include practical examples and experiential training methods; however, experience has shown that when trainers are under time pressure to complete training courses and to cover a set body of prescribed coursework, this is usually the element that is cut short.

There can be no question that allowing more time for intensive, practical training on domestic violence for more SAPS members (and station

commissioners) will require the commitment of additional financial resources. This was recognised by one of the station commissioners when discussing the resource implications of ongoing training for members. She observed that although there were financial implications in providing training to members on a continuous basis (in the form of ongoing follow-up even with members who have already been trained), the necessary resources had to be made available. She added:

Domestic violence is seen as the number one crime: therefore we must go the extra mile with training.¹⁸

Given the reality of competing priorities, both in terms of the basic training programme and subsequent in-service training, one strongly hopes that SAPS management will see the long-term wisdom of investment in more focused, practical and results-based training for members on the DVA and its National Instruction.



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NOTES

- 1 The authors gratefully acknowledge the contributions of Charmaine Morris and Fatima Ismail, both employed by the Saartjie Baartman Centre for Women and Children, to this article.
- 2 Act 116 of 1998.
- 3 For a comprehensive report see H Combrinck and L Wakefield, *Training for Police on the Domestic Violence Act*. Bellville and Gatesville: Community Law Centre and Saartjie Baartman Centre, 2009. Available at www.communitylawcentre.org.za/clc-projects/gender/publications/gender-publications/.
- 4 The Saartjie Baartman Legal Advice and Training Programme is a partnership undertaking between the Saartjie Baartman Centre and the Gender Project of the Community Law Centre, University of the Western Cape.
- 5 See e.g. Human Rights Watch, *Violence Against Women in South Africa – State Response to Domestic Violence and Rape*, New York: Human Rights Watch, 1995, 74-76; J Fedler, *Lawyering Domestic Violence through the Prevention of Family Violence Act 1993 – An Evaluation after a Year in Operation*, *South African Law Journal*, (1995), 246; S Mathews & N Abrahams, *Combining Stories and Numbers: An Analysis of the Impact of the Domestic Violence Act (No. 116 of 1998) on Women*, Cape Town/ Tygerberg: Gender Advocacy Programme & Medical Research Council, 2001, 26-27.

- 6 SAPS National Instruction 7/1999 on Domestic Violence, Version 02.00 (published in *Government Gazette* No 207, 3 March 2006).
- 7 See P Parenzee et al, *Monitoring the Implementation of the Domestic Violence Act: First Research Report*, 2001, 85-89; S Mathews & N Abrahams, *Combining Stories and Numbers*, 2001, 26-27, 40; J Smit & F Nel, 'An evaluation of the Domestic Violence Act: What is happening in practice?', *Acta Criminologica* 15(3) (2002), 53-55; P Parenzee & D Smythe, *Domestic Violence and Development: Looking at the Farming Context*, 2003, 40, 51; L Artz, *Magistrates and the Domestic Violence Act: Issues of Interpretation*, 2003, 25-26.
- 8 For more information, see website of the Open Society Foundation of South Africa (available at www.osf.org.za) and follow links to 'Criminal Justice Initiative'.
- 9 The DVA imposes duties on members of the SAPS in respect of managing domestic violence cases, for example, sections 2 and 8(4)(b). In addition, the 'accountability framework' set out in section 18 requires the National Commissioner of the SAPS to issue national instructions (as contemplated in section 25 of the South African Police Service Act 68 of 1995) with which its members must comply in the execution of their functions in terms of this Act. Such instructions must be published in the *Gazette* – Sec 18(3). This national instruction was issued in 1999 and updated in 2006. A failure by a member of the SAPS to comply with an obligation imposed in terms of this Act or the National Instruction referred to above constitutes misconduct as contemplated in the South African Police Service Act of 1995 – Sec 18(4)(a). The ICD must, every six months, submit a report to Parliament regarding the number and particulars of matters reported to it, and setting out the recommendations made – Sec 18(5)(a). The National Police Commissioner must similarly submit a report to Parliament every six months regarding the number and particulars of complaints received against SAPS members in respect of any failure to comply with the DVA or National Instruction, the disciplinary proceedings instituted as a result thereof, the decisions which resulted from such proceedings, and steps taken as a result of recommendations made by the ICD – Sec 18(5)(d)(i)-(iii).
- 10 The study was conducted with a further objective, viz. to examine whether the intersections between domestic violence and HIV/AIDS should be included in police training on domestic violence. Due to length constraints, this objective and related findings will not be discussed here.
- 11 The interview schedule also contained a section on the intersections between domestic violence and HIV/AIDS, which will not be dealt with here.
- 12 Station commissioners are responsible for the training of reservists. The responses received here ranged from those of station commissioners who had put highly regulated systems in place for the training of reservists on domestic violence, to those who conceded that they did not have training for reservists on domestic violence. This would constitute a serious shortcoming in practice, since reservists fulfill the same tasks in practice as 'regular' members and are therefore expected to also attend to domestic violence complaints.
- 13 A further body or mechanism, viz. the SAPS Evaluation Services, which operates both nationally and provincially, should be added here.
- 14 The Joint Complaints Mechanism body handles not only non-compliance under the DVA, but also other instances of alleged police misconduct, e.g. death in custody.
- 15 See minutes of portfolio committee meeting on 28 October, available at www.pmg.org.za/report/20091028-domestic-violence-act-public-hearings-implementation-over-past-years.
- 16 See A Altbeker, *The Dirty Work of Democracy*, Johannesburg: Jonathan Ball, 2005; J Steinberg, *Thin Blue: the unwritten rules of policing South Africa*, Johannesburg: Jonathan Ball, 2008.
- 17 The topic of transformative training and its effectiveness (or lack thereof) is a broad one that falls outside the scope of this project.
- 18 Translated from Afrikaans.