

# DOMESTIC VIOLENCE REPORT TO PARLIAMENT

FOR THE PERIOD

JANUARY TO JUNE 2005

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# 1. INTRODUCTION

This is the tenth report produced by the Independent Complaints Directorate (ICD) to be tabled before Parliament. The report seeks to present a factual analysis of cases of non-compliance with the Domestic Violence Act (DVA) by members of the South African Police Service (SAPS) and the recommendations made to address same. The type of cases of non-compliance with the DVA covered in this report include failure to effect warrants of arrest, failure to advise complainants of options (e.g failure to advise complainant to lay a criminal charge, or apply for a protection order or both), failure to assist complainants, failure to furnish a subpoena, and failure to serve a protection order. The highest number of these cases was received in Gauteng with a total number of 22. The second highest number of cases of non – compliance is Western Cape with a total of 21, followed by North West with a total of 11, followed by Limpopo with a total of 8 respectively. Northern Cape recorded 4 cases. Both Free State and Mpumalanga recorded 3 cases each, followed by Eastern Cape and KwaZulu Natal with a total of 2 cases each. The total number of non-compliance cases received by the ICD is 76. It is, however, interesting to note that while a total of cases of non– compliance with the DVA were recorded across all provincial offices, there is only one applications for exemption from internal prosecution were received and dealt with from Limpopo Province

Also, this report seeks to highlight various proactive oversight engagements undertaken by the ICD during the period under review with a view to promote compliance with the DVA. These activities were in the form of awareness campaigns, workshops, station visits and station audits. The ICD will continue to embark on these activities to enhance its efforts towards ensuring a successful implementation of the Domestic Violence Act, 116 of 1998.

## 2. THE MANDATE OF THE ICD IN RESPECT OF INCIDENTS OF NON-COMPLIANCE WITH THE DOMESTIC VIOLENCE ACT, 116 OF 1998

In terms of the South African Police Service Act 68 of 1995, the ICD is empowered to investigate all cases of misconduct against the SAPS and the MPS, including the following category of offences and misconducts:

- I. Where a member kills or causes the death of any person involved with him/her in a domestic relationship, such as a spouse.
- II. Where a member commits an offence such as assault, rape, etc. against a person in a domestic relationship with the member, such as a spouse.
- III. Where a member refuses to assist a victim of domestic abuse.

In terms of the Domestic Violence Act 116 of 1998, failure by a member of the South African Police Service to comply with an obligation imposed in terms of this Act or the National Instructions referred to in subsection (3), constitutes misconduct as contemplated in the South African Police Service Act 68 of 1995 and the Independent Complaints Directorate, established in terms of the said Act must forthwith be informed of any such failure reported to the South African Police Service. Furthermore, the ICD must, every six months, submit a report to Parliament regarding the number and particulars of matters reported to it in terms of subsection (4)(a), setting out the recommendations made in respect of such matters.

In essence, the SAPS are obliged to report to the ICD all misconduct cases pertaining to non-compliance with the DVA. The ICD could in turn exempt members where a valid explanation for non-compliance is offered. Where exemption is refused, the ICD could investigate or ask the SAPS to investigate with the ultimate purpose of holding a disciplinary hearing. The ICD's power to investigate incidents of non-compliance with the DVA is derived from the SAPS Act referred to above. Non-compliance is misconduct and the Act empowers the ICD to investigate both offences and misconducts. In other words, non-compliance misconducts are equivalent to misconducts categorized as Class 4 cases by the ICD.

### 3. STATISTICS RELATING TO CASES OF NON-COMPLIANCE WITH THE DVA AND THE PARTICULARS THEREOF

#### 3.1 CASES OF NON-COMPLIANCE WITH THE DVA

In terms of the Domestic Violence Act, the ICD is obliged to report to Parliament regarding the number of cases of non-compliance with the DVA received and the particulars thereof and also set out how it dealt with recommendations of such matters.

The following statistics relate to cases of non-compliance received from 1 January to 30 June 2005 and are analyzed according to provinces.

#### 3.1.1 GAUTENG

Gauteng received 22 complaints of non-compliance with the DVA. The particulars thereof are as follows:

##### a. Failure to effect the arrest of the Respondent

CCN	POLICE STATION	RECOMMENDATIONS	STATUS
2005010107	Florida	Case referred to SAPS for departmental steps to be instituted against the member	Member was found guilty at the disciplinary hearing and given a verbal warning
2005010346	Wynberg	Case referred to SAPS for departmental steps to be instituted against the member.	Matter still pending the disciplinary action to be instituted by SAPS.
2005010350	Rietgat	Case referred to SAPS for departmental steps to be instituted against the members	Matter pending institution of disciplinary hearing by SAPS members
2005020605	Wonderboom	Matter referred to SAPS for investigation and departmental steps to be instituted against the member	Matter still waiting for the outcome of the investigation and institution of disciplinary hearing by SAPS
2005020606	Pretoria North	Matter referred to SAPS for investigation and departmental steps to be instituted against the member	Matter still waiting for the outcome of the investigation and institution of the disciplinary hearing by SAPS
2005030040	Atteridgeville	Matter referred to SAPS for investigation and departmental steps to be instituted against the member	Matter still waiting for the outcome of the investigation and institution of the disciplinary hearing by the SAPS
2005030092	Rosebank	Matter referred to SAPS for investigation and departmental steps	Matter still waiting for the outcome of the investigation and institution of disciplinary hearing by SAPS

		to be instituted against the member	
2005030246	Dube	Matter referred to SAPS for investigation and departmental steps to be instituted against the member	Matter still waiting for the outcome of the investigation and institution of disciplinary hearing the SAPS
2005030463	Orlando	Matter referred to SAPS for investigation and departmental steps to be instituted against the member	Matter still waiting for the outcome of the investigation and institution of disciplinary hearing by SAPS
2005030478	Lyttelton	Matter referred to SAPS for investigation and departmental steps to be instituted against the member	Matter still waiting for the outcome of the investigation and institution of disciplinary hearing by SAPS
2005050156	Katlehong	Matter referred to SAPS for investigation and departmental steps to be instituted against the member.	Matter still waiting for the outcome of the investigation and institution of disciplinary hearing by SAPS.
2005050265	Atteridgeville	Matter referred to SAPS for investigation and departmental steps to be instituted against the member.	Matter still waiting for the outcome of the investigation and institution of disciplinary hearing by SAPS.

**b. Failure to advise complainant of options, such as applying for a protection order and laying a criminal charge or both**

<b>CCN</b>	<b>POLICE STATION</b>	<b>RECOMMENDATIONS</b>	<b>STATUS</b>
2005010110	Brixton	Matter referred to SAPS for investigation and departmental steps to be instituted against the member.	Matter still waiting for the outcome of the investigation and institution of disciplinary hearing by SAPS.
2005010127	Hillbrow	Matter referred to SAPS for investigation and departmental steps to be instituted against the member.	Matter still waiting for the outcome of the investigation and institution of disciplinary hearing by SAPS.
2005020444	Garsfontein	Matter referred to SAPS for investigation and departmental steps to be instituted against the member.	Matter still waiting for the outcome of the investigation and institution of disciplinary hearing by SAPS.
2005010449	Mamelodi	Matter referred to SAPS for investigation and departmental steps to be instituted against the member.	Matter still waiting for the outcome of the investigation and institution of disciplinary hearing of SAPS.
2005030525	Akasia	Matter referred to SAPS for investigation and departmental steps	Matter still waiting for the outcome of the investigation and institution of disciplinary hearing.

		to be instituted against the member.	
2005040309	Dobsonville	Matter referred to SAPS for investigation and departmental steps to be instituted against the member.	Matter still waiting for the outcome of the investigation and disciplinary hearing by SAPS.
2005040513	Benoni	Matter referred to SAPS for investigation and departmental steps to be instituted against the member.	Matter still waiting for the outcome of the investigation and institution of disciplinary hearing by SAPS.
2005040516	Hillbrow	Matter referred to SAPS for investigation and departmental steps to be instituted against the member.	Matter still waiting for the outcome of the investigation and institution of disciplinary hearing by SAPS.
2005040310	Erasmia	Matter referred to SAPS for investigation and departmental steps to be instituted against the member.	Matter still waiting for the outcome of the investigation and institution of disciplinary hearing by SAPS.

**c. Failure to confiscate fire-arm from the respondent**

CCN	POLICE STATION	RECOMMENDATIONS	STATUS
2005010240	Alexandra	Matter referred to SAPS for investigation and departmental steps to be instituted against the member.	Matter still waiting for the outcome of the investigation and institution of disciplinary hearing by SAPS.

Out of 22 cases of non-compliance received by Gauteng, there were no applications for exemption from internal prosecutions.

No cases relating to domestic abuse allegedly committed by a SAPS member were reported.

### 3.1.2 WESTERN CAPE

Western Cape received 21 cases of non-compliance with the DVA. The particulars thereof are as follows:

**a. Failure to effect the arrest of the Respondent**

CCN	POLICE STATION	RECOMMENDATIONS	STATUS
2005020210	Woodstock	Disciplinary action was recommended against responsible officers.	Closed as unfounded.
2005040485	Kirstenhof	Matter referred to SAPS for departmental steps to be instituted against the officer.	Matter still waiting for the outcome of the disciplinary action.
2005020417	Steenberg	Disciplinary action was recommended against responsible officers.	Closed as unfounded.
2005030329	Miuzenberg	Case referred to SAPS	Closed as unfounded.

		for investigation.	
2005040010	Kraaifontein	Case referred to SAPS for investigation.	Matter was withdrawn by the complainant.
2005040558	Brackenfell	Matter was referred to SAPS for investigation and departmental steps against the member.	Matter pending progress report of the investigation and outcome of the disciplinary action.
2005040354	Sea Point	Mediation by the ICD.	Case closed as withdrawn.
2005050236	Vredenburg	Case referred to SAPS for investigation and departmental steps to be instituted against the member.	Case closed as withdrawn.
2005060338	Steenburg	Case referred to SAPS for investigation and departmental steps to be instituted against the member.	Case closed as substantiated and the member was verbally warned.
2005080352	Ravensmead	Case referred to SAPS for investigation and departmental steps to be instituted against the member.	Matter pending progress report of the investigation and outcome of the disciplinary action.
2005080379	Steenberg	Case referred to SAPS for investigation and departmental steps to be instituted against the member.	Matter pending progress report of the investigation and outcome of the disciplinary action.
2005030276	Phillipi	Case referred to SAPS for investigation and departmental steps to be instituted against the member.	Matter pending progress report of the investigation and outcome of the disciplinary action.

**b. Failure to assist the complainant, such as finding a suitable shelter, obtaining medical treatment accompany him/her to collect personal property, seize any dangerous weapon from the abuser and/or open a Domestic Violence or Criminal case**

CCN	POLICE STATION	RECOMMENDATIONS	STATUS
2005020210	Woodstock	Case referred to SAPS for investigation.	Case closed as unsubstantiated.
2005040436	Delft	Case referred to SAPS for investigation and departmental steps to be instituted against the member.	Matter pending progress report of the investigation and outcome of the disciplinary action.
2005040367	Herschel Smith	Matter referred to SAPS for investigation and departmental steps to be instituted against the member.	Case closed as dismissed.
2005050206	Lingalethu West	Case was referred to SAPS for disciplinary steps to be taken against the officer.	Matter pending the outcome of the disciplinary hearing.

20050700489	Mitchell's Plain	Case was referred to SAPS for investigation and disciplinary steps to be taken against the officer.	Matter pending the outcome of the disciplinary hearing.
2005080016	Woodstock	Matter was referred to SAPS for investigation.	Matter closed as unfounded.
2005020050	Athlone	Case was referred to SAPS for disciplinary steps to be taken against the officer.	Matter pending the outcome of the disciplinary hearing.
2005020617	Milnerton	Case was referred to SAPS for disciplinary steps to be taken against the officer.	Matter pending the outcome of the disciplinary hearing.

**c. Failure to serve a subpoena to the Respondent**

CCN	POLICE STATION	RECOMMENDATIONS	STATUS
2005040455	Maitland	The case was referred to SAPS for investigation.	Case closed as unfounded.

Out of 21 cases of non-compliance received by Western Cape, there were no applications for exemption from internal prosecution.

There were no reported cases of domestic abuse allegedly committed by SAPS members.

### 3.1.3 KWAZULU NATAL

KwaZulu Natal received 02 cases of non-compliance with the DVA. The particulars thereof are as follows:

CCN	POLICE STATION	RECOMMENDATIONS	STATUS
2005020019	Umkomaas	Case was referred to SAPS investigation.	Matter pending the outcome of the investigation.
2005020413	Umlazi	Case was referred to SAPS investigation.	Matter pending the outcome of the investigation.

**There were 02 reported cases of domestic abuse allegedly committed by SAPS members. The particulars are as follows:**

CCN NO	NATURE OF OFFENCE	POLICE STATION	RECOMMENDATION	STATUS
2005030117	Pointing of a firearm	Phoenix	Member be charged and prosecuted.	Awaiting Senior Public Prosecution decision.
2005030440	Intimidation	Phoenix	ICD investigation	Pending investigations.
2005040032	Assault GBH	Phoenix	Member be charged and prosecuted.	Awaiting Senior Public Prosecution decision.

### 3.1.4 EASTERN CAPE

Eastern Cape received 02 cases of non-compliance with the DVA. The particulars thereof are as follows:

- a. **Failure to assist the complainant, such as finding a suitable shelter, obtaining medical treatment accompany him/her to collect personal property ,seize any dangerous weapon from the abuser and/or open a Domestic Violence or Criminal case**

CCN	POLICE STATION	RECOMMENDATIONS	STATUS
2005030313	Umtata Central	Case referred to the SAPS for investigation and disciplinary action to be instituted against the officer.	Matter still pending outcome of the investigation and institution of disciplinary action.
2005050318	Graaf Reinet	Case referred to the SAPS for investigation and disciplinary action to be instituted against the officer.	Matter still pending outcome of the investigation and institution of disciplinary action.

Out of 02 cases of non-compliance received by Eastern Cape, no application for exemption was received.

No cases of domestic abuse allegedly committed by SAPS members were reported.

### 3.1.5 LIMPOPO

Limpopo received 08 complaints of non-compliance with the DVA. The particulars thereof are as follows:

- a. **Failure to effect the arrest of the Respondent**

CCN	POLICE STATION	RECOMMENDATIONS	STATUS
2005060053	Seshego	The case was referred to the SAPS for investigation.	Matter closed as unsubstantiated.
2005020124	Magatle	The case was referred to the SAPS for disciplinary action to be taken against the officer	Matter still pending progress report from the SAPS.
2005050246	Mankweng	The case was referred to the SAPS for disciplinary action to be taken against the officer.	Matter pending for the outcome of the disciplinary action.
2005030201	Bandelierkop	The case was referred to the SAPS for investigation and disciplinary action to be taken against the officer or application for exemption.	Application for exemption was received by the ICD.
2005010272	Maake	Case referred to SAPS for investigation.	Matter closed as unsubstantiated.
2005040286	Magatle	Further information was requested from the complainant, in order	Matter closed as dismissed.

		substantiate her complaint, but all in vain.	
2005040290	Sekhukhune	The case was referred to the SAPS for disciplinary action to be taken against the officer	Matter pending for the outcome of the disciplinary action.
2005040196	Mankweng	The case was referred to the SAPS for disciplinary action to be taken against the officer.	Matter pending for the outcome of the disciplinary action.

Out of 08 cases of non-compliance received by Limpopo, there was one application for exemption from internal prosecution.

No cases of domestic abuse allegedly committed by a SAPS member were reported.

### 3.1.6 MPUMALANGA

Mpumalanga received 03 complaints of non-compliance with the DVA. The particulars thereof are as follows:

**a. Failure to effect the arrest of the Respondent**

CCN	POLICE STATION	RECOMMENDATIONS	STATUS
2005050280	Kwaggafontein	Case was referred to the SAPS for investigation.	Matter pending outcome of the investigation.
2005060295	Nelspruit	Case referred to the SAPS for investigation and disciplinary action to be taken against the officer.	Case withdrawn due to subsequent death of the suspect.

**b. Failure to advise the complainant to apply for a protection order**

CCN	POLICE STATION	RECOMMENDATIONS	STATUS
2005010010	Kanyamazane	Case was referred to the SAPS for disciplinary action to be taken against the officer.	Case closed as unfounded.

Out of 03 cases of non-compliance received by Mpumalanga, there were no applications for exemption from internal prosecution.

No cases of domestic abuse allegedly committed by SAPS members were received during this period.

### 3.1.7 NORTH WEST

North West received 11 complaints of non-compliance with the DVA. The particulars thereof are as follows:

**a. Failure to open a criminal docket and refer the matter for prosecution**

CCN	POLICE STATION	RECOMMENDATIONS	STATUS
2005010199	Ganyesa	Recommended disciplinary steps to be taken against the member.	Matter pending for the outcome of the disciplinary action.
2005050461	DeWildt	Recommended disciplinary steps to be taken against the member.	Matter pending for the outcome of the disciplinary action.

**b. Failure to keep a copy of the protection order after it has been obtained from court**

CCN	POLICE STATION	RECOMMENDATIONS	STATUS
2005010144	Zeerust	Recommended disciplinary steps to be taken against the member.	Awaiting SAPS institution of disciplinary steps
2005030157	Mmabatho	Recommended disciplinary steps to be taken against the member.	Matter was closed as dismissed after subsequent death of the complainant.

**c. Failure to effect the arrest of the Respondent**

CCN	POLICE STATION	RECOMMENDATIONS	STATUS
2005010079	Marikana	Recommended disciplinary steps to be taken against the member.	Matter pending for the outcome of the disciplinary action.
2005010331	Mabopane	Recommended that the matter be closed as the complainant is uncooperative.	File closed as dismissed.
2005030076	Madibogo	Recommended disciplinary steps to be taken against the member.	Matter pending for the outcome of the disciplinary action.
2005030182	Taung	Recommended disciplinary steps to be taken against the member.	Matter pending for the outcome of the disciplinary action.
2005040222	Itsoseng	Recommended disciplinary steps to be taken against the member.	Matter pending for the outcome of the disciplinary action.
2005040555	Mmabatho	Recommended disciplinary steps to be taken against the member.	Matter pending for the outcome of the disciplinary action.
2005050470	Mafikeng	Recommended disciplinary steps to be taken against the member.	Matter pending for the outcome of the disciplinary action.

North-West received 11 cases relating to domestic abuse allegedly committed by SAPS members as suspects. The particulars were as follows:

CCN	NATURE OF OFFENCE	POLICE STATION	RECOMMENDATIONS	STATUS
2005010149	Physical abuse	Mabopane	Matter investigated by ICD.	Matter still under ICD's investigation.
2005010403	Physical abuse	Vryburg	The matter closed as withdrawn as the victim is not willing to testify and there were no other witnesses(s).	File closed as withdrawn
2005030403	Physical abuse	Potchefstroom	Matter closed as withdrawn because the victim did not want to pursue the matter further.	File closed as withdrawn.
2005050071	Physical abuse	Pudumoe	ICD recommended that the member be prosecuted	Member convicted and

			although the victim signed a withdrawal statement.	sentenced to 2 years imprisonment and R800 fine suspended for 5 years.
2005050208	Physical abuse	Vryburg	Recommended disciplinary steps to be taken against the member.	File closed as withdrawn.
2005060130	Physical abuse	Mmabatho	Matter investigated by ICD.	Matter still under ICD's investigation.
2005060018	Physical abuse	Pudumoe	ICD recommended that the member be prosecuted.	File closed as substantiated, member convicted and sentenced to 3 months imprisonment or R900

Out of 11 cases of non-compliance received by North West, there were no applications for exemption from internal prosecution received.

### 3.1.8 FREE STATE

Free State received 3 complaints of non-compliance with the DVA. The particulars thereof are as follows:

**a. Failure to effect the arrest of the Respondent**

CCN	POLICE STATION	RECOMMENDATIONS	STATUS
2005050534	Kagisanong	Case was referred to the SAPS for investigation and disciplinary action to be taken against the officer.	Case still under SAPS investigation.

**b. Failure to assist the complainant, such as finding a suitable shelter, obtaining medical treatment, accompany him/her to collect personal property and seize any dangerous weapon from the abuser**

CCN	POLICE STATION	RECOMMENDATIONS	STATUS
2005060463	Boithuso	The case was referred to the SAPS for investigation and disciplinary action to be taken against the officer.	Case still under SAPS investigation.

**c. Failure to serve a subpoena to the Respondent**

CCN	POLICE STATION	RECOMMENDATIONS	STATUS
2005050298	Kagisanong	Case investigated by the ICD.	Matter still under ICD's investigation.

Out of 03 cases of non-compliance received by Free State, there were no applications for exemption from internal prosecution.

No cases of domestic abuse allegedly committed by SAPS members were reported during the period under review.

### 3.1.9 NORTHERN CAPE

Northern Cape received 04 complaints of non-compliance with the DVA. The particulars thereof are as follows:

**a. Failure to assist the complainant, such as finding a suitable shelter, obtaining medical treatment, accompany him/her to collect personal property and seize any dangerous weapon from the abuser**

CCN	POLICE STATION	RECOMMENDATIONS	STATUS
2005010043	Kagisho	Matter referred to the SAPS for disciplinary action to be taken against the officer.	Matter is still pending for disciplinary action to be taken against the officer.
20050200185	Galeshewe	Matter referred to the SAPS for disciplinary action to be taken against the officer.	Matter closed as withdrawn.
2005010316	Galeshewe	Matter referred to the SAPS for disciplinary action to be taken against the officer.	Member was given verbally warned.

**b. Failure to effect arrest of the Respondent**

CCN	POLICE STATION	RECOMMENDATIONS	STATUS
2005030495	Galeshewe	Matter referred to the SAPS for disciplinary action to be taken against the officer.	Matter is still pending for disciplinary action to be taken against the officer.

Out of 04 cases of non-compliance received by Northern Cape, there were no applications for exemption from internal prosecution.

**Only one case of domestic abuse allegedly committed by a SAPS member was reported, as follows:**

CCN	NATURE OF OFFENCE	POLICE STATION	RECOMMENDATIONS	STATUS
2005050261	Assault	Campbell	Case was referred to SAPS for departmental steps to be instituted against the officer.	Case closed as unsubstantiated.
2005040472	Assault	Hopetown	Case was referred to SAPS for departmental steps to be instituted against the officer.	Case pending for the outcome of the disciplinary hearing.
2005050256	Assault	Campbell	Case was referred to SAPS for departmental steps to be instituted against the officer.	Case pending the outcome of the disciplinary hearing.

## 4. AWARENESS CAMPAIGNS

The following awareness campaigns were either organized or attended by ICD on invitation:

PROVINCE	DATE	VENUE	AUDIENCE	ICD ROLE
<b>Gauteng</b>	10 February 2005	Sebokeng	SAPS, Women, Children, and People with Disability	Distribution of ICD brochures and presentation on the role of ICD as far as DVA is concerned
<b>Eastern Cape</b>	18 January 2005	Keikammahoek	Community, SANCO	Render support on the event of Violence against Women and children
	16 March 2005	Mooiplaas	Community and Government Departments	Presentation on ICD mandate and DVA
	07 June 2005	Port St Johns: Caguba Location	Community, Traditional Leaders and Government Departments	Presentation on ICD mandate and DVA
	09 June 2005	Port St Johns: Mbabane Location	Community and Government Departments	Community Outreach
<b>Western Cape</b>	07 April 2005	Mooreesburg	Mooreesburg Community and ICD members	Address the community on mandate of ICD and DVA
	08 April 2005	Lambertsburg	Farming Communities	Address the community on mandate of ICD and DVA
	09 April 2005	Tulbacht	Tulbacht Community	Address the community on mandate of ICD and DVA
<b>Free State</b>	01 June 2005	Winburg	ICD, Safety & Liaison and Community.	Address the community on mandate of ICD and DVA

<b>Mpumalanga</b>	19 March 2005	Kamachekeza Stadium	Government Departments, Community Policing Forum and NGO	Addressed the community on ICD's mandate and its role in terms of Domestic Violence Act
	19 May 2005	Kamachekeza Stadium	Community and Community Policing Forum	DVA awareness campaign
<b>North West</b>	07 April 2005	Gelukspan Hospital	Ditsobotla Community	Addressed the community on ICD's mandate and its role in terms of Domestic Violence Act
	29 June 2005	Potchefstroom: Majayi	Majavi Community	Addressed the community on ICD's mandate and its role in terms of Domestic Violence Act
	30 June 2005	Potchefstroom :Sarafina	Sarafina Community	Addressed the community on ICD's mandate and its role in terms of Domestic Violence Act
<b>Northern Cape</b>	07 April 2005	Hopetown	Community	Community outreach
	08 April 2005	Campbell	Community	Community outreach

The following two (2) provinces did not organize any Community Outreach programmes during the period under review:

- Limpopo; and
- KwaZulu Natal.

## 5. WORKSHOPS

On 23 February 2005, our Eastern Cape Provincial office attended a workshop at Peddie. The role of the ICD was to address students about the mandate of ICD as far as the Domestic Violence Act is concerned. Again on 12 April 2005, this office attended a workshop at Graaf Reinet and addressed the community and SAPS about the mandate of ICD and the DVA.

On 26 January 2005 a workshop was conducted at Zeerust Police Station in the North West, to address members of CSC and detectives on how to comply with the DVA and National Instruction on DVA.

## 6. PROACTIVE OVERSIGHT

Various ICD provincial offices conducted the following audits at Police Stations to check compliance with National Instruction on DVA:

### 6.1 GAUTENG

DATE OF AUDIT	POLICE STATION	NATURE OF AUDITS	FINDINGS	RECOMMENDATIONS
08 June 2005	Johannesburg Central	Inspection of DVA registers and checking if all the DVA forms are available	The handling of the domestic violence process is not functioning well at the CSC; The 508 (b) register is used for case administration purposes only and not what is meant to be registered; No copies of 508 (a) No copies of the Domestic Violence Act and the National Instruction; No copy of Station Orders; No list of Service Providers; No application for protection order file or copies of these orders were found; No copies of Domestic Violence warrants of arrest were found nor recorded.	Recommendations were made to SAPS to remedy the shortcomings.
02 June 2005	Moroka	Inspection of DVA registers and checking if all the DVA forms are available	The copy of the station orders was not updated.	Recommendations were made to SAPS to remedy the shortcomings.

### 6.2 FREE STATE

DATE OF AUDIT	POLICE STATION	NATURE OF AUDITS	FINDINGS	RECOMMENDATIONS
17 May 2005	Winburg	Checked compliance with the DVA and the National Instruction	Register 508 (a) and (c) were not properly maintained. Only one member was conversant with the registers	None

### 6.3 NORTHERN CAPE

DATE OF AUDIT	POLICE STATION	NATURE OF AUDITS	FINDINGS	RECOMMENDATIONS
03 March 2005	Colesberg	Checked compliance with the DVA and the National Instruction	Insp.Parks failed to provide an ICD official with register 508(a), (b) and he was found to have violated Section 50(3) (b) of the SAPS Act68 of 1995. Constable Ntombeni and Sele did not know about SAPS508 and DVA	Insp.Parks should be charged as per Regulation 18(1) (C), 4, 21, 28, and 33. Training on DVA is strongly recommended. Police officer to be also co-operative during audits
07 April 2005	Hopetown	Checked compliance with the DVA and the National Instruction	Compliance with DVA	None
08 April 2005	Campbell	Checked compliance with the DVA and the National Instruction	Compliance with DVA	None

### 6.4 EASTERN CAPE

DATE OF AUDIT	POLICE STATION	NATURE OF AUDITS	FINDINGS	RECOMMENDATIONS
05 May 2005	Bizana	DVA Inspection	Registers were not properly compiled.	They need to sort out the 508 (A) & 508 (B) registers as they do not correspond.
05 May 2005	Flagstaff	DVA Inspection	Station does comply	None
06 May 2005	Port St Johns	DVA Inspection	Station co-ordinator on Domestic Violence cases locked up registers in cupboard.	None
18 May 2005	Msobomvu	DVA Inspection	Registers were not properly completed.	Recommendations were made to the Station and Area Commissioners to remedy identified shortcomings within 6 months.
18 May 2005	Queenstown	DVA Inspection	Station co-ordinator must know the DVA.	Recommendations were made to the Station and Area Commissioners to remedy identified shortcomings.
19 May 2005	Motherwell	DVA Inspection	Compliance with DVA	None
19 May 2005	New Brighton	DVA Inspection	No proper filing system and registers not properly completed.	To put proper filing system in place and organize all registers at Community Service Centre.

19 May 2005	Kwa Zakhele	DVA Inspection	508 (A) and 508 (B) Registers do not correspond.	Recommendations were made to the Station and Area Commissioners to remedy identified shortcomings.
20 May 2005	Gelvandale	DVA Inspection	Compliance with DVA	None
20 May 2005	Kwa Nobuhle	DVA Inspection	No original copies of DVA and National Instruction, they are still using the drafts.	Recommendations were made to the Station and Area Commissioners to remedy identified shortcomings.
20 May 2005	Grahamstown	DVA Inspection	Compliance with DVA	None
23 May 2005	Peddie	DVA Inspection	Registers are not fully completed and there are outstanding Protection Orders that are not served.	Recommendations were made to the Station and Area Commissioners to remedy identified shortcomings.
25 May 2005	Maluti	DVA Inspection	Station Orders on DVA were not there.	Recommendations were made to the Station and Area Commissioners to remedy identified shortcomings.
26 May 2005	Elliot	DVA Inspection	Compliance with DVA	None
27 May 2005	Sterkspruit	DVA Inspection	No proper filing system in place.	Recommendations were made to the Station and Area Commissioners to remedy identified shortcomings.
27 May 2005	Aliwal North	DVA Inspection	Station does comply	None
30 May 2005	Ngangelizwe	DVA Inspection	Station does comply.	None
30 May 2005	Umtata Central	DVA Inspection	Station does comply	None
31 May 2005	Mt Frere	DVA Inspection	Station does comply	None
01 June 2005	Lusikisiki	DVA Inspection	Station does comply(follow up visit)	None
02 June 2005	Graaf Reinet	DVA Inspection	Station does comply	None
03 June 2005	Kamesh	DVA Inspection	Station does comply	None

## 6.5 North West

DATE OF AUDIT	POLICE STATION	NATURE OF AUDITS	FINDINGS	RECOMMENDATIONS
16 February 2005	Schweiz-Renecke	Check compliance with DVA and National Instructions.	Not all registers are kept.	Recommendations were made to the Station and Area Commissioners to remedy identified shortcomings.
17 May 2005	Ottosdal	Check compliance with DVA and National Instructions	Members not properly trained on domestic violence.	ICD to arrange workshop with the Area Commissioner's office.
17 May 2005	Amalia	Check compliance with DVA and National Instruction	Register were not properly completed.	Recommendations were made to the Station and Area Commissioner to remedy identified shortcomings.
18 May 2005	Swartreggens	Check compliance with DVA and National Instructions	Registers not properly filled.	Recommendations were made to the Station and Area Commissioners to remedy identified shortcomings.
18 May 2005	Groot Marico	Check compliance with DVA and National Instructions	Station Commissioner does not check registers regularly.	Recommendations were made to the Station and Area Commissioners to remedy identified shortcomings.
24 May 2005	Mothutlung	Check compliance with DVA and National Instructions	Non-compliance register not present.	Recommendations were made to the Station and Area Commissioners to remedy identified shortcomings.
25 May 2005	Ga-Rankuwa	Check compliance with DVA and National Instructions	Non-compliance register not present.	Recommendations were made to the Station and Area Commissioners to remedy identified shortcomings.
22 June 2005	Ottoshoop	Check compliance with DVA and National Instructions	Station Commissioner does not sign registers.	ICD to arrange workshop with the Area Commissioner's office.
22 June 2005	Motswedi	Check compliance with DVA and National Instructions	Registers not properly completed.	Recommendations were made to the Station and Area Commissioners to remedy identified shortcomings.
23 June 2005	Lehurutshe	Check compliance with DVA and National Instructions	Registers are being inspected on a regular basis.	None

23 June 2005	Zeerust	Check compliance with DVA and National Instructions	Registers properly completed after the workshop.	Remedial steps were already taken on the 26 January 2005.
23 June 2005	Nietverdient	Check compliance with DVA and National Instructions	Registers properly filled.	None

## 6.6 WESTERN CAPE

DATE	POLICE STATION	NATURE OF AUDIT	FINDINGS	RECOMMENDATIONS
24 February 2005	Southport	Cell Inspections	Leaking roofs and toilets not in order	The station needs to solve the problem regarding the leaks in the cells and toilets that are not in a good condition.  Awaiting trial prisoners need not stay in the cells for more than a month due to cells not being structurally well built.
25 May 2005	Kokstaad	Cell Inspections	Cells were grossly over crowded (78) prisoners in six cells only (5) members on duty. The exercise yard is also not properly secured. It appears that prisoners are being deliberately housed at the station in order to assist the Fed Club which provides meal to the prisoners.	Recommendations were made to install a grill in the exercise yard and to reduce the number of people being incarcerated.
22 June 2005	Pongola	Cell Inspections	The cells are in a good condition. Food is provided by an outside service provider and there were no problems in this respect. The cells were recently renovated and the security is good- there are file gates to push through before one gets to the cells.	None

The following provinces did not conduct any audits during the period under review:

- Limpopo; and
- KwaZulu Natal and
- Mpumalanga.

## **7 CONCLUSION**

This report is yet again filled with real cases of widespread non-compliance with both the Domestic Violence Act, and the SAPS's own National Instruction 7/1999, a document which sets out in simple terms what members of the SAPS are obliged to do in their dealings with members of the public who are victims of domestic violence. What should concern our nation, is the blatant failure or unwillingness of the SAPS management in taking disciplinary steps against their members for violating the law. This is evident in the myriad of cases where disciplinary action is recommended by the ICD and yet six months down the line nothing has been done, despite the fact that management up to the level of the Provincial Commissioner is aware of the concerns raised by the ICD on many occasions.

Also, the fact that members plead ignorance of the requirement to keep records of domestic violence complaints in the prescribed registers indicates a dire need for training of members on the mandate of the SAPS in terms of the Domestic Violence Act. This is despite the ICD having held training workshops for SAPS members in the past two years. What is the management of the SAPS doing in dealing with the situation?

Another area of concern is the low number of applications for exemption received from all nine provinces only one application was received. This perhaps shows the attitude of SAPS members and their managers towards the ICD, in that despite being advised to do so, they do not apply for exemption from prosecution even when they claim to have valid reasons for failure to comply with the Act. This situation leads to either no action being taken against members or some members being charged for failure to comply but their cases dying a slow death due to unwillingness to go through with disciplinary action. Either way, no action gets taken and the offending members get away scot-free. What is to stop them from behaving in the same way in future?

This sad state of affairs with regard to discipline in the SAPS continues to deny victims of domestic violence recourse and protection of the law which is meant to ensure that victims are not subjected to repeat abuse by the very members who are supposed to help protect them. If the SAPS are not held accountable for their obligations as set in the DVA, then victims of domestic abuse have no hope for a better life.

## **8. Glossary and Abbreviations**

DPP : Director of Public Prosecutions  
DVA : Domestic Violence Act, 116 of 1998  
ICD : Independent Complaints Directorate  
MPS : Municipal Police Service  
SAPS: South African Police Services  
CSC : Community Service Centre