



Working together towards an improved police response to domestic violence

LIMPOPO PROVINCIAL SECRETARIAT FOR POLICE SERVICE

Vision

A pioneering and leading Department at the epicenter of socio-economic development and a safe and secure Limpopo

Mission

To provide safe, affordable, sustainable, and integrated transport service and to intensify the fight against crime and corruption.

Mandate

The Provincial Secretariat for Police Service in the Department of Transport and Community Safety draws its mandate from the Constitution of the Republic of South Africa. Section 206(3) of the Constitution further entitles the Provincial Executive to perform the following functions:

- to monitor police conduct;
- to oversee the effectiveness and efficiency of the police service, including receiving reports on the police service;
- to promote good relations between the police and the community;
- to assess the effectiveness of visible policing; and
- to liaise with the Cabinet member responsible for policing with respect to crime and policing in the province.

The Provincial Secretariat for Police Service is governed by the Civilian Secretariat for Police Service Act (Act No 2 of 2011). In terms of section 17(2) of the CSPS Act, the Provincial Secretariat is mandated to:

- monitor and evaluate the implementation of policing policy in the province;
- evaluate and monitor police conduct in the province;
- develop and evaluate safety models and monitoring tools to ensure alignment with the functions of the Civilian Secretariat;
- assist the Civilian Secretariat with any monitoring and evaluation projects; and promote community police relations; establish and promote partnerships; and
- manage the enhancement of community safety structures with the province.

Domestic Violence according to Domestic Violence Act 116 of 1998 as amended by Domestic Violence Act 14 of 2021 (Gazette 45824 of 28 January 2022)

The New Definition of a Domestic Relationship – Section 01

A domestic relationship means a relationship between a complainant and a respondent in any of the following ways:

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

The New Definition of Domestic Violence – Section 01

Domestic violence is now defined to include:

- (a) physical abuse;
- (b) sexual abuse;
- (c) emotional, verbal and or psychological abuse;
- (d) economic abuse;
- (e) intimidation;
- (f) harassment;
- (g) [stalking] spiritual abuse;
- (h) damage to property;
- (hA) elder abuse;
- (hB) coercive behaviour;
- (hC) controlling behaviour;
- (hD) exposing or subjecting children to behaviour listed in (a) to (hC);
- (i) entry into the complainant's or a related person's— (i) permanent or temporary residence without his or her consent, where the parties do not share the same residence; or (ii) workplace or place of study, without his or her consent, where the parties do not share the same workplace or place of study; or
- (j) any other controlling or abusive behaviour towards a complainant, where such behaviour harms, or may cause imminent inspires the reasonable belief that harm

may be caused to the safety, health or wellbeing of the complainant or a related person.

Obligation to report domestic violence and to provide information – Section 2(b)

The New Act states that an adult person who:

(a) an adult person who knows, or believes or suspects on reasonable grounds, that an act of domestic violence has been committed against a child, a person with a disability or an older person, must report such knowledge, belief or suspicion as soon as possible, to a social worker or the South African Police Service.

The report must be:

(a) in the prescribed form and must set out the reasons for such knowledge, belief, or suspicion; and

(b) submitted in the prescribed manner to a social worker or the South African Police Service.

NB: A person who makes the report in good faith, is not liable to civil, criminal or disciplinary action on the basis of the report, despite any law, policy or code of conduct prohibiting the disclosure of personal information. He/she is entitled to have their identity kept confidential, unless the interests of justice require otherwise.

How should police respond to domestic violence?

The police have a number of responsibilities to adhere to when assisting a victim of domestic violence. These include the following:

- On receiving the complaint, the SAPS member must ensure that he/she obtains sufficient information concerning the incident.
- Without any unreasonable delay, ensure that a police vehicle is dispatched to attend to the complaint.
- The member must inform the complainant of his/her rights and the available remedies. The member must first ascertain what language the complainant understands, and hand the complainant with the copy of a Notice and explain it in the language he/she understands.
- If a domestic violence incident has elements of crime and a complainant wants to lay a criminal charge, the SAPS member must open a docket and register it for investigation. The member may not refuse to do so. Laying a criminal charge is not a prerequisite for applying for a Protection Order or a Domestic Violence Safety Monitoring Notice.

- The SAPS member should inform the complainant on how to apply for a Protection Order or Domestic Violence Safety Monitoring Notice should he/she choose to do so.
- On receipt of the Interim Protection Order or Domestic Violence Safety Monitoring Notice, the member must serve it without delay but no later than 24 hours as it only becomes binding to the respondent once it is served to him/her. A Final Protection Order should be served within 48 hours of receipt from Court.
- Police may arrest a respondent if he/she contravenes the protection order and it is believed that they may harm the complainant.
- The SAPS member must assist the complainant to obtain medical treatment and suitable shelter.
- If there were any firearm or dangerous weapon used, these must be seized and kept in police custody. If the respondent has a firearm, even if not used during the incident, the complainant must obtain a court order for its removal should they fear that it may cause harm to them.
- The SAPS member may accompany the complainant to collect his/her personal belongings. This is to ensure the safety of the complainant and not to assist the complainant to collect his/her personal belongings.

The role of the Provincial Secretariat for Police Service

The Provincial Secretariat for Police Service is mandated to (among other responsibilities) monitor and evaluate compliance with the DVA by the SAPS and to recommend steps for improved service delivery.

Should the complainant not be happy or dissatisfied with any service provided by the SAPS, they can lay a formal complaint with the Provincial Secretariat at the following offices:

Limpopo Department of Transport and Community Safety: Provincial Secretariat for Police Service

Address: 37 Church Street (Cnr Church and Bodenstein Streets)

Telephone: (015) 295 1000 / 1228

Cell Phone: 073 007 6926

Email: bopapek@dtcs.limpopo.gov.za

