



Western Cape
Government



Domestic violence and the law

A guide for victims of Domestic violence

Reducing violence and improving community safety
BETTER TOGETHER.

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1 Domestic Violence Overview

South Africa has one of the highest incidents of domestic violence in the world. Every day, victims are murdered, physically and sexually assaulted, threatened and humiliated by their partners, within their own homes.

What is domestic violence?

Domestic violence is an abusive behaviour in any domestic relationship between partners and/or family members.

Who can lay a charge of domestic violence?

Any person in a domestic relationship.

The Department of Community Safety wants you to say,
No to Domestic Violence



2 What is a domestic relationship?

The term domestic relationship; refers to a relationship between a complainant (victim) and a respondent (perpetrator) in any of the following ways:

- they are or were married to each other, including marriage according to any law, custom or religion;
- 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;
- they are the parents of a child or are persons who have or had parental responsibility and rights for that child (whether or not at the same time);
- they are family members related by relatives, affinity or adoption;
- 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
- they share or recently shared the same residence.



The Western Cape Government is responsible for creating safer communities. But we cannot do it alone, we need all citizens to be aware of domestic violence and which steps to follow.

Help us save lives and communities

3 Are you a victim of domestic violence?

According to the Domestic Violence Act no.116 of 1998, if you are in a domestic relationship with someone who is:

- hurting you physically;
- being sexually forceful or violent towards you;
- hurting you emotionally or mentally;
- controlling your money without your permission;
- intimidating or scaring you;
- harassing you;
- stalking you;
- damaging your property or belongings;
- entering your house without permission; or
- controlling to the point that it affects your health and wellbeing, you have the following rights:

The Rights of a victim of domestic violence

What are the options of the complainant? The complainant has the right to –

- apply for a protection order at the nearest magistrate's court; and may also;
- lay a criminal charge at the police station

How should the police respond to a domestic violence complaint?

- on receiving the complaint, the South African Police Service (SAPS) member must ensure that he/she gets sufficient information about the incident;
- the police must respond to the complaint without any unreasonable delay;
- the police must inform you of your rights and the available solutions. In doing this, the police must give you a notice and explain it to you in your preferred language;

- if you want to lay a criminal charge, the police officer must open a docket and register it for investigation;
- the police officer should inform you of how to apply for a protection order;
- the police officer must help you to access suitable medical treatment and/or suitable shelter if needed;
- if any guns or dangerous weapons were used, these weapons must be taken and kept in police custody. If there is a gun in the home, the victim can get a court order to remove the gun if they fear their life is in danger;
- the police can arrest anyone who disobeys a protection order, especially if someone's life is in danger;
- when a protection order is granted, the police officer must serve it without any unreasonable delay, as it can only protect you after your partner has received it;
- you can request a police officer to go with you to fetch any personal belongings.

What is a protection order?

A Protection Order is an order issued by a court ordering a person with whom one has or has had a domestic relationship (the respondent), to stop the abuse.

The order may also prohibit the respondent from:

- enlisting the help of another person to commit any such act;
- entering a residence shared by a complaint and the respondent or a specified part of the shared residence or the victims place of employment or where the victim resides;
- committing any other act as specified in the protection order including an order to seize any firearms or dangerous weapon from the respondent; or
- financially threatening the victim by making monetary relief available to the victim.

Applicant and respondent

- victims of domestic violence should firstly report the incident to their local police station;
- the victim in the application for a protection order now becomes the applicant;
- the alleged perpetrator in the domestic violence application becomes the respondent;
- an interim protection order can also be issued at any time of the day or night for protection; or
- if the victim does not have a legal representative, the clerk of the court is obliged by law to inform the victim of relief/remedies available in terms of the Act.

Who can apply for a protection order?

- any victim of domestic violence, children and, if they are too young, a parent or guardian, or any person acting on behalf of someone who is responsible for them, but with their permission may apply for a protection order;

4 Safety Starts with YOU!

- the Western Cape Government can provide help and support to families in need;
- partners and family members must take care of each other;
- If you know of a person or child being abused in your community, please report it;
- speak out against abuse;
- report crime anonymously: **Call Crime Stop on 08600 10111** or **SMS the CRIMELINE on 32211** (R1/sms);
- for more information go to www.westerncape.gov.za or call **0800 220 250**.



**Let us work together towards a
violent free future**

5 What can the complainant (victim) do if a police member fails in his/her duties?







- should a police officer fail to carry out this commitment, a victim can report the matter to the Station Commander at the relevant police station;
- the complaint will be noted in a complainant's register, stating the name of the member concerned, the date on which the complaint is lodged, and the details of the complaint;
- should the victim receive no satisfaction it is open to him/her to take the matter further with senior management of the police station;
- the victim also has the right at any stage to complain about police inefficiency to the Western Cape Police Ombudsman. (Refer to contact details on last page of this booklet)

What can a complainant do if the person disobeys the protection order?

The complainant may contact the SAPS telephonically (if necessary). Thereupon:

- a statement will be taken from him/her;
- the police will be provided with the warrant of arrest which the complainant received together with the protection order (if the complainant has lost it another one can be obtained by application to court) and;
- if the victim is in immediate danger the respondent will be arrested, otherwise he/she will be given a notice to appear in court.

STEP BY STEP GUIDE TO OBTAINING A PROTECTION ORDER

STEP 1		Report the complaint to the local police station
STEP 2		Obtain a protection order at the magistrate court
STEP 3		A magistrate considers the application
STEP 4		An Interim protection order may be granted and will then be served on the respondent
STEP 5		Court proceedings or hearing of evidence to determine whether a final protection order should be granted
STEP 6		Consequences for the respondent if he/she violates the conditions of a final protection order

**Information sourced from the Civilian Secretariat for the South African Police Service*

6 Living in a volatile abusive environment

Where a person is in a volatile situation he/she should always be ready to leave quickly

He or she should always carry a list of emergency telephone numbers and have access to:

- some money in a safe place so that a taxi or a bus can be taken in a case of an emergency;
- an extra set of keys for the house or car;
- a set of clothes for his/her self and his/her children packed in a bag, and kept it in a safe place (for example, at a neighbour's house);
- essential documents like IDs, your medical aid card, and your savings/credit card.

DID YOU KNOW?

The Victim's Charter says you have:

The right to be treated with fairness and with respect for;

Your dignity and privacy,

The right to offer and to receive information,

The right to protection and assistance.

What does the Department of Community Safety do?

The Department of Community Safety (among other responsibilities) makes sure that the South African Police (SAPS) complies with the Domestic Violence Act no. 116 of 1998, and offers solutions for better service delivery.

7 Victim Empowerment Programme (VEP)

The Department of Social Development has established the Victim Empowerment Programme (VEP) to support people who have suffered physical, mental or emotional harm through crime or violence (Including victims of domestic violence). The support is extended to their families.

What the Department offers:

The Victim Empowerment Programme and our partners in the Western Cape offers a variety of services which include:

- emotional and practical support;
- assistance with the management of trauma;
- ensuring that people are trained to identify the symptoms of post-traumatic stress;
- referrals to professional services;
- providing victims with emergency services;
- promoting the rights and responsibilities of victims;
- ensuring that ongoing victimisation is prevented; and
- shelter service.

A shelter is a place where those affected by crime and violence are able to live for a period of one day up to approximately three months depending on their needs.

The shelter assists with meeting basic needs such as:

- a safe place to live;
- protection, food and clothing;
- emotional support services such as trauma debriefing and therapeutic counselling;
- information on developing skills, victim's rights and training;
- support in preparation for court procedures;

- programmes focused on alleged perpetrators; and
- Gender-based violence prevention programmes.

A shelter for victims of crime and violence provides services to children who are accompanied by their parents/ legal guardians.

What to do when you become a victim of domestic violence

- get to a place of safety;
- report the incident to the relevant authorities;
- seek medical assistance;
- ask for help from a trusted person or social service provider.

Who to contact?

The Provincial Department of Social Development: 021 483 5045

Toll free number: 0800 220 250

Email: SD.CustomerCare@westerncape.gov.za

Gender-Based Violence Command Centre: 0800 428 428

(online trauma counselling 24hr/7 days trauma)

Police: 10111

SASSA 0800 60 10 11

**This information was supplied by
the Western Cape Department of Social
Development.*



**Reduce
Violence
through Building
Partnerships**

8 What does the Department of Community Safety do?

The Department of Community Safety (among other responsibilities) makes sure that the South African Police (SAPS) complies with the Domestic Violence Act no. 116 of 1998, and offers solutions for better service delivery.

If you, or someone you know, are not satisfied with the service provided by the SAPS after re-reporting a domestic violence incident, send a formal complaint to the **Western Cape Police Ombudsman:**

- **Physical address:** 6th Floor Waldorf Building,
80 St Georges Mall, Cape Town, South Africa, 8001
- **Office:** 021 483 0669
- **Fax:** 021 483 0660
- **Email:** ombudsman@wcpo.gov.za
- **Web:** www.westerncapegovernment/Police-ombudsman
- **Office hours:** Monday to Friday
07:00 to 16:00 (excluding public holidays)

If you, or someone you know, are aware of domestic violence cases that were removed from court rolls because of SAPS inefficiency, please forward a complaint to the **Court Watching Brief Unit:**

- **Physical address:** 35 Wale Street,
Cape Town, South Africa, 8001
- **Office:** 021 483 3394
- **Fax:** 021 483 6026
- **Email:** Police.Oversight@westerncape.gov.za
- **Office hours:** Monday to Friday
07:00 to 16:00 (excluding public holidays)

Improve
Safety
by working with
Community
Organisations

Department of Community Safety

www.westerncape.gov.za



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