

# **MAKING THE ACT WORK**

**A Research Study into Budget Allocations for the Implementation of  
the Domestic Violence Act**

**Gender Advocacy Programme  
South Africa**

# Table of Contents

<b>1 INTRODUCTION .....</b>	<b>1</b>
1.1 BACKGROUND .....	1
1.2 RESEARCH FOCUS AND METHODOLOGY .....	3
1.3 BUDGETARY IMPACT OF CHANGES IN THE LAW .....	3
<b>2 SAFETY AND SECURITY .....</b>	<b>5</b>
2.1 STRUCTURE OF THE BUDGET .....	5
2.2 WHERE IS DOMESTIC VIOLENCE BUDGETED FOR? .....	6
2.3 NATIONAL INSTRUCTIONS .....	7
2.4 DUTY TO ASSIST AND PERSONNEL TIME .....	7
2.5 LANGUAGE.....	10
2.6 POLICE TRAINING .....	11
2.7 INTERNAL PUBLICITY.....	15
2.8 LOCAL REFERRALS .....	15
2.9 TRANSPORT.....	16
2.10 ACCESS IN RURAL AREAS.....	17
2.11 VICTIM SUPPORT .....	17
2.12 FORMS AND REGISTERS.....	18
2.13 NON-COMPLIANCE BY A MEMBER OF SAPS .....	19
<b>3 JUSTICE.....</b>	<b>21</b>
3.1 STRUCTURE OF THE BUDGET .....	21
3.2 WHERE DOES DOMESTIC VIOLENCE FIT IN? .....	21
3.3 MAGISTRATES' COURTS.....	22
3.3.1 <i>Personnel time</i> .....	22
3.3.2 <i>Training</i> .....	25
3.3.3 <i>24 hour access</i> .....	28
3.3.4 <i>Service of documents</i> .....	28
3.4 DEPARTMENT OF JUSTICE .....	29
3.4.1 <i>Co-ordination</i> .....	29
3.4.2 <i>Publicity</i> .....	30
3.4.3 <i>Forms and notices</i> .....	31
3.4.4 <i>Evaluation</i> .....	31
3.5 NATIONAL DIRECTOR OF PUBLIC PROSECUTIONS (NDPP) .....	32
3.5.1 <i>Training</i> .....	32
3.5.2 <i>Consultative workshop</i> .....	33
3.6 LEGAL AID.....	33
<b>4 WELFARE / SOCIAL SERVICES.....</b>	<b>34</b>
4.1 SHELTERS .....	34
4.2 ONE-STOP SERVICE CENTRES FOR DOMESTIC VIOLENCE .....	35
4.3 DIRECTORY OF SERVICES .....	36
4.4 TRAINING FOR SOCIAL WORKERS AND LAY COUNSELORS .....	36
<b>5 OTHER DEPARTMENTS.....</b>	<b>38</b>
<b>6 PRIORITISING AND REPRIORITISING .....</b>	<b>39</b>
6.1 WHAT NEEDS TO HAPPEN .....	39
6.1.1 <i>Training</i> .....	39
6.1.2 <i>Specialised services</i> .....	40
6.1.3 <i>Language</i> .....	40
6.1.4 <i>Rural access</i> .....	40
6.1.5 <i>Shelters</i> .....	41
6.2 THE COST OF NOT ALLOCATING RESOURCES FOR IMPLEMENTATION .....	41
<b>REFERENCES.....</b>	<b>42</b>
<b>ACRONYMS .....</b>	<b>43</b>
<b>ACKNOWLEDGEMENTS .....</b>	<b>44</b>
<b>INTERVIEWEES .....</b>	<b>45</b>

# 1 INTRODUCTION

## 1.1 Background

The preamble to the Domestic Violence Act 116 of 1998 says the Act aims to give victims of domestic violence “the maximum protection from domestic abuse that the law can provide” and make sure that “relevant organs of the state”, such as the police, clerks of the court and magistrates, implement the act effectively. Protection from domestic abuse has been covered in law by the Prevention of Family Violence Act since 1993. But the old law had serious flaws, and the new Domestic Violence Act that replaces it aims to address its shortcomings.

The Act is an expression of the state’s commitment to eliminate domestic violence. The state is obliged to take action in terms of South Africa’s constitution as well as international human rights legislation. The box below outlines key provisions related to domestic violence.

*The Constitution of South Africa (1996) says:*

“Everyone has the right to freedom and security of the person, which includes the right... to be free from all forms of violence from either public or private sources.”

*General Recommendation 19 (1992) of the Committee on the Elimination of all Forms of Discrimination Against Women (CEDAW) says:*

“Gender-based violence, which impairs or nullifies the enjoyment by women of human rights and fundamental freedoms under general international law or under human rights conventions, is discrimination [in terms of the Convention on the Elimination of all Forms of Discrimination Against Women].... Under general international law and specific human rights covenants, States may also be responsible for private acts if they fail to act with due diligence to prevent violations of rights or to investigate and punish acts of violence, and for providing compensation.”

Already in 1993, the need for government budgets to include resources targeted at the elimination of violence against women was recognised in the United Nations Declaration on the Elimination of Violence Against Women. While the declaration is not a binding treaty, it does set out a common international standard that states should follow. (Pillay, 1997) The box on page 2 highlights the relevant parts of the declaration. (The penultimate clause has been emphasised to highlight this early recognition of the importance of budgetary issues.)

*The United Nations Declaration on the Elimination of Violence Against Women (1993) says:*

“States should pursue by all means and without delay a policy of eliminating violence against women and, to this end should...

- Exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the State or by private persons;
- Develop penal, civil, labour and administrative sanctions in domestic legislation to punish and redress the wrongs caused to women who are subjected to violence; women who are subjected to violence should be provided with access to the mechanisms of justice and, ... to just and effective remedies for the harm that they have suffered; States should also inform women of their rights in seeking redress through such mechanisms;...
- *Include in government budgets adequate resources for their activities related to the elimination of violence against women;*
- Take measures to ensure that law enforcement officers and public officials responsible for implementing policies to prevent, investigate and punish violence against women receive training to sensitise them to the needs of women;...”

Non-governmental organisation activists agree that the new Domestic Violence Act is a vast improvement on the Prevention of Family Violence Act (1993). However, they are concerned that improvements in the law will not make a difference for ordinary women in South Africa if government does not commit enough resources to implement the Act.

*Combrinck (1999) of the Women and Human Rights Project, Community Law Centre, says:*

“Resource allocation... is ultimately to a large extent where the legislation will stand or fall.”

*An article in the Mail & Guardian (26.11.1999 to 2.12.1999), titled ‘Will new Act fail women?’, says:*

“According to Shireen Usdin of the Soul City project, the acute shortage of resources may severely hamper the efficacy of the legislation, particularly with respect to the enormous responsibility the legislation places on the state.”

These concerns led the Gender Advocacy Programme (GAP) to co-ordinate an information session for NGOs in June 1998. Input was given by the Community Agency for Social Enquiry (C A S E) on the Women’s Budget Initiative and how the allocation of government funds happens. The exploratory session laid the basis for a further workshop in May 1999, hosted by GAP and facilitated by C A S E, to discuss the budgetary implications of the Act. The workshop brought together activists from eight NGOs that assist victims of domestic violence, deal practically with domestic violence issues as part of their daily work, or have expertise in looking at budgets.

Workshop participants drew out the budgetary implications of problems experienced with the old Act that could persist under the new law. They also pointed out what they thought would be additional budgetary requirements for new tasks given to the police

and the courts under the Domestic Violence Act. The issues that arose in the workshop provided a focus for more detailed research.

## **1.2 Research focus and methodology**

At the workshop it was agreed that further research should look at the implementation of the Domestic Violence Act and related budgets, given that extensive research has been conducted on problems facing women who are victims of domestic violence. The problem areas raised at the workshop were used as a starting point for the research.

Many government departments do work that is relevant to domestic violence. But it was agreed that this research would focus on the key departments responsible for the implementation of the Act, namely the Departments of Justice, Safety and Security and Welfare.

The research focuses on the implementation of the Act in the Western Cape. It was decided to look at implementation at provincial level because the allocation of functions between the spheres of government means that some decisions are made and implementation effected at this level. While the research focuses on implementation in the province, it recognises that national government is responsible for many of the functions involved in the implementation of the Act.

Only one province was studied because there was not enough time or resources to do all nine. The Western Cape is in many ways better resourced than other provinces, and ranks highly in terms of several socio-economic indicators. However, the province also has the highest per capita serious crime rate in the country. (Batchelor, 1997) Despite these provincially specific factors, the research can serve as a model for other provinces to use.

The research involved interviews with twelve government officials across the three departments at national, provincial and area or district level, and six NGO representatives. Follow-up telephonic interviews were conducted with additional government officials where those originally interviewed referred us to others for specific information.

## **1.3 Budgetary impact of changes in the law**

Generally, effective implementation of the Domestic Violence Act will mean that the relevant budgets need to accommodate an increase in the number of victims using the Act for protection against abuse, as well as a wider range of services to victims.

A major change in the new law is that it provides protection from abuse in a much wider range of relationships. Whereas the old act only applied to partners to a civil, customary or common law marriage who had lived together, the new Act defines a “domestic relationship” to include parents and children, siblings, people in an engagement or dating relationship not living together and people in a same-sex relationship. The Act also says that a minor or any person on behalf of a minor can apply for protection without assistance from a parent or guardian.

The Act, for the first time, defines the term ‘domestic violence’ in the law. It widens the definition of abuse to include sexual, physical, emotional and economic abuse. It also includes harassment, intimidation and stalking.

There are no comprehensive statistics on the prevalence of domestic violence in the Western Cape or South Africa as a whole that can be used to assess the extent of need for protection in terms of the Act. A recent large scale, community-based prevalence study by the Medical Research Council (Jewkes, Penn-Kekana, Levin, Ratsaka and Schrieber, 1999), is the first of its kind undertaken in South Africa. However, it covers only three provinces and does not include the Western Cape. Key findings of the survey are summarised in the table below.

	<b>Eastern Cape</b>	<b>Mpumalanga</b>	<b>Northern Province</b>
<b>Physically abused</b> - ever	26.8%	28.4%	19.1%
<b>Physically abused</b> - in the last year	10.9%	11.9%	4.5%
<b>Emotionally or financially abused</b> - in the last year	51.4%	50.0%	39.6%

Source: Jewkes, Penn-Kekana, Levin, Ratsaka and Schrieber (1999)

Given that the mean age of women in the sample is 31, these findings indicate that the prevalence of physical abuse is higher than the commonly cited figure that 1 in 4 women are abused in their lifetime.

In a study of men employed by three municipalities in Cape Town 40% of the men admitted to having physically and/or sexually abused their female partners within the last 10 years. (Abrahams, Jewkes & Laubsher, 1999: 1) The study also suggests that women in dating relationships were more at risk of being abused than wives of the men, although it could be that men are less likely to admit to abusive behaviour in respect of their wives. While this study is not generalisable to all working men or all men in Cape Town, it is indicative of the extent of the problem.

The other major change with the new Act is the responsibility it places on the state to enforce it. Discussion of the budgetary implications of this responsibility forms the core of this report. Sections 2, 3 and 4 look at the budgets of the Departments of Safety and Security, Justice and Welfare respectively. In each section we also highlight the contribution of resources by NGOs that assist the state in fulfilling its responsibilities. Section 5 briefly outlines some areas in other government departments that need attention. Section 6 draws out the key areas where expenditure, either once-off or ongoing, is needed and pulls together the threads that run across a number of government departments.

## 2 SAFETY AND SECURITY

The Department of Safety and Security has a key role to play in ensuring the effective implementation of the Domestic Violence Act. While safety and security is largely a function of national government, provincial government does have some role to play.

### 2.1 Structure of the budget

A budget is allocated to the South African Police Service (SAPS) nationally, according to three programmes: administration, crime prevention and response services, and detective services.

The table below summarises the monetary and staff budgetary allocations for SAPS nationally for 1999/2000.

Programme	Budget (R'000)	%	Person-years	%
Administration	3 568 859	25%	18 875	15%
Crime prevention and response service	7 902 269	56%	78 272	62%
Detective services	2 557 400	18%	28 853	23%
<b>Total</b>	<b>14 028 528</b>	<b>100%</b>	<b>126 000</b>	<b>100%</b>

SAPS in each province receives an allocation directly from the national office. Currently, provinces are not instructed how to split the total budget between the three programmes and various sub-programmes. They are only advised on how the total provincial budget should be apportioned between the different standard items such as personnel expenditure, administrative expenditure, stores and livestock and equipment. All personnel expenses (other than overtime) are paid directly by SAPS national office. It is then the prerogative of the provincial commissioner to split the budget according to provincial priorities.

From the 2000/1 financial year, SAPS national office will apportion provincial budgets according to programmes and sub-programmes. Provincial commissioners and MECs will be given the opportunity to input into this process.

A SAPS spokesperson for the Western Cape stressed that their experience is that budgets for the province are determined nationally: "We don't have our own budget". He appeared reluctant to provide more detailed information in case the SAPS in the province are unfairly accused of creating problems that are caused by national decisions. Another SAPS Western Cape informant said, "You can ask, but no-one will give you the provincial budget."

In 'Policing the Provinces: A Budgetary Analysis', Batchelor (1997) points out that the relationship between provincial allocation of police resources and crime figures is unclear. This makes it difficult to assess the fairness of these allocations. Batchelor suggests that the Financial and Fiscal Commission (FFC) formula to redress resource imbalances between the provinces is a useful framework for SAPS. The FFC formula bases each provincial budget on five grants:

- a grant to maintain minimum national standards in primary and secondary education and primary and district health care;
- a spillover grant for services that benefit more than one province (such as academic hospitals);
- a fiscal capacity equalisation grant to ensure that provincial functions are financed from an equitable provincial taxing capacity;
- an institutional grant to finance provincial legislatures; and
- a basic grant for provinces to fulfill their constitutional obligations according to provincial priorities.

However, Batchelor also proposes a crime equalisation fund to provide additional resources to provinces with higher than average crime rates. Crime rates are usually measured by serious crimes per capita, which would include domestic violence under rape and assault.

Provincial government has a limited role in safety and security that includes monitoring SAPS and promoting community/police relations. The budget of R10 558 for community safety in the Western Cape accounts for only 0,1% of the provincial budget. The table below summarises the monetary and staff budgetary allocations for community safety in the province.

Programme	Budget (R'000)	%	Person-years	%
Administration	2 460	23%	11	28%
Provincial Secretariat for Safety and Security	8 098	77%	28	72%
<b>Total</b>	<b>10 558</b>	<b>100%</b>	<b>39</b>	<b>100%</b>

## 2.2 Where is domestic violence budgeted for?

Crimes against women and children are listed as one of SAPS' nine policing priorities. The Child Protection Unit, which deals with children under the age of 18, is the only specialised unit related to this priority. The bulk of the implementation work is done by SAPS uniform and detective branch members at station level. Funding for this falls under the crime prevention and response services and detective services programmes and is not reported separately. A SAPS informant at area level explained that this makes it difficult to ensure that resources are directly allocated to dealing with a crime like domestic violence, even where it is a priority crime.

Despite the fact that in 1998/99 the number of programmes and sub-programmes in the SAPS budget changed, a SAPS area-level informant said that in practice budgets for the past few years have been based on a standard increase on the budget of the previous year. This approach of 'incremental budgeting' was typical of budget planning under the apartheid government and does not allow for reprioritisation and change.

The newly appointed National Commissioner has acknowledged the need for additional spending in SAPS in certain areas, and Selebi indicated specifically that he would ask for extra funds for the police to implement the Domestic Violence Act. (Business Day, 10.11.1999)

Recommendations in the Second Women's Budget (Budlender, 1996) suggest that the structure of the budget needs to be changed to address the safety and security needs of women. These recommendations are outlined in the box on page 7.

*Olickers (1996:138), in the Second Women's Budget, makes the following broad recommendations that would assist in the implementation of the Domestic Violence Act:*

- That a percentage levy imposed on each SAPS programme is allocated to the development and implementation of a "women's safety plan".
- That the sustained development of the "women's safety plan" is included in budgets explicitly in programmes, personnel deployment, training, infrastructure and capital spending. This can be evaluated against comprehensive information and statistical data gathered as part of the plan.

Olickers (1996:137) also points out that the SAPS budget needs to be structured in a way that allows for the redistribution of policing capacity to previously black areas. This is relevant to the implementation of the Domestic Violence Act because of the disproportionate number of poor and disadvantaged people reporting sexual offences such as rape, many of which are committed in a domestic relationship. A SAPS area informant said that their experience is that rape and assault are likely to increase when there is "less work and more hardship".

The needs of poor black communities in rural areas must also be addressed in the budget. Some of the additional obstacles that women from these communities face in trying to deal with domestic violence in their lives are listed by Artz (1999:10) in a study of women in the southern Cape:

- physical isolation from basic state, consumer and NGO services;
- large distances to public services means child care is a bigger problem if travel is necessary;
- limited or no taxi or bus services and generally expensive transport;
- poor and expensive telecommunications services;
- slow response times of the police and ambulance services;
- few support services for abused women and no safe accommodation for women if they must leave their homes;
- a dire lack of resources to create affordable and sustainable treatment or support services; and
- high rates of unemployment and underemployment so rural women struggle to pay for basic necessities, travel, accommodation or costs of separation or relocation.



Like SAPS, the Western Cape's Department of Community Safety also has no budget specifically allocated for work relating to violence against women. This is despite a report that, after gangs, violence against women is the department's second priority. (Van Stade, 1999:6.19) Where funds or resources are allocated for this work, it appears to be in an ad hoc manner for once-off projects, rather than medium- to long-term programmes.

## **2.3 National instructions**

The box on page 8 outlines provisions in the Domestic Violence Act for the issuing of national instructions to all members of SAPS. The aim of the national instructions is to give detailed directions to police on how to respond to a complaint of domestic violence in terms of the Act.

Sections 18 (3) and (5)(b) of the Act say that the National Commissioner of SAPS must issue national instructions and submit these to parliament within six months of commencement of the Act.

Draft national instructions have been issued. In the rest of this document they are treated as part of the legislation because police are obliged to obey the instructions in terms of the Act. So the cost of implications of the instructions will also be considered.

The draft instructions were not drawn up in consultation with the NGOs that worked on the drafting of the Act. It appears that in some areas, such as transport, the national instructions have been used to provide a limited interpretation of police obligations in terms of the Act. In other areas, such as gathering local referral information, the instructions usefully place an obligation on the Station Commissioner to do the work. In this way, the instructions ensure that the Act is implemented through the mainstream budget of SAPS.

The national instructions remain in draft form until they have been submitted to parliament within the first six months of 2000. The draft instructions have been distributed to all SAPS members for comment, and it is expected that the National Commissioner will sign the final instructions soon. It is likely that they will be published in the government gazette before the end of 1999, and submitted to parliament early in the new session. SAPS informants said submitting the instructions to parliament is seen as a mere formality, and no provision has been made in the process for NGOs to give input on their content.

## **2.4 Duty to assist and personnel time**

Of the total SAPS budget for 1999/2000, 78% is allocated to personnel expenditure. Batchelor (1997:3) explains that if indirect costs (such as office space, training, uniforms, vehicle maintenance and petrol) associated with each member of the police are included, nearly 90% of the total budget is determined by the number of personnel. Personnel expenditure is managed from SAPS national office, except for spending on overtime.

An important demand on the mainstream budget for the implementation of the Domestic Violence Act will therefore be the allocation of personnel time to addressing the needs of victims of domestic violence.

The box on page 9 outlines some of the duties police are required to perform in terms of the Domestic Violence Act that will place additional demands on personnel time and availability.

Section 2 of the Act says that any member of SAPS has a duty to assist and inform a person laying a complaint of her rights in terms of the Act. This includes assisting or making arrangements for the person to get a safe place to stay and medical treatment, giving the person a notice with prescribed information and explaining the contents of the notice.

Section 4(3)(a) of the draft national instructions says that when an incident of domestic violence complaint is reported, police must “without any unreasonable delay” go to where the complainant is to attend to the matter.

Section 6(1) of the draft national instructions says that due to the “high risk inherent to and volatility of domestic violence incidents” police should, whenever reasonably possible, not go alone to the scene.

Section 4(3) of the Act says a member of SAPS may bring an application for an interdict on behalf of the complainant.

Section 15(1) of the Draft Domestic Violence Regulations (1999) says that a peace officer can serve documents in terms of the Act or regulations, in addition to the clerk of the court and the sheriff.

Section 15(3) of the Draft Domestic Violence Regulations (1999) says that a person who is serving documents in terms of the Act who is not a SAPS member, may ask the police to assist in cases where resistance is encountered or “reasonably anticipated”.

A SAPS submission to the Police Board in 1994 indicates that SAPS was officially employing a “no-interference approach” to domestic violence, despite previous legislation on domestic violence. (Olckers, 1996:131) A Human Rights Watch report (in Olckers, 1996:132) notes: “Seven months after the inception of the Prevention of Family Violence Act (133 of 1993) in December 1993, a survey ... found that only 60% of station commanders were aware of the Act. Even fewer stations had the requisite forms for the applicant to complete in order to execute the warrant of arrest attached to her interdict.”

Now that the new Act places a duty on police to attend to complaints of domestic violence, it is likely to increase the number of cases SAPS members attend to, and the amount of time that needs to be allocated to this area of work. The SAPS training manual on domestic violence stresses that someone laying a complaint of domestic violence may not be turned away, irrespective of where or when the offence was committed.

Input from SAPS area informants indicated, however, that some of the additional tasks are unlikely to happen in reality. For example, one said that while police are entitled to investigate a crime even if a complainant withdraws charges, this is highly unlikely to happen because of pressure on the justice system. Presumably, SAPS members will also be grateful not to follow up these cases if they do not have time dedicated for this work.

### ***Information for planning***

Given the lack of provincial or national prevalence figures, it is difficult to estimate what the demands on police time in the Western Cape will be. It is even impossible to work out the number of domestic violence cases currently dealt with by the police as SAPS statistics don’t distinguish domestic violence cases from the standard crime categories like murder, assault and housebreaking. SAPS informants at area level said some station commissioners keep statistics on crimes against women and children because this is a priority. However, these figures are not collated and analysed at higher levels because “the computer system is not rigged for that”.

SAPS has put in place a new domestic violence coding system that will, for the first time, provide accurate statistics on reported cases. SAPS members are required to list cases in a Domestic Violence Register and code the “type of incident” according to different categories of domestic violence. This system will be in place when the Act is implemented, but collated information will not be available immediately.

To collate the domestic violence statistics will require a small initial cost for programming to ensure that data from stations can be collated and drawn into reports. The funds for this will come from the crime information analysis component of the detective services budget.

Ideally, the additional information will be input electronically at station level. However, a SAPS informant explained that not all stations have computers. So reports will need to be forwarded from station to area to provincial commissioners. The divisional commissioner: crime prevention is responsible for collating information from the provinces and forwarding it to the national commissioner.

It is expected that this information will be compiled every six months, to provide a background against which the national commissioner's reports to parliament on incidents of non-compliance by SAPS members can be viewed in perspective.

### ***Budgeting time at stations***

SAPS area-level informants said it was impossible to answer questions about the allocation of time to domestic violence cases. Both areas covered in the research (i.e. Boland and West Metro) experience a shortage of personnel even before having a new Act to implement.

An area-level informant said that it can take two to three hours to take a statement, depending on how traumatised the victim is. Statement-taking is often an area where NGO and NGO-trained volunteers provide assistance. This is discussed in more detail under section 2.11 on victim support.

SAPS area informants for both areas said that there are no people dedicated to deal with domestic violence issues full-time. But at some police stations specific officers, usually women, are tasked with the duty of dealing with all domestic violence cases in addition to other work.

On the one hand, this practice could ensure that SAPS members who deal with domestic violence cases are experienced in this work, committed and best equipped to do it. On the other hand it could mean that both the SAPS officers involved and the victims are abused in the process. An NGO informant described how, at a station in one of Cape Town's townships, one woman officer has been made responsible for dealing with all cases involving crimes against women and children. This means that she is often called in when she is off duty, and victims of violence are often forced to wait for assistance for a long time until the officer can be located or until her shift begins.

Morris (in Artz, 1999:54) recommends that specialised domestic violence units, staffed by specially trained officers be established. While it is better for a few officers to develop in-depth skills in rendering this service, officers on all shifts will need to be assigned to the task.

SAPS informants in the Boland area said rural stations face a particular problem in starting a specialised unit and dedicating staff to a particular area because there are only a small number of police at each station and distances between towns are huge. Specific budgetary allocations are needed for stations in rural areas.

The 1999/2000 budget for the SAPS indicates that the national treasury has authorised the establishment of 161 755 posts, but the estimated person-years budgeted for is only 126 000. This means that posts for 35 755 police personnel have been approved, but not funded, nationally. A SAPS Western Cape informant said that the total number of authorised posts for the province is 14 949, of which 12 016 are filled. A budgetary allocation from SAPS national office is required to fill any of the 2 933 vacant posts.

### ***Budgeting time nationally***

Dr Geldenhuys, national head of SAPS legal services, is responsible for the implementation of the Domestic Violence Act within SAPS. The table below summarises the estimated time SAPS national staff spent on the implementation of the Act in the past year.

<b>Rank</b>	<b>% time</b>	<b>period</b>
Chief Director	60%	1 year
Director	40%	1 year
Senior Superintendent	80%	1 year
Senior Superintendent	60%	1 year
Superintendent	80%	3 months
Captain	80%	1 year

Source: Interview with Dr Geldenhuys

The salaries of the chief director, superintendent, captain and one senior superintendent are covered by the management services budget under the administration programme. The director and the other senior superintendent are from the national crime prevention division.

This team was responsible for finalising the draft national instructions, putting administrative systems in place and conducting the training of trainers in the provinces. The team will also be responsible for providing “grassroots support” to members who experience difficulties as the Act is implemented. It is expected that it will take six months for SAPS staff to be equipped to “run on their own”.

It is unlikely that input into the implementation of the Act will be as demanding of the management services staff time, although this will depend on the nature of issues that arise. After the implementation date for the Act, prime responsibility for implementation shift to the divisional commissioner: crime prevention.

## 2.5 Language

Effective implementation of the Act requires victims of domestic violence to understand the Act and how it can help them. The police are often the first place where victims ask for help, and it is important that these things are explained in a language the complainant can understand. The box below outlines measures that need to be taken by police to communicate with complainants in the official language of their choice.

Section 2(b)-(c) of the Act say that police must “if it is reasonably possible to do so” give the complainant a copy of a notice containing prescribed information in the official language of the complainant’s choice, and explain the content of the notice.

Section 10 (4) of the draft national instructions outlines the steps police must take to communicate with complainants in the official language of their choice. If no one is available who can speak the language, police must take “all reasonable steps” to find someone.

SAPS informants in the Boland area said that the availability of Xhosa-speaking personnel is a huge problem in the Western Cape, particularly in the rural areas. They said that they were attempting to address the problem through their affirmative action programme (which covers race and sex together), but experienced great difficulties in attracting African police officers to the province.

Alternative routes followed by the police at present are to use volunteer reservists as interpreters or, as a last resort, interpreters from the local magistrate’s court. The problem could also be addressed by recruiting trainees from the areas, or allocating a budget for Xhosa language training for police officers currently servicing in the rural areas of the Western Cape.

Even within Cape Town, the availability of Xhosa-speaking personnel 24 hours a day is a problem in some areas. A West Metro informant used the example of Hout Bay, a largely white affluent area with a big African informal settlement. The informant said that it is difficult to transfer someone from Gugulethu to Hout Bay because a constable can’t afford a house there and commuting is difficult on a 24-hour basis.

In suburbs like this there won't be a magistrate's court to refer to, and SAPS may need to budget for community interpreters to be available to assist 24 hours a day, or for Xhosa language training for police officers serving at the station.

## 2.6 Police training

Training for police to implement the new Domestic Violence Act is needed for a range of reasons. Firstly, the Act places a duty on SAPS members to perform certain tasks. Police need to be informed about these tasks and equipped to carry them out. The additional tasks police must perform are outlined in the box in section 2.4 on personnel time.

Secondly, there are areas where the Act relies on the discretion of police officers. Training is needed to ensure that they are able to make informed decisions that best protect victims of abuse. Some of the areas of discretion are outlined in the box below.

Section 3 of the new Act increases existing police powers of arrest. Police are now able to arrest a person without a warrant whom they "reasonably suspect" of having committed an offence with an element of violence against the complainant.

When a complainant claims that a protection order has been breached, section 8 (4)&(5) of the Act gives a police officer the power to arrest an abuser if the complainant may "suffer imminent harm".

Section 6 of the draft national instructions describes a range of judgements police must make when deciding what action to take to secure the scene of domestic violence. For example, police must assess if the complainant or any other person is "in any immediate danger" and if there are "reasonable grounds to suspect that an offence has been committed".

Third, SAPS members are expected to inform victims of their rights in terms of the Act and explain certain information. This requires a detailed understanding of the issues, and an ability to put information across in a clearly and simply. The following box highlights issues requiring explanation and understanding.

Section 2 (c) of the Act says that police have a duty to explain the contents of the prescribed information notice to complainants, including the remedies provided by the act and the right to lodge a criminal complaint where an offence has been committed.

Section 8 (6) of the Act says that when a warrant of arrest is handed to a SAPS member, complainants must be told that they have a right to lay a criminal charge against the respondent, if applicable. Police must also explain how to lay a charge.

Fourth, domestic violence cases involve particular investigative skills. While there are deficiencies in detective training as a whole, these are likely to impact more harshly on sexual offences and domestic violence cases. These cases are often more complex because of, for example, a lack of witnesses, the unlikelihood of being able to rely on confessions and the traumatising effect of the crime on the victim. (Olckers, 1996:133) Investigative skills need to be developed if police are to comply with the section of the draft national instructions in the box below.

Section 5(2)(d) of the draft national instructions says police must investigate any alleged incident of domestic violence and gather all available evidence of any offence that may have been committed during the incident.

The need for education of SAPS members is confirmed by the Medical Research Council survey of three provinces. Of the women surveyed who went to the police to get an interdict or prosecute the perpetrator, 32% were advised by the police not to follow this course of action. (Jewkes et al, 1999:19)

It is possible that in some cases this was because of the restrictive nature of the Prevention of Family Violence Act (1993). It is also possible that in many cases police advice was motivated by disbelief or an unwillingness to take domestic violence matters seriously.

When the old Act was introduced in 1993, SAPS members were simply informed through the “normal communication channels”, and no training was conducted. By mid-October this year we were informed that only 78 out of 2 148 SAPS members in the Boland area had “some sort of training” regarding crimes against women and children.

### ***Initial SAPS training programme***

Training on the Domestic Violence Act in SAPS was first conducted with leadership in each province and then expected to “filter down” to station level. The training was initiated by a “road-show” focusing on the new Act. A team from SAPS national legal services traveled to the provinces to train people who will in turn be responsible for training other police in their province.

In the Western Cape, 60 people attended the provincial training course with SAPS national legal services in Pinelands. Participants included the Captain or Superintendent from all sector stations, legal representatives from each area, six senior officers from the specialised units, other detectives, and ten instructors from Oudtshoorn and Paarl college. (The Oudtshoorn and Paarl colleges service both national and provincial police training needs. Paarl focuses on detective training and management development, while Oudtshoorn provides in-service training.)

A sector brings together a number of stations in a geographical area. So for example, the Boland, a large rural area, has 68 stations and 15 sector stations. The provincial training manager envisaged the captain or superintendent from each sector station personally visiting stations in their area to do the training. The sector station commissioner would need to do the training in the course of attending to usual duties, and no time had specifically been set aside for this work. Training plans for the West Metro and Boland police areas appeared to differ from this model.

The West Metro had concrete plans for the training programme to be conducted jointly by the legal services and human resources departments of the area. An initial session with management was planned for late in October 1999. The area commissioner, station commissioner and heads of components like crime prevention were expected to attend. They will also use their field training officers to assist station commissioners, and include them in the management training. Field training officers are ordinary station-based personnel ordinarily involved in mentoring new SAPS recruits for their first months at the station as part of their job.

In the Boland area, training on the Act would take place at one of the routine quarterly one-day meetings attended by all station commissioners, and possibly one or two additional police from each station. The area’s legal people had attended the provincial training workshop and would conduct the training for the Boland. Station commissioners would then be responsible for training people at their stations.

While some informants felt the ‘train-the-leadership-to-train’ approach was useful because it ensured “buy-in” from station commissioners and SAPS leadership more broadly, others felt that that the information was unlikely to reach ordinary SAPS members in this way. NGO informants are concerned that this approach also means people at all levels who do not necessarily have an understanding of domestic violence or sensitivity to the issues are responsible for training police. Rape Crisis, for example, has done extensive research on police attitudes towards gender-based violence and has developed expertise in training to overcome negative attitudes. But the organisation is concerned that its resources are not being used in the SAPS training process.

Some NGO informants were of the view that, realistically, a mass training programme can only hope to ensure that all police are aware of the content of the Act rather than long-term attitudinal change. However, most informants (from SAPS and NGOs) agreed that interpreting the Act in a way that provides the necessary protection for victims of domestic violence requires some attitudinal shift from police. One informant said that even “basic social skills, never mind gender sensitivity” are lacking.

SAPS informants said it is unlikely all police will be trained by 15 December 1999 when the Act is implemented. The training of provincial leadership “road show” took place between 15 September and

27 October 1999. It was expected that training at lower levels would take place closer to the date for implementation of the Act to avoid confusion between the new and old laws. But, given shift and leave arrangements (all SAPS members were instructed to take their annual leave before 15 December), it is expected that only 60-70% of SAPS members will have been trained when the Act is implemented. In mid-October 460 out of 12 500 SAPS staff in the province had been trained. The provincial plan is to target 'line functionaries' first, and train those fulfilling administrative functions later.

Station commissioners are required to forward a certificate to the provincial training department, stating who has been trained at their stations. The national commissioner sent out a circular saying that all stations need to report on training by the end of November, and provincial and divisional commissioners have until 15 December to report to the national commissioner.

To facilitate the training process, a manual was developed by SAPS together with Technikon South Africa. NGOs that have been active in the field and conductive extensive research on police attitudes towards sexual and domestic violence over many years are concerned that they were not involved in this process. The provincial training manager estimated that the training would take three to four hours at each station, whereas area-level informants estimated it would take five to six hours.

The Western Cape training manager said that no funding had been made available for the training. His understanding was that expected international donor funding had not come through so they have had to do the training "cheaply". Any expenses incurred for the training would be covered under "miscellaneous" in the provincial training budget. The budget for miscellaneous expenses is R250 000. The provincial training manager said it is impossible to budget for the training and his policy is to "issue funds as the need comes in". But he estimated the costs would be R5 000 to R6 000.

The total budget for training in the Western Cape, under which the "miscellaneous" item falls, is R2 million. This budget does not cover the salaries of provincial training staff and is largely spent on administrative costs like travel, allowances, lecturers and out-sourcing.

The National Crime Prevention Strategy business plan for training of service providers for the implementation of the Domestic Violence Act indicates a total budget of R830 662 for the training of all 111 500 SAPS members nationally. In addition, Technikon South Africa provided the training programme with the services of a lecturer for a period of six weeks to participate in the "road show", and covered her subsistence and travel expenses. Technikon South Africa also covered the cost of her time spent commenting on a draft of the training manual. Her services contribute approximately an additional R100 000 to the budget. The budget itself is largely for travel, accommodation and subsistence allowances. Geldenhuys said provinces were informed that if they experienced difficulties covering expenses, they could approach his office for assistance. The budget and funding sources are outlined in the table below.

<b>Project budget: SAPS training of service providers</b>		
Head Office	55 416	Train the Trainer
Province	774 246	Train the Trainee
<b>Total</b>	<b>830 662</b>	
<b>Project funding: SAPS training of service providers</b>		
Secretariat for Safety and Security	208 000	From management budget in the administration programme
SAPS (human resources management)	322 662	From corporate services budget in the administration programme
DfID	300 000	These funds have not yet arrived.
<b>Total</b>	<b>830 662</b>	

Source: Based on NCPS Business Plan: Implementation of the Domestic Violence Act: Training of Service Providers and interviews with Dr Geldenhuys and Senior Superintendent Nelson

The total national SAPS human resources management budget for 1999/2000 is R667 million, of which R242 million (36%) is stipulated as training expenditure. This budget covers only personnel (approximately 80% to 85% of the training budget) and operational costs for the training department. It

does not include costs involved when SAPS members from stations, departments or units attend training programmes.

The comparable amount budgeted to train police to implement the Domestic Violence Act (ie excluding salaries of the organising team and expenses for SAPS members to attend training), represents approximately 2% of non-personnel expenditure of the national training department.

SAPS financial services department estimates that that an additional amount of approximately R241 million is spent on training generally, when SAPS members sent on training courses have subsistence, travel and accommodation expenses paid from the budget of their department, unit or station.

### ***Follow-up training***

In the West Metro and Boland areas where interviews were conducted, informants agreed that follow-up training would be necessary to answer questions and address difficulties that arise from practical experience with implementing the Act.

Geldenhuys recognised that a follow-up training session together with proper monitoring was needed to address any shortcomings in the implementation of the Act. But no additional training for SAPS members has been planned or budgeted for nationally. At this stage they are concentrating on “first getting implementation off the ground”. The content of further training will depend on the type of difficulties members face with implementation.

A training document on the Domestic Violence Act is currently being prepared for inclusion in the basic training manual for new SAPS members.

### ***Other training initiatives***

An initiative to train police in victim empowerment, outside of the drive to implement the new Act, was undertaken by NGOs together with SAPS provincial training department. The five-day programme was developed and delivered jointly by several NGOs (UCT Institute for Criminology, UWC Institute for Child and Family Development, Trauma Centre, Rape Crisis and NICRO) together with SAPS psychological and social services. One of the five days was dedicated to dealing with domestic violence, and another day focused on rape and sexual assault. NGO informants said domestic violence was by far the most difficult part of the training programme, one claiming this is “because of [the SAPS members’] own involvement” in domestic violence.

In mid-1998, 106 SAPS members from uniform and detective branches at 10 (out of approximately 170) police stations in the province were taken through the training programme in five groups of approximately 20 each. The decision was taken to train more people from a few stations so that they could then form a supportive team at the stations and all shifts could be represented.

According to the regional training manager, these 106 people are meant to concentrate on crimes against women and children full-time. It appears there is some recognition of the need to develop specialised skills in this area, and this type of training could provide the basis for specialised unit focusing on violence against women.

NGOs assisted the SAPS training department by drawing up a business plan for the training. The total budget was R100 000, of which R60 000 came from the provincial training budget. The additional R40 000 was meant to come from the provincial MEC for Community Safety, but did not materialise. It took two years for NGOs involved in the process to be paid anything for their work, and they are still waiting for the final payment. As a result, they are reluctant to do any more work for SAPS until they are paid for the services provided already.

NGOs also raised R60 000 from donors to cover an in-depth evaluation of the training, including visits to stations where officers were trained two months after the training. They are not releasing the evaluation report to SAPS until they have been paid for the training work. One weakness in the programme, discovered through the evaluation, was the absence of a process to ensure “buy-in” from station commissioners. This meant officers who had been on the course faced obstacles when they went back to the stations. They also learned that it was better to train officers from one station together, rather than mixing staff from different stations.



NGOs in the Western Cape have now drawn up a comprehensive proposal to train police in the province on victim empowerment. Their assessment is that provincial training is most appropriate given the provincial differences in issues, politics and resources in SAPS. NGOs are looking for donor funding for the project because they have been told the province does not have a budget for consultancy. Informants said that, while the SAPS national training department has a budget for consultancy, the department is reluctant to work with NGOs. Their experience is that often the national department uses NGO training materials without crediting them even.

The total budget for the proposed NGO project is R5 million, to be spent over three years. Of the total budget, approximately R1 million will be allocated for dealing with domestic violence issues, with a further R1 million for sexual assault. This includes consultation payments to NGOs of R700 per facilitator per day, training materials, transport and meals. It does not include follow-up and support work done by NGOs. Funding has not yet been secured for the project.

Ad-hoc training does take place at station level. Rape Crisis, for example, is often asked to conduct training for police. Invitations usually come from the Community Policing Forum, or occasionally from concerned station management. An NGO informant said there is a constant dilemma of whether to charge for their services or not: "If it is free, it is not valued. But we want them to buy-in to it. Often they'll only do it if we pay." Rape Crisis is paid an average of R250 for a one-day police training workshop run by one or two facilitators. This amount must cover the facilitators' time and materials distributed to participants.

The Independent Complaints Directorate has conducted training for police officers in the Western Cape. This is discussed in more detail in section 2.13 on non-compliance by SAPS members.

## **2.7 Internal publicity**

Informants said that articles have been written in police publications to broaden awareness and knowledge about the Domestic Violence Act: the national magazine of SAPS, *Servamus* and the provincial police newspaper, the *Grapevine*. Police television was also being used to broadcast information on the Act, and answer questions police officers may have about its implementation, in November 1999. This publicity does not add anything to SAPS budgets.

Approximately R50 000 from the SAPS Victim Empowerment Programme budget has been allocated for the SAPS communications department to produce approximately 10 000 full-colour posters and 300 000 two-colour brochures. The media will only be ready early in 2000. SAPS will first target police stations with crisis centres and volunteer networks for distribution, before distributing the media more widely.

NGO informants expressed concern that they are not consulted about the message given by SAPS media on domestic violence. They feel they have expertise in this area that could be usefully tapped. One informant said it is important to have media sending the same message to police and the public about rights and duties clearly visible in stations "so that the two of you look at that poster together and see what the law is supposed to do".

## **2.8 Local referrals**

Station Commissioners have been given responsibility to ensure that complainants are referred to the appropriate local resources. The Station Commissioner's responsibilities are outlined in more detail in the box below.

Section 3 of the draft national instructions says that every station commissioner must identify and liaise with local organisations that provide support and services for victims. Every six months the commissioner must compile and a list of these organisations with information about their services, hours, charges and contact details.

In terms of Section 3, station commissioners must also issue station orders that take into account local conditions and inform radio control units that cover larger areas with more than one police station of local arrangements.

Section 7(3)(b) says that police may contact a family member or friend of a complainant to provide support.

Station commissioners will need to budget time for these additional duties. Geldenhuys said that in the training, station commissioners have also been encouraged to “mobilise” the communities in which they work to provide the necessary resources, such as shelters, where these are not available. It is suggested that they use an existing channel like the Community Policing Forum to do this.

The availability of shelters is discussed in more detail in section 4 on welfare.

The station commissioner is required to ensure that the list of local support services and organisations is at the community service centre and with the radio control unit where the station forms part of a larger area. A budget needs to be made available for each station to print a locality-specific pamphlet describing the services abused women can access for assistance. The community liaison officer should be tasked, through station orders, with the responsibility of ensuring that the pamphlet is appropriately distributed.

The training manual emphasises that police should assist victims as far as possible by making telephone contact with family, friends, other facilities where they can get assistance and other sources of transport. These additional calls will also need to be budgeted for at station level. Telecommunications is a standard item under administration. Provision is made for the standard item under each programme and sub-programme at station level.

## **2.9 Transport**

Transport is budgeted for under the standard item of equipment, and forms the bulk of the equipment item in SAPS.

The box below highlights sections of the Act that impact on SAPS transport capacity, and related sections of the draft national instructions.

Section 2 (a) of the Act says that police must assist complainants to find suitable shelter and get medical treatment.

Sections 8 and 9 of the draft national instructions say that SAPS members may “only as a last resort” transport a complainant in a police vehicle to find suitable shelter or get medical treatment, and then only if a vehicle is available. Complainants must be informed that they are being transported at their own risk.

Section 4(3)(a) of the draft national instructions says that when an incident of domestic violence complaint is reported, police must “without any unreasonable delay” go to where the complainant is to attend to the matter.

Section 7 (2)(b) of the Act says that the court may order a peace officer to accompany the complainant to a specified place to assist with arrangements regarding the collection of personal property.

All SAPS informants in the Western Cape said transport has been a major problem even before the implementation of the Act. Area-level informants said insufficient funds had been allocated to the province from the national SAPS transport budget. This was clearly an issue of great frustration: "There is not enough transport for patrol work. Funds for the purchasing of vehicles expired in July this year. The budget is till the end of March. Stations are running on a shortage of four to five cars. ... I don't think the Department of Justice had any idea when they wrote [the Act]."

NGO informants seem to expect that police will assist complainants to find shelter and medical treatment. Yet the national instructions say police transport should only be used as a "last resort". A SAPS informant said this limitation is only partly because of limited availability of vehicles. He indicated that a more important reason was police vehicles are not covered by third party insurance.

In many areas, and particularly for poor black rural women, the use of police vehicles as a "last resort" will be needed because the availability of shelters and other services is scarce, distances to these services large and other forms of transport infrequent and expensive.

Another problem is that the available transport is not always appropriate. Sometimes only a sedan vehicle can be used, and this means the victim and the suspect are transported together to the police station.

The Act places other demands on police transport, in addition to those arising from the duty to assist complainants. An NGO informant said that in the past police have not been willing to go to a domestic violence scene. Under the new Act they are obliged to. SAPS transport is also needed for police to accompany complainants to collect their belongings, give evidence in court, transport suspects to court and serve court documents.

A budgetary allocation for police transport (vehicles and fuel) must be made to accommodate needs arising from the Act specifically. In addition, allowance could be made to reimburse victims for other forms of transport, or for local taxi associations to be reimbursed for transporting victims, particularly in rural areas. An NGO informant was of the opinion that rural taxi owners "capitalise" on the needs of abused women, and it could be useful for local police or Community Policing Forums to negotiate a special service with taxi associations that includes a discounted fare and a 24-hour contact number.

## **2.10 Access in rural areas**

A problem NGOs raise with the implementation of the old Act is that women in rural areas struggle to make even the first contact with the police because of the isolation of rural communities and the difficulty and expense of travel. While one SAPS informant said that in inaccessible areas "moral standards are higher than elsewhere" because the church plays a powerful role in the community, the experience of NGOs working in rural communities is different. For example, research carried out in the Mamre community of the Western Cape in 1996 shows that 38% of women in the community had been abused in the previous year. (Rein et al in Keen and Vale, 1997:12)

The problem of lack of access for rural women is likely to persist under the new Act if it is not addressed. A Black Sash Trust Knysna Office (1999) paper asks specifically: "How do rural women get to the SAPS to lay the charge...?"

One way in which stations covering a large area can broaden access to SAPS is by using mobile caravan satellite stations. Boland area informants said there was only one mobile centre, located in Worcester. It is used mostly for special events and is not used regularly. Other research (Goldman et al, 1998) notes that in Robertson in the Southern Cape area, the Community Policing Forum arranged a mobile caravan that is used as a satellite police station in the local township.

Funds need to be budgeted by SAPS to address this need.

## **2.11 Victim support**

While it is not part of the Act, regulations or national instructions, the SAPS training manual on domestic violence says that an interview with a complainant must be conducted in private where possible. When a victim comes to a community service centre, the interview should be conducted in a

separate room, away from the main duty desk. This is an issue that could be covered by station orders issued by the station commissioner.

Comfort rooms form a large part of the SAPS victim empowerment programme. A comfort room is a room at a SAPS community service centre allocated for use only by women and children who are traumatised as a result of crime. It is a private space where statements can be taken, information can be given or counselling can take place if available.

There are currently comfort rooms at 75 out of approximately 170 stations in the province. In the Boland area, which covers the majority of rural stations, there are comfort rooms at 22 out of 68 stations. Often these rooms have been established at the initiative of the local Community Policing Forum, and they are usually furnished and equipped through private donations. The provincial Department for Community Safety has given SAPS a commitment to assist with the establishment of comfort rooms at the remaining stations in the province, although the budget for this has not yet been finalised.

SAPS requested R12,5 million from the provincial Department for Community Safety to do this. According to informants in SAPS, the rooms were to take the form of prefabricated 'park homes' or 'on-the-wheel houses' as the availability of space is an issue at most of the stations. Informants in the provincial department claim that the SAPS budget was, however, "extremely extravagant" including items such as televisions and video recorders, and is unlikely to be granted in full.

Comfort rooms are seen as a once-off expense, and no funds are allocated to maintain or ensure effective use of the rooms. Some NGO informants feel that establishing comfort rooms is overemphasised at the expense of the need to care for victims: "Without the understanding [from police], the difference is marginal."

NICRO has volunteers using these venues to support the victims and assist with statement taking at approximately 13 stations in the Western Cape. Most are located in and around Cape Town, but the service is available at four stations in the rural areas. NICRO doesn't receive any payment from SAPS for this work.

Other organisations also provide volunteers. In the Boland area, informants said that the local college in Wellington has an assistance programme. There is a duty roster, and police contact the person on the roster when there is a need at the station. The volunteers are all trained by NGOs involved in the field.

## 2.12 Forms and registers

In terms of the Act and the national instructions, police have to complete a higher number of forms when dealing with a domestic violence case than in the past. The relevant sections of the national instructions are outlined in the box on page 23.

Section 12(1) of the draft national instructions says that police must record all domestic violence incidents reported to a police station in the Domestic Violence Register.

Section 12(1) of the draft national instructions says that police must fully document their responses to every incident of domestic violence on a "Report of Domestic Violence Incident" form.

Several sections of the draft national instructions say that police must make entries in the Pocket Book (SAPS 206) to record action that they have taken or have not been able to take in terms of the Act.

The printing and distribution of forms and other materials is covered by the logistics budget under the administration programme of SAPS. Provision will need to be made in this budget for these costs.

For the first year, costs to print material for which SAPS is responsible amount to approximately R1,4 million. It is likely that this money will need to come from the 1999/2000 budget. This will be financed partly from the management services budget and partly from logistics, although the funds have not yet been allocated.

## 2.13 Non-compliance by a member of SAPS

The Independent Complaints Directorate (ICD) is an independent body established to investigate allegations of misconduct and offences against members of SAPS. It is also tasked with proposing reforms to reduce the occurrence of behaviour giving rise to complaints. The Domestic Violence Act is the first law placing a specific duty on the ICD in a particular area.

The ICD is funded independently of SAPS. The budget is allocated nationally, although the structure also has offices that serve the provinces. The table below summarises the monetary and staff budgetary allocations for the ICD nationally for 1999/2000.

Programme	Budget (R'000)	%	Person-years	%
Administration	8 979	38%	65	44%
Investigation of complaints	11 179	47%	59	40%
Monitoring and development	3 452	15%	25	17%
<b>Total</b>	<b>23 610</b>	<b>100%</b>	<b>149</b>	<b>100%</b>

Of the ICD's total budget, 66% is allocated for the standard item of personnel expenditure, 21% for administrative expenditure. While only 149 person-years have been budgeted for, 535 posts have been authorised by the Treasury. This means that there are 386 unfunded posts in the ICD. In the Cape Town office of the ICD, 63 posts have been authorised, but only 15 permanent posts are funded, and there is one staff member employed on contract.

The box below outlines measures in the Act that place additional duties on SAPS and the ICD to act when police fail to comply with the Act, and require co-ordination between SAPS and the ICD.

Section 18 (4) of the Act says that failure by police to comply with the Act and national instructions constitutes misconduct. The ICD must be informed and SAPS must institute disciplinary proceedings.

Section 18 (5)(c) says that the ICD must, every six months, submit a report to parliament on cases of misconduct and recommendations made in these cases.

Section 18 (5)(d) says that the National Commissioner of SAPS must, every six months, submit a report to parliament regarding the number and details of complaints received against members, disciplinary proceedings and steps taken to act on recommendations from ICD.

NGOs are concerned that, unless the ICD is accessible, proper co-ordination is planned for and follow-up monitoring action taken, a useful element of the Act will be meaningless. The ICD has no specific budgetary allocation for the implementation of the Domestic Violence Act, and activity in the province appears to be ad-hoc and under-resourced.

The ICD office in Cape Town is the only office in the Western Cape. This office is also responsible for the Northern Cape and Eastern Cape. This means that women in these provinces outside the city are unlikely to be able to access the ICD. The ICD has a 24-hour access cellular phone number, lodged at all police stations, for SAPS members to contact the ICD when people die in police custody. (SAPS is required to contact the ICD immediately by law.) This method of access is not, however, appropriate for victims of domestic violence who want to lay a complaint against police. Artz (1999:52) proposes toll free numbers as a method of opening up access to the ICD to rural women particularly, and budgetary provision would need to be made for this service.

The ICD office in Cape Town held a one-day workshop in November for 50-60 police officers from the same number of stations across the four SAPS regions in the Western Cape. The ICD identified a need for the workshop because the Act requires co-ordination between SAPS and the ICD. The initial workshop with 'grassroots' officers looked at potential problems with implementing the Act and suggesting improvements. Workshop participants drafted resolutions on ways of co-ordinating the implementation of the Act. It is now planned for these to be discussed at a further workshop with station commissioners.

The workshop was run on a minimal budget of under R500 for refreshments. SAPS provided transport from stations, and vehicles from rural areas picked up several participants along the way to reduce costs. The workshop facilitator works for Law, Race and Gender at the University of Cape Town, and provided the service free of charge in her personal capacity. This type of facilitation would usually cost approximately R1 500.

The budget comes from the administration budget of the Cape Town office. A further R500 is likely to be allocated for the follow-up workshop.

### 3 JUSTICE

Justice is the responsibility of national government alone. The national Department of Justice has established regional offices in the past couple of years. However, the regional office in the Western Cape was reluctant to grant us an interview because all budgetary issues related to implementation of the Domestic Violence Act are dealt with by the department's national office. An informant outside the regional office said that the Western Cape office is too new to have established its role or had an impact yet.

#### 3.1 Structure of the budget

The Department of Justice budget is allocated according to six programmes: administration, administration of justice, administration of law, public protector, legal aid and auxiliary and associated services.

The table below summarises the monetary and staff budgetary allocations for the Department of Justice nationally for 1999/2000.

Programme	Budget (R'000)	%	Person-years	%
Administration	144 635	6%	908	7%
Administration of justice	1 335 012	60%	10 580	83%
Administration of law	146 554	7%	961	7%
Public Protector	15 399	<1%	0	
Legal Aid	233 880	10%	0	
Auxiliary and associated services	365 058	16%	374	3%
<b>Total</b>	<b>2 240 538</b>	<b>100%</b>	<b>12 823</b>	<b>100%</b>

While the entire justice system is financed from the Department of Justice budget, different parts of the system operate quite independently in line with the principle of judicial independence. For example, the Magistrates' Commission administers the magistrates' courts, and the National Director for Public Prosecutions is responsible for its own budget. The independence of these bodies means that they will draw up policies and procedures, for example the policy for prosecution in terms of the Domestic Violence Act, independently of Department of Justice processes.

The administration of justice programme is the biggest in the Department of Justice budget and includes both the magistrates' courts (lower courts) and public prosecution authority. The table below summarises the monetary allocations for the administration of justice for 1999/2000.

Programme	Budget (R'000)	%
Constitutional Court	7 507	<1%
High Court	95 413	7%
Labour Court	3 220	<1%
Land Claims Court	4 113	<1%
Lower courts	1 126 782	84%
Public Prosecution Authority	92 783	7%
Special Tribunal	5 194	<1%
<b>Total</b>	<b>1 335 012</b>	<b>100%</b>

There has been some debate about the distribution of work between the High Court and lower courts in the Western Cape. The Minister of Justice, Penuell Maduna, has called for a review of the three-and-a-half month recess enjoyed each year by the Cape High Court. Frank Khan, Western Cape Director of Public Prosecutions, supported the call. The change would relieve the load carried by the regional and magistrates' courts as the High Court could hear criminal cases that are awaiting trial for periods of up to six months in the lower courts. (Argus 1.11.1999)

#### 3.2 Where does domestic violence fit in?

Several parts of the justice system are responsible for implementation of different parts of the Domestic Violence Act.

- The Department of Justice itself is responsible for co-ordination of the implementation of the Act, publicity, and monitoring and evaluation. The budget for this work falls under the administration programme.
- Magistrates' courts issue protection orders and hear cases where offences have been committed or protection orders breached. Their budget falls under the lower courts component of the administration of justice programme.
- The National Director of Public Prosecutions guides prosecution in terms of the Act. The public prosecution authority is also budgeted for under the administration of justice programme.
- The Legal Aid programme provides public defense.

The department, in late 1998, set up five pilot family centres bringing together four key family-orientated legal services – divorce, family violence interdicts, maintenance and non-criminal children's issues. The pilots were established with no or few extra financial or other resources, and one of the aims was to see how a user-friendly service could still be provided within these constraints. (Budlender, 1999 a:1)

There is a pilot centre in the Western Cape, in Cape Town. All staff members at the Cape Town family centre have been seconded from other courts, and basic resources like stationery and photocopying facilities are obtained from other courts when the need arises. The main resource need at the Cape Town family centre at present appears to be space. The family centre was intended to be a more user-friendly environment. Yet a magistrate complained that there was no separate office for people to wait so women are sitting "battered and bruised" in the corridors, which adds to their humiliation. Also, magistrates share offices, there are no consultation rooms for attorneys and there is no space to accommodate NGOs that assist people with interdict applications for example. (In at least three of the four other pilots, NGOs that assist with interdicts applications are provided with accommodation.)

### **3.3 Magistrates' courts**

#### **3.3.1 Personnel time**

Magistrates' courts issue protection orders and deal with cases when these orders are breached. Any increase in the number of victims using the Act for protection against abuse will increase the workload of magistrates' courts.

An experienced magistrate at the family centre estimated that the number of interdicts the court was processing would double with the introduction of the new law. An NGO informant working in the courts agreed that "the floodgates will open". The magistrate also expects an increase in non-compliance with protection orders. While these cases are dealt with by the criminal courts, the civil court (where the protection order is issued) is still responsible for furnishing the file to the prosecutor at the criminal court and issuing a new warrant of arrest to accompany the protection order. However, no provision has been made for the allocation of additional staff. This will only be done "when the need arises".

Recent press reports suggest that there is no spare capacity in the magistrates' courts to accommodate a transfer of resources to civil courts if the workload increases dramatically, or to deal with cases of non-compliance with protection orders. Reports claim that the criminal justice system in the Western Cape is on "the edge of an abyss" with 95 050 outstanding criminal cases in the magistrates' courts of the province. (Argus, 1.11.1999) An NGO informant said experience in the rural areas shows that when there are justice delays, "interdicts get put at the bottom of the pile". It is clear that, if specific provision is not made to allocate additional court time for the issuing of protection orders in the civil courts and dealing with non-compliance in the criminal courts, the Act will make minimal difference to victims of domestic violence.

#### *Affidavits and counselling*

Writing affidavits and providing information to applicants in a supportive manner is a part of the court process that is very time-consuming. Assisting victims takes patience and sensitivity. This is an area where NGOs have made a massive contribution with little funding from the state. NGO volunteers also often provide translation services in the absence of interpreters.

A magistrate from the family centre in Cape Town said that in practice applicants often arrive with affidavits drafted by NICRO or other NGOs. Otherwise, in reality, the clerk simply hands the forms to



the client and tells her to explain in her own words why she is seeking relief. Without assistance affidavits are often badly drafted, it takes a longer time for the applicant to complete the affidavit, and more time is spent in court taking oral evidence.

NICRO's Support for Abused Women Project provides legal assistance for abused women at the Women's Support Centre in Cape Town, as well as NICRO offices in Mitchell's Plain, Khayelitsha and Bellville. Counselling only is provided at additional offices outside the city: Atlantis, Beaufort West, George, Paarl, Stellenbosch, Worcester. While the organisation is not physically located at the courts, it provides services that assist the courts and their clients.

The table below shows the number of women who were assisted by the project for the two most recent time periods for which figures were available. The vast majority of these women were experiencing domestic violence.

<b>Women assisted by NICRO Support for Abused Women Project</b>	<b>April 1997 – March 1998</b>	<b>April 1998 – March 1999</b>
Assisted directly by legal workers and given information on interdicts, divorce and maintenance	821	1 142
Informed of legal rights only as part of a counselling session	2 463	1 716
<b>Total assisted</b>	<b>3 284</b>	<b>2 858</b>

Source: Jane Keen, manager for the NICRO Western Cape: Support for Abused Women Project

Over the past two years, the largest number of clients of the programme were residents of Mitchell's Plain (40% in 1998) and Cape Town (15% in 1998). (Roux, 1999:3) The largest group of NICRO's clients are Afrikaans-speaking (41%), but the percentage of Xhosa speaking clients has increased from 12% in 1994 to 20% in 1998. (Roux, 1999:4)

Most of NICRO's legal consultation with clients is done by trained legal volunteers, usually law students from the Universities of Cape Town, Western Cape and South Africa. Until mid-1999, the legal service at NICRO had only one full-time paid worker. There are now two legal workers, both with law degrees. One is responsible for the supervision of legal volunteers and education and training. The other does advocacy and lobbying work. They also do some direct consultation with clients, particularly when student volunteers are writing exams or on holiday.

NICRO's legal workers are in posts subsidised, but not paid in full, by the Department of Social Services. The subsidy is allocated from the budget for the social welfare services programme. The national Department of Welfare sets the policy, but funds are distributed provincially. According to NICRO's project manager, they are informed each year that the department will fund projects rather than posts. However this policy change has not been implemented, because the department has not yet developed an alternative non-post-based way of allocating funds.

NICRO has calculated that they spend an average of two hours per client for the first legal consultation (including drafting the application for an interdict, writing and typing an affidavit, follow-up with police and the courts and other administrative work). The cost of this two-hour session, if done by a paid worker is approximately R110, or R55 per hour (including salary and infrastructure costs). If done by a volunteer, the cost is approximately R40 or R20 per hour (including transport money for the volunteer, in-service training, supervision and infrastructure costs). If NICRO pays the volunteers an honorarium, which has been proposed as an incentive to students to assist, this would increase the volunteer cost by R10 per hour. These estimates do not include overheads. None of the costs related to volunteers are covered by government.

Mosaic, another Cape Town based NGO, has established advice desks to assist with domestic violence applications in Belville, Goodwood, and Wynberg and has concrete plans for further desks in Mbekweni/ Paarl and Franschhoek/ Wellington. Mosaic also has a presence at the Mitchell's Plain court. The project is staffed by 15 volunteers, and work at each court is supervised by one of Mosaic's 16 full-time employees. Since the court project started in March 1999, Mosaic volunteers have assisted an average of 302 women per month at the courts.

Mosaic volunteers attend an intensive five-day training course on crisis counselling and the practical aspects of assisting applicants and the clerks. Supervisors have also been through this training and have experience as Mosaic community workers. Mosaic is adamant that court advice work requires proper co-ordination of volunteers, and that domestic violence counselling must have adequate supervision. Mosaic community workers attend a supervision meeting weekly, and volunteers, who work on a duty roster system, attend supervision monthly.

The director estimated that the court support desks project will have cost approximately R100 000 to run in 1999. Community workers (who serve as supervisors at the courts) are paid only R2 000 per month, and volunteers receive R30 each day they work to cover transport and lunch.

Mosaic is funded privately. There are no government funds set aside for this work in the courts. Wynberg court provides Mosaic with R50 a month, which goes towards refreshments and toilet paper (for applicants' tears) and lollipops for applicants' children. The court also allows the organisation to use its photocopy machine. The other courts are not as supportive. (Budlender, 1999 a:26)

Several NGO informants expressed concern about the high turnover in volunteers where there is no financial support. This is costly for the organisations involved as they constantly have to recruit and train new volunteers as replacements. Ironically, the volunteer system relies heavily on women to do the unpaid work. It reflects the extent to which the caring services provided, largely by women, are undervalued by society.

#### *Administrative duties*

The Act places a range of administrative duties on clerks of the court, some of which are outlined in the box below.

Section 6 (6) of the Act says the clerk of the court is responsible for ensuring that the protection order is served on the respondent and a certified copy of the order together with the original warrant of arrest is served on the complainant. Certified copies of the order and warrant must also be forwarded to the police station of the complainant's choice.

Section 10 says that when there is a protection order is varied or set aside, the clerk must forward a notice to the complainant and the respondent.

The administrative systems need to be efficient for protection orders to be effective, and for police to be able to fulfill their duties in terms of the Act. So time needs to be allocated for clerks to do this work.

#### *Information for planning*

At present no place in the justice system collates statistics on the number of applications for interdicts and the number of interdicts granted in terms of the old Prevention of Family Violence Act. There is no common standard for statistics kept by the courts. For example, many courts in the Western Cape claim not to keep separate statistics on male and female applications. (Vogt and Keen, 1998:10) (Section 3.4.4 on evaluation outlines the administrative procedures that have been put in place by the Department of Justice to correct this under the new Act.)

A survey of Magistrates' Courts by Vogt and Keen (1998) draws together statistics on interdicts for the Western Cape. Of the 49 Magistrates' Courts within the Western Cape dealing with interdicts, 43 responded in time to be included. A total of 28 805 interdict applications were recorded by these courts between December 1993 and October 1997, of which 94% were granted.

The table below shows the average number of applications per month for each year from 1993 to 1997. There is a clear and steady increase in applications. (Vogt and Keen, 1998:6)

<b>Average number of interdict applications per month in the Western Cape</b>				
<b>1993</b>	<b>1994</b>	<b>1995</b>	<b>1996</b>	<b>1997</b>
174	449	562	602	707

Source: Vogt and Keen (1998)

The family centre in Cape Town supplied figures for the Cape Town magistrate's court private law section on the number of new interdict applications as well as the number of court hours spent on interdict matters (including new applications, return dates, appearances on warrants and variations/setting aside). Figures from the Cape Town court from 1996 to 1999 indicate an increasing trend to increase similar to that noted for the province as a whole. Court hours per month for interdict matters in 1998 are lower than previous years. The reason for this decrease in the light of a higher number of cases is not clear. However, for the past two years court hours spent on interdict matters were still longer than those spent on maintenance cases at the court.

The table below shows the average number of interdict matters per month for each year from 1996 to 1999, and average number of court hours per month spent on interdict matters for the same years.

<b>Average number of interdict matters and court hours per month at the Cape Town magistrate's court</b>			
	<b>1996</b>	<b>1997</b>	<b>1998</b>
<b>New interdict applications</b>	<b>38</b>	<b>48</b>	<b>53</b>
<b>Return dates</b>	44	51	60
<b>Appearances on warrants</b>	4	13	14
<b>Variations / setting aside</b>	11	5	5
<b>Court hours on interdicts</b>	27	38	30

Source: Based on statistics for Cape Town magistrate's court, private law section provided by the family centre

A family centre magistrate estimated that 70% of the interdicts are for coloured people, 20% white and 10% Africans and Indians. This is in keeping with the composition of the Cape Town central magisterial district, which has no townships. Even so, he said the number of African interdict applicants has increased.

Presently there is only one clerk dealing with domestic violence at the Cape Town family centre. The clerk's workload is heavy, and any increase in the number of cases would require extra capacity. Administrators at the centre currently spend approximately one hour per day registering the sheriff's returns when interdicts are issued.

The Department of Justice budget for 1999/2000 allocates funds for 12 823 posts. It also notes the authorised establishment of 14 639 posts and the additional authorised establishment of a further 263, which means there are 2 079 posts authorised by the Treasury but not funded.

### **3.3.2 Training**

A survey of 100 women who applied for interdicts under the old Prevention of Family Violence Act at the seven courts in the Cape Town area, found that 14% said court personnel were unhelpful. (Keen and Vale, 1997:32) Artz' (1999:32) focus group research with 168 women from 15 communities in the southern Cape reports few positive experiences with the courts. Some complaints raised in these studies relate to the role played by justice officials, for example prosecutors not consulting with women before trials, inadequate preparation for cases, and procedures not being explained.

Under the new Act, clerks of the court have a duty to inform complainants how the justice system can help them deal with domestic violence. The clerks are the complainants' first contact with the court, and play an extremely important role. The box below outlines some of their duties in terms of the Act that need them to have particular knowledge and skills when interacting with complainants.

Section 4 (2) of the Act says the clerk of the court must inform the complainant of relief available (protection order, not having to pay the sheriff, emergency financial relief) and right to lodge criminal complaint at the same time, where appropriate.

Section 8 of the Act says that the court must issue a suspended warrant of arrest whenever and protection order is issued and must re-issue the warrant if a respondent is arrested. The complainant needs to file an affidavit to get another warrant, and needs to be informed of this. Otherwise they will be left without protection.

While NGO informants said that, generally, clerks have “such a bad image”, it appears that clerks could also have a useful role to play in ensuring that SAPS members comply with the Act. An informant from the ICD said that it is often “on-the-ball” clerks of the court who will alert the ICD to cases of misconduct by police. An NGO informant said a helpful clerk will assist by liaising with the relevant station commissioner.

An evaluation of the pilot family centres revealed that training for clerks is particularly important to ensure the Act is implemented effectively. In all the pilot family centres, the family violence component has been responsible for issuing peace orders as well as interdicts. Budlender (1999a:17) reports that in several centres it appears that peace orders are being issued to people who qualify for an interdict. These orders are intended to assist in neighbourhood disturbances and do not provide the protection needed by victims of domestic violence. At most, a breach of the order results in a fine of R1 000. Clerks need to know that victims of domestic violence have a right to a protection order, and that peace orders are inappropriate. Magistrates also need to enforce the correct practice.

Magistrates need to understand the complexities of domestic violence to judge the appropriateness of the relief asked for by the complainant. The box below outlines some of the areas where magistrates require this understanding.

Section 5 (2) of the Act outlines the basis on which magistrates must decide whether to issue an interim protection order. The magistrate needs to be satisfied that there is prima facie evidence of domestic violence and “undue hardship” will be suffered without immediate protection.

Section 6 of the Act outlines the basis on which magistrates may issue a protection order. The magistrate must issue the protection order on the balance of probabilities. Magistrates must not allow respondents who do not have legal representation to cross-examine the complainant directly.

Section 7 of the Act outlines the court’s powers when issuing a protection order. These include powers to order the respondent to pay rent or bond and emergency monetary relief.

Magistrates have been criticised by Department of Justice officials and prosecutors for refusing to prosecute cases of child abuse and rape under increased public scrutiny of verdicts. (Mail and Guardian, 10-16.9.1999) The recent High Court judgement where a father was given a light sentence for raping his daughter because the rape happened “within the family unit” (Argus, 6.10.99), reinforces the need for judicial officers at all levels to be trained to deal with domestic violence appropriately.

The magistrate at the Cape Town family centre said that magistrates who take up dedicated positions such as those at the centre tend to be more sensitive to the issues, and were able to learn on the job. However in the criminal courts, magistrates have little, if any, experience with domestic violence cases.

Prosecutors will need to know the new provisions in the Act, and also need to learn to be sensitive towards applicants in domestic violence matters. A legal aid clinic informant in Cape Town said prosecutors get 30 to 40 matters per day, of which between five and ten are new matters. Under these circumstances, particular skill is needed to interact respectfully with complainants.

Interpreters play a vital role in ensuring that protection order applicants understand the court processes. As mentioned in section 2.5, court interpreters are also used by SAPS in rural towns to interpret for victims when there are no police officers who can speak the complainant's language.

#### *Initial training*

Basic training on the Domestic Violence Act is being conducted by Justice College, at the same time as training on the new Maintenance Act. An informant at the Cape Town family centre said that this is the first formal training they will have received on dealing with domestic violence matters.

Justice College conducted two one-day workshops in each location, with magistrates for one day, and prosecutors and clerks separately on one day. Interpreters are not being trained as part of the initial programme. Each magistrates' office was asked to send at least one person from each of the three target groups to the course. Nominees were then expected to train others in their group at their court, as well as others at neighbouring courts that were not able to send people. Trainers were asked to send certification of the court-level training to Justice College.

A Department of Justice training budget of R91 400 was included in the NCPS business plan for the implementation of the Domestic Violence Act. The budget is only for training the trainers, and does not include any expenses for further training at local level. The training is funded by international donors through the department's budget.

The table below outlines the budget in more detail.

Daily expenses	2 lecturers @ R400 per person per day	22 400
Travelling expenses	2 lecturers @ R1 000 per person per cluster	28 000
Venue	R1 500 per venue @ R500 per day	21 000
Reproduction of material		20 000
<b>Total</b>		<b>91 400</b>

Source: NCPS Business Plan: Implementation of the Domestic Violence Act: Training of Service Providers

Magistrates' courts were expected to cover subsistence and travel expenses to the course. These expenses were estimated to be R128 per participant. Where magistrates' courts were unable to cover subsistence and travel expenses, they were assisted by the Department of Justice with funds from the Netherlands and USAID. At the time of the interviews, the Cape Town, Wynberg and George magistrate's courts from the Western Cape region had asked for assistance.

In the Western Cape, a total of 122 magistrates' courts officials attended the Justice College training programme, either in Cape Town or George. At least one official from 46 out of 54 courts in the province had been trained. Numbers of officials trained are outlined in more detail in the table below.

<b>Officials</b>	<b>Number of officials</b>	<b>Number of courts</b>
Magistrates	42	38
Prosecutors	26	25
Clerks	54	38
<b>Total</b>	<b>122</b>	<b>46</b>

Source: Based on information from Justice College trainers

#### *Follow-up training*

Some informants expressed concern about the once-off nature of the training on the Domestic Violence Act for justice officials. They felt that follow-up training will be important for people to learn in more depth about the issues, and deal systematically with problems that will come up as experience is gained in implementing the law.

Court officials trained as trainers as part of the Justice College programme were asked to complete a needs assessment six months after the implementation of the Act. A Justice College outline of the train-the-trainer programme says that follow-up training will be provided "on request ... where such needs are identified before or after the needs assessments". While no budgetary provision has been

made for further training, presumably the needs assessment process will guide the content of any follow-up work. A further round of training will also need to cover court interpreters.

Training on domestic violence is already part of the basic clerk of the civil court courses and civil magistrates' courses. From next year it will be included in basic training for other justice officials such as prosecutors.

#### *Other training*

In addition to this training, the Canada-South Africa Justice Linkage Project and the UNHCR fund intensive social context training that includes gender and domestic violence issues. This training has been developed by the Law Race and Gender Unit at the University of Cape Town and was the first training introduced for justice officials that did not simply focus on the "letter of the law". No South African government funds are allocated for this type of training.

The Law Race and Gender Unit receives core funding from Sida, which allows them to do monthly presentations as part of basic social context training at Justice College.

### **3.3.3 24 hour access**

The Act requires access to courts for protection order applications at any time. The relevant section of the Act is outlined in the box below.

Section 4 (5) of the Act says that an application for a protection order may be brought outside ordinary court hours or on a day which is not an ordinary court day, if the court is satisfied that the complainant may suffer undue hardship if the application is not dealt with immediately.

Access on a 24-hour a day basis should not require an additional budget as this service is already meant to be in place for bail purposes. However, a Department of Justice informant said it will still be important to alert magistrates that they need to have a contact person available 24 hours every day. This can be done by means of the circular that is usually issued to all offices four weeks before the implementation of a new law.

Access is often seriously affected by large distances to courts. Even within Cape Town, an abused child has to travel 30km from Gugulethu to the Wynberg court. Victims in rural areas face even longer distances. (Mail and Guardian, 10-16.9.1999) An NGO informant suggested that a system of mobile courts is needed to give rural women real access to protection orders.

### **3.3.4 Service of documents**

The Domestic Violence Act says that people who cannot afford to pay the sheriffs fees for the service of documents in terms of the Act should not be denied the protection the Act offers.

Section 13 of the Act says that the service of documents can be done by the clerk of the court, the sheriff or a peace officer. In terms of the Act, the regulations must make provision for financial assistance from the State to those who don't have money to pay the fees.

Section 15(4) of the Draft Domestic Violence Regulations (1999) says that a complainant or respondent who needs a document to be served in terms of the Act or the regulations will have to pay the costs for this. It allows for the clerk of the court to decide that the state must pay these costs "after consideration of such proof as he or she may require" that the person does not have the means to pay at the time.

Section 15(1) of the Draft Domestic Violence Regulations (1999) says that the service of any document in terms of the Act or regulations must be done "without delay". A protection order is not effective until the document has been served on the respondent.

The Department of Justice budgeted R2 million for the service of documents in 1999/2000, from the policy reserve budget. The amount was based on an estimate of 20 000 interdicts being granted nationally. When the estimate was made, the department correctly assumed that the Act would only be implemented in the second half of the financial year. The Department of Justice has also issued instructions that, wherever possible, the clerk of the court must serve documents directly to the complainant and the respondent at the court to save the expense of using the sheriff.

The Department of Justice calculation estimated - based on experience of the number of family violence documents served by the sheriff in 1997/8 - that the state would be responsible for costs of service in 92% of the cases. However, a magistrate at the Cape Town family centre said in practice almost all the people who apply for interdicts are indigent. NGOs such as Mosaic and NICRO have also raised concerns that applicants are not informed that they don't have to pay the sheriff's fees if they are unable to do so.

To calculate a budget for the service of documents in the Western Cape for 2000/1, we have increased the 1997 figure of an average of 707 new applications per month at same rate as it increased from the previous year (17%), for three years. By this method, it is estimated that 13 584 new protection order applications will be processed in the province in 2000/1. It is a conservative estimate. It does not allow for the service of documents for appearances on warrants or variations/settings aside of protection orders. It does not allow for an increase in applications due to the broader scope of the Act. The total budget for service of documents in the province would need to be R1,3 million. The table below outlines the calculation in more detail, using the same method as the Department of Justice. We assume that the state is responsible for service in all cases, but that in only 92% of the cases the sheriff's services are used. In the other cases it is assumed that the clerk is able to serve the documents directly at the court.

<b>Estimated cost of service for the Western Cape for 2000/1</b>	
Number of protection orders	13 584
92% of cases served by sheriffs	12 497
Number of services per case	2
Average cost per service	R40
Cost of service x number of services x number of cases	R999 760
33% allowance for attempted services	R329 920
<b>Total estimated cost</b>	<b>R1 329 680</b>

The chairperson of the South African Institute for Sheriffs said that, already under the old Act, the institute issued an instruction that sheriffs should make the following allowances when they serve documents related to domestic violence:

- service of domestic violence documents takes priority;
- as far as possible charge a fixed rate of between R40 and R50;
- in rural areas where large distances are involved, charge as low a rate as possible for additional kilometers;
- do not charge extra for urgent or after-hours service, even though it raises the cost because documents cannot be served together with other civil documents once they accumulate for a particular area.

Sheriffs have not received training specifically on the new Domestic Violence Act, but domestic violence has been addressed at bi-annual practical training sessions held by the institute.

## 3.4 Department of Justice

### 3.4.1 Co-ordination

The Domestic Violence Act is unusual in that it was drafted by the Department of Justice, but has significant budgetary implications across a number of departments. This means that co-ordination is particularly important for the Act to be implemented effectively.

The implementation of the Act is one of five projects under the National Crime Prevention Strategy's (NCPS) domestic violence programme. The NCPS is a broad government policy, issued in 1996, that

aimed to get many areas of government (including the police, the justice system, health, welfare, education and correctional services) to work together to fight crime. It is administered by the Secretariat for Safety and Security, and the secretariat's budget falls under the management component of the SAPS administration budget.

Mbali Ncadi of the secretariat is the programme manager for domestic violence, and co-ordinates an inter-departmental domestic violence steering committee. Ina Wolmarans of the Department of Justice was tasked with co-ordinating the project to implement the Domestic Violence Act.

Wolmarans said the approach to funding of the implementation of the Act was for departments to fund the project as far as possible from existing budgets. When departments struggled to find money within their budgets, Ncadi was instrumental in accessing funds for specific aspects of the implementation programme.

At provincial level, there was no co-ordination focusing on the implementation of the Act. The Victim Empowerment Programme's (VEP) Violence Against Women sector is a forum where co-ordination of domestic violence work could potentially take place, between different government departments on the one hand and government and NGOs on the other. However, NGO informants said it is only government departments that are already committed to the issue, such as health and social services, who attend VEP meetings consistently. SAPS and the regional office of the Department of Justice have not been coming to meetings.

The problem could be addressed by allocating specific responsibility and budgeting time for SAPS and Department of Justice representatives to attend VEP meetings, and by increasing the capacity within committed departments to engage with those who are not attending.

We did not do a comprehensive survey of NGOs involved in work around the Domestic Violence Act in the Western Cape. However, the following information is indicative of the time and resources NGOs have contributed to work in the field.

The Western Cape Network on Violence Against Women brings together over 140 organisations in the province to facilitate information sharing and co-ordinate lobbying and advocacy work in this area. On the Domestic Violence Act, the network co-ordinated four workshops to ensure that member organisations were aware of debates about the bill, made input into submissions on the bill and the regulations, and lobbied for an implementation date to be set. Approximately 3 weeks of one of the network's three staff members' time was spent doing this work.

A UCT Institute for Criminology researcher estimates that she spent approximately six weeks working with Rape Crisis and UWC Community Law Centre on drafting submissions and consultation prior to the passing of the Act, and reworking the draft regulations. In addition, the institute has completed two years of in-depth research on domestic violence. This includes work done in co-operation with Black Sash on access to justice in the rural areas.

NICRO estimated that the organisation spent approximately two weeks doing work related to the Domestic Violence Act: 30 hours prior to the passing of the Act, and a further 40 hours in discussion and training since it has been passed. This excludes research they did, over two years, on the effectiveness of the Prevention of Family Violence Act (1993), which informed recommendations to the Law Commission and parliament on the new law.

Rape Crisis spent over 11 weeks before the Act was passed, developing a responses and submissions at various stages of the drafting process and planning and conducting workshops on the issues. After the legislation was past one week was spent making input on the draft regulations.

Mosaic participates in the Western Cape Network on Violence Against Women which takes two hours of formal meeting time each month, and does various work with other NGOs in between, for example assisting to develop new guidelines for funding.

### **3.4.2 Publicity**

The Department of Justice is responsible for publicity on the Domestic Violence Act. It was decided to pool information from the relevant departments to save costs and avoid duplication. This does not



prevent other departments from developing their own media where they have a specific message to communicate. As discussed under section 2.7 on SAPS publicity, NGOs with experience in developing media on these issues felt it important that they be consulted about the message conveyed and images used.

A budget of approximately R200 000 has been allocated from the Department of Justice communications budget to cover all publicity material, including brochures, caps, t-shirts and posters. So far 110 000 brochures explaining the process have been printed, all in English, and are being distributed to the approximately 600 magistrates' courts in the country. The brochure is currently being translating into other official languages.

Other departments such as SAPS and Welfare are able to order the brochures from the government printers, but must fund them from their own budget.

In addition, the Department of Justice is planning to launch the Act "in a festive mood" in QwaQwa on 25 January 2000. Approximately R250 000 has been allocated to cover a seminar for NGOs and community workers to look at issues arising from the implementation of the Act and any loopholes that may be affecting ordinary people, and media kits to encourage coverage of the Act on radio and television.

An informant at the Cape Town family centre said the regional office of the Department of Justice and the family centre staff do some publicity work. But this is piecemeal and ad hoc. For example, a magistrate and clerk from the family centre attended a community meeting on issues of maintenance and family violence, and had also spoken about these issues on the radio.

SAPS area-level informants said that there are pamphlets on domestic violence at many stations. Many of these are provided by NGOs like Procare and Quest as well as local government. The provincial Secretariat on Safety and Security, part of the Department for Community Safety, has also distributed a pamphlet that includes information on domestic violence, but is not focused on this issue.

Amongst NGOs, Soul City has done the most extensive publicity work on domestic violence. This Johannesburg-based organisation, backed by international donor funding and private funding locally, has run an intensive mass media campaign involving radio, television and booklets. The Soul City media includes information on the Domestic Violence Act. Geldenhuys said SAPS had been provided with some Soul City information booklets. However, there were not sufficient copies to be distributed to all stations, and his office simply refers requests for extra materials to designated contacts at Soul City.

In the Western Cape, a partnership between GAP and the Safer Cities Programme of the City of Cape Town produced 15 000 pamphlets (5 000 each in Afrikaans, English and Xhosa) and 2 000 posters on the Act. The Safer Cities Programme is distributing the media to all Cape Town's health care centres, municipal buildings and libraries. GAP, together with the Western Cape Network on Violence Against Women, is responsible for distribution to all NGOs, community based organisations and magistrates' courts in the province. The total budget for the media is R27 000, with the Safer Cities Programme contributing R17 500. GAP's contribution of R9 500 was funded by Womankind World Wide.

The Western Cape Network is discussing the possibility of producing an education video on the Domestic Violence Act.

### **3.4.3 Forms and notices**

There are a range of new forms and notices that need to be printed for the Act to be implemented. We were not able to obtain information on the amount budgeted for the printing and distribution of these documents. However, we assume they are not vastly different in number from those required under the old Act, and the main difference will be a result of increased numbers of applications for protection orders.

### **3.4.4 Evaluation**

Evaluation and monitoring of the implementation of the Domestic Violence Act is part of the co-ordination role being played by the Department of Justice. Wolmarans said that evaluation is particularly important given the resources that have been allocated for the process. The head of the

gender directorate in the Department of Justice will be responsible for evaluating how good or bad provisions in the law are, and suggesting possible amendments if necessary.

Part of the evaluation process will be to look at quantitative information from the courts, for example the numbers of interdict applications and interdicts granted. Wolmarans said that for the purposes of the Annual Report, magistrates will be asked to keep statistics. Magistrates' offices keep monthly statistics, and these are submitted annually to the national department.

Qualitative research will also be needed to understand the patterns that emerge from court statistics. The intention is to involve NGOs and other stakeholders who work in the courts in the monitoring and evaluation process. NGOs such as Tswaranang, Rape Crisis and Soul City have offered to assist. A consultative workshop with NGOs in May will be used to develop a strategy for monitoring and evaluation. Budlender (1999a:30) highlights the danger of the Department of Justice expecting NGOs to participate in monitoring, without providing assistance and guidelines at an early stage. In the case of the family court pilots, this flaw meant that little systematic monitoring happened.

Court officials trained as trainers as part of the Justice College programme were asked to complete a needs assessment and evaluation six months after the implementation of the Act. The intention is for this to feed into the evaluation of the effectiveness of the Act and its implementation.

Implementation will only be evaluated by the Department of Justice after the Act has been in place for a year, and funds for the evaluation process will only be included in the budget for 2001/2. A budget for a workshop has not yet been determined, but is likely to come from the administration budget of the gender directorate. The head of the directorate said their budget is usually insufficient to cover even basic administration expenses, and the accepted practice is to draft a business plan once a strategy is agreed upon, and rely on international donors.

NGOs (UWC Community Law Centre, UCT Institute for Criminology, Rape Crisis and Border Institute for Primary Health) have secured funding from the Open Society Foundation for a one-year initiative to develop indicators and information systems to monitor and evaluate the implementation of the Domestic Violence Act. The amount of money allocated to the project has not yet been finalised.

### **3.5 National Director of Public Prosecutions (NDPP)**

The National Director of Public Prosecutions (NDPP) was established in terms of the National Prosecutions Act (1998) to develop state prosecutions policy independently of the judiciary. The NDPP is funded from the Department of Justice

The box below outlines the specific obligation on the NDPP contained in the Domestic Violence Act.

Section 18 of the Act says the NDPP must draw up guidelines for prosecution in consultation with the Minister of Justice and after consultation with the Directors of Public Prosecutions. These must be submitted to parliament, the first within six months of the commencement of the Act.

At the time of the interviews, the NDPP had submitted the guidelines to the Minister of Justice as part of the consultation process. However, a Department of Justice informant said the NDPP was concerned about having its prosecution strategies exposed in parliament, and had also made representation to the minister on this matter.

#### **3.5.1 Training**

The NDPP has drawn up a training manual covering a range of areas where new guidelines on prosecutions have been developed including rape, maintenance and domestic violence. The 14 directors will be taken through the manual at a meeting on 9 November 1999.

Following the meeting, each director is expected to conduct training in the region for which they are responsible. It is expected that not all prosecutors will be trained by 15 December 1999, and the training will continue after the implementation of the Act.

Informants in the NDPP said that a budget had been allocated for the training programme. However, none were able to say how much money was budgeted and where the funds came from.

UWC's Community Law Centre was involved in the training in the Western Cape and the Free State. The centre charged only approximately R700 (not full consultancy fees) for preparation and presentation of the training.

### **3.5.2 Consultative workshop**

In an effort to broaden consultation on prosecution guidelines in a range of gender-related offences, a workshop was organised by the NDPP with government officials (including officials from the Departments of Justice, Welfare, SAPS and Justice College) and NGO representatives for 12 December 1999. A total of 25 delegates attended.

The workshop was organised together with the UWC Community Law Centre, and largely funded through the centre by Sida. The centre contributed approximately R22 000 for the workshop, and NDPP was only responsible for catering and providing a venue at their offices.

## **3.6 Legal aid**

The Act makes provision for complainants and respondents to have legal representation in domestic violence cases. This is not however a right in terms of the Act. The box below outlines the relevant sections of the Act.

Section 14 of the Act says that any party to proceedings in terms of the Act may be represented by a legal representative.

Section 6 of the Act says that magistrates must not allow respondents who do not have legal representation to cross-examine the complainant directly.

The Legal Aid Board's main concern is to ensure that the state fulfils its constitutional obligation to provide the accused in criminal cases with legal representation, i.e. it is available for alleged perpetrators rather than victims. A Western Cape legal aid clinic informant said the state will only fund defence when a magistrate orders that the respondent is in danger of being given a prison sentence in a criminal case (in terms of *State vs Khanyile*). This will be only in cases where the respondent has been charged with committing an offence or breaching a protection order, and is only likely to happen when a respondent has been arrested for a domestic violence matter a second time.

The financial strain under which legal aid is operating has been well documented in the press. The response of the Legal Aid Board has been to move in the direction of only employing public defenders rather than giving instructions to private practitioners. Under the new system, legal aid is likely to be scaled down drastically.

The Legal Aid Board's director indicated in 1998 that the Legal Aid Board had reserved funds for a "gender" or "women's rights" project in 1996. The director, quoted in Budlender (1999b), explained that transformation processes within the Board meant that the project had not received much attention. The completion of the transformation process means that further planning can now take place.

Public prosecutors provide state-funded legal representation for complainants in domestic violence matters.

## 4 WELFARE / SOCIAL SERVICES

The Department of Welfare has not been assigned specific duties by the Domestic Violence Act. But the department is responsible for a number of areas that are vital for the effective implementation of the Act.

Welfare is an area of joint national and provincial government responsibility. Broad welfare policies are decided by national government, but provincial governments allocate money for welfare in the province from the provincial budget. In the Western Cape the welfare budget is known as the Social Services budget following the name of the department responsible.

The total Western Cape budget decreased by 1,7% from 1998/9 to 1999/2000 in nominal terms (i.e. more in real terms because of inflation). The total provincial social services budget decreased by 0,6% or R13,9 million over this period.

The Western Cape Department of Social Services budget is organised according to six programmes: administration, social security, social assistance, social welfare services, social development and population development. The table below summarises the monetary allocations for social services in the province for 1999/2000.

Programme	Budget (R'000)	%
Administration	32 544	1%
Social security	1 861 796	85%
Social assistance	209 873	10%
Social welfare services	80 638	4%
Social development	6 876	<1%
Population development	360	<1%
<b>Total</b>	<b>2 192 087</b>	<b>100%</b>

The standard item of transfer payments account for 91% of expenditure in the department's budget. This covers transfers to individuals (such as pensions, which fall under social security) as well as to welfare organisations (for example shelters, which fall under social assistance).

### 4.1 Shelters

Shelters for victims of violence are funded from the provincial department's budget, from the community centres component of the social assistance programme. In 1999/2000 an amount of R500 000 was allocated for shelters. The budget increased from R381 000 in 1998/9, but the medium term framework allows for no increase on the R500 000 in 2000/1 or 2001/2. Funds are only likely to increase if existing shelters experience pressure and more vocal demands are made for these services elsewhere.

The department does not operate shelters for victims of domestic violence, but rather funds these shelters through transfer payments. The government's policy more broadly is to transfer places of safety and social care to NGOs and civil society. The motivation given is that the work is highly labour intensive and local organisations have more flexibility than government in the way they structure the work. The arrangement allows government not to cover the full costs of running the shelters, and simply subsidise the facilities.

Only the running costs of the shelters are covered by the social services budget. Capital costs need to be covered elsewhere. Sometimes these are (partly or wholly) covered by government, for example through RDP funds, the Department of Public Works or the Department of Housing. In George for example, the community arranged for a shelter to be set up in an old clinic.

Funding for shelters used by abused women also comes from the shelter for adults (homeless people) line item under the community centres component of the social assistance programme. The shelters for homeless people often serve as second stage housing for abused women. For example women who have been at Carehaven (linked to the Salvation Army) in Cape Town often move on to St Annes (established by the Anglican Church) in Woodstock, and those at Sisters Incorporated (a private charity) in Wynberg may move on to Buite Noor (an Islamic shelter) in Wynberg.

In addition to payment for shelters, the department contributed R605 000 to start the Saartjie Baartman Women's Centre in Athlone, from funds approved especially by the Western Cape MEC for Health and Social Services. The centre aims to create a critical mass of organisations fighting violence against women under one roof.

The following shelters for victims of domestic violence are currently funded by the provincial Department of Social Services:

Shelter	Location	Places	Occupancy
Carehaven	Cape Town	69	full with waiting list
Lesotho Safe House	Kraaifontein	8	never >4, but only one in the area
Sisters Incorporated	Wynberg	23	usually 18-23, though asked for 30
Saartjie Baartman Centre	Athlone	30	full with waiting list
<b>Total</b>	<b>urban</b>	<b>130</b>	
Rosemore Shelter	George	20	full, only open since August 1999
Sorgenhaven	Mossel Bay	20	was funded for 40, but never >20
<b>Total</b>	<b>rural</b>	<b>40</b>	

Source: Interview with Debbie van Stade of the Western Cape Department of Social Services

In an effort to increase access to shelters in rural areas, the department has budgeted to fund 10 places each in shelters that are being planned for Atlantis and Oudtshoorn. SAPS informants in the Boland area said that there are no shelters and the distances are long. Where safe houses are identified at local level, these are privately funded and are used to cover a range of needs.

Few African women use the shelters currently funded by the department. The department is considering funding Ilitha labanthu in Langa/Nyanga, but is reluctant to fund more urban shelters as additional funds have been set aside for rural shelters in Atlantis and Oudtshoorn.

## 4.2 One-stop service centres for domestic violence

The national Department of Welfare has a plan to establish one-stop service centres for domestic violence. Ideally services offered, in one building or close proximity, would include specially trained police, health care, courts, counselling and support from government social workers and NGOs, shelter and other secondary services like training in employment skills from the Department of Labour. There are currently a number of centres providing some of the services outlined above across several provinces, but none where the full model has been piloted. The Saartjie Baartman Women's Centre, discussed in section 4.1 is one such example in the Western Cape.

The national Department of Welfare estimates it would cost R6 million to establish a single centre from scratch, and has not yet allocated a budget for this purpose. The provincial Department of Social Services estimates that over R1 million would be needed to establish a centre in the Western Cape, and an informant said the department does not have the capacity to fund the project.

Given the extensive costs involved, it is likely that only few one-stop service centres could be set up in the country. It is highly unlikely that they could be linked to approximately 1 200 police stations nationally. The advantages of setting up a few such centres needs to be weighed up very carefully against the use of funds to improve existing services more broadly, particularly given the problems of access in rural areas.

Budlender (1999a:21) discusses problems with the 'one-stop' concept at the family centres that have not been thought through. For example, she notes differences in jurisdiction of the various components of the centres. Divorce courts are responsible for regions, which comprise many magisterial districts. Domestic violence and maintenance are dealt with on the basis of magisterial districts. This can mean that 'one-stop shops' shift the location of services without making a significant difference for most users of the services.

### **4.3 Directory of services**

The Department of Welfare is responsible for the production of a directory of services that can be used by victims of domestic violence. Approximately R140 000 has been allocated nationally for the printing and distribution of 5 335 directories outlining services available throughout the country.

#### ***Content***

The directory is a joint initiative with the Network on Violence Against Women nationally. The Network had compiled a directory of services outside of government, the Department of Health was asked to draw up a list of hospitals, clinics and other health care facilities, and the Department of Welfare contributed a list of counsellors and shelters to the directory. The directories have been presented in a ring-binder file so they can be continually updated.

For national departments, 300 national directories have been organised, and the rest have been allocated to provinces including only information appropriate to a particular province.

According to Geldenhuys, the directory is extremely limited in scope, and leaves a heavy burden on SAPS to gather and distribute local referral information: "Don't be bluffed by that big thick book the Network compiled. It mainly covers the big cities. And even there, if there are only three of four places a person can go, for all the people there are [who need help], it's a drop in the ocean." The limited scope of the directory, particularly in rural areas, reinforces the need for funds to be allocated at SAPS station level for pamphlets providing local referral information, as suggested in section 2.8. However, a directory will not by itself generate services where they are lacking.

#### ***Distribution***

The directory will be distributed to all police stations, magistrates' courts, welfare offices and relevant NGOs recommended by the department in each province. The directories will be distributed to provincial offices of each department, which will then be responsible for further distribution. Only 1 000 directories were distributed by the time the Act was implemented, and it is expected that the rest will be distributed by mid-January 2000.

The directory can also be purchased from the Network on Violence Against Women.

### **4.4 Training for social workers and lay counselors**

Three-hour briefing sessions have been conducted to prepare government and NGO social workers in each of the provinces for the implementation of the Domestic Violence Act. Two facilitators from the national Department of Welfare traveled to the provinces for the briefings.

A total budget of approximately R25 000 for the facilitators' travel, accommodation and subsistence expenses, copying of materials and pins saying 'no violence against women' was allocated from the budget of the women's strategy section within the national Department of Welfare. Travel expenses for social workers to attend the briefing sessions in each province were covered by provincial budgets.

The NCPS business plan for the implementation of the Domestic Violence Act includes a budget for the training of 620 laypersons and 427 social workers. This was revised and the Department of Welfare approved a business plan to train 25 social workers and laypersons per province. So a total of 225 people trained nationally (21% of the original number) would then be responsible for training others, although budgetary provision is not made nationally for next step in the process. The training covered in a four-day workshop includes counselling skills, providing support and protection to the victims, positive conflict resolution, anger management, and paralegal matters in the Domestic Violence Act.

Item	Per unit	Budget
Printing of training manuals (225)	31	7 000
Cost to present	2 000	2 000
Negotiating dates and venues for seminars	250	250
Airfares, car hire, and allowances for trainers	3 000	27 000
Accommodation	500	18 000
Reproduction of Domestic Violence Act	7	1 500
Remuneration for trainers' time (4 days x 8 hours @R300/hour)	9 600	86 400
Preparation of manual (5 days x 8 hours @R300/hour)	12 000	12 000
Negotiating dates and venues	250	250
Project management	30 000	30 000
Refreshments (4 days x 25+ 2 trainers+ 3 observers @R50/day)	6 000	54 000
<b>Total</b>		<b>238 400</b>

In the Western Cape, intake staff from each of the Department of Social Services' 15 offices would be targeted for the training being provided nationally. They would all be fairly senior staff, generally chief social workers with five to eight years' experience.

The provincial department does not have a training budget, but each office has its own budget to cover training in all areas. Offices in Cape Town, Mitchell's Plain and George had arranged training on domestic violence of their own initiative. We did not get information on the costs attached to this training. NGOs were involved in the workshops.

The Western Cape Department of Social Services plans to contract NICRO to implement a provincial Victim Empowerment Programme training business plan. The plan is intended to help victims in all fields, not just domestic violence. Previous research indicates that the plan covers the training of 120 volunteers to support victim empowerment programmes for abused women, children, the aged and disabled, rape victims, and victims of general crimes. The budget for the training programme was R250 000. (Goldman and Budlender, 1999:57) It is not known how the programme has developed since this research was conducted.

## 5 OTHER DEPARTMENTS

The Domestic Violence Act only indirectly recognises the role that other government departments have to play in the implementation of the Act.

The box below outlines the section of the Act that refers to staff of Departments of Health and Education.

Section 4 (3) of the Act says that a counsellor, health service provider, social worker or teacher who has a “material interest in the wellbeing of the complainant” can apply for a protection order on behalf of the complainant with their consent.

Wolmarans said that other departments have not been consistent in attending meetings of the steering committee for the implementation of the Act, or sent different representatives to each meeting. She expressed concern about the ability of these departments to contribute effectively to the implementation of the Act.

As noted in the introduction, this research has only covered the three key departments responsible for the implementation of the Act. Examples of the types of areas requiring budgetary allocations by other departments for them to contribute to the implementation of the Domestic Violence Act include:

- Training for health workers on how to testify in court so they are able to provide evidence in cases of physical and sexual abuse;
- Training for health workers on how to identify cases where physical injuries and illness are caused by domestic violence, and inform victims where they can get further help;
- The integration of information on domestic violence and the Act into the school syllabus; and
- Training for school principals and teachers on the content of the Act and victim empowerment more broadly.

Many other areas of government that can assist women gain economic independence, can particularly assist those who are suffering in abusive relationships. Access to housing, land and jobs and social services can all make a difference. Black Sash Trust Knysna Office (1999) argues that the new Domestic Violence Act can only be truly effective in eradicating violence against rural women if resources are also directed to providing women with access to this broad range of facilities.



## 6 PRIORITISING AND REPRIORITISING

In 1997 the Netherlands Institute on Southern Africa embarked on a “Reclaiming Humanity” working visit to several southern African countries. They found that often governments do a lot of policy development on gender violence, but “implementation is stagnating with NGOs doing the work, with little support from the government.” (The Netherlands Institute on Southern Africa, 1998)

This research indicates that the South African government has taken practical steps to implement the Domestic Violence Act. However, in some areas (such as SAPS time and transport, and follow-up training for SAPS and justice officials), resources have not been allocated. In other areas (such as SAPS training and general publicity), the research indicates that government is allocating funds, but not necessarily most appropriately.

The national Department of Justice has stressed that the process prior to implementation “is not the end of what departments must do”. However, in many areas no clear budgetary provisions have been made for on-going processes such as the funding of additional shelters or victim support services at courts for example.

The Women’s Budget Initiative has in the past generally approached gender analysis of the government budget by looking at where money can be taken away from if new priorities and programmes are proposed. It has done this in recognition that resources are limited, and one cannot simply always ask for “more”. However, the ‘reprioritisation’ approach is not wholly appropriate to this analysis of the implementation of the Domestic Violence Act. The Act has been drafted as an expression of the state’s commitment to eliminating violence against women, and government is now obliged to put resources in place for it to be implemented. Government cannot at this stage say that it cannot implement because it does not have resources.

Nonetheless, there are avenues for reprioritisation that can be suggested:

- Further resources for the implementation of the Domestic Violence Act by SAPS could form part of a “women’s safety plan”, funded through a percentage levy on each SAPS programme, as proposed by Olckers (1996:138). This would spread the ‘burden’ of contributing across all programmes.
- Money being wasted by the Department of Justice could be used instead to implement the Act. Business Day (20.8.1999) notes that the justice budget has “serious shortcomings, poor checking and control and non-compliance with directives”. One security official apparently claimed for 2 323 hours of overtime, which would have meant an average of 6,3 hours per day overtime for 365 days a year.
- Court caseloads can be more equitably distributed between the High Court and the lower courts in the Western Cape, to ensure that domestic violence cases do not fall behind a huge backlog of other cases. Current talks indicate a move towards the unification of the judiciary, which will allow this to happen more easily.
- Collaboration with NGOs that have expertise in dealing with domestic violence issues can provide better value for money than if government “goes it alone”. However, government cannot expect NGOs to do the work without any financial support from the state.

### 6.1 What needs to happen

From this research, the following priorities emerge. Each requires specific budgetary allocations or a redirection of spending. In some cases spending will be once-off. But in other cases an ongoing investment is needed.

#### 6.1.1 Training

NGO informants stressed that the heaviest investment for effective implementation of the Act is needed in the training of state service providers, particularly the police and justice officials. SAPS training initiatives need to involve NGOs that have developed expertise through years of experience in the field, and funds need to allow for ongoing NGO participation in SAPS training programmes (including both initial in-service training on the Act and training of new recruits).

Within the SAPS and the Department of Justice, budgetary provision needs to be made for follow-up training to deal with practical difficulties that emerge as officials gain experience in applying the Act.

Input from NGOs working with domestic violence issues at grassroots level will be important at this stage as well.

Training is mostly a once-off cost, although there will be certain ongoing spending for training that forms part of the basic curriculum for new SAPS members and justice officials.

#### **6.1.2 Specialised services**

Neither SAPS nor the courts appear to have budgeted for the time it will take for personnel to implement the Domestic Violence Act. Given other pressures on police and the justice system, the Act could easily prove ineffective if it is not prioritised in practical terms. One way to do this is to create specialised services within SAPS and the justice system.

A specialist service in SAPS would mean that sufficient personnel with the in-depth skills and commitment could begin to develop expertise in this area. In addition, it could facilitate the availability of appropriate transport to deal only with domestic violence cases. Most of these expenses would be ongoing.

The family centre pilots of the Department of Justice indicate a move towards a specialised service in the courts. They were, however, introduced with virtually no additional resources. Budlender (1999a:36) argues that if adequate basic resources had been allocated to pilots, progress may have been “faster and more impressive”. If the family centre concept is to be extended beyond the five pilots, budgetary provisions will need to be made.

Specifically, the contribution of NGOs in taking statements, drafting affidavits and completing other forms at their own offices, police stations and at the courts needs to be acknowledged and supported financially. At the very least, space and basic facilities need to be allocated for NGOs to work, proper co-ordination of volunteers needs to be provided and paid for and volunteers need to be provided with travel and subsistence allowances.

Some expenses, such as the provision of space for waiting rooms and NGOs, would require a once-off allocation. Other expenses related to the running of the courts will be ongoing.

It will not be appropriate in all cases to have staff dedicated to domestic violence. In the case of small rural towns, where the total number of staff is so small, and where people are too isolated from the ‘specialised’ centres and too poor to get there, other arrangements need to be made.

#### **6.1.3 Language**

The sensitive nature of domestic violence cases increases the importance of complainants being able to speak their own language to police and at the courts. Funds need to be allocated to address the issue of language in SAPS, to train interpreters at the courts on the Domestic Violence Act, and to support NGO volunteers who often also act as interpreters.

#### **6.1.4 Rural access**

Black Sash Trust Knysna Office (1999) argues that key services that need to be resourced and equipped in the rural areas are SAPS (available 24 hours a day and in most small towns), justice officials, the sheriff's service, and district surgeons and ambulance service staff. The organisation's experience is that strengthening these services is preferable to a proliferation of support services outside government that are not funded by the state. Without government involvement, “responsibility for the problem then shifts onto other services and by-passes the formal system.” (Black Sash Trust Knysna Office, 1999)

Once-off allocations are needed to purchase mobile caravans that can serve as police stations and courts. Ongoing funds would be needed to run these services.

In addition, where areas are not reached by these services, ongoing budgetary allocations for transport and specific arrangements will need to be made to ensure access to SAPS and the courts.

### **6.1.5 Shelters**

Shelter is one of the immediate needs of many people who escape an abusive domestic relationship. Once-off funding must be made available for a programme to ensure that shelters are established in areas of particular need such as African townships and rural areas in the Western Cape.

Additional funds need to be allocated on an ongoing basis for the running of these shelters.

## **6.2 The cost of not allocating resources for implementation**

This research documents where resources are needed to implement the Domestic Violence Act effectively. It does not calculate the costs of not doing this. Many of these costs are borne by women and children who are already victims of abuse in the form of further physical, emotional and economic hardship. They are also borne by society in the form of lost work time, lower productivity, strain on health care resources and alternative childcare. The longer term impact of domestic violence on children who are victims or live in homes where it happens could even lead to further crime and strain on the justice system and other government resources as they become 'youth in conflict with the law'.

**Researched by Tanya Goldman and Debbie Budlender,  
Community Agency for Social Enquiry (C A S E)**

**For the Gender Advocacy Programme (GAP)**

**December 1999**

## REFERENCES

- Abrahams N, Jewkes R, Laubsher R (1999) *"I do not believe in democracy in the home": Men's relationships with and abuse of women* CERSA (Women's Health), Medical Research Council, Tygerberg.
- Artz L (1999) *Access to Justice for Rural Women: Special Focus on Violence Against Women* Report prepared for the Black Sash in co-operation with Black Sash, Knysna. Institute of Criminology, University of Cape Town.
- Batchelor P (1997) *Policing the Provinces: A Budgetary Analysis*.
- Black Sash Trust Knysna Office (1999) 'Submission - Rural Development Initiative: Domestic Violence in the Southern Cape'
- Budlender D (1999a) *'Doing Something With Nothing: The Family Centre Pilots'* Report produced for the Law, Race and Gender Unit, University of Cape Town.
- Budlender D (1999b) Work prepared for the Department of Finance in terms of the department's pilot programme on macro-economics and gender.
- Combrinck H (1998) 'Emergency First Aid or Long Term Cure? A closer look at the new domestic violence legislation' in *Women and Human Rights Documentation Centre Newsletter 2* (4) Community Law Centre, University of the Western Cape.
- Goldman T and Budlender D (1999) *A Gender Audit of the Western Cape Government* GAP, Cape Town.
- Goldman T, Andrews L, Smith M and Budlender D (1998) *Evaluation of the Western Cape Community Policing Project* CASE, Braamfontein.
- Jewkes R, Penn-Kekana L, Levin J, Ratsaka M and Schrieber M (1999) *"He must give me money, he mustn't beat me": Violence against women in three South African Provinces* CERSA (Women's Health), Medical Research Council, Pretoria.
- Keen J and Vale C (1997) *An Investigation into the Effectiveness of Interdicts Granted in terms of the Prevention of Family Violence Act (133) 1993* NICRO, Western Cape.
- Olickers I (1996) 'Safety and Security, Justice and Correctional Services' in Budlender (ed) *The Second Women's Budget* IDASA, Cape Town.
- Pillay A (1997) 'The way that Violence Against Women is Being Incorporated into a Human Rights Framework and the Impact of the International Conventions on Women In South Africa' Women'sNet.
- Roux P (1999) *Support for Abused Women: 1998 Client and Service Profile* NICRO Western Cape: Support for Abused Women Project.
- The Netherlands Institute on Southern Africa (1998), 'Post Conflict Domestic Violence' in *Women's Health News and Views* 26. Women's Health Project, University of the Witwatersrand.
- Van Stade D (1999) Report of the First Gender Audit Undertaken in all Departments of the Provincial Administration of the Western Cape during March 1999
- Vogt G and Keen J (1998) *An Investigation into the Statistics of Interdicts Granted in terms of the Prevention of Family Violence Act (133) 1993* Conducted for NICRO Western Cape: Support for Abused Women Project.

## **ACRONYMS**

CEDAW	Convention on the Elimination of all forms of Discrimination Against Women
ICD	Independent Complaints Directorate
NICRO	National Institute for the Prevention of Crime and Rehabilitation of Offenders
NCPS	National Crime Prevention Strategy
NDPP	National Director of Public Prosecutions
NGO	Non-governmental organisation
SAPS	South African Police Service
UCT	University of Cape Town
UWC	University of the Western Cape
VEP	Victim Empowerment Programme

## **ACKNOWLEDGEMENTS**

Thanks to Shanaaz Mathews, GAP's domestic violence project co-ordinator, for support during the research process. And to GAP's office administrator, Belinda McAskil for assisting with travel arrangements.

Thanks also to all informants for sharing their time and providing information, especially when many were extremely busy with work related to the implementation of the Act.

## INTERVIEWEES

Interviews were conducted with:

- Advocate Melville Cloete – SAPS West Metro legal services
- Senior Superintendent Wessel Fourie – SAPS Boland Finance Officer
- Senior Superintendent Deon Hagen – SAPS Boland Crime Prevention Officer
- Richard Osmond – SAPS Western Cape training manager
- Dr Tertius Geldenhuys – SAPS national legal services head
- Senior Superintendent Nelson – SAPS national budget co-ordinator
- Suzelle Pretorius – SAPS Victim Empowerment and Support Programme
- Cecille van Riet – Justice College chief
- Ina Wolmarans – Department of Justice co-ordinator for the implementation of the Domestic Violence Act
- Johan Venter – magistrate at the Cape Town pilot family court
- Jacobus Esterhuizen – Legal Aid, Cape Town
- Debbie van Stade – Western Cape Department of Social Services, developmental social welfare assistant director
- Jane Keen – NICRO Women's Support Centre
- Lillian Artz – UCT Institute of Criminology
- Bronwyn Pithey – Rape Crisis
- Rebecca Freeth – Western Cape Network on Violence Against Women
- Rolene Miller – Mosaic
- Francois Botha – Law, Race and Gender

Telephonic discussions were held with:

- Senior Superintendent Gunter – SAPS Western Cape information department
- Superintendent Vicus Holtzhausen – SAPS Western Cape spokesperson
- Assistant Director Preston Voskuil – SAPS Western Cape efficiency services department
- Advocate Martha van Rooyen – SAPS national management services
- Hoosein Kajee – Western Cape Department of Community Safety acting director: civilian oversight
- Mbali Mncadi – NCPS in the Secretariat for Safety and Security
- Zahier Ahmien – ICD Cape Town
- Riaz Salojee – ICD Cape Town director
- Raesibe Mojapelo – Department of Justice Western Cape region
- Keiser Kganago – Department of Justice communications department
- Advocate Thoko Majoweni – NDPP programme on women and children
- Gabriel Siwele – NDPP finance department
- Peter Brits – Legal Aid Board acting chief executive officer
- Wendy Bingham – Western Cape Department of Social Services, Victim Empowerment Secretariat
- Cookie Moodley – Department of Welfare women's strategy section
- Joan Groenewalt – Department of Welfare women's strategy section
- Johan Fourie Senior – Institute for Sheriffs chairperson
- Helene Combrinck – UWC Community Law Centre