

**Going somewhere slowly?  
A comparison of the implementation of the  
Domestic Violence Act (no. 116 of 1998)  
in an urban and semi-urban site**

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### **Executive Summary**

The study aimed to monitor similarities and differences in the implementation of the Domestic Violence Act (DVA) (no. 116 of 1998) in two different geographical settings (Alberton and Temba court), and to compare these findings with data from the previous Prevention of Family Violence Act (PFVA) (no 133 of 1993).

At both sites and in the PFVA data, applicants are typically women in their thirties seeking protection from their intimate partners. Protection is most commonly sought for emotional and physical abuse at both sites, and for physical and sexual abuse in the PFVA data.

Temba court is quicker at issuing interim protection orders, but only half the respondents are served with the order and applicants need to wait longer to have a hearing. Poor recording of information at Temba court was both a limitation of the study and a finding, and restricts access to justice for abused persons. The DVA is more effectively implemented at Alberton court due to quicker and more likely return of service, faster court dates, and better recording of information. Few breaches were recorded at either site.

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## **1. Background and Aim of the Study**

Domestic violence is a worldwide problem and South Africa is no exception. In a study of three South Africa Provinces, Jewkes et al. (2000) found that one in four South African women have experienced physical violence by an intimate partner. The first piece of legislation introduced by a South African Government to deal with domestic violence was the Prevention of Family Violence Act (no. 133 of 1993) ("the PFVA"). This was replaced with the Domestic Violence Act (no. 116) ("the DVA") in 1998.

The DVA is a civil remedy and allows a protection order to be granted to a victim of intra-familial or domestic abuse ("the applicant") against the perpetrator of the abuse ("the respondent"). In contrast to the limited scope of the PFVA, the DVA protects married or divorced parties, individuals within same sex relationships, co-habitants, parents, dating couples, children and extended family. The definition of domestic violence has also been

broadened from physical and sexual abuse to include emotional, verbal and psychological abuse, economic abuse, damage to property, stalking, and other abuses, such as forced removal from the home. Unlike the PFVA, the DVA also sets out roles and responsibilities for persons directly involved in implementing or monitoring the Act, including the South African Police Service, the clerks of the court, magistrates, prosecutors, and the Independent Complaints Directorate (ICD).

Research conducted in the Western Cape has analysed the implementation of the DVA's policies and procedures (Parenzee, Artz & Mout, 2001), as well as the applicant's perspectives of its utility and efficacy (Mathews & Abrahams, 2001). Despite its progressiveness, findings show that the DVA is inconsistently applied (Artz, 2003), and that its effectiveness is limited by court constraints (Mathews & Abrahams, 2001). It has also been found that insufficient budget and resources have been allocated to its implementation (Vetten, Budlender, & Schneider, 2005). The present study aimed to monitor the implementation of the DVA at two courts in different geographical areas, and to compare these findings with data from the previous PFVA. The paper also compares present findings with those of other South African studies on the DVA.

The specific objectives of the present study were as follows:

1. To describe and compare the profile of applicants who applied for protection orders during the sampled time period.
2. To describe and compare the profile of the respondents and how they are related to the applicants.
3. To describe and compare the types of domestic violence from which applicants seek protection.
4. To describe and compare the details and status of the interim and final protection orders.
5. To compare information from applications for protection orders from the DVA and the applications for interdicts from the PFVA.
6. To assess how the present findings corroborate or contradict findings from other South African research.

## **2. Methodology**

### **2.1 The sample and selected sites**

A retrospective review of applications for protection orders registered over a two year period (2000-2001) was undertaken. The selected sites were Alberton and Temba court. To provide some comparison of applications under the DVA and those of the PFVA, 301 applications for interdicts from 1999 registered under the PFVA were captured from Alberton court. Information regarding the PFVA could not be collected from Temba as these records had been destroyed.

#### ***2.1.1 Description of the research sites***

Alberton court is situated in an urban area east of Johannesburg. It services areas such as Katlehong, Tokoza, Alberton and Eden Park, and dealt with **1949** applications in 2004. Temba court is situated in a semi-urban area outside of Tshwane. It services various semi-

urban and rural areas in the Moretele Local Municipality of the North West province, and dealt with 1819 applications for protection orders in 2004.

## 2.2 Procedure

Written permission to conduct the study was obtained from the Department of Justice and the Chief Magistrate of Alberton and Temba court on condition that no identifying information of the applicants or respondents would be used in the report, and that these persons would not be contacted. A structured questionnaire was designed in accordance with the information required on the application for a protection order. Data that was captured included particulars of the applicant and respondent, the acts of domestic violence, other persons affected by the abuse, the urgency of the application, details of orders requested and granted, the status of the interim and final protection order, and contraventions of the protection orders where applicable. Fieldworkers were trained to collect the data. The data was coded and then analysed using SPSS version 10.0.

## 2.3 Limitations of the study

While our sample included applicants from different geographical areas, we cannot assume that the results apply to all men and women seeking protection orders, and generalisations can only be made with caution. A particular limitation with regard to the Temba data is the smaller sample size. This resulted from Temba court losing or being unable to account for several protection orders from the required time period. As the available data was often scarce, it is recognised that the findings from Temba may be an under-representation of DVA use at the site. The accuracy of a small proportion of applications was also questioned (for example, in some forms the interim order was granted before the date of application). We attempted to check the application forms but the records were unavailable. To preserve the integrity of the data, irregular information was captured as unknown. We acknowledge that this affected the sample size for the relevant questions.

## 3. Findings

### 3.1 Descriptive information about the sample

#### 3.1.1 Number of DVA applications sampled

A total of **2208** applications for protection orders under the DVA were captured

- Total number of applications from **Alberton: 1537**
- Total number of applications from **Temba: 671**

#### **Ratio:**

Applications from Alberton court: Applications from Temba court  
**2: 1**

#### 3.1.2 Gender distribution of DVA sample

- Total number of applications from **women: 1828**  
(**1307** from Alberton; **521** from Temba)

- Total number of applications from **men: 379**  
(**230** from Alberton and **149** from Temba)

**Ratio:**  
Female applicants (Alberton): Male applicants (Alberton)  
**6: 1**

**Ratio:**  
Female applicants (Temba): Male applicants (Temba)  
**5: 1**

### 3.1.3 Number of PFVA applications sampled and the gender distribution

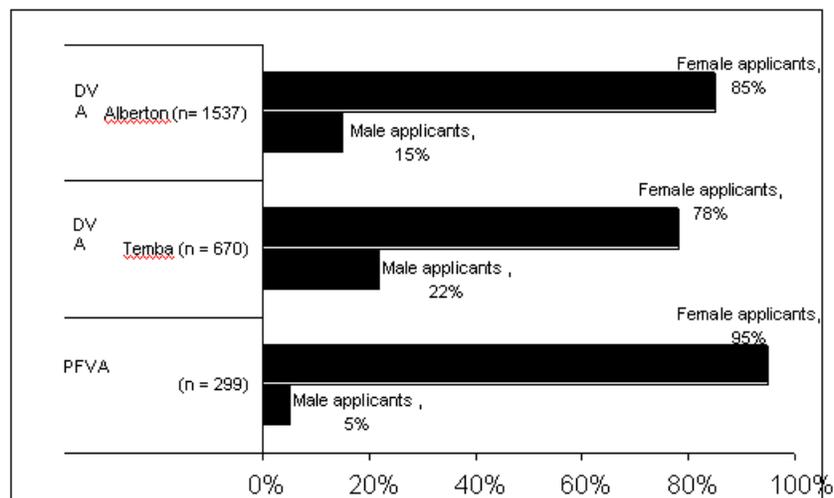
A total of **301** applications for interdicts under the PFVA were captured. Substantially more women sought an interdict.

- Total number of applications from women: **285**
- Total number of applications from men: **14**

### 3.1.4 Gender distribution of applicants over time

Figure 1 shows that a greater proportion of women seek protection orders across the sites and over time. It also demonstrates that the number of men seeking protection from domestic violence has increased since the promulgation of the DVA.

**Figure 1: Percentage of applications from women and men at each site**



\*Sex of applicant was unknown in 1 DVA case and 2 PFVA cases.

### 3.1.5 Age of applicants

Table 1 shows that at all sites and over time, women and men in their **30s** are most likely to seek protection orders.

**Table 1: Sex of applicant X number of applications per age category**

		Age category						Total
		<20	21-30	31-40	41-50	55-64	65+	
<b>Alberton</b>	Female applicant	47	385	<b>430</b>	250	87	25	1224
	Male applicant	9	34	<b>64</b>	54	34	17	212
<b>Temba</b>	Female applicant	6	112	<b>196</b>	120	47	25	506
	Male applicant	1	16	<b>40</b>	<b>40</b>	38	13	148
<b>PFVA data</b>	Female applicant	1	64	<b>130</b>	52	12		259
	Male applicant		1	<b>8</b>	3	2		14

Applicants in Temba tended to be older than applicants in Alberton and under the PFVA. No differences were found between the PFVA and Alberton DVA data.

- Median age Temba applicants: **39** years
- Median age Alberton applicants: **35** years
- Median age PFVA applicants: **35** years

Male applicants tended to be older than female applicants in the DVA applications, but were approximately the same age in the PFVA applications.

- Median age male applicants Alberton: **40** years
- Median age female applicants Alberton: **34** years

- Median age male applicants Temba: **46** years
- Median age female applicants Temba: **37** years

- Median age male applicants (PFVA): **36.5** years
- Median age female applicants (PFVA): **35** years

### **3.1.6 Age of respondents**

Respondents were approximately the same age at the sites and over time.

- Median age Temba respondents: **38** years
- Median age PFVA respondents: **38** years
- Median age Alberton respondents: **36** years

Male and female respondents were typically in their mid-to-late thirties across the sites and

over time.

- Median age male respondents Alberton: **36** years
- Median age female respondents Alberton: **35** years

- Median age male respondents Temba: **39** years
- Median age female respondents Temba: **33** years

- Median age male respondents PFVA: **38** years
- Median age female respondents PFVA: **36** years

### *3.1.7 Employment status of the applicants*

More PFVA applicants were employed compared to DVA applicants.

- Applicants employed (PFVA): **55%**
- Applicants employed (Alberton): **45%**
- Applicants employed (Temba): **41%**

Nearly one in two Temba applicants was **unemployed** compared to one in four in Alberton. One in three PFVA applicants was unemployed.

- Unemployed applicants (Temba): **46%**
- Unemployed applicants (PFVA): **33%**
- Unemployed applicants (Alberton): **25%**

The findings suggest that over time, protection orders are more likely to be sought by employed applicants.

#### *3.1.7.1 Employment status and gender*

- In Alberton, a similar number of male and female applicants were employed (37% of women; 40% of men were employed). Approximately one in five male (17%) and female applicants (22%) were unemployed.
- In Temba, half the male applicants (50%) were employed compared to approximately one in three women (37%). Nearly one third of female (29%) and male (32%) applicants were unemployed.
- In the PFVA, male and female applicants were more likely to be employed (62% and 55% respectively). One in three female applicants (33%) and male applicants (31%) were unemployed.

While male applicants in Temba are more likely to be employed than female applicants, the overall findings suggest that male and female applicants are almost equally likely to be

employed or unemployed, and that protection orders are typically sought by employed men and women.

### 3.1.8 Employment status of respondents

Respondents were more likely to be employed compared to the applicants, but there was a higher rate of unemployed respondents in Temba (38%) compared to Alberton (18%) and the PFVA data (23%).

- Employed respondents: **Alberton = 55%**
- Employed respondents: **Temba = 49%**
- Employed respondents: **PFVA = 63%**

#### 3.1.8.1 Employment status and gender

- In Alberton, nearly half the male respondents (46%) were employed; 13% were unemployed. Fewer female respondents were employed (30%) compared to men.
- In Temba, only one in three female respondents (32%) was employed, and half (52%) were unemployed. In comparison, male respondents were more likely to be employed (51%) than unemployed (32%).
- Approximately equivalent numbers of male and female respondents were employed in the PFVA data (65% male; 60 female). One in five male (23%) and female (20%) respondents was unemployed.

The findings suggest that female respondents are more likely to be unemployed than male respondents.

### 3.2 Who do women and men seek protection from?

We found that the category with the highest number of applications for protection orders was female applicant/male respondent. This included intimate partners, mothers seeking protection from their sons, daughters from their fathers, and sisters from their brothers, amongst others. Female applicant/female respondent had the least number of applications.

Approximately four out of five respondents in Alberton and Temba were men. Almost all respondents in the PFVA sample were men.

Proportion of male respondents	Proportion of female respondents
♣ Alberton: <b>86%</b>	♣ Alberton: <b>14%</b>
♣ Temba: <b>80%</b>	♣ Temba: <b>20%</b>
♣ PFVA: <b>95%</b>	♣ PFVA: <b>5%</b>

- Under the DVA, almost all women (95%) sought protection from a man. This corresponds to the 94% of women who sought an interdict from a man under the PFVA.

- Under the DVA, two thirds of men (66%) sought protection from a woman. Under the PFVA, however, all men sought protection from a woman.

Our findings show that while the respondent is typically male at both sites and over time, the number of women reported to be the respondent has increased.

### 3.2.1 The relationship between the applicant and respondent

Given the ambit of the PFVA, all applications were made against an intimate partner. Because of this, the following section only compares the PFVA data where appropriate.

Table 2 demonstrates that under the DVA, male and female applicants typically seek protection from **intimate partners** at both sites. However, a higher number of applications against **family members** were made in Temba.

**Table 2: Total number of applications against an intimate partner or familial respondent (DVA data)**

	Type of respondent	Alberton (n = 1525)	Temba (n = 665)	Total (n = 2190)
<b>Male applicant</b>	<b>Intimate Partner</b>	135	76	211
	<b>Family Member</b>	90	71	161
<b>Female applicant</b>	<b>Intimate Partner</b>	1098	400	1498
	<b>Family Member</b>	202	118	320
<b>Unknown</b>		15	5	20

From the total proportion of applications sampled in **Alberton**, more than two-thirds of applications for protection orders were made by women in intimate partnerships.

- 72% were made by women against an intimate partner.
- 13% of women sought protection from a family member.
- 9% were made by men against an intimate partner.
- 6% of women sought protection from a family member.

From the total proportion of applications sampled in **Temba**, more than half were made by women against intimate partners.

- 60% were made by women against an intimate partner.
- 18% of men sought protection from a family member.
- 11% were made by men against an intimate partner.
- 11% of men sought protection from a family member.

### 3.2.2 Who are the intimate partners (IP)?

Table 3 shows that across the sites and over time, intimate partners were typically the

applicant's husband or wife.

- More divorced/separated applicants sought protection at Alberton court than at Temba court.
- More co-habiting applicants sought protection under the PFVA compared to the DVA.

**Table 3: Type of intimate partner relationship (figures may not add up to 100% due to rounding)**

	<b>Alberton (n = 1235)</b>	<b>Temba (n = 477)</b>	<b>PFVA data (n = 286)</b>
<b>Married</b>	<b>49%</b>	<b>68%</b>	<b>73%</b>
<b>Dating</b>	15%	11%	
<b>Divorced/separated</b>	<b>11%</b>	<b>1%</b>	<b>6%</b>
<b>Co-habiting</b>	11%	8%	<b>18%</b>
<b>Formerly dating</b>	8%	10%	-
<b>Lovers</b>	2%	1%	-
<b>Engaged</b>	1%	-	-
<b>Other</b>	-		3%

### 3.2.3 Who are the family members (FM)?

Family member respondents were typically the applicant's children at both sites (see Table 4).

**Table 4: Type of familial relationship (figures may not add up to 100% due to rounding)**

	<b>Alberton (n = 292)</b>	<b>Temba (n = 189)</b>
<b>Sons and daughters</b>	<b>58%</b>	<b>54%</b>
<b>Brother</b>	12%	16%
<b>Father</b>	9%	6%
<b>Sister</b>	5%	8%
<b>Multiple respondents</b>	4%	6%
<b>Nephew</b>	3%	-
<b>Mother</b>	3%	3%

### 3.2.4 Age differences between applicants seeking protection from an IP or FM

Applicants seeking protection from intimate partners tended to be younger than applicants

seeking protection from family members at both sites (see Table 5). This could be explained by the proportion of parents seeking protection from their children.

**Table 5: Comparison of median age of applicant seeking protection from an IP or FM**

	Alberton		Temba	
Type of respondent	Median age male applicant	Median age female applicant	Median age male applicant	Median age female applicant
Intimate partner	37 years	33 years	40 years	36 years
Family member	47 years	44 years	50 years	45 years

### 3.3 Multiple respondents

While a protection order is typically taken out against one particular individual, an unanticipated occurrence of "multiple respondents" was found in 12 cases in Alberton and 11 cases in Temba. This implied that the protection order, if confirmed, would protect the applicant from both persons. It is unclear from the wording of section 1 (xx) of the DVA<sup>1</sup> whether this is in fact possible or whether it is necessary to have submitted two separate applications.

### 3.4 Types of abuse reported at Alberton and Temba

Table six shows that the types of abuses reported at the DVA sites were significantly different. With the exception of other abuses, such as forced removal from the home, more applicants in Alberton seek protection from all types of abuses. The table also demonstrates that applicants most commonly sought protection from emotional, verbal or psychological abuse, followed by physical abuse. Given the definition of abuse under the PFVA, it is not surprising that physical abuse was the most commonly reported form of violence. Statistical comparisons were not made between the PFVA and DVA abuses due to their differential definitions. However, the findings do suggest that the proportion of applicants seeking protection from physical abuse has declined. This may be explained by the broadened definition of domestic violence and the wider range of abuses applicants can seek protection from.

**Table 6: Types of abuses reported at each site (figures may not add up to 100% due to rounding)**

Key: \*p < 0.05      \*\*p < 0.01      \*\*\*p < 0.001

	Alberton (n = 1537)	Temba (n = 671)	PFVA data (n = 301)
Emotional, verbal, psychological	89%***	82%	
Physical abuse	78%***	65%	95%
Economic/financial abuse	28%***	11%	

<b>Damage to property</b>	<b>22%***</b>	16%	
<b>Other</b>	20%	<b>22%*</b>	<b>89%</b>
<b>Stalking</b>	<b>12%***</b>	3%	
<b>Sexual abuse</b>	<b>10%***</b>	5%	17%

### 3.4.1 Comparison of types of abuses reported by men and women at each site

Table 7 compares the abuses men and women seek protection from at the DVA sites.<sup>2</sup> The PFVA sample was not included because of the insufficient sample size of male applications.

- Men and women are equally likely to seek protection from emotional, verbal and psychological abuse at both sites
- Women are more likely than men to seek protection from physical and sexual abuse at both sites
- In Alberton, women are more likely than men to seek protection from economic abuse, but in Temba, no differences between men and women seeking protection from economic abuse were found
- Men at both sites are more likely to seek protection from damage to property

**Table 7: Gender of applicants and type of abuse (figures may not add up to 100% due to rounding)**

	<b>Alberton (n = 1537)</b>		<b>Temba (n = 671)</b>	
	<b>Male applicant (n = 230)</b>	<b>Female applicant (n = 1307)</b>	<b>Male applicant (n = 149)</b>	<b>Female applicant (n = 521)</b>
<b>Emotional, verbal, psychological</b>	<b>87%</b>	<b>89%</b>	<b>89%</b>	<b>80%</b>
<b>Physical abuse</b>	60%	<b>82%</b>	43%	<b>71%</b>
<b>Economic/financial abuse</b>	15%	<b>31%</b>	9%	11%
<b>Damage to property</b>	<b>33%</b>	20%	<b>25%</b>	14%
<b>Other (including eviction)</b>	17%	<b>21%</b>	15%	<b>24%</b>
<b>Stalking</b>	9%	<b>12%</b>	3%	3%
<b>Sexual abuse</b>	5%	<b>11%</b>	1%	6%

### 3.4.2 Comparison of types of abuses when the respondent is an intimate partner

Table 8 compares the abuses applicants in intimate partnerships seek protection from. Sample sizes for engaged, mistress and lover relationships were too small to make comparisons. No significant differences were found regarding divorced/separated couples and types of abuses, and these relationships are not included in the table.

- Married applicants in Alberton were significantly more likely than married applicants in Temba to seek protection from nearly all abuses, except forced removal from the home.
- Dating applicants in Alberton were significantly more likely than dating applicants in Temba to seek protection from physical abuse, stalking and other abuses.
- Formerly dating applicants in Alberton were significantly more likely than formerly dating applicants in Temba to seek protection from physical, economic and other abuses, and from stalking.

**Table 8: Applicants in intimate partnerships and type of abuse (figures may not add up to 100% due to rounding)**

Type of abuse	Type of intimate relationship							
	Married (customary/civil)		Dating		Formerly dating		Co-habiting	
	Alberton (n = 603)	Temba (n = 325)	Alberton (n = 186)	Temba (n = 54)	Alberton (n = 104)	Temba (n = 49)	Alberton (n = 135)	Female applicants (n =38)
<b>Emotional, verbal, psychological</b>	<b>90%***</b>	<b>80%</b>	84%	85%	95%	90%	87%	74%
<b>Physical</b>	<b>83%***</b>	<b>72%</b>	<b>85%***</b>	72%	<b>81%***</b>	<b>39%</b>	88%	87%
<b>Economic abuse</b>	<b>34%***</b>	<b>13%</b>	21%	19%	17%**	6%	<b>39%***</b>	<b>11%</b>
<b>Damage to property</b>	<b>19%**</b>	<b>15%</b>	22%	19%	19%	20%	<b>27%***</b>	<b>3%</b>
<b>Other (including eviction)</b>	22%	28%	<b>18%**</b>	9%	14%	2%	20%	21%
<b>Stalking</b>	6%***	2%	22%***	4%	<b>36%***</b>	<b>10%</b>	5%	-
<b>Sexual</b>	<b>11%**</b>	<b>6%</b>	17%	<b>19%</b>	14%	6%	13%	3%

Key: \*p < 0.05      \*\*p < 0.01      \*\*\*p < 0.001

### 3.4.3 Comparison of types of abuses when the respondent is a family member

Table 9 compares applicants at Alberton and Temba court seeking protection from their child. Other familial relationships were excluded due to insufficient sample sizes.

- Applicants in Alberton were significantly more likely to seek protection from economic abuse and damage to property than applicants in Temba.
- Very little protection is sought from stalking and sexual abuse at both sites when the respondent is a family member.

**Table 9: Types of abuses reported by familial applicant against their children (figures may not add up to 100% due to rounding)**

	<b>Alberton (n = 172)</b>	<b>Temba (n = 104)</b>
<b>Emotional, verbal, psychological</b>	93%	91%
<b>Physical abuse</b>	63%	59%
<b>Economic abuse</b>	<b>22%**</b>	11%
<b>Damage to property</b>	<b>33%**</b>	20%
<b>Other (including eviction)</b>	18%	19%
<b>Stalking</b>	1%	1%
<b>Sexual abuse</b>	2%	-

Key: \*p < 0.05      \*\*p < 0.01      \*\*\*p < 0.001

### 3.5 Who else is affected by the abuse?

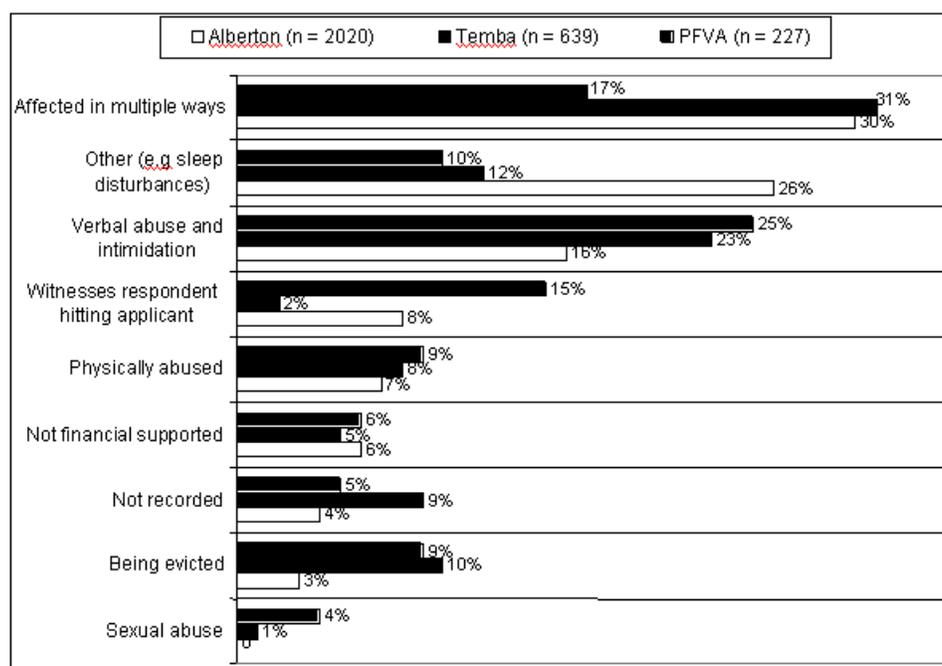
In accordance with section four of the application for a protection order, information regarding other persons affected by the abuse was captured. According to Parenzee et al. (2001), however, the wording of this section in the application form may create confusion for complainants and so more persons may in fact be affected but were not reported.

- Other persons were reported to be affected by the abuse in **63%** of cases in Alberton, **61%** of PFVA cases and **41%** in Temba.
- Children are clearly the most affected in both sites and across time (**74%** in Alberton; **84%** in Temba; **77%** in PFVA).

Figure 2 demonstrates the ways in which other persons are affected by the abuse at the sites.

- At both DVA sites, one in three children are affected in multiple ways.
- With the exception of multiple abuses, children in Temba appear more primary victims of verbal, physical and sexual abuse, and eviction. In contrast, children in Alberton are more secondary victims of abuse as they are more likely to witness the abuse and to experience study or sleep difficulties.
- The children in the PFVA experience both primary and secondary abuse, and are most likely to be verbally, physically and sexually abused, to witness the respondent being abusive, and being evicted.

**Figure 2: ways other persons are affected by the abuse (figures may not add up to 100% due to rounding)**



### 3.6 Weapons used in the abuse

Weapons were categorised in four ways: gun, knife, sjambok and other. A category of "multiple weapons" was created to account for occurrences when more than one weapon was used (see Table 10).

- A weapon was used in **39%** of cases in Alberton and **27%** of cases in Temba.
- These figures show a decline in reported weapon use from **57%** of PFVA cases.
- Threatening to obtain or use a weapon increased from 8 PFVA cases to 30 cases in Alberton. Only 5 threats were reported in Temba.
- A gun was reported in approximately **1 in 4** cases under the DVA and the PFVA. This may be an under-representation of gun use as instances of "multiple weapons" may have included guns but were not captured separately (see Table 10).
- Few orders were made for the SAPS to remove a weapon (Alberton = 2% of cases; Temba = 1% of cases) (See [section 3.10](#)).

**Table 10: Type of weapon used (figures may not add up to 100% due to rounding)**

Type of weapon used	Alberton (n = 623)	Temba (n = 183)	PVF data (n = 179)
Other (including general household items)	31%	55%	28%
<b>Gun</b>	<b>26%</b>	<b>23%</b>	<b>24%</b>
Knife	23%	14%	23%

Multiple weapons	19%	4%	21%
Sjambok	2%	3%	3%

### 3.7 Injuries recorded

- Nearly one in three applicants in Alberton (**26%**) reported sustaining injuries compared to only **6%** of cases in Temba (n = 43).
- More injuries were recorded in the PFVA data (**62%** of cases).
- While information was typically unrecorded, bruises, swelling and scratches was the most common injury at both sites (**35%** in Alberton; **25%** in Temba; **47%** in the PFVA).

### 3.8 Reasons for urgency of application

Section six of the protection order requests the provision of reasons why the application should be considered as a matter of urgency. Ten different reasons were coded and more than one reason was allowed.

- **83%** of applications in Alberton (n = 1276) had reasons for urgency compared to only **5%** in Temba (n = 31). The latter is likely an underestimation of the number of applications that should have been considered urgent.
- Almost all PFVA applications had reasons for urgency.

Table 11 shows that the most common reasons applications were asked to be considered urgent was a fear that the respondent will continue beating, hitting or otherwise physically abusing the applicant, a general feeling of being threatened, or fearing the respondent would kill the applicant. More than one reason was allowed.

**Table 11: Reason for urgency of application (figures may not add up to 100% due to rounding)**

	Alberton (n = 1276)	Temba (n = 31)	PFVA data (n = 331)
Afraid the respondent will continue beating, hitting or otherwise physically abusing the applicant	<b>27%</b>	<b>21%</b>	<b>38%</b>
General feeling of being threatened and wanting to protect rights, security purposes	<b>23%</b>	<b>33%</b>	<b>11%</b>
Afraid respondent will carry out threats of killing applicant	<b>20%</b>	<b>29%</b>	<b>23%</b>
For the respondent to stop verbally abusing the applicant (including swearing and insulting)	11%	4%	9%
For the respondent to pay for accommodation and financially support the family	10%	8%	5%
Afraid respondent will evict the applicant	4%	-	13%

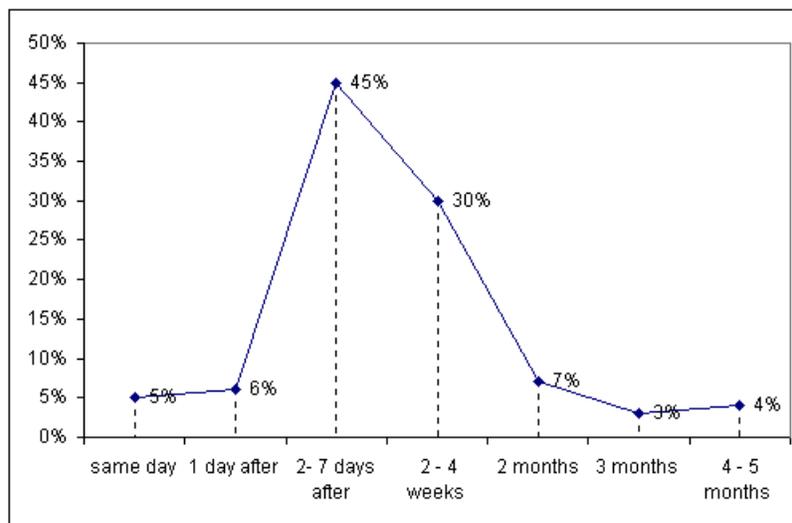
Afraid that the respondent will carry out threats of damaging/ selling property	3%	4%	1%
Applicants afraid that they might be forced into non-consensual sexual acts	1%	-	<1%
For visitation rights to be taken away	1%	-	-
Applicant afraid that they may take the law into their own hands and do something rash	<1%	-	-

### 3.9 The return of service

- In the PFVA sample, **58%** of respondents were served with an order. Approximately one in ten interdicts were not served to the respondent (12%), and 23% of cases were unrecorded.

Figure 3 shows that over half the orders are served within a week after the interdict was granted.

**Figure 3: Time taken for return of service after PFVA interdict granted (n = 152)**



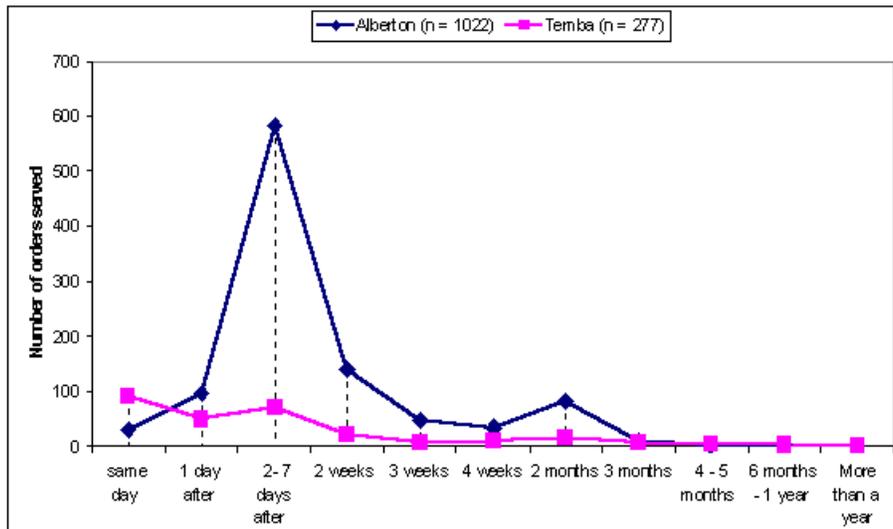
- In the DVA sample, the respondent was served with a notice to appear in court in two-thirds of cases in Alberton (**67%**) but less than half in Temba (**42%**).

In accordance with section 5 (6) of the DVA, the applicant is not protected from domestic violence until the respondent has been served with an order and there is proof of that order being served. A notice was not served in **9%** of cases in Alberton and **1%** in Temba. However, information of return of service was not recorded in 15% of cases in Alberton and more than half in Temba (57%), and it is possible that these figures indicate no return of service. This may imply that approximately one in four applicants in Alberton and more than half in Temba were not able to access relief from domestic violence due to non-return of service.

Figure 4 shows that the shortest period of time to serve an order was the same day of application, and that more orders are served on this day in Temba (42%) than in Alberton (3%).

However, 67% of orders were served within the first week the interim order was issued in Alberton, compared to only 43% in Temba.

**Figure 4: Time taken for return of service after the interim order granted**



- Significant differences were found regarding how the order was served at the two sites. In Alberton, the order is equally likely to be attached to the door, served to the respondent directly, or served to a person over 16. In Temba, the order is most likely served to the respondent directly (see Table 12).
- At both sites, the respondent is most likely to be served the order at home.
- The sheriff served the overwhelming majority of orders in Alberton, while the police served most of the orders in Temba. This may be due to the higher rate of financial disempowerment in Temba and the consequent limitation in paying sheriffs' fees.

**Table 12: Comparison of return of service Alberton and Temba court (figures may not add up to 100% due to rounding)**

		Alberton (n = 1071)	Temba (n = 275)
<b>How was the order served? ***</b>	Order attached to the door of the respondent's home	33%	-
	Served to the respondent directly	32%	89%
	Order served to another person over the age of 16	32%	9%

<b><i>Place where the order was served***</i></b>	Respondents home	<b>92%</b>	<b>83%</b>
	Respondents workplace	3%	9%
	Unknown	4%	3%
	Other	1%	5%
<b><i>Person who served the order***</i></b>	Sheriff	<b>91%</b>	20%
	Police	2%	<b>80%</b>
	Other	3%	-
	Not recorded	5%	< 1%
<b><i>Person who paid for order to be served***</i></b>	The state	<b>70%</b>	3%
	The applicant	28%	1%
	Other	0.1%	-
	Unknown	1%	<b>97%</b>

Key: \*p < 0.05      \*\*p < 0.01      \*\*\*p < 0.001

### 3.9.1 The cost of service

- In almost all cases in Temba (**96%**), no cost of service was incurred by the applicant.
- One in 3 applicants in Alberton (**36%**) did not incur charges for return of service.
- More than half the PFVA applicants (59%) incurred no charge for having the interdict served.
- Charges for the remaining orders ranged from R19.38 to R159.33 in the PFVA applications; R17.10 to R169.26 in Alberton, but were slightly higher in Temba (between R32.75 and R260.30).
- Cost of service was higher in Temba. This may be explained by the greater distance and more difficult terrain the sheriff is required to travel, the poorly demarcated housing structures in the area, and the possibility of attempting the service more than once.
- [Table 12](#) suggests that in two-thirds of Alberton cases, it is the state rather than the applicant who typically incurs the cost. Information from Temba was unknown.
- One in five applicants in the PFVA sample (21%) incurred the cost of service.

### 3.10 The interim and final protection order

The majority of applicants at both DVA sites requested an interim protection order. Interim interdicts were not available under the PFVA and comparisons cannot be made.

- All requests for interim orders were granted in Temba (n = 660). Almost all applications were granted on the day of application at Temba (96%).
- A small proportion of applications were dismissed in Alberton (99 of 1520 applications).
- Reasons for dismissal of interim orders at Alberton were typically unrecorded (n =

54), but 20 cases were dismissed due to the allegations against the respondent not being true, 10 for applicants being referred to other courts or services, 1 for parties being warned, 1 for reconciliation between the parties, and 13 for other reasons (including general withdrawal of the case or unrecorded).

- Fewer applications for interim orders were granted on the day of application in Alberton (72%), but within a week, a further 13% had been granted.

### 3.10.1 Protection requested and protection granted

Because there are only a few terms and conditions that can be requested under the PFVA compared to the DVA, only broad comparisons can be made in this section.

Table 13 shows that the majority of PFVA applicants requested that the respondent not physically abuse them. One in three requested the respondent not prevent them from entering their home. In all instances of protection requested, the court ordered more conditions than what was originally applied for in each category.

**Table 13: Protection requested and granted under PFVA**

Order	Requested by applicant	Granted in interdict
Not to assault or threaten the applicant	92%	90%
Not to prevent applicant or their child from entering the home	37%	59%
Not to enter the matrimonial home or parts of the home	14%	26%

Section seven of the DVA sets out the prohibitions that can be enforced on the respondent in the protection order. The applicant is required to select which kind of relief they require, and the court may impose any additional conditions which are deemed necessary to protect and provide for the safety and well-being of the applicant. Table fourteen compares protection requested and protection granted in the interim order. Unlike the PFVA data, a strange pattern emerged at both DVA sites where fewer requests were granted than what was originally applied for in each category.

**Table 14: Protection requested and protection granted**

Order	Alberton		Temba	
	Requested by applicant	Granted in interim order	Requested by applicant	Granted in interim order
Not to commit any act of domestic violence	80%	86%	93%	85%
Not to get help to	52%	7%	92%	12%

<b>commit any act of domestic violence</b>				
<b>Not to enter the complainants residence</b>	35%	30%	25%	20%
<b>Not to prevent entry into the house</b>	28%	23%	16%	14%
<b>Not to enter the complainants place of employment</b>	20%	11%	9%	6%
<b>Not to enter the shared residence</b>	18%	4%	3%	>1%
<b>Not to enter a specified part of the residence</b>	11%	2%	2%	>1%
<b>Respondent refused contact with children</b>	8%	2%	>1%	>1%

- It was found that the terms "not to commit any act of domestic violence" and "not to get help to commit an act of domestic violence" were the most commonly requested at both sites.
- However, while magistrates typically ordered the first condition, very few respondents were ordered not to receive help in committing the violence.
- One in three respondents in Alberton and one in four in Temba were ordered not to enter the complainant's residence.
- The proportion of applicants seeking relief from not being allowed to enter their home is approximately consistent with the number of applicants who seek protection from forced removal from the home (see [Table 7](#)).

The following requests constituted less than 6% of cases in Alberton and less than 3% in Temba:

1. Physical address of the complainant is not to be disclosed
2. Respondent to pay monetary relief
3. Respondent granted the following contact with children
4. Respondent to pay mortgage
5. The SAPS to retrieve a weapon
6. A Peace officer to accompany complainant

The first four orders that were not typically requested or granted at both sites may apply to divorcing couples who are separating their assets and determining custody of their children. The lack of requests for these orders may be explained by the few divorcees in the sample. Forced payment of mortgage or monetary relief may also be low given the rate of employment of applicants. The last two orders are more difficult to explain, but it is possible that the applicants are not aware of the possibility of having a weapon removed, or that magistrates do not enforce the order. Applicants may also prefer not to use peace officers to solve domestic disputes, or may have utilised their services in the past and were

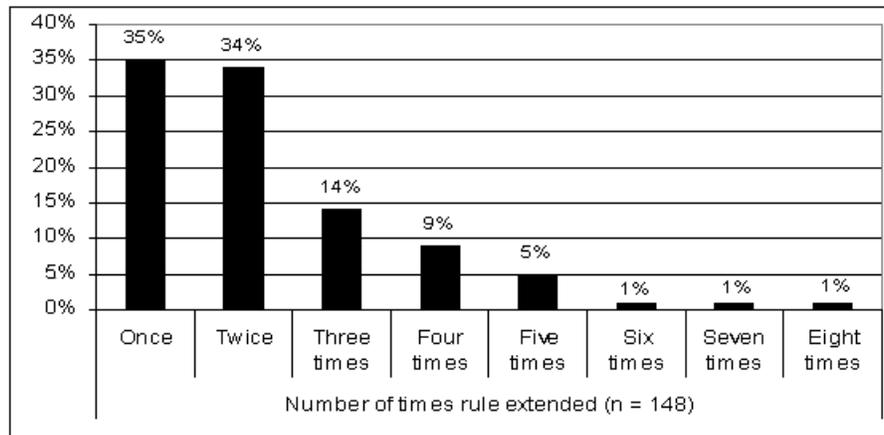
disappointed by the results.

### 3.11 The final hearing

#### 3.11.1 Rule extended (PFVA)

Where applicable, rules were typically extended once or twice. Reasons why rules were extended were not captured.

Figure 5: Number of times rule extended (*figures may not add up to 100% due to rounding*)



#### 3.11.2 The return date (DVA)

Return dates for the final hearing was highly variable at both sites, but hearings occur faster at Alberton than at Temba court.

##### Median return date (DVA)

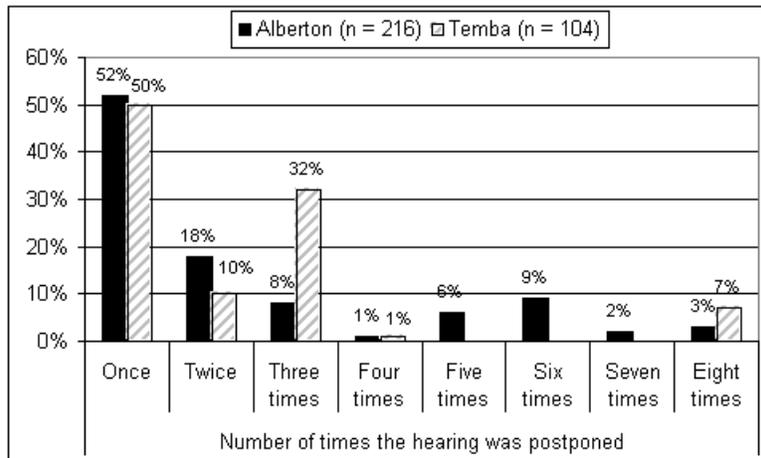
- Alberton: **35** days
- Temba: **64** days

#### 3.11.3 Postponements (DVA)

Information from this section of the DVA applications was typically scarce. In some instances, it was known whether a case was postponed, but not how many times or for what reasons. Thus the following information has variable sample sizes.

- 22% (n = 246) of cases in Alberton and 18% (n = 118) of cases in Temba were postponed.
- Cases are typically postponed once at both sites, but one in three Temba cases are postponed three times (see Figure 6).

**Figure 6: Number of times the hearing was postponed at each site (DVA data)**



- Less than half the applications had reasons for postponements at both sites.
- Despite variability at Alberton, hearings at Temba were typically postponed because the allegations against the respondent were not true or because more evidence was needed (see Table 15).

**Table 15: Reasons why the hearing was postponed (figures may not add up to 100% due to rounding)**

	Alberton (n = 93)	Temba (n = 52)
<b>Respondent not served with a protection order</b>	<b>33%</b>	-
<b>Parties were absent at the hearing</b>	17%	-
<b>Parties were given a warning</b>	13%	-
<b>Allegations against respondent were not true or more evidence needed</b>	8%	<b>88%</b>
<b>Applicants referred to other services</b>	3%	2%
<b>Reconciliation between the parties</b>	5%	-
<b>Withdrawal/parties agreed to postpone</b>	20%	10%

### 3.11.4 Parties present at the final hearing

- Information regarding parties present at the hearing was known in approximately half the cases at both DVA sites (Alberton: n = 891; Temba: n = 304).
- From the information available, both the applicant and respondent were likely to be present at the final hearing at both sites (see Table 16).
- Comparative information was not captured from the PFVA applications.

**Table 16: Parties present at the final hearing**

	<b>Alberton (n = 891)</b>	<b>Temba (n = 304)</b>
<b>Both applicant and respondents</b>	55%	74%
<b>Applicant only</b>	28%	16%
<b>Neither applicant or respondent</b>	12%	2%
<b>Respondent only</b>	5%	8%

**3.12 The final protection order**

- More final protection orders were granted at Alberton court than at Temba (see Figure 7).
- More orders are struck off the roll at Temba court.
- Few orders are amended at either site.
- Two-thirds of PFVA interdicts were granted.

Due to insufficient information, reasons for amendments or dismissal of orders cannot be extrapolated.

**Figure 7: Status of final protection order**

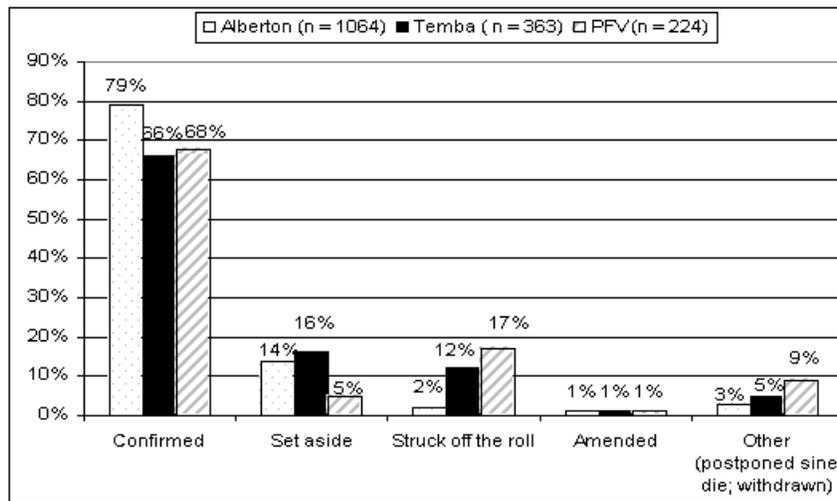


Table 17 demonstrates the relationship between the person attending court and the status of the final protection order.

- At Alberton court, most of the orders were granted in the presence of either both parties or the applicant. More than half the orders were granted where only the respondent was present. The majority of orders were confirmed when neither party was present.
- In Temba, only two-thirds of orders were granted when both parties were present, but when neither party was present, all applications were struck off the roll. While

the majority of orders were granted when only the applicant was present, no orders were granted when the applicant was absent.

**Table 17: Comparison of party present at the hearing and the status of the order**

<b>Alberton (n = 848)</b>		<b>Temba (n = 279)</b>	
<i>Parties present at final hearing</i>	<i>Status of final order</i>	<i>Parties present at final hearing</i>	<i>Status of final order</i>
<b>Both applicant and respondent (n = 481)</b>	<b>81% confirmed</b>	<b>Both applicant and respondent (n = 209)</b>	<b>73% confirmed</b>
	16% set aside		18% set aside
	2% amended		6% struck off
	<1% % struck off; withdrawn, postponed sine die		3% withdrawn, postponed sine die
<b>Applicant only (n = 228)</b>	<b>90% confirmed</b>	<b>Applicant only (n = 42)</b>	<b>76% confirmed</b>
	7% set aside		14% struck off the roll
	2% struck off the roll		7% set aside
	1% withdrawn, postponed sine die		2% withdrawn, postponed sine die
<b>Respondent only (n = 40)</b>	<b>63% confirmed</b>	<b>Respondent only (n = 24)</b>	50% struck off the roll
	30% set aside		46% set aside
	5% struck off the roll		4% withdrawn, postponed sine die
	2% withdrawn, postponed sine die		<b>0% confirmed</b>
<b>Neither applicant nor respondent (n =99)</b>	<b>78% confirmed</b>	<b>Neither applicant nor respondent (n = 4)</b>	<b>0% confirmed. All orders were struck off the roll</b>
	11% withdrawn, postponed sine die		
	8% set aside		

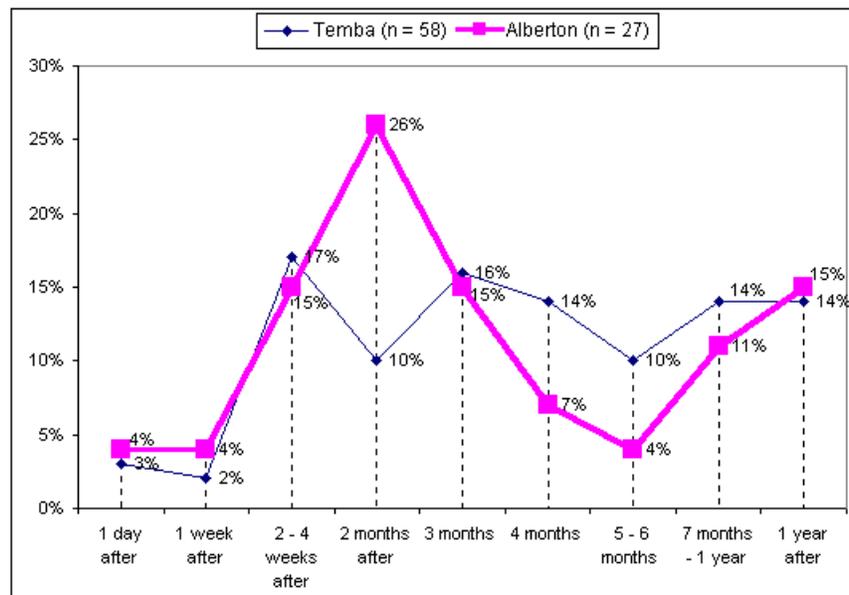
4% struck off the roll

### 3.13 Breach of protection order

More breaches were reported in Temba compared to Alberton and the PFVA.

- Number of breaches recorded **Temba**: 74 cases (12%)
- Number of breaches recorded **Alberton**: 37 cases (2%)
- Number of breaches recorded **PFVA**: 11 cases (4%)

**Figure 8: Time span of breaches of protection order**



- In Temba, breaches typically occurred two-four weeks and four months after the interim order was granted. Eight orders were breached after a year.
- In Alberton, one in four orders was breached within two months of being confirmed.
- Two PFVA orders were breached within the first month the interdict was granted (25 and 32 days after); one order was breached four months after (116 days), and one order was breached over a year later (542 days).
- In a small number of cases, multiple breaches were reported in both sites (3 cases in Alberton and 6 cases in Temba).

## 4. Discussion and recommendations

Our study shows that a wide range of applicants, including men, appear to be utilising the DVA, and that other persons, particularly children, are affected by the abuse. At both sites and over time, applicants are typically women in their thirties seeking protection from their male intimate partner. Thus the category with the highest number of applications for protection orders was female applicant/male respondent. This is consistent with findings in Parenzee et al. (2001) and Mathews and Abrahams (2001).

At all sites and over time, married men and women were substantially more likely to seek protection from their spouse compared to other types of intimate relationships. While the findings corroborate Mathews and Abrahams (2001) and Parenzee et al. (2001), the result was surprising because other South African research has found that married couples are encouraged to follow a traditional mediation route in cases of domestic violence rather than seeking statutory recourse, and that co-habiting women are more susceptible to intimate femicide. Our finding may be explained in various ways. Firstly, the abuse may have continued for a number of years and a protection order was sought after other methods, such as traditional mediation, had failed. Secondly, the option of leaving the abusive relationship may be slight because of economic dependence, or thirdly, domestic violence may be more common in married relationships.

We found that protection is most commonly sought for emotional and physical abuse at both sites. While applicants in Alberton seek significantly more protection from almost all types of abuse, this may be an artefact of the poor recording of information from Temba. Domestic violence under the PFVA is narrowly defined, and our findings show that the number of applicants seeking protection from physical and sexual abuse has declined. This may be explained by the broader definition of domestic violence under the DVA. Despite approximately two thirds of applicants having been physically abused, few injuries were recorded, particularly at Temba. This prevents any substantive recommendations regarding health care for abused persons from being made, but the findings question whether sufficient records of injuries are kept, whether adequate services are available, and whether these services are accessible.

We found that a weapon was used in approximately one in three cases at both sites, but that the SAPS were very seldom requested to seize the weapon. Parenzee et al. (2001) also found that very few weapons were ordered to be removed when compared with the frequency with which weapons are mentioned in the applicants' affidavits. In our study, reasons for urgency of application at both sites and over time were fearfulness of continued or imminent physical danger or of being killed. This finding, in conjunction with the number of weapons used and the lack of requests for SAPS to seize a weapon, raises concern about the effectiveness of the DVA in providing a safe and reliable remedy against abuse.

Given the very high proportion of interim orders that are issued at both sites, abused men and women appear to be given at least temporary relief. Temba court is quicker at issuing interim protection orders, but applicants need to wait longer to have a hearing and only half the respondents are served with the order. Moreover, most hearings are postponed at least once at both sites, and this undermines the ability of the DVA to intervene quickly. Furthermore, unlike in the PFVA data, fewer requests for particular kinds of protection are ordered by magistrates at both sites. This may be an artefact of the data capturing, but it could also suggest that magistrates typically give less protection than is requested, or that many of the individual requests tend to be subsumed under the first option of "not to commit any acts of violence".

Most of the applicants and respondents arrived at the final hearing. This challenges the popular assumption that domestic violence cases are often withdrawn and hence a waste of time, energy and resources. Findings also suggested that the presence or absence of either party impacts on the granting of the final order at Temba. While at Alberton, the order was

typically confirmed irrespective of who was present, at Temba, the absence of the applicant typically results in the order being dismissed.

Few breaches were recorded. While it is possible that few breaches actually occurred, it is surmised that many breaches are unreported. The finding of multiple breaches was unanticipated, and it is unclear how the applicant was able to report a breach more than once without the police intervening in the first instance. The finding may suggest that police do not arrest the respondent unless the breach has occurred more than once. If this were the case, the police member would be liable for charges of misconduct as per section 18 (4) of the DVA.

The findings suggest that to a large extent, the DVA is implemented more effectively at Alberton court due to the faster court dates, quicker and more likely return of service, and better recording of information. Applicants at Temba court face more problems with court delays and poor recording of information which could affect the outcome of the case. The loss of files also implies poor case management and has concerning implications for access to justice.

#### ***Recommendations***

- Because of the wide range of applicants seeking protection orders and the number of children and other persons affected by the abuse, it is recommended that services aim to provide a systemic approach to helping abused persons.
- Because applicants in intimate partnerships and family relations seek relief from different types of abuse, more research should be conducted on domestic violence and relationship types. This research could consider why more men seek protection from family members, as well as the link between domestic violence and child abuse.
- Because of the risk to the applicant's safety, it is recommended that court officials be more proactive in ordering SAPS to seize a weapon, even where applicants do not request this.
- It is recommended that more cognisance be taken of the return date of hearing particularly in Temba, as the longer the order remains unconfirmed, the more susceptible the applicant is to abuse.
- Because the findings of the present study are limited to the sampled research sites, more research should be conducted on monitoring the DVA in other sites to assess similarities and differences with the present findings.

#### **Notes:**

<sup>1</sup> This section defines the term respondent as "a person who is or has been in a domestic relationship with a complainant and who has committed or allegedly committed and act of domestic violence against the complainant".

<sup>2</sup> For more comparison between men's and women's use of the DVA, the reader is referred to Schneider & Vetten (2006) "Men, women and the DVA", the Centre for the Study of Violence and Reconciliation, Johannesburg.

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