DOMESTIC VIOLENCE AND THE LOCKDOWN: YOUR PERSONALISED SAFETY PLAN

“Preamble to the Domestic Violence Act: “To afford the victims of domestic violence the maximum protection from domestic abuse that the law can provide”

There is great concern that the COVID-19 crisis, particularly the mandatory “stay at home” lockdown phase, will see both an increase in the levels of domestic violence, and a decrease in the ability of victims to access help. It’s a worldwide concern and as the World Health Organisation puts it: “Stress, the disruption of social and protective networks, loss of income and decreased access to services all can exacerbate the risk of violence for women.”

South Africa’s Domestic Violence Act (“domestic violence” isn’t limited to cases of physical harm – it includes a very wide range of abusive conduct) provides legal protection to victims, especially to those most vulnerable such as women, children, disabled people and the elderly. If you are a victim (or helping a victim) you should be aware of a victim’s rights to lay criminal charges and/or to apply for a protection order.

Police officers attending to such cases must help victims to lay criminal charges, find shelter and obtain medical treatment where necessary. The Supreme Court of Appeal has confirmed that SAPS members have a positive duty to render assistance to victims.

But how can you achieve that with the lockdown restrictions and its constraints on your freedom of movement and ability to escape the abuser?

Your personalised safety plan

Note that from 14 May 2020 new lockdown regulations specifically allow you to move to a new home where “the movement is necessitated due to domestic violence”.

Download here the National Shelter Movement of South Africa’s free PDF document “Domestic Violence Safety Planning During the Time of COVID-19” which will help you with suggestions for developing a personalised and practical Safety Plan during lockdown under these headings –

“Be Prepared” with a comprehensive list of helplines and contacts (both National and Provincial) and how to access them

“Reaching Out”

“Signalling for Help”

“Delete Searches/Requests for Help”

“Planning to Leave”

“Legally Speaking”

“Leaving”

“Staying Safe”.

How a protection order works

The “Staying Safe” section above suggests that you apply for a protection order if you don’t already have one, and that you get help in doing so from a shelter or other organisation. Or you can yourself approach your nearest Magistrates Court and ask for assistance.

If an order is granted, the issue of a warrant of arrest is authorised at the same time. The warrant is suspended on condition that there is no breach of the terms of the protection order. To have the warrant executed, you will need to give details of any violation of the order on affidavit – be aware that you will both face criminal charges and risk a damages claim if you intentionally make any false allegations.