

1. LEGISLATIVE MANDATE OF THE ICD

ICD

Independent Complaints
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Section 53 (2) of the South African Police Service (SAPS) Act (Act no 68 of 1995) provides that the Independent Complaints Directorate:

- (a) May mero motu or upon receipt of a complaint, investigate any misconduct or offence allegedly committed by a member, and may, where appropriate, refer such investigation to the Commissioner concerned;
- (b) Shall mero motu or upon receipt of a complaint, investigate any death in police custody or as a result of police action; and
- (c) May investigate any matter referred to the Directorate by the Minister or member of the Executive Council.

Section 18 of the Domestic Violence Act (DVA), Act No. 116 of 1998 stipulates that failure by a member of the SAPS to comply with an obligation imposed on him/her in terms of the DVA or the National Instructions issued thereunder, constitutes misconduct as contemplated in the SAPS Act, and that the ICD, established in terms of the SAPS Act, must forthwith be informed of any such failure reported to the SAPS. Unless the ICD directs otherwise in any specific case, the SAPS must institute disciplinary proceedings against any member who allegedly failed to comply with an obligation.

The ICD must, every six months, submit a report to Parliament regarding the number and particulars of matters reported to it and set out the recommendations made in respect of such matters.

The National Commissioner of the SAPS must, every six months, submit a report to Parliament regarding steps taken as a result of recommendations made by the ICD.

In terms of Section 64O of the SAPS Act, read with Regulation 9 and Annexure 5 of the Regulations for Municipal Police Services, the ICD has been given the same civilian oversight duties in respect of Municipal Police Services that it has in respect of the South African Police Service.

VISION

A transformed police service in line with the spirit and purport of the Constitution

MISSION

To promote proper police conduct

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SUMMARY OF PROGRAMMES

The activities of the Independent Complaints Directorate are organised in the following programmes:

- Programme 1: Administration
- Programme 2: Investigation of Complaints
- Programme 3: Information Management and Research

Overview of the service delivery environment for 2004/05

The intake of complaints falling within the mandate of the ICD from 1 April 2004 to 31 March 2005 amounted to 5 790, a decrease of 2% compared to the same period in the financial year 2003/04. Cases recorded for the same period in 2003/04 amounted to 5 903.

In the case of deaths, a decrease of 9% was recorded compared to the same period in 2003/04. The majority of deaths most of which were shootings occurred in KwaZulu Natal, (26.8%). Gauteng accounted for 22.7%, which were largely shootings, suicides and cases of natural death. Interestingly, vigilantism seems to be a problem in this province, alleged criminals are severely assaulted by the communities before handed over to the police. The Eastern Cape had 10.7% of deaths, which occurred largely as a result of natural causes and to a lesser extent shooting incidents. The Western Cape accounted for 10% of all deaths, which are suicides, motor vehicle accidents and poisoning. There were, however, a few cases pertaining to shooting incidents. Mpumalanga dealt with 8.4% of deaths, which resulted mostly from shootings and natural causes. 8% of deaths occurred in Limpopo, most of which were shootings. There were a few isolated cases of suicide and deaths due to natural causes. 5.8% of deaths happened in the North West, most of which were due to natural causes, a smaller number resulted from suicides and shootings. In the Free State, which also accounted for 5.8% of deaths, natural causes, suicides and vehicle accidents were a strong feature. The least amount of deaths happened in the Northern Cape, (1.7%).

The ICD continues to be committed to reducing the high incidence of deaths in police custody and as a result of police action. To this end, senior managers of the ICD serve on the SAPS-ICD Joint-Committee to monitor deaths. This committee's main responsibility is to account for all death incidents and recommend interventions to deal with problems such as non-reporting or late reporting of such deaths. Also, the committee looks at whether or not the incidents that occur are in line with the official definition.

There was an 18% increase in reports of serious criminal offences allegedly committed by SAPS members. A total of 1 731 allegations of criminal offences were reported to the ICD nationally. The majority of criminal offences registered by the ICD were committed in Gauteng (20.5%), followed by the Western Cape (17%), followed by North West (11.3%), followed by KwaZulu Natal (10.6%), followed by Mpumalanga (8.8%), followed by Northern (8.7%), followed by Limpopo (8.5%), followed by Free State (7.4%), followed by Eastern Cape (7.2%).

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Incidents of misconduct reported to the ICD decreased by 8.3% compared to the same period in 2003/04. A total of 3 407 cases of police misconduct were reported to the ICD. Of these cases, 86.4% related to neglect of duty by police members, while 6.4% related to failure/refusal to perform duties. The rest of the alleged misconduct cases (7.3%) related to gross discourtesy.

The ICD succeeded in dealing with high-profile cases which drew a lot of media attention. A case in point is the Harrismith incident, in which a scholar was shot by the police whilst protesting poor service delivery in iNtabazwe township outside Harrismith. In spite of the large number of witnesses interviewed, the case was investigated and finalized in a short space of time. The ICD has since recommended prosecution of three (3) police officers, a recommendation which has been accepted by the Director of Public Prosecutions (DPP).

The ICD continues to face challenges in terms of the large intake versus available resources and challenges relating to the backlog carried over from past financial years. Therefore, the finalization rate of cases investigated was below the target set in line with the ICD's investigative standards, which was 80% for all types of cases. Based on the same standard, investigations in cases of deaths and criminality should be finalized within 180 days, whilst misconduct cases should be finalized within 90 days.

In respect of deaths, a finalization rate of 63% was achieved. With regard to cases of criminality, 41% of the eligible cases was finalized. Finally, with regard to misconduct cases, a finalization rate of 44% was achieved. These rates, however, do not take into account the backlog cases finalized within the period under review but received in previous financial years.

Overview of the organization environment for 2004/05

The overview will solely focus on the departmental challenges experienced during the period under review:

The Employee Assistance Programme was launched on 04 March 2005. This programme will assist in ensuring that the wellbeing of ICD staff is taken care of. Workshops have been held in all provinces and offices of the ICD and staff have been trained on how to access EAP services.

The Integrity Strengthening Unit was also established during the period under review. The object of the unit is to ensure that ICD staff maintains a high level of ethics and integrity.

The Anti- Corruption Command, established with the responsibility of investigating corruption complaints and highly sensitive matters, is expected to pose a serious challenge.

The process of establishing the Proactive Oversight Unit (POU) started in 2004. A partnership with donors, namely, the Open Society Foundation (OSF) was entered into in terms of which

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OSF undertook to provide ICD with the following support in:

- Identifying and appointing an independent consultant for the ICD to assist in terms of all processes leading to the establishment of a research unit.
- Providing relevant support that the ICD may need to facilitate the establishment of the unit.

The establishment of the POU by the ICD represents a significant milestone, not only in terms of successful deployment of logistical support and personnel, but also in terms of securing research skills and knowledge.

Strategic overview and key policy developments for 2004/05

The development of the Anti Corruption Command Policy framework has already started and will continue in the financial year 2005/06.