



ICD  
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## **PART A**

### **1. FOREWORD AND SUBMISSION NOTE**

#### **HONOURABLE MINISTER MINISTRY OF SAFETY AND SECURITY**

Dear Minister,

RE: INDEPENDENT COMPLAINTS DIRECTORATE – ANNUAL REPORT 1998 / 1999

In accordance with Chapter 10 section 54 of the South African Police Service Act no. 68 of 1995, I wish to submit the report of the activities of the Independent Complaints Directorate (ICD) for the year 1998 / 1999.

I request that you cause this Annual Report to be tabled before Parliament at the appropriate time, and that your office will advise us as to the date and time that you deem appropriate to table it.

You will note, Mr Minister, that the current report is much more extensive and detailed than the previous reports. This is a result of increased ICD activity and recognition not only from among members of the community, but also from members of the South African Police Service (SAPS).

As the profile of this fledgling organisation grows over the next twelve months and beyond, so will the magnitude of its responsibilities to the community in ensuring that public complaints against members of the SAPS are investigated efficiently and effectively.

The question that continues to linger in our minds is whether the ICD will be able to satisfactorily carry out its statutory obligations and constitutional mandate without the requisite increase in its resources. These will determine the success of its activities as it fulfils its duty of investigating deaths in police custody or as a result of police action.

Mr Minister, I commit the third Annual Report of the ICD to you.

Yours sincerely,

**ADV N.J. MELVILLE  
EXECUTIVE DIRECTOR  
INDEPENDENT COMPLAINTS DIRECTORATE**



**ADV N.J. MELVILLE  
EXECUTIVE DIRECTOR  
INDEPENDENT COMPLAINTS DIRECTORATE**

## **2. OVERVIEW OF ACHIEVEMENTS DURING THE YEAR.**

During the year under review the ICD continued to devote much of its energies to establishment-related activities. These included the acquisition of leased premises to house its Head Office in Pretoria, the renovation thereof and the installation of adequate security devices, as recommended by the National Intelligence Agency. Accommodation was also obtained in King William's Town (Eastern Cape) and Kimberley (Northern Cape).

The first-mentioned and the existing offices in Johannesburg had to be renovated to make them useable. The efforts invested in procuring premises in Mafikeng have so far been fruitless. The staff from ICD's North West Province's office continue to be split between two temporary, loaned offices, fifteen kilometers apart.

A lot of the department's administrative capacity was tied up in implementing the Government's transformational programmes, such as Batho Pele (people-centered service delivery) and the new Public Service Regulations. Attention has also had to be given to implementing programmes emanating from such organizations as the Gender Commission. Operationally, the ICD has started to reap the fruits of its efforts over the last two years. Cases appearing before the courts have been finalized, with some resulting in convictions on charges ranging from culpable homicide to murder. Convictions on departmental or disciplinary charges have flowed from matters referred by the ICD to police prosecutors.

In a number of other cases the Directors of Public Prosecutions have decided to prosecute and trials are proceeding before the courts. In others inquests have been ordered.

The ICD's media exposure has been increased with its involvement in various high profile investigations. Among those was one in which a journalist lost his eye as a result of an incident which took place at Guguletu Police Station. Following the ICD's investigation, nine officers from the station have been charged with assault. Some negative publicity attached to the ICD's investigations of allegations made by captured suspected criminals and its investigation into the death in custody of the notorious Josiah Rabotapi. In respect of the last matter, a formal inquest will be held in accordance with the ICD's recommendation.

The ICD realizes that it faces a challenge to educate the public that its function is to ensure that all allegations are investigated in an impartial and thorough manner, and that all information gathered, whether it supports or rebuts the allegations, will be presented to the appropriate authority for decision.

Where allegations have been established to be unfounded, the ICD has said so. In one matter a police informer alleged that he was put up to framing certain prominent politicians in the deaths of certain babies. The available evidence did not support his claims.

In order to further its mission of “promoting proper police conduct”, the ICD has proposed an award scheme for those police officers who have contributed positively to increasing public respect for the Service. The type of conduct contemplated would include going out of one’s way to assist a member of the public. The ICD is attempting to partner the scheme with a media chain and other interested parties.

Another area in which the ICD has contributed positively to improving the relationship between the public and the police is that of mediation. Many complaints of a minor nature have been resolved without resorting to investigating them. The emphasis is on building



**ICD Staff – Head Office Pretoria**

understanding and a better relationship between the parties. The ICD has formulated a policy to regulate mediation and has submitted it to National Commissioner of Police, Commissioner Fivaz for his consideration. For mediation to work, it is obviously necessary that the police co-operate with the process.

The ICD has also contributed to policing issues by making inputs regarding statutes having a bearing on policing. It contributed to the debate, which preceded the amendment of section 49 of the Criminal Procedure Act of 1977, which relates to the circumstances under which fatal force may be used.

The ICD’s strategy of impacting on policing practices through the making of recommendations was off to a slow start. In conjunction with three research institutions, the Center

for the Study of Violence and Reconciliation (CSVr), Human Sciences Research Council (HSRC) and the Centre for Policy Studies, the ICD released a report entitled “Towards a Strategy for Prevention”, regarding the high number of deaths in police custody and arising from police action.

Since its inception in April 1997, the ICD has become aware of or received 1493 notifications in respect of such deaths. The ICD has held various press conferences to draw attention to the statistics and to express its concern. The ICD has received compliments from various quarters for its work in publishing the statistics.

The ICD was approached by the office of the Director of Public Prosecutions in KwaZulu-Natal to assist in reviewing dockets, in which there was a possible police involvement in crimes, and agreed to do so. Although, as it becomes better known, the ICD’s workload has been increasing rapidly, by far the majority of complaints against the police are still being investigated by the Service itself, without any outside intervention. On its current budget the ICD simply does not have the capacity to deal with those matters. As a compromise, it proposed to audit a sample of those cases being dealt with by the police, to ensure that they are being thoroughly investigated. The necessary structures are being created to bring the proposal into effect.

Much emphasis has been placed on the training of ICD personnel. Investigators have either had their skills enhanced or have received new skills while attending a four week programme provided by the United States Department of Justice International Criminal Investigative Training Assistance Program (ICITAP). Supervisors attended a course dealing with the principles of management. Both groups attended a week-long course on the legal and constitutional aspects of policing.

Staff members attending an Amnesty International workshop gained skills in forensic pathology. The Royal Danish Government sponsored the attendance of the members at both the legal training session and the forensic pathology workshops.

The Independent Medico–Legal Unit is co-ordinating a Danish funded lecture and guidance tour by a Forensic Pathologist and a legal expert, to assist investigators with actual cases that they are involved in.

Six members attended a conference on the Investigation of Corruption in Hong Kong.

Three investigators attended a course at the SAPS detective academy, to enable them to get an insight into SAPS training methods and course content, and to build bridges with the service.

As a result of numerous threats to the safety of ICD’s investigators and a few dangerous encounters, the decision was taken to provide them with firearms for the purpose of self-defense. The decision was made hesitantly, after careful consideration, in view of ICD’s concern at the high rate of SAPS shooting incidents that ICD has to investigate. Procedures have been developed to ensure that the necessary care is exercised and selected members have undergone a university-certified firearm instructors’ course.

The ICD is a self-critical organization, which examines its mistakes with a view to chang-

ing them. It has already entered into discussions with the office of the National Director of Public Prosecutions, with a view to improving the conviction rate of accused police officers. It intends to do likewise with the police prosecution services.

A process of computerizing of the ICD's database and processes has been embarked upon. Once completed it will be possible to retrieve meaningful statistical information from the system to feed back to the police services. The management of cases will also be greatly improved. Many mundane functions such as writing letters of acknowledgement will now be done automatically, freeing up staff members to do more important tasks.

It is hoped that the ICD will impact positively in the long run on the quality of investigation undertaken by SAPS members through the guidelines and advice which its monitors, who are former prosecutors or lawyers, give to SAPS investigators investigating cases referred by the ICD.

An unexpected function which has fallen upon the ICD is that of being a receiving agent for complaints to be dealt with by other agencies and commissions, particularly in those provinces in which such bodies do not have offices. Where an interview has commenced and it becomes apparent that a complaint does not fall within the ICD's mandate, it is recorded and referred to the appropriate agency. This is to provide a 'seamless' government service. Meetings have been held with other organizations to co-ordinate co-operation and to delimit jurisdictions.

There are three main areas that are hampering the productivity of the ICD: lack of resources, lack of technical capacity and lack of clear empowerment.

The ICD is not able to investigate all the police-related death cases referred to it, although it is supposed to do so in terms of its founding statute, the South African Police Service Act of 1995. It is able only to investigate the most serious of other types of offences reported to it. In the rest of cases, it is necessary for the ICD to refer them to the police to investigate under its guidance. This may make consistent service impossible.

The problem is compounded by the fact that the ICD does not yet have offices in two of the provinces; namely Free State and Mpumalanga. The present arrangement of covering them from adjacent provinces is unworkable.

Lack of resources has prevented the ICD from becoming involved in and impacting on areas it considers important, such as the issues of racism within the police and of corruption, both in regard to dishonesty and to perversion of the criminal justice system. Most importantly, it is unable to contribute as much as it believes necessary to proactively address the causes of complaints, be they structural or procedural.

As was mentioned in the ICD's report for 1997 / 1998, the Department of Public Service and Administration determined, after doing a work study, that the ICD required 535 posts. On its current budget, the ICD can only fill 149 (just over one quarter) of those posts. Of greater concern is that the bulk of the additional posts would be investigation-related.

Due to its lack of capacity, the ICD must prioritize its cases. Many operational problems have arisen as a result of the fact that the legislation governing the ICD lacks detail regard-



ing the relationship between the ICD and the SAPS. Attempts were made to reach agreement upon mutual co-operation. While these have been, to an extent, successful, many disputes have arisen. Numerous instances of hindrance and non-compliance with requests of instructions have been encountered. National Commissioner Fivaz has offered to assist in ensuring that SAPS officers co-operate. The ICD took up the offer and drew his attention to a number of incidents. In fairness, National Commissioner Fivaz has also referred complaints regarding the conduct of ICD members to the Executive Director. It has been proposed that the ICD and SAPS engage in workshops to improve upon their mutual cooperation. This suggestion has considerable merit.

The second challenge, lack of technical capacity, means that the ICD must rely upon the SAPS for services such as ballistic and forensic testing. Not only does this compromise the perceived independence of the ICD, but it has also led to delays of up to 8 months in the finalization of investigations.

The ICD plans to launch a white paper process, to enable it to canvass all role-players on their views regarding what its functions ought to be and how it should prioritize its activities in order to maximize its budget allocation.

To sum up, the ICD is off to a good start, in spite of the many obstacles facing it. It has made a solid contribution to the Government's efforts to curb criminality, both by deterring police misconduct and by exposing police involvement in collusion with crime.

In order for the ICD's impact to be maximized, the recommendation of the Truth and Reconciliation Commission, aimed at ensuring that the abuses of the past do not re-occur, should be followed:

*“The ICD [ must ] be given the capacity, resources and authority to conduct proactive investigations and evaluations of overall policing policies and practices, as well as to respond to complaints”.*

**ADV N.J. MELVILLE**  
**EXECUTIVE DIRECTOR**

## **PART B**

### **3. THE ESTABLISHMENT**

#### **3.1 ADMINISTRATION**

##### **3.1.1 INTRODUCTION**

The Directorate: Administration is responsible for the rendering of support services to the line function of the ICD. This is achieved through the development of departmental policies within the framework of national policy guidelines, provisioning, training and development of personnel, the development and maintenance of IT systems as well as the provisioning of consumable and non-consumable stores.

##### **3.1.2 ACTIVITIES**

The Directorate: Administration covers the following Sub-directorates and divisions:

#### **Human Resource Management**

#### **I T**

#### **Provisioning and Auxiliary Services.**

In view of the importance of our human resource management function, more posts were filled in order to render an effective and efficient service to our “clients”. The more important aspects we needed to cover in our service delivery were;

- the filling of all funded vacancies
- creation of a human resource and employment framework
- continued implementation of the conditions of service agreement
- the management of labour relations and the
- implementation of the various white papers in order to improve the Public Service.

The sub-directorate: Information Technology (IT) equipped the ICD reasonably with computer equipment to start up this year. All emphasis will however be placed on equipping new offices to be established as well as developing a Centralised Database and Wide Area Network. In particular the Centralised Database will enhance the management of complaints and the automation of the registration process.

We were in the fortunate position to utilise the amount of R 600 000, 00 which was rolled over from the previous financial year to procure investigative equipment in order to improve service delivery of our investigative units. Whilst we placed the emphasis on the procurement of more official cars and investigative equipment, we also obtained permanent accommo-

Ms. Elize Verster  
Director of Administration  
Head Office-Pretoria



dition for our Head Office and the three newly established Regional Offices in Mafikeng, King Williams Town and Kimberley.

Herewith more details on the functions of the various sub-directorates:

**Mr Elias Valoyi**  
Deputy Director - Human  
Resources - Pretoria



### **3.2 Human Resources Management**

During the second half of the 97/98 financial year the Department of Public Service and Administration (DPSA) approved an establishment structure of 535 posts to be phased in over the next three financial years which commenced on the 01 April 1998. The following posts were filled during the year under review.

#### **3.2.1 CURRENT ESTABLISHMENT STATUS: APPROVED, FILLED & VACANT POSTS**

<b>POST CLASS</b>	<b>APP.</b>	<b>FILLED</b>	<b>VACANT</b>	<b>TOP MAN.</b>	<b>MID MAN.</b>	<b>NON-MAN. POSTS</b>	<b>SUPPORT SERVICES</b>
Executive Director	1	1	-	1			
Chief Director	3	1	2	1			
Director	12	10	2	10			2
Deputy Director	21	11	10		11		4
Senior Legal Admin Officer	1	0	1				
Assistant Director	58	18	40		18		8
Chief Work Study Officer	1	1	-		1		1
Legal Admin Officer	2	1	1			1	1
Work Study Officer	2	2	0			2	2
Principal Investigator	161	11	150			11	
Senior Investigator	121	16	105			16	
Investigator	20	1	19			1	
State Accountant	2	2	0			2	2
Programmer	1	1	-			1	1
Personnel Practitioner	1	1	-			1	1
Personnel Officer	8	2	6			2	2
Administration Officer	2	2				2	2
Provisioning Admin Officer	1	1	-			1	1
Administration Clerk	33	17	16			17	5
Accounting Clerk	11	4	7			4	4

Provisioning Admin Clerk	7	1	6			1	1
Registry Clerk	19	1	18			1	1
Typist	15	12	3			12	5
Secretary	16	9	7			9	2
Security Guard	16	-	16				
<b>Total</b>	<b>535</b>	<b>126</b>	<b>409</b>			<b>126</b>	<b>45</b>

### **3.2.2 FILLING OF POSTS**

- A total of 126 employees have been appointed and/ or transferred to the establishment of the ICD. Out of 126 employees 54 were transferred from other Government Departments and 22 from the South African Police Service.
- Forty six (46) employees were employed additional on a contract basis during the 1998/99 financial year to assist in rendering administrative support. These employees covered the workload expected from the permanently appointed staff, whilst the latter developed policies and procedures to enhance service delivery.
- The ICD will be able to fill only 149 posts out of 535 in the next three financial years, which commenced in April 1998. Gender and population representativity can be observed from the following information on the appointments finalised during the 1998/99 financial year.

		<b>Black</b>	<b>Coloured</b>	<b>Asian</b>	<b>White</b>	
<b>Pretoria</b>	Male	14	2		6	22
	Female	22		1	8	31
<b>Johannesburg</b>	Male	7		1		8
	Female	4			1	5
<b>Durban</b>	Male	8		2		10
	Female	4	1	1		6
<b>Cape Town</b>	Male	1	4	2	1	8
	Female		5			5
<b>King Williams Town</b>	Male	2				2
	Female	2	3			5
<b>Pietersburg</b>	Male	4			1	5
	Female	3			2	5
<b>Kimberley</b>	Male	2	1			3
	Female	1	1			2
<b>Mafikeng</b>	Male	4				4
	Female	4		1		5
<b>Total</b>		<b>82</b>	<b>17</b>	<b>8</b>	<b>19</b>	<b>126</b>

- During the 1998/99 financial year 94 vacant posts were advertised and a total number of 3273 applications were received and processed. The following urgently needed posts were frozen due to budgetary constraints:

<b>LEVEL OF POSTS</b>	<b>REGION</b>
Chief Director Investigations	Pretoria
Deputy Director	Bloemfontein
Deputy Director	Nelspruit
Principal Investigator	Bloemfontein
Principal Investigator	Nelspruit
Senior Investigator	Pretoria
Administration Clerk	Bloemfontein
Administration Clerk	Nelspruit
Typist	Bloemfontein
Typist	Nelspruit

### **3.2.3 SECONDMENTS: FREE STATE**

- Two members of the SAPS were seconded to the ICD during 1998 to receive complaints and deal with investigations in the Free State. These officials' secondment lasted until the end of the year when funds for further secondment dried up.

### **3.2.4 PERSONNEL DEVELOPMENT**

- 3.2.4.1. During the year, 20 serving officials were awarded bursaries to study further at various tertiary institutions. The money allocated for bursaries in the 1998/99 financial year amounted to R60 000, 00. Bursaries awarded were in the following fields of study.

<b>FIELD OF STUDY</b>	<b>NUMBER OF BURSARY HOLDERS</b>
Policing and Forensic	5
Legal	7
Human Resources	8
<b>TOTAL</b>	<b>20</b>

- 3.2.4.2. ICD has also embarked on a number of development programs with a view of building capacity. The training component has:

- Organised and facilitated the visit to the ICD by Mr. George Moffat (from England) to explore the possibility of designing training programmes for investigators and monitors. The visit was sponsored by the Department for International Development (DFID) of the British Government.
- Organised and co-ordinated the workshop on Medical Legal training offered by the Independent Medical-Legal Unit at the University of Natal.

3.2.4.3. During the year under review about 68 ICD officials have been exposed to a myriad of courses and workshops. Some of the courses and workshops included:

- \* Gender Sensitivity Course offered by the Centre for the Study of Violence and Reconciliation.
- \* A workshop on the implementation of the Public Service Regulations at the DPSA.
- \* A course in Labour Relations offered by SAMDI.
- \* A workshop on HIV/AIDS at the Department of Health.
- \* A seminar on the Status of Women organised by the DPSA and the Department of Labour.
- \* A workshop on Job Evaluation at the DPSA.

3.2.4.4. Four of our staff members have successfully completed their studies in the following fields of study: Labour Law, Labour Relations and Human Resource Management.

### **3.2.5 SPECIAL PROGRAMMES:**

The ICD is a member of the interdepartmental committee on Youth Affairs and HIV/AIDS.

**Mr Moses Dhlamini  
Deputy Director -  
Information Technology  
Pretoria**



### **3.3 INFORMATION TECHNOLOGY**

#### **3.3.1 INTRODUCTION**

The sub-directorate Information Technology is responsible for the computerisation of the Independent Complaints Directorate and the development of systems to support the business objectives of the ICD. Given that the ICD receives a lot of complaints from the public, the management and processing of such information is important. To this end, the sub-directorate has, with technology partners, developed a Case Management Database System. This report tries to highlight some of the achievements.

#### **3.3.2 DATABASE**

Since inception, the ICD had been looking for a tool to manage the complaint process and the peripheral data that is generated in that process. It was decided that a database would meet that requirement and also assist in the generation of statistics. Additionally, a database such as envisaged by the ICD, would have to be able to allow for the monitoring of progress of complaints from start to finish, provide up-to-date statistics for cases handled by ICD offices around the country and many other features that will be detailed later.

3.3.2.1 The process of acquiring such a database kicked-off with identifying the needs of the ICD and then the normal tender process to find a reputable developer. After drawing up a tender specification and going through the selection process, the ICD's Standing Tender Committee awarded the tender to the IBM/Molepe Consortium.

3.3.2.2 While the development of the Case Management Database System was ongoing, a parallel process of setting up a network infrastructure to run it was taking place. This is dealt with under the heading "Network Infrastructure".

3.3.2.3 The major development of the Case Management Database System was completed in December 1998 and rollout at the Head Office and the Gauteng Regional office began almost immediately. These were taken as pilot sites, which would allow for identification and clearing of problems identified by both the users and the developers. By February, 1999, the staff of the ICD at the two offices were capturing all new complaints onto the system. The

rollout has since included the KwaZulu-Natal and Western Cape Regional Offices.

3.3.2.4 The functionality that the database gives is extensive, and its benefits are being felt already:

- Risk of losing data is minimised;
- Feedback to complainants much faster;
- Reporting to supervisors, etc. is easy;
- Work distribution can be facilitated;
- Management information easily accessible;
- Cases can be managed more effectively;
- Adherence to procedures is improved;
- Accurate statistics on cases already in the database are available;

3.3.2.5 Obviously, all the offices of the ICD must get access to the Case Management System in order to function more effectively when it comes to managing complaints. Currently only the Head Office, Gauteng, KwaZulu-Natal and Western Cape Regional Offices have access to the Case Management System. Due to financial constraints, other offices have no such access.

### **3.3.3 Y2K COMPLIANCE**

3.3.3.1 The Year 2000 computer bug presents a problem for many institutions. The ICD has sought to ensure that the Y2K bug does not become an issue for it.

3.3.3.2 This was done by ensuring that any new equipment, be it computers, fax machines and any other date-dependent equipment or software is Y2K compliant. Nevertheless, assessment of all ICD acquisitions was undertaken using the YMARK 2000 test tool. Six Personal Computers (PCs) were identified as non-compliant. Steps were taken, by way of “bios upgrades”, to ensure compliance.

3.3.3.3 Therefore, as tests have established, all of the ICD systems in use are Y2K compliant. Any negative impact may come from external sources, such as electronic salary systems (PERSAL, FMS, MAGTAPE SYSTEMS ETC.); even these are being addressed to ensure compliance.

### **3.3.4 NETWORK**

3.3.4.1 With the development of the database having started, it was imperative to set-up a Local Area Network (LAN) at the Head Office. Network cabling was installed in all three floors of the building and completed at the end of July 1998. The LAN set-up



was completed early in August 1998 at Head Office. Other offices of the ICD had to have their own LANs as well and later be part of an ICD Wide Area Network (WAN).

3.3.4.2 The ICD had made a decision to set up a WAN and so give staff access to a centralised Case Management System and other network resources. The ICD's Wide Area Network was integrated from December 1998 to February 1999 with the Gauteng, KwaZulu Natal and Western Cape Regional Offices forming that WAN.

3.3.4.3 Plans were afoot to network other ICD offices but lack of funds has interfered with them. Offices which are part of the WAN, are benefiting in a number of ways:

- The offices can share information over the WAN;
- They can access the case management system;
- They can use scheduling and messaging systems;
- The need for telephone usage is minimal;
- The need for faxing is reduced;
- The document transfer between offices secure.

3.3.4.4 It is therefore imperative that funds be made available in order to implement the network and the database system in the offices that remain, namely:

- Northern Province
  - Eastern Cape
    - Northern Cape
      - Mpumalanga
        - Free State
          - North West Province

### **3.3.5 TELEPHONE SYSTEMS**

The ICD moved into new premises in July, 1998, at 388 Andries St, Pretoria. While this was a welcome change, it meant that new communication systems had to be put in place before the move. To this end, the sub-directorate Information Technology made an application to Telkom for the installation of a new telephone system comprising:

- 128 Port PABX
- 16 incoming lines
- 7 direct lines

### **3.3.6 DUTCH FUNDING**

During the financial year 1997/98, the Royal Dutch Embassy gave the ICD a donation of R519 000 for computers. This computerisation project was only concluded during financial year 1998/99. A report on the implemen-

tation was compiled and sent to the Embassy. The project was officially closed in August, 1998.

### **3.3.7 TRAINING**

With the advent of all the technology being at the disposal of ICD personnel, the need for training becomes even greater. Training for users of the system has already taken place. But, there is a realisation that most, if not all, personnel will at some point have to use computers or other peripherals. Therefore, ongoing training is being given, albeit slowly due to staff shortages in the sub-directorate.

### **3.3.8 CURRENT STATUS**

Computerisation has come a long way since the last report. The figures below give a picture of where we are with regard to the computerisation process:

<b>PROVINCE</b>	<b>OFFICE</b>	<b>DESKTOP</b>	<b>LAPTOP</b>	<b>SERVER</b>	<b>PRINTER</b>	<b>L A N</b>	<b>W A N</b>
Head Office	PTA	55	12	3	24	YES	YES
Gauteng	JHB	13	2	1	3	YES	YES
KwaZulu-Natal	DBN	11	4	1	4	YES	YES
Western Cape	CT	11	3	1	4	YES	YES
Northern Cape	KIM	7	2	0	2	NO	NO
Eastern Cape	KWT	8	4	0	3	NO	NO
North West	MAF	8	1	0	4	NO	NO
Northern Province	P/BURG	10	1	0	3	NO	NO
Mpumalanga	N/A	0	0	0	0	NO	NO
Free State	N/A	0	0	0	0	NO	NO
<b>TOTAL</b>		<b>123</b>	<b>29</b>	<b>6</b>	<b>47</b>		

## **3.4 PROVISIONING AND AUXILIARY SERVICES**

### **ACCOMMODATION:**

The ICD has continued on its route to open up offices in the various Provinces, to the benefit of the public as well as to be closer to crime scenes. We are now able to assist the public at the following addresses:

<b>PLACE</b>	<b>STREET ADDRESS</b>	<b>POSTAL ADDRESS</b>	<b>TEL NUMBER</b>	<b>FAX NUMBER</b>	<b>IN EMERGENCY</b>
<b><u>Pretoria</u></b>	ICD House 388 Andries Street	P/Bag X 941 Pretoria	012 - 320 0431	012 - 320 3116	Mr J. Snitcher 082 808 7571
<b><u>Cape Town</u></b>	6th Floor Colonial Mutual Building 106 Adderley Street	P/Bag X 9173 Cape Town 8000	021- 426 0700	021- 426 0705	Mr R. Saloojee 082 808 7572
<b><u>Durban</u></b>	7th Floor Kingsfield Place 30 Field Street	P/Bag X 54303 Durban 4000	031- 305 8370	031- 305 8214	Adv S. Mdladla 082 808 7576
<b><u>Johannesburg</u></b>	8th Floor Customs House Fraser Street	P/Bag X 0101 Johannesburg 2017	011- 838 2875/6	011- 834 2118	Mr. S. Mahlangu 082 808 7580
<b><u>Kimberley</u></b>	Public Works Building 9th Floor Stead & Knight Streets	P/Bag X 6105 Kimberley 8301	053- 831-7390	053- 831-7391	Mr N. Ngele 083 455 1954
<b><u>King Williams Town</u></b>	1 Prince Alfred Square Old Embassy Building King Williams Town	P/Bag X 7491 King Williams Town	0436- 421-667	0436- 433-615	Ms. A. Jenneker 082 781 7104
<b><u>Mafikeng</u></b>	Khupe Building Stand 235 Martin & Robinson Streets Mafikeng	P/Bag X 2017 Mafikeng 2745	018- 386-2035/6	018- 386-3892	Mr P. Mogotlhe 082 850 4882
<b><u>Pietersburg</u></b>	Old Mutual Building 66 A Market Street	P/Bag X 9524 Pietersburg 0700	015- 295 5561/5	015- 295 3409	Ms T. Jozi 082 781 7107 082 781 7109 082 808 7580

#### **PROCUREMENT:**

Except for the normal procurement of equipment, stationary and furniture, four tenders were prepared during this year. The sub-directorate obtained the following items through this tender process:

- A developer of a database for the registration of complaints received in the various offices;
- Specialised investigative equipment;
- Firearms and accessories, and
- An audio conference system for the boardroom at Head Office.

### **3.5 OFFICIAL TRANSPORT**

During the year under review the following number of official vehicles were used to transport officials to crime scenes and other official destinations:

<b>OFFICES</b>	<b>NUMBER OF OFFICIAL VEHICLES</b>
Pretoria	4 + 2 pool
Cape Town	6
Durban	5
Johannesburg	4
Kimberley	4
King Williams Town	3
Mafikeng	1 + 2 pool

**Mr. Mike Kekana  
Chief Director : Monitoring and Development  
Head Office-Pretoria**



## **4. MONITORING AND DEVELOPMENT**

### **4.1 INTRODUCTION**

The ICD is enjoined by legislation to ensure that complaints of criminal offences and misconduct allegedly committed by the police are effectively and efficiently investigated. To this end the ICD may, in terms of its founding legislation, either investigate complaints itself or refer them to the SAPS for investigation. In the latter case the ICD may set guidelines for the investigation and monitor the progress thereof. When the ICD first started operating it lacked investigative capacity. Accordingly, the majority of the complaints (including notifications of deaths in police custody or as a result of police action) were investigated by the SAPS and monitored by the ICD.

- 4.1.1 The ICD has determined two levels of monitoring. The first is described as supervision. This entails a high degree of participation in the progress of investigation by the police to ensure that the investigation is conducted properly and speedily. In addition to setting investigative guidelines, the ICD members monitoring the investigation periodically call for progress reports and interview the police investigator, regarding the course of the investigation. If deemed necessary, the ICD case monitor will peruse the relevant police dockets.
- 4.1.2 The second process is referred to as monitoring. This involves less active participation in the investigative process by the ICD case monitor. Guidelines may be set for the investigation and the SAPS investigator will be requested to report upon his or her compliance therewith. The outcome of the investigation will be tracked by the ICD. Less serious matters are usually monitored.
- 4.1.3 At the completion of a monitored or investigated complaint, the ICD prepares a report with recommendations on the appropriate remedial action. The organisation may recommend that a prosecution be instituted or that internal disciplinary proceedings be instituted against a suspect member of the police. The decision whether to monitor, supervise or investigate a complaint is a discretionary one. Thus the ICD is entitled to take over an investigation of any complaint which was initially left to the police to conduct.
- 4.1.4 Soon after the ICD developed some investigative capacity, all deaths in police custody or as a result of police action were as a general rule investigated by the organisation. By and large, the organisation monitored all other types of complaints.

- 4.1.5 During the period under review, the organisation monitored and supervised complaints. About 1 470 complaints were completed and different recommendations were made and sent to different stakeholders.
- 4.1.6 A significant number of complaints related to the failure of the police to give progress reports to complainants and other interested parties. A number of recommendations were made to address this problem. There has been an improvement in this regard, in that there are indications that the police have started to give progress reports to complainants and other interested parties. While there has been a general increase of complaints received by the organisation there has been a slight decrease in the number of complaints of failure by the police to give progress reports to complainants and other interested parties. What also emerged is that a number of complaints were service related. These include complaints of poor service by the police.
- 4.1.7 In the context of the historical and current problems in policing, the organisation soon realised that merely investigating and monitoring problems will not have the effect of changing or improving law enforcement in the country. The process was found to be reactionary and addressing problems in a piecemeal fashion. A decision was taken to the effect that the ICD should also focus on identifying the underlying causes of problems and to develop strategies to prevent and minimise the commission of acts of misconduct and criminal offences. It was also felt that the organisation should proactively investigate and commission research into certain aspects of policing and, thereafter, make appropriate recommendations. Moreover, it was felt that the organisation should also engage in community outreach programmes.
- 4.1.8 In line with the decisions referred to in the preceding paragraph, certain initiatives were taken. A Monitoring and Development component was established. The functions of this component were among others, to develop policies to achieve the above-stated objectives. The organisation has developed a policy in terms of which perennial problems in policing would be identified periodically. Once patterns and trends of misconduct and offences are identified, recommendations will be made to address the problems on a systematic basis.
- 4.1.9 In addition, where it is evident that there are problems in the legislative or regulatory framework of the police, recommendations would be made to change the relevant rules or regulations. Similarly, the policy under reference enjoins the organisation to also make recommendations to address certain undesirable practices and policies within the police. These would be primarily policies and practices which encourage the commission of misconduct and offences. This process would be preceded by the identification of the causes of the problems under reference. Logically, research would be conducted to identify the causes in a holistic fashion.

## **4.2 Quarterly Review**

- 4.2.1 The policy under reference also enjoins the ICD to publish a periodical on a

quarterly basis. The periodical would contain a summary of selected complaints dealt with by the different offices of the ICD and the recommendations made to various state organs. There will also be highlights of public interest issues dealt with by the organisation. Furthermore, there will be discussions of legislation and court decisions having an impact on the activities of the ICD.

- 4.2.2 Chapter 10 of the South African Police Service Act, No. 68 of 1995, also allows the organisation to investigate mero motu any misconduct or criminal offences allegedly committed by the police even in the absence of a complaint. The organisation has, in line with this, resolved to regularly take audits of investigations conducted by the police. In this regard, the organisation has already taken preliminary initiatives. The first was to develop a policy on audit and post-investigation monitoring.
- 4.2.3 The policy under reference is still in draft form and will hopefully be finalized early next year. In terms of this policy, it is envisaged that an effective process and mechanisms would be put in place to follow-up on recommendations made to different state organs. Moreover, on a periodical basis the organisation could make unannounced visits at police stations to conduct inspections on holding cells and conduct random checks on police dockets of pending cases.

### **4.3 The White Paper Process**

Within the short period of its existence, the organisation has experienced numerous problems attributed largely to the existing legislative framework. This was confirmed by the Report of the Truth and Reconciliation Commission. After shallow consultations with stakeholders it was decided to develop a separate legislation for the ICD. It is intended that the ICD be governed by separate legislation and no longer by the SAPS Act. The process of developing legislation has already commenced and is set to continue into the next financial year.

### **4.4 Decentralisation of the ICD operations**

- 4.4.1 In addition, the ICD is in the process of decentralising its operations from the National Office to the Regional Offices. The monitoring of cases is also being phased out at the National Office. In future, the monitoring of cases would be carried out at the Regional Offices and no longer at the National Office. The Monitoring Component at the National Office would concentrate on the co-ordination of monitoring activities in the regions and the development of operational policies.
- 4.4.2 The monitoring function of the ICD has also had to cope with inadequate human and other resources due to budgetary constraints. With the establishment of new Regional Offices and the consequent decentralisation of the monitoring activities, a number of problems were experienced. The prevalent problem is that due to staff shortages, investigators in Regional Office have had to conduct monitoring as well. This added to their already heavy workload. In some Regional Offices there is either little or no monitoring function owing to lack of personnel.

#### **4.5 Challenges**

In conclusion, the organisation faces a number of challenges in the forthcoming year. However, it is geared up to deal with those challenges and to bring improvement in various aspects of law enforcement in the country. As is evident, the ICD would not sit back and wait for complaints to be reported to it but we would pro-actively engage in investigations. As stated already, not only will we focus on complaints, but various attempts would also be made to identify the underlying causes and generate recommendations which will hopefully contribute to the transformation of the police and law enforcement in the country.



Mr. Steve Tiro  
Director – Complaints  
Registry  
Head Office-Pretoria



## **5. COMPLAINTS REGISTRY**

### **5.1 Introduction**

The main function of this Directorate is to receive, process and register complaints brought to the ICD by members of the public and other interested parties. It is also the responsibility of this Directorate to make a determination as to how a complaint received should be dealt with by the ICD.

### **5.2 THE YEAR UNDER REVIEW**

- 5.2.1 During the 1998 / 1999 financial year, 2 874 complaints were received, containing some 3 000 individual allegations. This is significantly higher than the corresponding figure for the previous year and represents an increase of about 39% in the workload. In some instances, particularly in the Provinces where we have had previously no presence, the number of complaints has doubled. It will be seen from Table 1 that the increases are more pronounced in the provinces of North West, Northern Cape, Northern Province and Eastern Cape. As mentioned elsewhere in this report, these are the provinces in which Regional Offices were established during the period under review. It will further be noted that in the already established Regional Offices, such as the Western Cape, there has also been a substantial increase in the number of complaints reported to the ICD.
- 5.2.2 If the present situation should persist, it is anticipated that the number of complaints would have trebled by the end of the 1999 / 2000 financial year. Our staff complement will, however, remain the same for this period as in terms of the MTEF, our budget has been fixed for three years. While such an increase in the workload will obviously put a heavy strain on ICD resources, particularly its personnel, it would seem that we have no option but make do with the present budget.
- 5.2.3 It is gratifying to note that in spite of the phenomenal increase in the number of other complaints during the period under review, the increase in the number of police-related incidents is minimal (see Table 1). However, the number of police-related deaths is still unacceptably high (see Table 2) even when viewed in the context of the fact that the police are operating in an environment which is extremely violent and dangerous. It is clear therefore, that a great deal of work still lies ahead of us and that we cannot afford to be complacent at this stage.
- 5.2.4 As far as deaths resulting from police action are concerned, as Table 3 demonstrates, and while there has been a marked decrease in the number of reported cases of deaths

occurring during the course of arrest, there has generally been an increase in the reports received under this category.

5.2.5 The greatest increases have been experienced in the Class III and Class IV complaints (see Table 4). These increases can perhaps be attributed to the fact that the ICD is becoming increasingly known to all sectors of the South African society. The provincial distribution of complaints, percentage-wise is reflected in Figure 1. As to be expected, the greatest proportion of complaints emanated from provinces with high population densities and sophisticated urban communities. The highest number of complaints were recorded in the provinces of Gauteng, KwaZulu-Natal and Western Cape.

5.2.6 As we could no longer cope with the increasing work, we had of necessity to review and readjust our investigative priorities and procedures. As a matter of policy, unless there are circumstances justifying the acceptance of such a complaint, we will no longer deal with matters falling in the following categories of complaints:

- A complaint which is either frivolous or vexatious;
- A complaint which arose before the ICD became operational, i.e. before 1 April 1997;
- A complaint which is older than a year at the time it is brought to the ICD;
- A complaint relating to the services provided by the SAPS, where there exist internal mechanisms in the SAPS for resolving the kind of complaint under consideration, and it is clear that those avenues of redress have not been used;
- Where the sole purpose of lodging a complaint is to obtain damages from the SAPS or where civil litigation is being contemplated;
- A complaint in which there exists a critical factual gap that cannot be cured by investigation;
- A criminal matter which is pending before the courts, where there is no reasonable possibility that the investigation by the ICD would result in the dropping of charges against the complainant.

5.2.7 As at 31 March, 1999 the ICD had finalised in total 2 240 cases. This figure includes the cases finalised during the 1997 / 1998 financial year. In about 28% of these cases, various recommendations were made that the members concerned be prosecuted for various criminal offences or misconduct, and in some of those cases where it was difficult to determine the culpability or otherwise of members, the holding of inquests was recommended. About 30% of the complaints were found to have been unfounded and the rest were disposed of through other methods such as mediation, referral to SAPS etc.

5.2.8 Although the ICD has managed to commission a computerized database system which will in future make the compilation of statistics less onerous, not all the offices are linked to the database. As we do not have enough funds in our budget, it is inevitable that for some time the compilation of statistics will have to be done manually, which is a time-consuming exercise.

5.2.9 In the previous year's report, reference was made to the generally unsatisfactory state

of affairs regarding the reporting of deaths to the ICD by the police; and although the situation has improved somewhat, it is still far from being satisfactory. As our request that all police-related deaths be reported immediately to the ICD appears in some quarters to have fallen on deaf ears and the present legislation is silent on this aspect, we have, as mentioned elsewhere in this report, set in motion a process aimed at inter alia, remedying the deficiencies in the present legislation. One of the shortcomings in the present legislation is the fact that although the SAPS is obliged to report deaths occurring in police custody or as a result of police action to the ICD, there is no provision in the Act that the reporting should be immediate. One of the possible ways of dealing with this situation is to have a provision compelling the police, on the pain of a criminal sanction, to report all deaths to the ICD immediately.

### **5.3 AWARENESS AND ACCESS**

In the previous year's report, we alluded to some of the problems we experienced in seeking to publicize the ICD and make it known to the public at large. One of the most daunting challenges facing the ICD is to make itself accessible to even the most rural and remotest areas of our country. The issue of accessibility is a very important one, as people can only make use of our services if they are aware of the existence and the nature of services being provided by the ICD. While our Regional Offices are, for logistical purposes, located in the urban areas of our Provinces, we will endeavour, to the extent that our resources permit, to visit and hold clinics in the outlying areas and districts.

### **5.4 MEDIATION AS AN ALTERNATIVE**

As a result of lack of resources and bearing in mind the fact that it is really not possible for the ICD to investigate and/or monitor all the cases it receives, we have considered and adopted mediation as an alternative means of resolving some of the less serious matters. We have developed a policy which sets the parameters within which mediation should take place. This will hopefully reduce the workload of the investigators and monitors, who will then devote attention to more deserving cases. However, a lot remains to be done in this regard, such as, equipping ICD personnel with the necessary mediation skills and generally strengthening our capacity to mediate an ever-increasing number of complaints.

### **5.5 CONCLUSION**

In conclusion, it should be mentioned that while the increasing caseload will no doubt overstretch our already limited resources, this should also present us with a challenge to find new and innovative ways of dealing with and resolving complaints. It is submitted that in the long term, it will prove to be more cost-effective to devote our efforts on bringing about reforms rather than concentrating entirely on providing remedies to certain cases. This is the challenge facing us and we are ready to grapple with it.

TABLE 1

CASES RECEIVED FROM APRIL 1997 TO MARCH 1998 COMPARED WITH THOSE RECEIVED FROM APRIL 1998 TO 31ST MARCH 1999

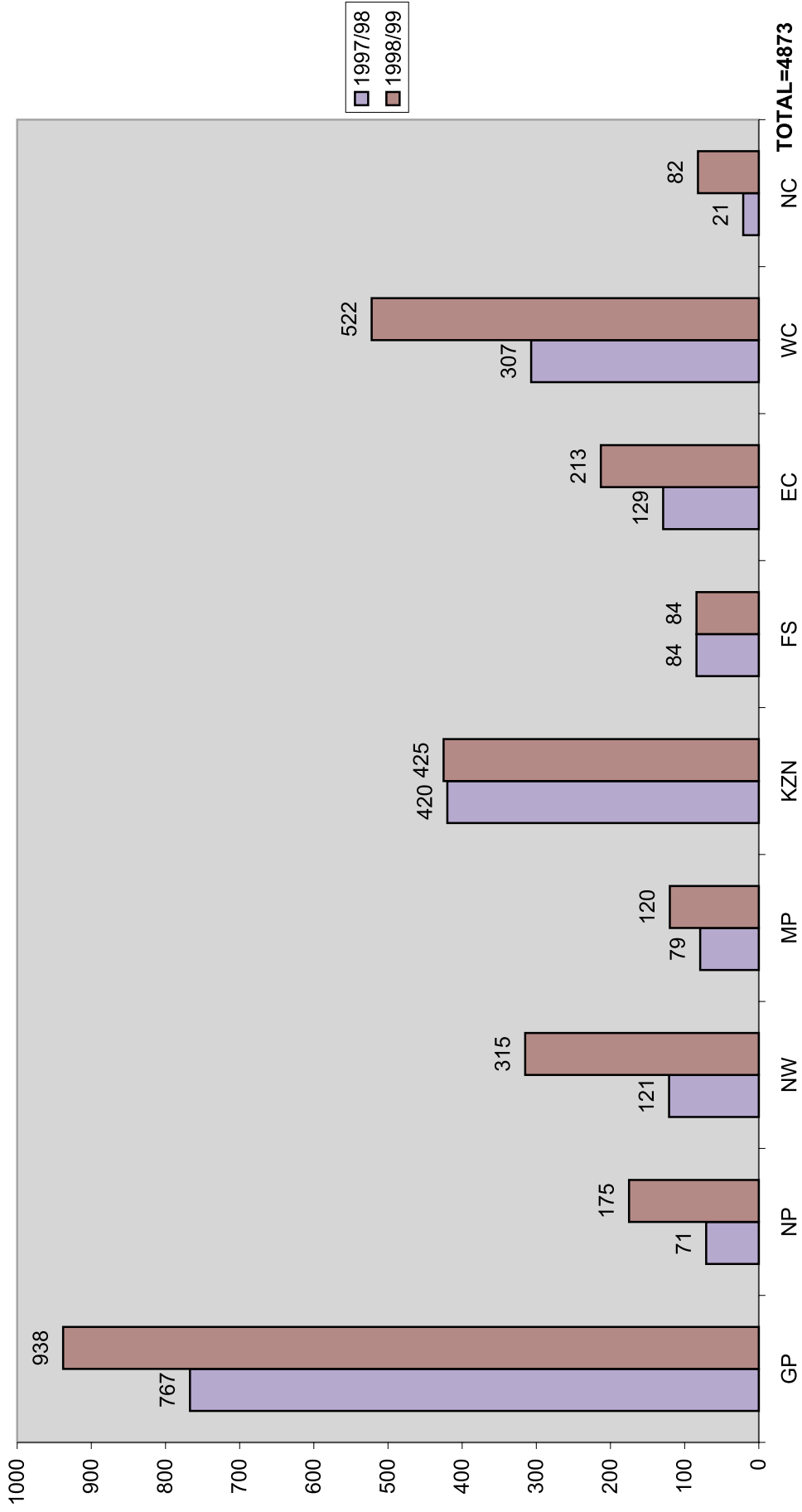


TABLE 2

COMPARISON OF POLICE-RELATED DEATHS AS OCCURED DURING FANANCIAL YEARS APRIL 1997 TO MARCH 1998 AND APRIL 1998 TO MARCH 1999

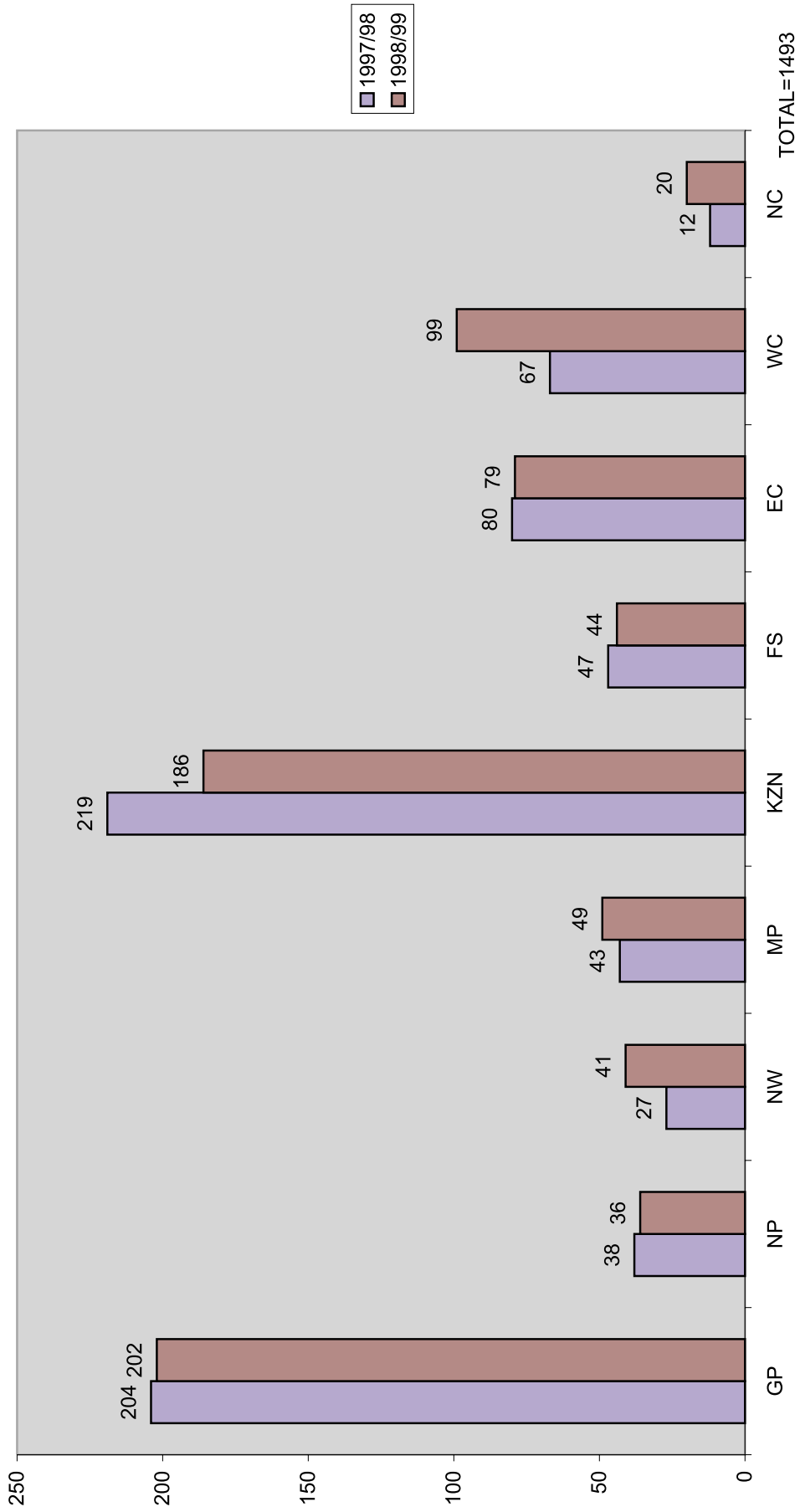
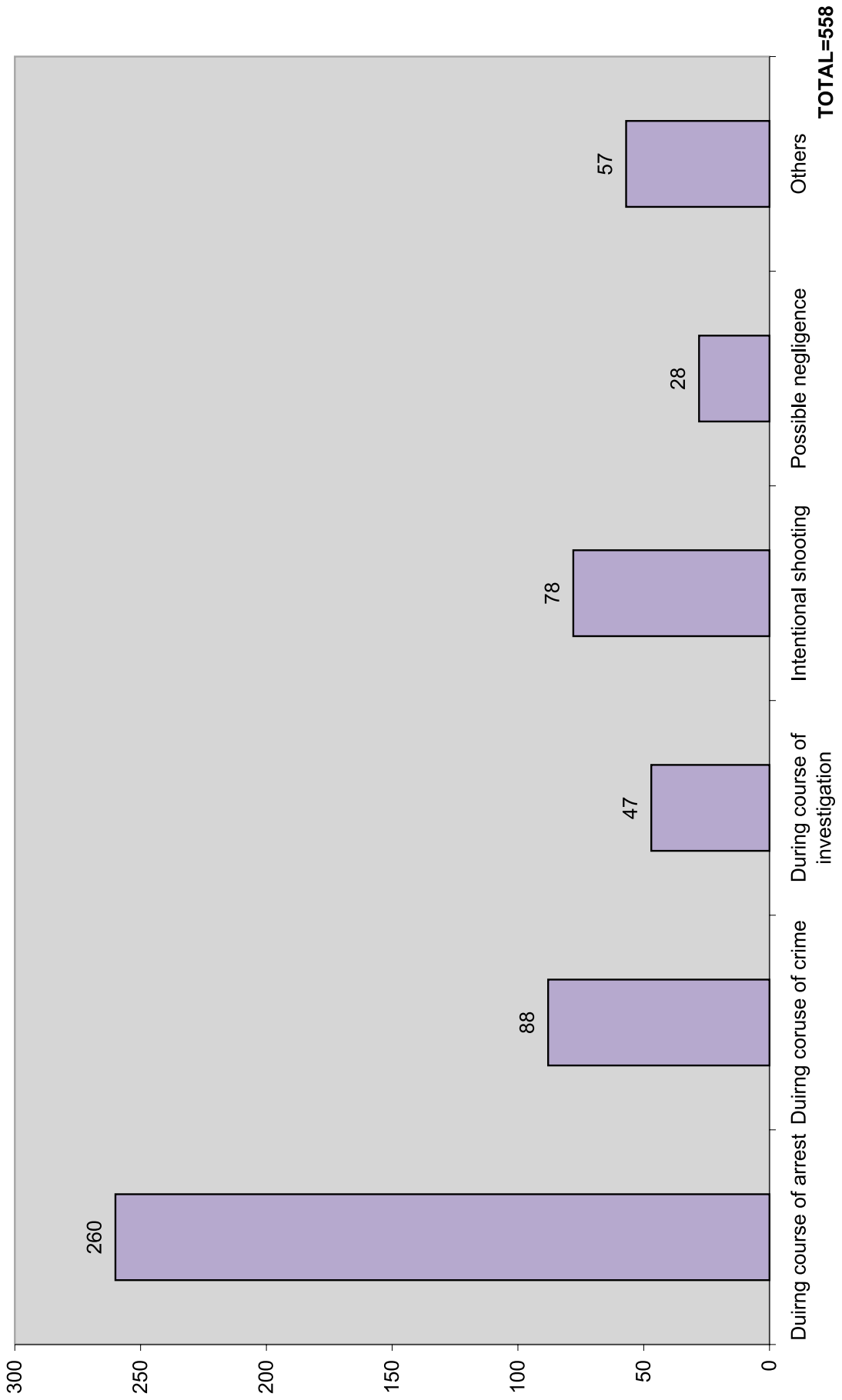


TABLE 3

DEATH AS A RESULT OF POLICE ACTION FROM APRIL 1998 TO 31st MARCH 1999



**TABLE 4****TOTAL NUMBER OF CASES RECEIVED BY ICD  
FROM APRIL 1998 UNTIL MARCH 1999**

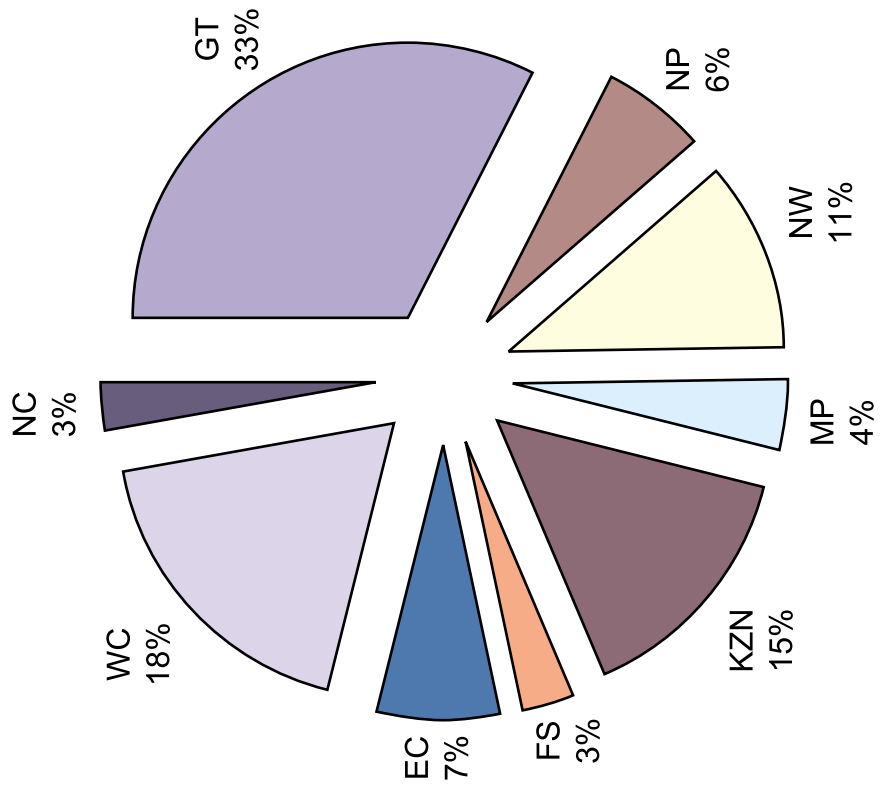
<b>PROVINCES</b>	<b>CLASSES</b>						<b>TOTAL</b>
	<b>I</b>	<b>II</b>	<b>III</b>	<b>IV</b>	<b>V</b>		
GAUTENG	202	4	224	372	136	<b>938</b>	
NORTHERN PROVINCE	35	1	35	80	24	<b>175</b>	
NORTH WEST	42	0	54	185	34	<b>315</b>	
MPUMALANGA	49	0	21	45	5	<b>120</b>	
KWAZULU NATAL	186	6	90	119	24	<b>425</b>	
FREE STATE	44	4	15	20	1	<b>84</b>	
EASTERN CAPE	79	2	55	63	14	<b>213</b>	
WESTERN CAPE	99	5	123	257	38	<b>522</b>	
NORTHERN CAPE	20	5	22	32	3	<b>82</b>	
<b>TOTAL</b>	<b>755</b>	<b>27</b>	<b>639</b>	<b>1173</b>	<b>279</b>	<b>2874</b>	

**LEGEND**

- Class I** Cases or reports of deaths in police custody or as a result of police action  
**Class II** Cases referred to the ICD by the Minister for Safety and Security or Provincial Executive  
**Class III** Criminal offences of a serious nature  
**Class IV** Criminal offences of a minor nature and misconduct  
**Class V** Matters falling outside the scope of the jurisdiction of the ICD

FIGURE 1

DISTRIBUTION OF CASES PER PROVINCE FROM APRIL 1998 TO 31ST MARCH 1999



TOTAL=2874



**Mr. Julian Snitcher**  
**Director of Investigations**  
**Head Office-Pretoria**



## **6. INVESTIGATIONS**

### **6.1 INTRODUCTION**

The Directorate: Investigations, located at Head Office, Pretoria, is, as its name suggests, responsible for ensuring that all complaints received by the ICD and allocated for active investigation, are indeed investigated efficiently and effectively in terms of its statutory mandate, derived from Chapter 10, Section 53(2) of the SAPS Act No 68 of 1995. The Directorate is also responsible, inter alia, for the development of policies pertaining to investigations and the identification of investigators' needs in respect of training and equipment.

### **6.2 STAFFING**

The Directorate: Investigations was without an Operational Head for a major part of the year under review due to the resignation of the Chief Director: Investigations in May 1998 to take up a post at the Independent Electoral Commission.

- 6.2.1 In his absence, many of his functions were taken over by the Deputy-Director: Special Investigations. A Director: Investigations was only appointed in October 1998.
- 6.2.2 Currently, the Directorate: Investigations has 2 vacant posts at Head Office, namely, Deputy Director: Special Investigations and Senior Investigator: Special Investigations.
- 6.2.3 During the year under review, a Senior Investigator and a Principal Investigator attached to the Directorate, were transferred to the Northern Cape Regional Office (Kimberley) and seconded to the Kwazulu Natal Regional Office (Durban) respectively.

### **6.3 KEY RESPONSIBILITIES**

It is the primary task and responsibility of the Directorate: Investigations to:

- Ensure that all investigations conducted by the ICD are done so in an effective and efficient manner;
- Keep abreast of all operational functions of the ICD;
- Develop and maintain open channels of communication between Head Office and the Regional Offices;

- Formulate and develop policies pertaining to investigations;
- Identify and make provision for the training needs of investigators and their supervisors;
- Identify and procure the necessary investigative equipment;
- Identify, supervise and co-ordinate the development of Standard Operating Procedures (SOP's);
- Develop and implement uniform investigative guidelines and methodology so that all ICD offices operate on the same basis, using the same documentation and procedures.

#### **6.4 INVESTIGATIVE CAPACITY OF THE ICD – A STRUCTURAL OVERVIEW**

- 6.4.1 In terms of our structure, the ICD has investigative units, ranging from three to seven members based at Head Office and each Regional Office. There is currently a total of 40 field investigators within the ICD.
- 6.4.2 Complaints are referred to investigative units in the Regions in one of two ways. They are either referred by the Complaints Registry component once the complaint has been received and processed, or, as is most often the case with incidents of deaths in custody and/or as a result of police action, the investigators are notified telephonically by members of the SAPS as and when they occur. In order to facilitate this, investigative units operate on a 24-hour standby basis, usually with one or two investigators on 24-hour call to immediately attend to such notifications.
- 6.4.3 In each Province, Provincial Heads, Flying Squads and Radio Control have been furnished with an all-hours telephone number so that they can contact an ICD investigator at all times. It is still disturbing and disappointing to note that despite the fact that the ICD has been in operation for two years, we are still experiencing problems with late notifications, and there have also been instances where the ICD has not been notified at all of such an incident. This hampers the work of the ICD in that it prevents ICD investigators from immediately attending at the scene and conducting a thorough, impartial and effective investigation. It is hoped that with the passage of time and a better understanding on the part of SAPS members of the ICD's mission and role, that such instances will not only decrease but disappear altogether.
- 6.4.4 In this regard, it is important to mention that notwithstanding the above, thus far our experience has been that in general, the ICD receives good co-operation from members of the SAPS, although there are some pockets of resistance and non-co-operation scattered throughout the country. Here the Rabotapi case springs to mind where some may recall, from reports in the media, that the members involved refused to be interviewed by ICD investigators.
- 6.4.5 It is also part of the investigator's duties to, where possible, attend at all post-mortems of persons who die whilst in police custody or as a result of police action and to observe and record the findings of the pathologist or District Surgeon. The ICD also has a policy of, in appropriate cases, employing the services of an inde-

pendent Forensic Pathologist to conduct independent post-mortems or attend at post-mortems in order to compile a report for the ICD.

- 6.4.6 ICD investigators also have the authority to supervise investigations being conducted by SAPS members which would usually involve reviewing the case docket, making suggestions, issuing instructions and generally guiding the investigation in order to ensure that such an investigation is conducted efficiently and effectively. In such cases, the SAPS Investigating Officer must, on a regular basis, furnish progress reports to the ICD.
- 6.4.7 As was mentioned in our previous Annual Report, building the investigative capacity of the ICD has been a difficult exercise from the outset. This year was no different. As at 1 April 1998, the investigative capacity of the ICD comprised of only 23 field investigators. It is however, significant to report that during this financial year a further 11 investigators were appointed throughout the country and there are currently 6 vacant investigator's posts, bringing the total number of field investigators within the ICD to 40.
- 6.4.8 The ICD's ability to increase its investigative capacity was further severely hampered by budgetary constraints. In this regard it should be mentioned that the personnel allocation of the ICD was fixed in 1998 for the following three years in terms of the Medium Term Expenditure Framework (MTEF). The ICD is now in the position of not being able to employ any further permanent investigators as its existing personnel allocation has now been fully utilised by the current post establishment. Consequently, the investigative component has had to prioritise the cases that it will investigate, and can only deal with the most serious of cases. The balance is referred to the SAPS for investigation under the close supervision of the ICD.

## **6.5 SPECIAL INVESTIGATIONS**

- 6.5.1 The concept and idea of a Special Investigation Unit (SIU) was conceived at the time of the establishment of the ICD in April, 1997. The establishment provided for such a Unit to be located at Head Office in Pretoria.
- 6.5.2 It was also envisaged, although not expressly stated, that the SIU would function as a special unit that would focus, inter alia, on Class II complaints, corruption within the SAPS and other high profile cases deemed to be "special". Members of the unit would also be deployed at other Regional Offices as and when necessary to assist with complex and large-scale investigations.
- 6.5.3 However, it became clear that there were insufficient cases of the abovementioned nature to occupy the unit on a full time basis.
- 6.5.4 In reality, and in time, the Unit came to function as an extended arm of the Gauteng Regional Office with an agreement between the two offices that the SIU would take responsibility for all Class I and other serious Class III cases that arose North of Midrand. It should be mentioned that for a period of time, the Unit also took responsibility for investigating cases that arose in North West Province, Northern Province, Northern Cape and Mpumalanga prior to the establishment of Regional Offices in those areas.
- 6.5.5 With the establishment of these respective offices, the SIU is now almost entirely

dealing with cases arising in the Pretoria area (i.e. Gauteng Province). It should also be mentioned that the SIU is currently only dealing with a small number of cases that could be deemed “special”. The most notable of these are the Mzwakhe Mbuli, Rabotapi and “Baby Angelina” investigations.

6.5.6 As a result, the Directorate: Investigations took the opportunity to conduct a study into the proposed restructuring of the Unit and various recommendations were made and submitted to Senior Management. Due to other pressing matters, however, no decision has yet been taken on this issue. It is anticipated that this matter will be dealt with during the forthcoming financial year.

## **6.6 SUCCESSES AND ACHIEVEMENTS**

Despite a number of problems experienced by the investigative component of the ICD, both at Head Office and at Regional Level, the ICD has managed to achieve some remarkable successes in the field of investigations.

6.6.1 Most recently, the ICD managed to secure the conviction of a SAPS member on a charge of murder in the Kwa-Zulu Natal (KZN) High Court arising out of the shooting of a person in custody. Also, in the Regional Courts of Chatsworth, Mountain Rise and Stanger in KZN, a total of nine SAPS members are currently being prosecuted on charges of murder and culpable homicide. All of the abovementioned prosecutions arose as a result of cases that were actively investigated by the ICD.

6.6.2 In Booyens, Gauteng, a member was convicted on a charge of culpable homicide. The investigation in this matter was supervised by the ICD.

6.6.3 Moving to cases that enjoyed a high media profile, the ICD has also enjoyed some success as far as its recommendations were concerned. In the case of the notorious Josiah “Fingers” Rabotapi, the ICD’s recommendation to the Director of Public Prosecutions (DPP) that a formal inquest be held was adopted. In the case of Mr Mabaso, who lost the sight of an eye as a result of an alleged assault by members of the SAPS, Guguletu, Western Cape, nine members are currently being prosecuted.

6.6.4 The ICD has also achieved similar successes in the area of internal disciplinary hearings, and a number of SAPS members have been charged and convicted on various counts of misconduct, arising out of recommendations made by the ICD.

6.6.5 The most notable of these was the recent case of “Baby Angelinah” Zwane, where disciplinary proceedings have been instituted against the members involved for failing to arrest the suspect following on the recommendations of the ICD. Various other recommendations relating to the training received by members of the correct procedures to be followed by them were also made in this case and were well received by SAPS management.

6.6.6 In another case in Mpumalanga, two members pleaded guilty at a disciplinary hearing on various charges of misconduct in terms of the SAPS Disciplinary Regulations after an ICD investigation into the death of a suspect who committed suicide in custody revealed that they had neglected their duties by failing to regularly conduct cell inspections. The ICD recommended that they be charged departmentally.

- 6.6.7 In the Northern Province, again in a case of death in police custody, following on recommendations made by the ICD, five members were charged and convicted in terms of the disciplinary regulations for failing to furnish the necessary medical treatment to a person detained with injuries.
- 6.6.8 Despite the staff and logistical shortages facing the ICD, it has managed to institute a system where there are always at least two ICD investigators on permanent 24 hour standby to attend to scenes of crime and to respond to notifications of deaths in custody or as a result of police action. It needs to be mentioned that the Directorate's effectiveness in the latter area is obviously dependent on it being notified of such incidents by the relevant SAPS authorities.
- 6.6.9 It also needs to be mentioned that in spite of the obstacles facing the Directorate, and taking into account the relatively short period of time in which the ICD has been in operation, it has managed to impact significantly both with regard to the public in general as well as the community of stakeholders which it serves. This is evidenced by the increase in the number of complaints that it has received in the last year. Certainly it can be said that the ICD is now well established in the policing fraternity judging from the complaints that it is now directly receiving from that source.
- 6.6.10 There have been cases which would have gone unnoticed and uninvestigated had it not been for the presence of the ICD, such as the case in Pretoria involving a SAPS member who shot his neighbour 18 times in cold blood. When the docket was taken over for full investigation by the ICD, it was discovered that the SAPS investigating Officer had conducted virtually no investigation into the matter. This case is now with the DPP for his decision.

## **6.7 POLICY FORMULATION AND DEVELOPMENT**

- 6.7.1 The ICD, and in particular, the Directorate: Investigations, has taken great strides in the area of policy formulation and development. In the area of operations, the Directorate has supervised and co-ordinated the development of a number of operational policies and procedures, the most important of which are:
- ICD Handgun Policy;
  - Arrest procedures;
  - Search and seizure procedures;
  - Notifications from South African Police Service of deaths in custody or as a result of police action and initial investigation of such death;
  - Investigative standards and procedures;
  - Notification of major incidents;
  - Evidence, processing and storage;
  - Procedure to be followed when receiving notifications of deaths in custody or as a result of police action;
  - Investigative priorities;
  - Identification parade procedures;
  - Confessions, admissions and pointings out;
  - The receiving, lodging and processing of complaints.

6.7.2 A further number of policies and procedures are presently being formulated in the area of operations. The Directorate regards this as an ongoing process.

6.7.3 It is perhaps important to mention that the ICD has utilised the services of a number of outside experts and consultants to assist with this process due to a shortage of personnel and capacity to attend to this on a full-time basis. In this regard we wish to express our gratitude and appreciation to Advocates Jan Munnik and Anthony Hawkins, both of whom rendered invaluable assistance, guidance and technical advice with regard to the drafting of these policies and procedures.

## **6.8 TRAINING AND DEVELOPMENT**

As part of its policy of ongoing staff training and development, the Directorate: Investigations has succeeded in co-ordinating a number of training programmes aimed at bringing ICD investigators up-to-date with the most modern and latest techniques in investigation. Much of this training has been provided by the International Criminal Investigation Training Assistance Programme (ICITAP), which is sponsored by the United States Department of Justice. This has afforded ICD investigators the opportunity of being exposed to the knowledge and insight of highly experienced investigators and investigative supervisors from the United States.

6.8.1 During the year under review, ICD investigative personnel have received training in the following areas:

- General Principle Core Issues and Functions of Management (Course presented by ICITAP and sponsored by the Department for International Development (DFID) (UK));
- Legal Training (under the auspices of the Institute for Professional Legal Training (IPLT) – this course encompassed aspects such as Constitutional Law, Evidence, the Criminal Procedure Act, General Principles of Criminal Law);
- Basic Handgun Instructors Course (Course provided by Snipers Academy – affiliated to the National Rifle Association (NRA));
- Practical Aspects of Medico-Legal Forensics [Course provided by the Independent Medico-Legal Unit (IMLU) ].

In addition, during the year under review, the ICD was fortunate to have been able to utilise the services of various medico-legal experts who assisted the ICD in specific cases, by advising investigators, assisting them where they have encountered problematic and difficult cases and conducting a number of independent post-mortems where the family of the deceased has requested this. All consultants and advisors have entered into confidentiality agreements with the ICD due to the sensitive nature of the information with which they are dealing.

6.8.2 The services of an independent forensic ballistic expert have also been utilised during the course of investigations.

- 6.8.3 Future plans for training and development include the training of investigators in Self-defense Techniques, Advanced First Aid, Investigation and Case Management, as well as Statement Taking, Report Writing and Interviewing Skills.

## **6.9 FACTORS HAMPERING EFFECTIVE INVESTIGATION**

- 6.9.1 The most immediate and pressing obstacle facing the ICD is a shortage of investigators.

As mentioned above, the ICD currently has a total of 40 investigators nationally. When one takes into account the number of deaths in custody or as a result of police action, which the ICD is obliged by statute to investigate, [the number stands at approximately 2 874 since April 1998], as well as the other categories of complaints which have increased such as corruption, escape from police cells and assault, which also require investigation by the ICD, it is not difficult to see that this number is insufficient and will have to be drastically increased in the coming years if the ICD is to give effect to its mandate and be effective.

- 6.9.2 The logistical problems facing ICD investigators when attending at the scenes of deaths in custody or as a result of police action and conducting meaningful, effective and efficient investigations become immediately apparent when taking into account the large areas that they have to cover.

- 6.9.3 Although this problem is by no means confined to a specific province, the Northern Cape is a case in point where the furthest point from the recently established office in Kimberley, where the investigators are based, is 1 500 kms away. This problem, of having to cover vast areas, does not, however cease to exist once an investigation has been finalised. If the particular case proceeds to court, the investigator will, of necessity have to travel great distances to attend at the court hearings, which are often postponed.

- 6.9.4 Given such limited resources, it is obviously not possible to attend at every scene or post-mortem as some occur great distances from where the ICD investigators are based. In such instances, an ICD investigator will normally be in contact telephonically with the SAPS officer in charge of such scene and will issue instructions to him/her as to the further conduct of that investigation.

- 6.9.5 The net effect of this is that the ICD has had no option but to rely on SAPS members at the scene to conduct a preliminary investigation on their behalf until an ICD investigator can arrive. Often the scene cannot be preserved until an ICD investigator arrives. This not only compromises the independence, effectiveness and efficiency of the ICD, but is also contrary to the intention of the mandatory provision in the founding legislation referred to above.

- 6.9.6 A further problem is the extent to which the ICD still relies heavily on the SAPS in the fields of Forensic and Ballistic Investigation and the Department of Health in the field of post-mortem examinations. At present, the various Forensic Science Laboratories (FSL) of the SAPS throughout the country are the only recognised facilities where Ballistic and other Forensic examinations may be conducted for court purposes.

- 6.9.7 The Government Medico-Legal Laboratories (State Mortuaries), which fall under the Department of Health, but which are staffed by members of the SAPS, are also the only facilities where post-mortems are conducted by State pathologists.

The reliance in these two areas again not only compromises the independence of the ICD, but also delays the finalisation of many of its cases due to the backlog that currently exists at both facilities.

- 6.9.8 At our Western Cape Provincial Office in Cape Town, ICD investigators are experiencing delays in the furnishing of Ballistic Reports from the FSL of up to 8 months. In the case of post-mortem reports, delays of up to 6 months are not uncommon. This hampers the efficiency of the ICD as the file cannot be closed until such reports have been furnished

## **6.10 STRATEGIC PLANS – THE WAY FORWARD**

- 6.10.1 The Directorate: Investigations is currently considering a number of plans and strategic initiatives in order to advance the vision, mission and objectives of the ICD.

6.10.1.2 One of the most important of these plans is to develop the capacity of the ICD to conduct its own forensic investigations and examinations. The ICD is currently evaluating the feasibility of a proposal to establish its own Forensic Laboratory independent of that of the SAPS. Should this become a reality, it will greatly enhance the independence and efficiency of the ICD to conduct its own investigations. However, the initial indications are that this will be a long-term project as the cost of establishing and maintaining such a facility run into several million rand. As already indicated, the budget of the ICD does not allow for the implementation of such a proposal in the immediate future.

- 6.10.2 In this regard, a potential short-term solution will involve a two phase approach, namely the training of existing ICD staff in the field of Forensics, and, where possible, obtaining increased co-operation from the FSL in prioritizing cases being investigated by the ICD and the expediting of reports requested by the ICD.

- 6.10.3 With regard to the problems caused by the delay in the furnishing of post-mortem reports, this Directorate is also studying a proposal to employ its own qualified medico-legal assistants whose responsibilities shall include attending at all scenes of deaths in custody or as a result of police action, receiving the body at the scene, transporting the body to the mortuary, and collecting and preserving all specimens, evidence and exhibits found either at the scene or on the person of the deceased. Once again however, this is a long-term project as there are insufficient funds available for posts on the ICD establishment. Similar to the proposal above, a short-term solution may be found by exploring avenues of better and increased co-operation between the Department of Health and the ICD.

- 6.10.4 Mechanisms are also currently being looked at to increase the productivity and output of the ICD investigative component. Resolution of the two problem areas mentioned above will go a long way towards achieving this goal. The computeri-



zation of the ICD's database will also assist in this process. Ultimately, however, the appointment of further investigators and the establishment of additional offices are the most practical solutions to this problem. The budget at present, however, does not permit this. Once again, appropriate training will also play a major role in achieving this objective.

- 6.10.5 Another major focus area for the immediate future is that of corruption. The number of instances of alleged corruption committed by members of the SAPS and reported to the ICD is continually increasing. At present, the ICD does not have the capacity to properly and thoroughly investigate such matters, although a number of cases have been successfully investigated. The investigation of corruption and related matters is a specialised field, requiring particular expertise as well as sophisticated technology and investigative equipment. Substantial budgets are also a feature of such specialised units. Once again, budgetary constraints have hampered the establishment of this capacity within the ICD to deal with this crucial issue. At this stage it is envisaged that the investigation of the incidence of corruption will occur on the basis of specific projects identified by the Regional Directors of the respective Provincial Offices. Resources, expertise, manpower and equipment will then be pooled to tackle these projects.
- 6.10.6 In an effort to minimise the reliance of the ICD on the SAPS and other bodies, Provincial and Regional Offices of the ICD are developing the capacity to hold identity parades at locations other than police stations. Already, our offices in Cape Town and Pretoria have the capacity to hold identity parades at their premises, and similar initiatives are being implemented at other Regional Offices, where the accommodation is suitable for this purpose. It is envisaged that eventually all identity parades arranged by ICD investigators will be conducted at their respective Provincial Offices.

**Dr. Johan Snyman  
Director of Legal Services,  
Head Office-Pretoria**



## **7. LEGAL SERVICES**

### **INTRODUCTION**

On April 1, 1998 Dr Johan Snyman commenced duties as Director: Legal Services and Ms Maureen Smit on 17 August 1998 became the second staff member of this component when she commenced duties as Senior Administration Clerk Grade III. Mr Thomas Tshabalala, formerly a Legal Administration Officer in SAPS, commenced duty as Legal Administration Officer on March 15, 1999. This appointment has certainly contributed in alleviating the existing heavy workload resting on the directorate's staff members.

### **7.1 RESPONSIBILITIES**

It is the primary task and responsibility of Legal Services to:

- be abreast of all developments in the legal field pertaining to the ICD and its operations;
- keep ICD personnel informed of such developments;
- conduct research and motivate for appropriate amendments of relevant legislation to ensure the effective operation of the ICD;
- provide the Executive Director and other personnel with legal opinions on diverse matters;
- render a legal advisory service (on a 24 hour basis for the investigators);
- assist in the development of Standard Operating Procedures for the ICD;
- revise ICD policies to ensure that they fall within the prescribed legal framework;
- liaise with the State Attorney and, when necessary, instruct the State Attorney;
- liaise and keep open a proper channel of communication with:
  - the SAPS's legal services;
  - the Director of Public Prosecutions;
  - the legal service of any other relevant state departmental body or organisation;
  - The National Intelligence Agency (NIA);

- maintain and keep updated the ICD library;
- provide legal training for investigators;
- perform any other task assigned to it by the Executive Director.

## **7.2 SUCCESSES / ACHIEVEMENTS**

The successes or achievements of Legal Services during the year under consideration include the following:

- Playing a major role in not only acquiring new office accommodation for the ICD Head Office, but also assisted in arranging and organising the allocation of offices to staff members, liaising with NIA, the architect and building contractor in effecting NIA's security recommendations for the new office buildings and in co-ordinating the ICD's actual move from its previous building to the new ICD House on Andries Street.
- Rendering assistance to the Deputy Director: Human Resource Management in instituting the first two disciplinary proceedings against two of the ICD's staff members. In both cases the staff member involved resigned before the hearing could take place. A third disciplinary hearing is scheduled to take place in March 1999.
- Through its contributions on behalf of the ICD and as member of a Committee assisting the Minister in formulating the official Policy and Instructions (eventually to be incorporated into SAPS National Orders) on the Prevention of Torture and the Treatment of Persons in Custody of the South African Police Service, it ensured that in the Instructions provision was made for making the services of the ICD available to victims of torture at the hands of SAPS members.
- Coordinating and phrasing the ICD's input with regard to an amendment of the SAPS's Instructions regarding Co-operation with the ICD. The amendment of these Instructions was a joint decision between the ICD Legal Services and Dr Geldenhuys of National Standards and Managerial Services of the SAPS and became necessary as a result of joint discussions between the ICD, SAPS and the Attorney-General of Transvaal in regard to investigative problems which the ICD, SAPS and the Attorney-General might experience during the course of an ICD investigation.
- Assisting the Justice Department of the United States, acting under the auspices of the International Criminal Investigative Training Assistance Program (ICITAP) in offering a training course for ICD investigators by giving a series of lectures on aspects of South African Criminal Law and Procedure relevant to investigating misconduct or offences allegedly committed by SAPS members. In this regard it further assisted the Institute for Professional Legal Training in formulating the agenda for the said Institute's legal training of selected ICD personnel in Umhlanga Rocks.
- Introducing the ICD to prosecutors during a training course offered to them by the Department of Justice at the Justice College by lecturing the prosecutors on the establishment and functions of the ICD. It was explained, in particular, to the prosecutors how to handle and process ICD dockets before, during or after a prosecution conducted by them.

- Rendering numerous legal opinions to the other components within the ICD, particularly the monitoring and investigations components. In this regard problems were experienced with some legal advisors of SAPS in regard to the exact investigative powers of the ICD. This problem is to be addressed by way of a workshop on the ICD's powers (or lack of powers), scheduled to take place in the next reporting year.
- Assisting the Directorate Administration with its functioning by:
  - drafting a pro forma contract for contract workers employed by the ICD;
  - liaising with NIA with regard to the Personnel Security Clearance (vetting) of the ICD's staff members by NIA. In this context it arranged a meeting between NIA members conducting the vetting and ICD Head Office staff members during which the requirement for, purposes of and manner of conducting vetting were explained to the ICD staff.
  - being a member of the Personnel Performance Appraisal Committee established for purposes of evaluating the performance of staff members.
- Submitting a first draft of the section "INDEPENDENT COMPLAINTS DIRECTORATE", for publication as part of the re-issue volume of the title: POLICE in the encyclopaedic LAW OF SOUTH AFRICA to Butterworths. In this section the establishment, personnel, functions, and investigative powers and reporting duties of the ICD are succinctly explained.
- Contributing, as a member of the Standard Operating Procedure (SOP) Committee, to the finalisation and approval by the Minister of a number of SOPS.
- Compiling a Code of Conduct for the staff members of the ICD as well as a draft Grievance and Disciplinary Procedure for the ICD.
- Establishing and maintaining the ICD library by acquiring additional publications thereof.

### **7.3 PROBLEMS EXPERIENCED**

The most important factor which prevented this Directorate from operating with full steam was that of lack of capacity. However, this problem ought to disappear with the appointment of the Legal Administration Officer.

**Mr. Eddie Jacobs  
Director of Finance  
Head Office-Pretoria**



## **8. FINANCE**

### **8.1 INTRODUCTION**

- 8.1.1 The Finance Division expanded from four people during the 1997/98 financial year to eight (8) personnel members in the 1998/99 financial year. A lack of capacity to fully comply with the provisions of the Exchequer Act, Financial Regulations, Treasury Instructions and other prescriptions still exists and with reference to the budget allocation in terms of the Medium Term Expenditure Framework (MTEF), there is still no light at the end of the tunnel to ease the pressure on the already over- burdened Finance staff.
- 8.1.2 Currently the Finance Division comprises of three components viz. Financial Accounting, Salaries and Expenditure. Due to budgetary constraints, an internal audit component could not be established.
- 8.1.3 The above-mentioned components were fully computerised during the financial year under review. Like most Government departments, the ICD is also making use of the Financial Management System (FMS) and Persal System.

### **8.2 BUDGET AND EXPENDITURE**

- 8.2.1 The ICD was allocated a budget of R27 760 000 for the 1998/99 financial year compared to R15 491 000 for the 1997/98 financial year. This represents an increase of 79,2%.
- 8.2.2 The Department was also obliged to make provision to the amount of R3 560 000 in favour of the Department of Public Works for accommodation for its Head Office in Pretoria and Provincial Office in the Western Cape. This effectively reduced the budget of the ICD to R24 542 000 and was subsequently also adjusted as such.
- 8.2.3 An analysis of provisional expenditure against the budget per standard item is attached:

**1998/99 FINANCIAL YEAR BUDGET ALLOCATIONS**

<b>STANDARD ITEM</b>	<b>BUDGET</b>	<b>ADJUSTED BUDGET</b>	<b>PROVINSIONAL EXPENDITURE</b>
	R'000	R'000	R'000
<b>PERSONNEL EXPENDITURE</b>	15 314	15 655	11 083
<b>ADMINISTRATIVE EXPENDITURE</b>	5 528	5 528	3 838
<b>STORES AND LIVESTOCK</b>	650	650	392
<b>EQUIPMENT</b>	4 038	1 389	4 052
<b>PROF AND SPECIAL SERVICES</b>	1 730	820	481
<b>MISCELLANEOUS EXPENDITURE</b>	500	500	187
<b>TOTAL</b>	<b>27 760</b>	<b>24 542</b>	<b>20 033</b>

**MEDIUM TERM EXPENDITURE FRAMEWORK (MTEF) ALLOCATION.**

The following allocation was made to the ICD in terms of the MTEF

<b>FINANCIAL YEAR</b>	<b>AMOUNT</b>
2000/2001	R25, 242,000*
2001/2002	R26, 045,000*

***\* INCLUDES ESTIMATED IMPROVEMENT OF CONDITIONS OF SERVICE***

Mr. Tsoeu Ntsane  
Deputy Director  
Communication and Marketing  
Services  
Head Office-Pretoria



## **9. COMMUNICATION AND MARKETING SERVICES**

### **9.1 INTRODUCTION**

The sub – directorate has remained at the strength of one Deputy Director and one Assistant Director and was assisted further with the provision of a typist who also assisted with filing duties. It has not been possible to acquire more staff because of the current financial restrictions which cannot be resolved immediately.

### **9.2 RESPONSIBILITIES**

- 9.2.1 The Communications sub – directorate is responsible for rendering communication and marketing services to the ICD.
- 9.2.2 It is also responsible for the development and maintenance of a national communication and marketing strategy for the ICD.
- 9.2.3 It handles all internal and external communication and marketing, as well as liaison with other relevant bodies and especially the media.
- 9.2.4 Another of its functions is to manage strategic liaison between the ICD and the Ministry for Safety and Security and render communication and marketing support services.

### **9.3 MARKETING INITIATIVES**

#### **9.3.1 Posters and brochures**

The sub – directorate designed and published new posters and brochures which are currently available at all ICD offices throughout the country. Efforts were also made to use every available opportunity to put up these posters on buildings to which the public has access.

#### **9.3.2 T- shirts and Caps**

ICD T – shirts and caps were printed and made available to all ICD staff members and some of the friends of the organisation. Demand was so high that it was found necessary to increase the number of the these products.

### **9.3.3 Folders**

For internal use by the organisation, it was found necessary to print folders with the ICD logo and mission statement. These are also used to provide information packages for the press and other individuals and organisations wishing to know more about the ICD.

### **9.3.4 GOVERNMENT COMMUNICATION**

#### **9.3.4.1 Government Communicator's Forum ( GCF)**

9.3.4.1.1 The ICD has become a permanent member of the Government Communicators' Forum (GCF) which meets fortnightly to exchange information on Government activities. The Chairman of the Forum, who is the Chief Executive Officer of the Government Communications and Information System (GCIS) sits in Cabinet and is therefore able to impart information with authority. Members of this Forum are Heads of Communication departments in their organisations and they enjoy the audience of the highest authorities in their organisations.

9.3.4.1.2 The GCF provides an excellent opportunity for the ICD to make itself known primarily to government officials who have displayed total lack of knowledge of the organisation. Within the GCF, there are several clusters on various areas of interest to Government, namely, the Macro – Economic Cluster, Governance cluster, International cluster, Social cluster and the Safety and Security cluster of which the ICD is a member.

#### **9.3.4.2 Government Communication and Information System (GCIS)**

9.3.4.2.1 This organisation has assisted the ICD with the printing of posters, brochures and folders. It has further put at the disposal of the ICD its massive information paraphernalia.

9.3.4.2.2 It has a radio, TV and publications monitoring facility which the ICD can access at any time.

9.3.4.2.3 Other projects being pursued with the GCIS include satellite link-ups with various community radio stations wherein interviews with senior ICD officials can take place, and also media bulk-buying, wherein government Departments may purchase advertising time through the GCIS in bulk, thus reducing the cost of advertising for individual government departments and ensuring timeous placement of advertisements in the various media.



## **9.4 INTERNAL COMMUNICATION**

### **9.4.1 The Family Album**

The sub-directorate made arrangements for the staff of the whole organisation to have their photographs taken to achieve the following objectives:

- 9.4.1.1 To facilitate easy identification of individual staff members of the ICD
- 9.4.1.2 To enable anyone to recall easily individuals who have left the ICD
- 9.4.1.3 To use in ICD publications or in other publications wherever the need arises.

Other copies of these photographs have been placed in individual files so that it is easy to match the officer's profile with the photograph.

### **9.4.2 General Staff Meetings**

The sub-directorate was actively involved in the resuscitation of general staff meetings on a regular basis. These have proved to be quite useful as a means for reporting back on issues of general interest to the staff, as well as providing a forum for the staff to raise their concerns.

## **9.5 Conclusion**

- 9.5.1 The activities of the Communication and Marketing Services sub-directorate have kept everyone in it very busy.
- 9.5.2 As the role of the ICD grows and as more demands are placed on the doorstep of this organisation, this sub-directorate will be called upon to perform even more.
- 9.5.3 The problems of lack of both financial resources as well as the capacity to handle these demands will remain a hindrance.
- 9.5.4 This is a problem about which very little can be done. However the above need to be borne in mind when judging the performance of the sub-directorate as a whole.

Mrs. Krishnee Kissoonduth  
Deputy Director: Strategy and  
Policy Co-ordination Head  
Office-Pretoria



## **10. STRATEGY AND POLICY CO-ORDINATION**

### **10.1 RESPONSIBILITIES**

The functions of the Deputy Director: Strategy and Policy Co-ordination, are:

- 10.1.1 Assist in policy and standard operating procedure development and implementation.
- 10.1.2 Co-ordinate, monitor, evaluate and report on decisions taken at the Senior Management Committee Meetings.
- 10.1.3 Make recommendations to the Executive Director on issues relating to policy.
- 10.1.4 Co-ordinate special programmes/workshops on affirmative action, gender, disability, strategic planning and policy co-ordination.
- 10.1.5 Establish a web-site for the organization.

### **10.2 OPERATIONS OF THE UNIT**

In any organization, it is vital that all strategic and policy-related issues be controlled from a central point. This manner of operation ensures that:

- 10.2.1 The lines of communication between directorates within the organizations are open and totally unhindered.
- 10.2.2 Directorates within the ICD remain aligned to the requirements of the Strategic Plan.
- 10.2.3 The organization does not deviate from its initial focus and goals that it would have set itself.
- 10.2.4 The ICD is organized in its endeavour to achieve its goals.

### **10.3 THE ESTABLISHMENT**

Presently, this unit consists of 1 person and was established on 1st January, 1999. In spite of the short period of time that it has been in existence, a substantial impact has been made in the relevant areas within the organization.

### **10.4 VISION**

In addition to the official requirements of the post, the vision for the unit is that it might bring unity between all ICD personnel in the organization, irrespective of the location of the person and their portfolio.

## **PART C**

### **11. REGIONAL REPORTS**

#### **11.1 KWAZULU-NATAL**

Adv. S'thembiso Daniel "Stix"  
Mdladla  
Regional Director -  
Kwazulu Natal



##### **11.1.1 INTRODUCTION**

The Independent Complaints Directorate Monitoring Component in Kwa-Zulu Natal monitors and supervises cases which are:

11.1.1.1 Investigated by members of South African Police Service.

11.1.1.2 Investigated by the Independent Complaints Directorate Unit.

11.1.1.3 Referred to Independent Complaints Directorate by the office of the DPP for post investigation especially where the DPP was not satisfied with the SAPS investigation.

11.1.1.4 Mero Motu investigation of matters which come to the ICD through the media.

##### **11.1.2 CASES DEALT WITH BY MONITORING COMPONENT AT ICD KWAZULU-NATAL**

The following is a list of a few cases that will give an insight into the nature of the cases that are supervised and or monitored by the Monitoring and Development Component of the ICD in Kwa-Zulu Natal.

###### **11.1.2.1 THE NSUZE CASE**

Two housebreaking suspects were apprehended and assaulted by well-known members of the community in Nsuze. One suspect died soon after he had been assaulted and the other one died in hospital after he had given a statement to the Investigating Officer. No one was arrested despite the fact that the perpetrators were known.

The failure to investigate these matters properly was reported to ICD. The ICD monitoring component set guidelines and informed the Branch Commander and the Investigating Officer that it had an interest in the case and that it needed to be informed of progress. There was a marked degree of lack of co-operation from the Investigating Officer until his conduct was reported to the Area Commissioner, after the Investigating Officer had failed to avail the docket and other allied documents to the ICD for scrutiny.

The Investigating Officer had sent the docket to the Attorney General for a decision and the Attorney General, as was expected declined to prosecute.

The ICD decided to set in motion its own investigation after which the docket was sent back to the DPP for a decision. The DPP decided to indict the perpetrators for murder. The conduct of the Investigative Officer has been reported to the Executive Director who in turn took the matter up with the National Commissioner.

#### **11.1.2.2 THE LEE VICKERY: PINETOWN CASE**

The Monitoring Component picked up a complaint of police brutality by members of the Dog Unit in Pinetown from a weekly tabloid. We made enquiries from the Investigating Journalist who offered to give the names of the complainants and their contact numbers.

Guidelines were set and the ICD informed the Branch Commander that we were supervising the investigation. The members involved are presently appearing in Court for assault with intent to cause grievous bodily harm and also disciplinary measures were recommended by the ICD which led to the members appearing in a disciplinary hearing.

The ICD is, with the co-operation of the local media, investigating the trends in this Unit and the modus operandi employed by the members of the Pinetown Dog Unit.

#### **11.1.2.3 THE PHOENIX CASE**

A young woman alleged that she was picked up by two members of the SAPS at night whilst she was waiting for a taxi to take her home. The police offered her a lift but before they dropped her off at home, one of them raped her whilst the other one kept a lookout. She reported the case to the Phoenix police station. An investigation followed and it culminated in the Attorney General's office declining to prosecute. The Attorney General's office noted some discrepancies in the docket and requested the ICD to have a look at it. The ICD's Monitoring Component instituted an investigation and when it was sent back to the DPP, he decided to prosecute. The ICD's intervention led to the indictment of the two members of SAPS for rape.

#### **11.1.2.4 THE NATAL TECHNIKON MURDER CASE**

A young student was shot dead in the premises of Natal Technikon by her boyfriend. An investigation that followed saw the case being withdrawn for lack of evidence. The deceased's mother approached the ICD with a complaint of poor investigation. The ICD perused the docket, made recommendations to the Branch Commander and

started close supervision of the case. A proper investigation was done and the case was put back on the roll. The suspect was re-arrested, charged, prosecuted, convicted and sentenced to 11 years imprisonment.

#### **11.1.2.5 THE HILLCREST CASE**

Two policemen from Hillcrest police station were involved in an argument about a vehicle in 1998. One of them produced a gun and shot the other, fatally wounding him.

The ICD was informed of the incident by police with the use of the ICD-7 form. We monitored the matter. The Attorney General decided that the offender be prosecuted for murder.

The matter is to be tried in the High Court.

#### **11.1.2.6 THE GREENWOOD PARK CASE**

The complainant's husband was attacked by the Police Dog Unit which set a dog on him for no apparent reason.

It is said that the husband, who was a caretaker of a flat at the time, was busy in the early morning carrying out his duties cleaning the yard when suddenly he was confronted by a SAPS officer who then set a dog on him. He was accused of stealing. He suffered injuries as a result of being bitten by the dog. It was later discovered that the victim was a wrong person. He went on to lay charges against the policeman and reported the matter to the ICD.

The ICD has been liaising, giving guidelines and keeping a close watch on the investigation especially after the complainant had alleged that the Investigating Officer was biased as he was a friend of the suspect.

The matter went to the Attorney General who directed that the officer be prosecuted for assault and that an admission of guilt fine be set.

#### **11.1.2.7 THE UMBUMBULU CASE**

Members of SAPS Bhekithemba alleged in their report that the deceased had died as a result of falling down from a cliff. The ICD decided to monitor the case. The Investigating Officer proved to be very difficult and un-co-operative.

The monitoring component decided to do their own investigation and has filed a complaint for "lack of co-operation or obstruction by SAPS members" with the Executive Director. The docket has been taken over by the ICD investigation team for further investigation.

#### **11.1.2.8 THE MADADENI CASE**

A young woman was raped by an HIV positive rapist who knew that he was infected, so it is alleged. He was arrested and charged with rape. When he was conveyed to court, it is alleged that one SAPS member struck a deal with him and he was released and was never produced in court.

When this incident was reported to the Area Commissioner, an internal investigation ensued. The ICD's concern was that no criminal investigation (defeating the ends of justice or obstruction) was instituted. This concern was brought to the attention of the Area Commissioner who agreed with the ICD's suggestion and decided to institute a criminal investigation. The ICD will supervise both investigations i.e. disciplinary enquiry and criminal case.

#### **11.1.2.9 THE NEWLANDS EAST CASE**

This matter was brought to our attention by an attorney acting on behalf of his client.

We were advised that two police officers stationed at CR Swart went to Siyanda informal settlement where they went to the complainant's house and demanded that he surrender his vehicle, a Toyota Hi Ace Microbus. They based their demand on the allegation that the complainant had purchased the vehicle with money stolen by his brother, who is a suspect in a robbery case. The complainant obliged to what the officers were demanding and surrendered the vehicle.

On re-examination, it turned out that the vehicle was never recorded in the SAP 13 or anywhere and the officers concerned denied any knowledge thereof. A case docket was opened and subsequently went missing. Another was opened. The ICD then made recommendations that it be investigated by the Internal Investigation Unit (IIU). Guidelines were given to the investigating officer and advice given to the complainant. The investigation was completed and the file taken to the DPP who decided that the police officer be "summarily prosecuted in the Regional Court for theft."

#### **11.1.2.10 THE PINETOWN CASE**

The complainant's vehicle was seized by the police in connection with the investigation of a case. The police alleged that the vehicle was used in the commission of an offence.

The magistrate was not made aware of the existence of the vehicle as an exhibit hence no order could be made as to the disposal of the vehicle after the trial.

The vehicle was then impounded. Eventually an order was made by the SAPS that the vehicle be forfeited to the State.

A complaint was brought to the ICD to the effect that the SAPS were refusing to release the said motor vehicle to the complainant.

On studying the docket we discovered that there were gross irregularities regarding the manner in which the forfeiture order was issued and we recommended immediate restitution.

The State Attorney has made a settlement which the complainant has still to consider.

### **11.1.3 INVESTIGATION COMPONENT**

#### **11.1.3.1 INTRODUCTION**

The investigation component is responsible for the investigation of deaths in police custody or as a result of police action as well as class II and III cases. This component has been very active since the ICD started its operations in April 1997. The investigation component consists of seven investigators and one of them who is on secondment from the Special Investigations at the Head Office in Pretoria. The investigators attend to all scenes, which are within a reasonable distance from the ICD office, situated in the centre of Durban. They also attend post mortem examinations regularly. The investigation component has 62 case dockets in which investigations are in progress and 20 of these cases are court cases pending trial in the various Courts.

#### **11.1.4 NOTABLE CASES.**

We would like to summarise a few cases, which attributed interest from both the public and the media.

##### **11.1.4.1 THE BRIGHTON BEACH CASE**

The accused in this case is a reservist stationed at Brighton Beach Police Station. It is alleged that the deceased was a mental patient, detained in the police cell pending his removal to a mental hospital for treatment. The accused heard a noise coming from the direction of the cells. The accused left the Charge office alone and proceeded to the cells where he confronted the mental patient. The accused shot and killed the deceased because he was making noise. The deceased was shot in the mouth to silence him. The accused has been found guilty of murder and the case has been remanded for sentence.

##### **11.1.4.2 THE CHATSWORTH CASE**

It is alleged that the deceased, who was a mute, was detained at

Chatsworth police cells for allegedly breaking into a car belonging to a member who was on duty. The car was parked inside the police premises. The investigation has revealed that the deceased was brought to the station by the police, after he had been arrested for causing disturbance.

It is alleged that a Captain and four members from the Crime Prevention Unit, who were on duty on the night in question, booked out the deceased for interrogation. When the deceased was brought back he was being pushed in a trolley and was returned to the police cells. The deceased was severely injured.

An ambulance was summoned by the members who were on duty in the charge office, which later arrived and certified the deceased dead. A murder docket was registered and four members (SAPS) were arrested and charged with murder. The case docket was forwarded to the Director of Public Prosecutions who indicted them for murder and they will be tried in the High Court.

#### **11.1.4.3 THE ESHOWE CASE**

An off-duty policeman, stationed at Eshowe police station was driving in his private car at Umlazi Area. He came across the deceased who was on foot, he stopped the car and ordered the deceased to get into the car, which he did. The member drove to his father-in-law's shop where the deceased was beaten up by the member and his father-in-law who is a civilian. The deceased was accused of having broken into the shop previously but there was no case opened. The ICD took over the investigation and arrested the member involved who was later released on bail. The deceased had been beaten up with a knob kerrie and iron pipe. The member was suspended and will be tried in the Eshowe Regional Court for murder after being indicted by the DPP.

#### **11.1.4.4 THE SECOND ESHOWE CASE**

Two members stationed at Eshowe assaulted the deceased who was allegedly driving a stolen car, which rammed into a tree. The deceased was arrested and he died in police custody. The case was investigated and forwarded to the DPP's office for a decision. The DPP indicted the two members for murder and they will be tried in the Eshowe Regional Court.

#### **11.1.4.5 THE KWA-NDENGEZI CASE**

An off duty policeman stationed at Pinetown visited his friend at Kwa- Ndengezi Township where he consumed liquor. An argument ensued during the course of which he shot and killed the deceased with his service pistol. The member was arrested immediately after



the incident and charged with murder. The matter was referred to the office of the DPP for a decision. The DPP indicted him for murder and he is being tried in the Regional Court at Pinetown.

#### **11.1.4.6 THE PHOENIX CASE**

An off-duty member stationed at Greenwood Park Detective Branch visited a night Club known as Cloud Nine Action Bar in Phoenix. The member had an argument with people who were also drinking in the Club, which resulted in a fight. The member drew his service pistol and shot three people and one of them died at the scene. The ICD investigated the case and arrested the member who was released on bail. The case was forwarded to the DPP's office for a decision. The DPP indicted him for murder and two counts for attempted murder. The member will be tried in the Verulam Regional Court.

#### **11.1.4.7 THE GREENWOOD PARK CASE**

It is alleged that the deceased and three others were arrested by members of the Dog Unit for house-breaking and theft. The members then set dogs on them and assaulted them with booted feet and clenched fist. One of them died and others sustained severe injuries. The matter was investigated and forwarded to the DPP's office for a decision. Two members from the Dog Unit were indicted for murder and three counts of assault with intent to cause grievous bodily harm. They will be tried in the Durban Regional Court.

#### **11.1.4.8 THE MOUNTAINRISE CASE**

The deceased in this matter was a suspect in a rape case. The deceased was booked out from the cells by the members of the Detective Branch at Mountainrise for interrogation. He died whilst he was being questioned, the members alleged that the deceased suffered from epileptic fits. The ICD took over the investigation immediately. The investigation revealed that the deceased had been assaulted. This was corroborated by the result of the post mortem which stated that the deceased died of multiple internal and external injuries. The case was forwarded to the DPP's office for a decision. The DPP decided to prosecute four members for culpable homicide in the Pietermaritzburg Regional Court.

#### **11.1.4.9 THE CR SWART SQUARE CASE**

An off-duty policeman visited his friend who was also a policeman. Both of them resided in police single quarters at CR Swart Square. The two members, together with other people, were consuming liquor in the deceased's room. The deceased and this member had an argument and the deceased chased the member away from his room.

The member made threatening remarks to the deceased. On the same day the deceased was confronted by this member at the entrance of the building near the elevators. The member drew his service pistol, fired shots at the deceased, fatally wounding him. The member was arrested immediately after the shooting and bail was refused. The member is still in custody whilst the investigation continues.

#### **11.1.4.10 THE STANGER CASE**

An off-duty member who was under the influence of liquor had an argument with his girlfriend (the deceased in this matter). The member shot and killed her with his service pistol. The member was arrested, charged and was released on bail. The member is suspended pending the DPP's decision.

#### **11.1.4.11 THE SECOND STANGER CASE**

It is alleged that on 18 January, 1998 an off-duty policeman stationed at SAPS Stanger was on his way to his residence when he met the deceased, a civilian who is also known to the member as a young man from the area. It is also alleged that the deceased confronted the member and attacked him with a knife. The member shot and killed the deceased acting in self-defence. The ICD took over the investigation and discovered that there was a cover-up by the police.

The ICD investigation revealed that the police's version as to how the deceased was killed was at variance with the version of independent eyewitnesses. The case was forwarded to the office of the DPP for a decision. The DPP instructed that the member be asked to plead in terms of the Section 119 of Act 51 of 1977 on a charge of murder and thereafter the matter be referred again to the DPP for his decision.

#### **11.1.4.12 THE PADDOCK CASE**

It is alleged that two members from Paddock police station were on standby duties when they received a complaint of assault at Nyandezulu location. On their arrival they found the deceased Nzimande. According to these two members, they received information that the suspect or a person responsible for the death of Nzimande's son was one Shabane, who is the deceased in this matter. The deceased was well-known to these two policemen since they had arrested him previously. Both members proceeded to the kraal of the deceased driving a police van. The members spotted the deceased near a certain school in the area and he started running away. The members chased him, one on foot and the other driving in the police van. The member on foot shot the deceased, who died on the way to hospital.

The ICD took over the investigation and discovered that there was a cover-up by the police. This was done by means of independent eye witnesses who made statements under oath stating what actually happened on the day in question. According to the eye witnesses the deceased was at his home celebrating New Year with his family when one Nzimande arrived at his kraal and attacked them with a knife. The deceased armed himself with a bush knife and defended himself, which resulted in the death of Nzimande who was apparently the aggressor. The deceased went to the ward councillor to report the incident who in turn summoned the police.

The police arrived and the deceased was handed over to the police by the ward councillor for further investigation. The deceased left together with the police. He was taken to his home to recover the knife, but on arrival the deceased was unable to find the bush knife he had used. The police started assaulting him, demanding the knife. The deceased admitted to the police that he killed Nzimande with a bush knife but he had forgotten as to where he had left the bush knife since he was also under the influence of alcohol. Due to the pressure exerted on him, he broke free and ran away. The police shot the deceased who later died on the way to hospital.

The circumstances which led to the shooting of the deceased as related by the police, appeared to be false. The only inference one could draw from this was a cover up. However the case docket was forwarded to the DPP for a decision and he indicted the two members for murder. They will be tried in a Regional Court.

#### **11.1.4.13 THE RICHARDS BAY CASE**

The members of the firearm unit stationed at Richards Bay were on duty following information on illegal firearms at Kwa Mbonambi Area. The members went to Mr Mdlalose's homestead where they conducted a search but nothing was found. However, Mr Mdlalose was taken against his will by the police for questioning. His younger brother was also taken by the police for questioning. Both Mdlalose brothers were conveyed in police vehicles to the offices of the Firearm Unit. Mr Mdlalose was assaulted in those offices until he defecated and urinated on himself. The witnesses heard him screaming very loudly from the office where he was apparently tubed until it was quiet. The witness was asked by the police to clean the human faeces, tyre tubes and urine on the floor where Mr Mdlalose was being tubed. The witness found Mr Mdlalose's clothes lying on the floor but Mr Mdlalose was not present.

According to the police Mr Mdlalose was taken out to Empangeni to point out the place where he had stashed illegal firearms.

The members stated that on the way to Empangeni Mr Mdlalose requested them to stop so that he can urinate, which they did. This

occurred in a bushy area. He was not escorted when he left the vehicle. They waited for him in the vehicle and seeing that he was taking too long to return they alighted from the vehicle to check on him but he was nowhere to be found. Since that day Mr Mdlalose is missing. According to other versions Mr Mdlalose was an obese person therefore, he could not outrun the police, had they chased after him.

The second aspect is that Mr Mdlalose is about 43 years of age. If he ran away he could have gone back home or have informed his fiancée where he was but this never happened. The community and family marched to the Richards Bay police station demanding the police to produce Mr Mdlalose. It was then the ICD was requested to investigate. Seven police officers from the Firearm Unit were arrested and released on bail. The docket was forwarded to the DPP's office for a decision and all seven officers are charged by the DPP for kidnapping, 9 counts of assault and one count of theft. To date Mr Mdlalose is still missing. The members will be tried in a Regional Court.

ICD Staff-Kwazulu  
Natal Office



## **11.2 WESTERN CAPE**

**Mr. Riaz Saloojee  
Regional Director  
Western Cape – based  
in Cape Town**



### **11.2.1 INTRODUCTION:**

As at the beginning of the 1998 financial year, the Western Cape Office serviced three regions, namely, the Western Cape, Eastern Cape and Northern Cape. This accounted for geographically approximately half of the land space of South Africa with a population of 11 000 000 people.

### **11.2.2 OFFICE STRUCTURE & STAFF COMPLIMENT**

The total office staff numbered 15 persons, including an investigative unit of 5 investigators equipped with 3 cellphones and 3 vehicles.

The office is structured in the following manner:

- a) Monitoring & Development
- b) Administration
- c) Investigations
- d) Complaints Registry

### **11.2.3 COMPLAINTS PROCESS**

11.2.3.1 Complaints are received by the Complaints Registry where they are registered and processed for and then presented to a daily 10 am Response Committee for a decision on the official ICD response. The complaint would then either be referred to

- a) An outside agency;
- b) The Monitoring & Development Component; or
- c) The Investigative Component for in-house investigation.

11.2.3.2 Upon finalization of an investigation, the accumulated evidence in a docket is presented to a Recommendations Committee for an appropriate recommendation either to:

- a) The Attorney General,
- b) SAPS for internal disciplinary action or for,
- c) systemic/policy recommendations.

The office has also established a committee of external stakeholders to assist in the formulation of systemic recommendations.

#### **11.2.4 NETWORKING AND MARKETING**

- 11.2.4.1 Throughout the year approximately three rural areas/towns are visited per month in the evenings, by the Regional Director and representatives from the other components, where the modus operandi and ethos of the ICD are communicated in a semi-formal manner and the community and individual concerns are listened to.
- 11.2.4.2 There is also constant interaction and networking with Human Rights Organizations, Non-Governmental Organizations and elements of the print and electronic media.
- 11.2.4.3 The office, through the Regional Director, networks with other Non-Governmental Organizations in respect of legislative developments, joint ventures and workshops. Workshops and presentations with SAPS personnel and others have also been held across the entire three regions.
- 11.2.4.4 As a result of these interactions, the office has impacted on debates and discussions on policing matters, notably Section 49 of the Criminal Procedure Act, the Organized Crime bill, Correctional Services Legislation etc. and has produced a draft ICD Act setting out, inter alia, certain necessary additional powers which would permit the ICD to carry out its mandate effectively and without interference.
- 11.2.4.5 As a result of all of these efforts the office enjoys a considerably high public profile.

#### **11.2.5 DIFFICULTIES**

- 11.2.5.1. A recurrent difficulty has been the shortage of personnel, particularly investigators, to deliver expeditiously on effective investigations.
- 11.2.5.2 The ICD is not empowered to hold public hearings or prosecute its own matters and thus any impact it makes in the courts is influenced to a large extent by the performance of other components of the justice system. One of the concerns is the fact that not enough consideration is accorded to our matters in, particularly, by the inquest courts.
- 11.2.5.3. For forensic services the office depends largely on state laboratories and it has to literally wait for months before receiving

forensic reports. The Western Cape Office is, however, fortunate to have a limited forensic capacity enabling it to evaluate forensic evidence and independently draw technical diagrams, conduct finger print and other tests, photographs etc.

### **11.2.6 STATISTICS**

- 11.2.6.1 During 1998/99 – the Complaints Registry, with a staff complement of 3 persons: An Assistant Director, Complaints Clerk and typist – held approximately 285 consultations and processed 460 complaints.
- 11.2.6.2 170 matters many dating from 1997/98 were investigated to finality, and seventy are yet to be finalised with 70 ongoing. In fact 70 % of all complaints received in 1997/98 were finalized in the 1998/99 financial year.

Most notable trends in complaints received for the 1998/99 financial year was the increment in reports of deaths as a result of police action.

### **11.2.7 CO-OPERATION WITH SAPS**

At a managerial level the ICD Western Cape Office has received pledges of support and co-operation. This has not filtered down completely to rank and file where we have experienced pockets of ignorance as to the existence and mandate of the ICD. Twenty-nine incidents of non-co-operation with the ICD have occurred during the year under review.

### **11.2.8 INTERNAL POLICIES**

- 11.2.8.1 The office has several internal policies and a particular modus operandi that has contributed to its efficiency, notably:
  - 11.2.8.1.1 An early response policy dating back to early 1997, that ensures that our investigators are physically present at a crime scene as soon as possible.
  - 11.2.8.1.2 Marketing of the ICD by representatives of all the components; meeting with stakeholders and communities by all members contributes to aligning all staff members to the Vision and Mission of the ICD.
  - 11.2.8.1.3 A Recommendations Committee: - collective recommendations made by heads of all components.
  - 11.2.8.1.4 A 24-hour standby arrangement dating back to 1997, of which the SAPS are informed on a weekly basis.

- 11.2.8.1.5 Forensics: - An in-house forensic capacity ensures thorough gathering and processing of forensic evidence.
- 11.2.8.1.6 Case Management System: - Enables the Regional Director to have insight into all matters and quantify the workload of all members of the investigative and monitoring staff.
- 11.2.8.1.7 Batho Pele Culture: A complainant-friendly reception and consultation room, a culture of courtesy to all visitors, privately sponsored tea/coffee for complainants, constant awareness of the need for feedback on matters to complainants with standard formats in this regard.
- 11.2.8.1.8 Security: - Each component is separate and self-contained. Each component ideally requires its own secretarial service.
- 11.2.8.1.9 Staff Development and Training: - A high premium on short term training to equip staff to effectively perform their functions. Training undergone by staff includes:
  - i) basic computer training
  - ii) telephonist training
  - iii) Xhosa training
  - iv) CCR and mediation
  - v) Gender and diversity
  - vi) Team building

At the National level, ICD investigators have received:

- i) ICITAP - Homicide training
  - ii) ICITAP - Legal refresher courses
- 11.2.8.1.10. Health & Recreation Committee: - a representative committee to attend to the health, stress and social needs of the office. The rationale being - a healthy body contributes to a healthy mind and promotes productivity.

## **11.2.9 THE OFFICE COMPONENTS**

### **11.2.9.1 Monitoring and Development Component:**

#### **11.2.9.1.1 The Eastern Cape:**

- i) The total number of matters monitored in the



Eastern Cape until September, 1998 was thirty-eight; twenty-three of them were dealt with to finality, and in some of them important recommendations were made.

- ii) At the time the Eastern Cape offices started operating autonomously, most of the Eastern Cape matters in the Monitoring Component were awaiting either the Attorney General's decision or court dates. The actual investigation was in most instances finalized.

#### 11.2.9.1.2 The Northern Cape:

- i) Until September, 1998, ten cases in the Northern Cape were monitored.
- ii) The Attorney General has decided to prosecute members of the police service for murder in two matters and five other matters were referred to the Inquest Court.
- iii) In this province the office only dealt with class I matters.

#### 11.2.9.1.3 Western Cape:

- i) There are currently seven matters in court where members of the police service have been charged with culpable homicide, murder and two assaults.
- ii) Currently we have seventeen pending inquests.
- iii) The number of matters submitted to the Attorney General for a decision for the year was:  
31 class I  
12 assaults  
**6** – crimen injuria.  
– damage to property.  
– indecent assault.  
Total **49**
- iv) This component generates much paper work and is currently staffed by 2 persons. The component does not have any exclusive support service and in addition to compiling finalized memoranda, and assisting in making recommendations, it also actively oversaw and monitored SAPS

investigators in 130 matters which had been referred to them by the office.

### **11.2.9.2 Administration Component**

This component in addition to a personnel shortage was compelled due to financial constraints to employ low level expertise. However, notwithstanding that it had to contend with teething problems such as lack of expertise at both national and regional levels in among others, administrative matters, the component successfully managed to:

- a) Process 145 payments (1450) to the value of ± R177 359
- b) Prepare and submit to 65 payment advices (1084) to the value of ± R85 998.
- c) Process 58 S&T claims amounting to ± R11 701.
- d) Ensure that 247 cheques were distributed to both companies and ICD officials.
- e) Secure the services of a travel agent on a 24-hour basis to serve the requirements of the investigative unit.

### **11.2.9.3 Complaints Registry Component:**

- i) 456 complaints were registered and processed for the 1998 financial year.
- ii) Approximately 285 consultations with complainants were held.
- iii) This component conducted numerous visits to prisons and complainants.
- iv) They also successfully mediated 14 matters - in 10 of which the SAPS were exonerated from any misconduct.

### **11.2.9.4 Investigations**

11.2.9.4.1 The Investigative Unit has a limited forensic capacity and operated from the outset on a 24-hour basis with a policy of responding physically and immediately to death scenes within a radius of 500km.

11.2.9.4.2 For the 1998/1999 financial year approximately fifty death scenes were visited in the Western Cape, fourteen in the Eastern Cape and five in the Northern Cape.

- i) Other provinces were occasionally assisted e.g. Kwa Zulu-Natal in the Richmond Massacre case.
- ii) Considerable efforts were made to acquire the cheapest accommodation out of town and frequently investigators slept in their own vehicles.
- iii) Out of the total of five investigators, three were

inexperienced and came from a civilian background and thus needed on the job training.

iv) Six arrests were conducted.

11.2.9.4.3 The office has its own photographic capacity and in line with its culture of being self-reliant and continuously reinforcing its independence, the office staff themselves constructed and outfitted an ID Parade room, a first for the ICD.

#### **11.2.9.5 Forensics**

- i) The Western Cape Office established its own seal for securing exhibits.
- ii) Numerous trips were undertaken by road from Cape Town to Johannesburg to hand-deliver exhibits to forensic laboratories.
- iii) Its own photographic, forensic and exhibit register was developed.
- iv) About thirty independent post mortems were conducted through the Independent Medico-Legal Unit (IMLU) where the Assistant Director of investigations was physically present.
- v) We have the capacity for drawing our own plans and doing other forensic tests.

#### **11.2.10 IMPACT ON POLICING IN THE REGION**

11.2.10.1 The office in our view, has made a considerable impact on policing drawing complaints from a broad diversity of political, social, religious and cultural groupings in the province. It is encouraging to note that a number of the members of the service are themselves persons approaching the ICD confidentially; either as complainants; for clarity as to their rights or for other purposes, e.g. members of the SAPS have volunteered to take polygraph tests at the ICD Western Cape Office in order to “clear their names”.

11.2.10.2 Increasingly we are called upon in addition to our specific mandate, to:

- a) Act as mediators between communities and political groups holding different perceptions of the SAPS.
- b) Get involved in internal managerial issues, notably, allegations of racism, e.g. allegations of racist transfers and promotions.
- c) Intervene or investigate unbearable conditions of policing.

The office, in as much as it is committed to advancing the vision of the ICD, clearly does not have the personnel, resources and powers to deal effectively with all the complaints received, the projected increment in complaints and the critical areas mentioned above that impact directly on SAPS policy and transformation.

11.2.10.3 The office through its outreach programmes has, however, managed to impact on the process of:

- a) Transparency and accountability in the Director of Public Prosecution’s Office.
- b) Sexual harassment generally within the Criminal Justice System.
- c) The use of firearms.
- d) Correctional Services.
- e) Ensured that other institutions supporting democracy are sensitized to Human Rights issues as they pertain to policing.

**11.2.11 CASE SUMMARIES HIGHLIGHTED**

Some of the matters dealt with by the Western Cape Office include:

11.2.11.1 Eastern Cape Office:

Total number of Eastern Cape matters dealt with by our Monitoring Component –	<b>105</b>
Total number received by Complaints Registry –	<b>49</b>
Total number dealt with by Investigations Unit –	<b>6</b>
<b>Total</b>	<b>160</b>

**11.2.11.1. CASE 1: EASTERN CAPE**

The complainant, an awaiting trial prisoner, alleged that she had been raped by a SAPS member at Wolfontein police station. This matter was actively monitored by the ICD and specific instructions were given to the SAPS investigating officer.

Upon recommendation by the ICD, the Attorney General decided that the SAPS member should be prosecuted on a charge of rape.

The member is currently also facing departmental charges.

#### **11.2.11.2 CASE 2: NORTHERN CAPE**

It is reported that a certain person was threatening the Lambrechtsdrift community with a firearm. Police were alerted and the weapon was confiscated by the police. As they were about to move from the scene, the deceased pulled the door of the police vehicle open and stabbed a police officer on the left side of his arm. The police officer fired a shot and the deceased ran away. It is alleged that the deceased then again charged at the police officer who shot the deceased twice killing him.

A metal detector test was conducted to find missing cartridges at the scene.

The Attorney General decided to prosecute him on charges of Murder.

#### **11.2.11.3 CASE 3: WESTERN CAPE**

The complainant alleged that she had been harassed by a senior police member at her duty station.

This matter was investigated by the ICD and submitted to the Attorney General with a recommendation that the member be charged.

Initially, the Attorney General concurred with this recommendation, but later informed this office that the member would no longer be prosecuted as, inter alia, he had already paid a fine (viz. R 500.00) at a departmental hearing and endured psychological trauma.

The ICD further petitioned the Attorney General's Office to reconsider its decision and is currently still awaiting a response.

Much lobbying was done together with NGO's with a view to impacting on the sexual harassment policy of the SAPS and generally of the Criminal Justice System. This matter received wide media coverage, drew in the Gender Commission and expedited the formulation of a sexual harassment policy for the Police and the Department of Justice.

#### **11.2.11.4 CASE 4: WESTERN CAPE**

The complainants in this matter are two minor boys, who allege that an inspector and a sergeant in the SAPS assaulted them while transporting them from Vredendal to Cape Town. They allege further that the police fired shots at them and told them to run away

so that they (police) could shoot them. It is further alleged that one member encouraged the other to inflict a wound upon himself so as to create the impression that they were attacked by the boys.

This matter was investigated by the Special Internal Investigation Unit and monitored by the ICD. Upon the completion of the investigation, a recommendation was made to the Attorney General to prosecute both members.

Currently both members are facing charges of assault and contravening the firearms and Ammunition Act. Sadly, one of our complainants has since passed away.

#### **11.2.11.5 CASE 5: WESTERN CAPE**

The deceased was an alleged suspect in a firearm robbery. Police surrounded the house of the deceased. He (deceased) was sitting in his lounge when he was fatally shot through the window by a Constable. The member is being charged with murder.

#### **11.2.11.6 CASE 6: WESTERN CAPE**

It is alleged that members of the dog unit stationed at Klawer went searching for a male suspect, after receiving information from a member of the public that he is being sought on a warrant of arrest for not complying with parole conditions.

The suspect was seen by a farm foreman who reported the matter to members of the police dog unit. The suspect saw the police patrol and fled on foot. A Police Captain observing this, released his patrol dog to pursue the fugitive. At the Olifants River, the fugitive jumped into the water. The police patrol dog followed the suspect into the river where the dog attacked him.

After the suspect had been warned on numerous occasions, the Captain fired two warning shots into the water. The Captain called his patrol dog as Petrus swam deeper into the water. The Captain again fired one shot in the direction of the fugitive who then disappeared under the water. His body was recovered two days later by police divers.

The Captain is being charged with murder.

#### **11.2.11.7 CASE 7: WESTERN CAPE**

All three complainants alleged that Inspector Dwyer harassed them sexually. He also made dirty jokes and used filthy language. All three complainants worked at the same place as Inspector Dwyer.

Inspector Dwyer was charged with indecent assault and criminal injuria.

He was found guilty on all charges and sentenced to fines and community service.

#### **11.2.11.8 CASE 8: WESTERN CAPE**

It is reported that a SAPS member and the son of the owner of Goeie Hope farm, Ashton, caught the deceased and other suspects allegedly stealing cattle. Two suspects were found slaughtering sheep. One suspect fell flat on his stomach while the others ran away. As the suspect ran, he was shot in the back. The other suspects were arrested.

The ICD recommended that the member concerned be prosecuted on a charge of murder.

We are awaiting the Director of Public Prosecution's decision.

#### **11.2.11.9 CASE 9: WESTERN CAPE**

The complainant, a journalist, went to the Guguletu police station to report an accident. A verbal altercation ensued. The complainant was severely assaulted, losing the use of one of his eyes.

The ICD, after considerable efforts to secure the police members' attendance at an ID parade, eventually effected the arrest of nine police members, constructed its own ID Parade room, held a marathon ID parade that commenced at 14:00 hrs on a Sunday afternoon and finished at 01:00 hrs the following Monday morning. The ICD recommended to the Director of Public Prosecutions that the nine members be charged for assault with intent to cause grievous bodily harm and defeating the ends of justice. The Director of Public Prosecutions concurred and the members are currently on trial.

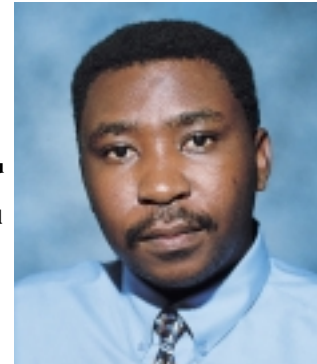


**ICD Staff  
Western cape**



## **11.3 GAUTENG**

**Mr. Shadrack Mahlangu  
Regional Director  
Gauteng Region – based  
in Johannesburg**



### **11.3.1 INTRODUCTION**

The Gauteng Regional Office is located in Central Johannesburg. Its location in the Centre of Johannesburg is strategic in the sense that it is closer to its stakeholders such as NGOs, SAPS Provincial Management, Government agencies, etc, and above all, it is accessible to ordinary members of the public. This office became operational effective from 1st April 1997.

### **11.3.2 STAFF COMPLEMENT AND MOVEMENTS**

The staff complement during 1998 / 1999 was as follows:

- Regional Director;
- Deputy Director;
- Three (3) Assistant Directors;
- Five (5) Investigators;
- One (1) Secretary;
- Two (2) Administrative Clerks and
- Two (2) Typists.

### **11.3.3 MARKETING**

During 1998, this office discussed and met with the following persons and structures:

- (i) The MEC for Safety and Security;
- (ii) The Acting Provincial Secretary;
- (iii) The Provincial Portfolio Committee on Safety and Security;
- (iv) Various SAPS Management personnel.

The Gauteng Office has also had media interviews on high profile cases, notably, the Josiah “Fingers” Rabotapi case. The latter was fatally shot by police after having been arrested. The matter attracted a wide range of media.

### **11.3.4 TASKS AND RESPONSIBILITIES**

11.3.4.1 Like all ICD offices, this office is tasked with the investi-

gation of all misconducts and offences allegedly committed by members of the South African Police Service. Its operations cover the entire Gauteng Province. There is however an arrangement with the Head Office in Pretoria to attend to all the cases in the vicinity of Pretoria.

- 11.3.4.2 Between March 1998 and March 1999, this office received a total of 999 cases. An estimated 15% of these cases are dealt with by ICD Head Office in Pretoria. 435 of these cases have been finalised and closed. To-date this office has secured six (6) criminal convictions. Twelve (12) acquittals by the court were recorded to-date. A number of cases are however still pending in court.

### **11.3.5 SUCCESSES AND FAILURES**

- 11.3.5.1 While this office has gone a long way to strengthen its operations by ensuring that every single case received is investigated thoroughly, professionally and efficiently, it must however be conceded that its performance could have been much better. For instance, cases relating to deaths in custody or as a result of police action require forensic and ballistic expertise if they are to be investigated successfully. Due to lack of adequate skills in that area, the office relied to a large extent on the police. This is an unsatisfactory situation and has resulted in cases dragging unnecessarily for a long time. The quality of investigation of such cases has also not lived up to expectations.

However, following the training we had recently, the situation is improving.

- 11.3.5.2 Also, with the investigation mechanism put in place by the management of this office, the situation has improved a lot. Such mechanism relates to a group discussion of each and every new case by a committee. The progress of the said cases is also monitored by the said committee regularly by way of a brought forward system.
- 11.3.5.3 The prevailing team spirit as well as the level of motivation is also a positive aspect. This office is proud to announce that it has learned a lot from its failures.
- 11.3.5.4 The experience drawn from our operations during the year under review is now providing this office with wisdom to do things better and more effectively.

### **11.3.5 CASEWORK**

The cases reflected hereunder are a sample of cases dealt with by this office during the year under review.

#### **11.3.6.1 THE WINNIE MADIKEZELA-MANDELA CASE.**

During March 1998, a certain police informer approached the ICD in Johannesburg and lodged a complaint against certain members of the South African Police Service. The informer alleged that he had been a police informer for a long time, during which he provided very important information to police, which led to the arrest and conviction of several people on charges such as murder, dealing with dagga, counterfeit currencies, etc. During 1997, the Informer alleged he had gone to Johannesburg Central Police Station to see a Superintendent Kruger. During this meeting, he advised Superintendent Kruger that he had witnessed an incident relating to the secret burial of a baby by a domestic servant at Kensington, Johannesburg. Upon hearing this, it is alleged that Superintendent Kruger encouraged him to fabricate this story, by stating that it was Ms Winnie Madikizela-Mandela and others who had killed the baby and conducted a secret burial at Kensington.

The informer allegedly succumbed to Superintendent Kruger's persuasion to make a false statement about Ms Madikezila-Mandela. He stated that upon giving the said statement, he was escorted by the police to the offices of the National Party, where the Police once more prevailed upon him to repeat the fabricated story about Mrs Makikizela-Mandela to officials of the National Party.

It is against this background, particularly the alleged involvement by police that the ICD decided to investigate this matter.

For purposes of protecting the informer's identity the ICD has decided not to disclose his name in this report. The rationale for this is that the complainant had been a police informer for many years and to disclose his name might expose him to immediate danger.

The ICD launched a massive investigation and interviewed several senior and junior police officers who allegedly had had contact with the informer. The ICD also interviewed the leadership of the National Party based in the Gauteng Legislature.

The investigation revealed that the informer had falsely implicated the police in a plot to discredit Ms Madikizela-Mandela. We concluded that the informer had cooked up a story and that

he had been motivated by commercial considerations, to sell some to the police and the National Party. The ICD recommended that the said informer's conduct be thoroughly investigated with a view to bringing relevant criminal charges against him.

The report into this investigation was widely circulated among interested parties including the Provincial Commissioner and Chairperson of the Standing Committee on Safety and Security.

The Chairperson of the Standing Committee on Safety and Security responded by a letter dated 22nd February 1999 as follows: "I greatly appreciate your outstanding work in this investigation and further wish to encourage you to keep the committee and me abreast on cases that you are investigating as well as the outcome."

#### **11.3.6.2 ALLEGED TORTURE BY MIDDLEBURG MEMBERS OF MURDER AND ROBBERY UNIT**

On 17th October 1996, Mr Isaac Lentsoane a clerk employed at Prop Mining near Witbank was allegedly assaulted and tortured by members of the Murder and Robbery Unit, Middelburg. Mr Lentsoane was arrested by members of the said unit on allegations of armed robbery, which had taken place at Prop Mining on 11 October 1996.

An attorney acting on behalf of Mr Lentsoane obtained a Supreme Court Order on 01 November 1996, authorizing the search of Murder and Robbery Unit premises for items allegedly used to torture Mr Lentsoane. During the search, rubber gloves and electric shock devices were found.

Thereafter, the attorney reported the matter to the former Police Reporting Officer, Adv Jan Munnik, who referred the matter to the Complaints Investigation Unit of SAPS for investigation. When Adv Munnik's office closed down, the ICD took over the monitoring of the matter. After the investigations were finalised, the case docket was submitted to the Attorney-General, who decided that three (3) members of the Middelburg Murder and Robbery Unit be prosecuted in the Regional Court on charges of attempted murder, indecent assault and crimen injuria.

On 27th October 1998 two members were found guilty of assault with intent to do grievous bodily harm. The other member was found guilty of common assault. They were given sentences ranging from four (4) months to twenty-four (24) months imprisonment or fines ranging from R6 000-00 to R15 000-00.

### **11.3.6.3 ALLEGED ASSAULT WITH INTENT TO DO GRIEVOUS BODILY HARM AND BRIBERY**

On 1 November 1995, two members of SAPS visited an alleged illegal shebeen in Ratanda, Heidelberg, where they had drinks. A fight erupted between the police and some shebeen patrons. One of the policemen was assaulted and robbed of his firearm. After a few hours, the shebeen owner was taken to Ratanda police station, where he was asked questions about the whereabouts of the firearm. He was assaulted by four policemen (including the one who was robbed of his firearm). They threatened to detain the shebeen owner unless he gave them R100-00 each. He had only R100-00 in his possession, which he gave to them. The members then demanded a case of beer. The shebeen owner complied with their request. He was thereafter released without being charged.

The matter was reported to Adv Jan Munnik who referred same to the Complaints Investigation Unit of SAPS for investigation. The ICD inherited the case during July 1997 after the closure of Adv Munnik's office.

On 27 October 1998, the four policemen were found guilty on two (2) counts of extortion. Two of the policemen were further found guilty of assault with intent to do grievous bodily harm. All four policemen were each sentenced to an effective 24 months imprisonment.

### **11.3.6.4 DEATH AS A RESULT OF POLICE ACTION: THE TEMBA CASE**

This matter relates to the fatal shooting of one Sergeant Maria Sehlako of the Murder and Robbery Unit in Temba by Inspector Sello Robert Makhubela at the offices of the Murder and Robbery Unit in Temba. The incident occurred at the end of a morning parade. A number of statements were obtained by the ICD from witnesses. The Attorney-General decided to prosecute the accused on murder, alternatively culpable homicide. On the 10th November 1998 Inspector Makhubela was found guilty of the said charge. He was thereafter sentenced to three (3) years imprisonment suspended for three (3) years on condition that the accused is not convicted of an offence involving violence against a person during the period of suspension or otherwise be sentenced to imprisonment without the option of a fine.

### **11.3.6.5 THE CASE OF THE RAPE OF A THREE (3) YEAR OLD GIRL BY HER OWN FATHER**

During January 1999, the ICD received a complaint from a

mother who alleged that her three (3) year old daughter was raped, apparently on several occasions, by her husband and father of the child during 1998.

The ICD took the docket from the SAPS Child Protection Unit and launched an active investigation. Statements of witnesses were obtained as well as a medical report which confirmed the allegations of rape. The ICD investigators went out on several occasions to seek and arrest the suspect. He could not be found, as it was clear that he was playing hide and seek. He was ultimately arrested by the police during February 1999 at the request of ICD. He was then handed over to the ICD by police. He made an appearance in court during February 1999. Our Assistant Director: Complaints Registry testified in court and opposed bail. Bail was denied. The matter is still pending in court.

#### **11.3.6.6 ALLEGED ASSAULT WITH INTENT TO DO GRIEVOUS BODILY HARM BY TWO POLICE SERGEANTS**

It is alleged that one gentleman was walking along a street on Wednesday, on the morning on the 7th October 1998 in Brakpan when he met a black male person at a street corner. The said person was searching from among the black refuse bags, which were lying there. Several items, which were apparently removed from the said bags, were lying on the ground next to the said bags. The said items were discarded items. The gentleman was chatting with this person when a police van appeared. It passed them, but made a U-turn and went back to them. They were asked about the goods and the gentleman explained that he knows nothing. He was allegedly severely assaulted with an iron rod by one of the two white policemen who were travelling in the van. They were thrown in the van and taken to the Brakpan police station. On arrival at the police station, the gentleman was again assaulted by the same policeman. He was bleeding from the ears and the head. The Station Commander ordered the said policeman to take the gentleman to hospital but he refused. He is now facing a disciplinary hearing for insubordination.

He was ultimately taken to hospital by other policemen and spent ten (10) days in hospital receiving treatment. The other male black person was arrested and charged with failure to account for goods suspected to be stolen. The ICD investigated this matter on its own. The Director of Public Prosecutions decided to prosecute both policemen, including the one who simply stood by and watched his colleague assaulting the said gentleman. They appeared before Court on the 12th February 1999 and the matter was postponed to the 5th March 1999.

They are both charged with assault with intent to cause grievous bodily harm.

Meanwhile, the ICD investigation found that the charges against another black male person were fabricated and consequently, the Director of Public Prosecutions decided to dismiss them pending the outcome of the trial against the two policemen.

**ICD Staff-Gauteng  
Office**



## **11.4 NORTH EAST**

**Ms. Tobeka Jozi Regional Deputy Director –  
North Eastern Province based in Pietersburg**



### **11.4.1 INTRODUCTION**

The North Eastern Regional Office started operating on the 19th January, 1998. The Regional Deputy Director has been running this office since the 25th May, 1998, with a staff complement of two (2) Principal Investigators, two (2) Senior Investigators, two (2) Typists (Contract Workers) and one (1) General Assistant. The office was officially opened on the 15th July, 1998. Since 19th January, 1998 – 31st November, 1998, this office has been served by four (4) Investigators. They were serving both Northern Province and Mpumalanga.

### **11.4.2 MARKETING INITIATIVES**

- 11.4.2.1 The Regional Deputy Director introduced herself to the Office of MEC for Safety and Security and to the Provincial Commissioner of Northern Province and Mpumalanga.
- 11.4.2.2 ICD Investigators were experiencing lack of co-operation from SAPS members who were claiming that they only heard about ICD from Radio and TV and also from a memorandum from their National Office, informing them that they have to co-operate with the ICD. That memorandum never explained to them what the ICD was all about, and at the end of the day they were criticised for not co-operating with the ICD.
- 11.4.2.3 Because of this, the Regional Deputy Director convened a meeting with the Provincial Commissioner so as to come up with a plan which could effectively conscientise all SAPS members within the Northern Province about the ICD.
- 11.4.2.4 The Provincial Commissioner provided our office with a map and list of all police stations in the Northern Province. He contacted all Area Commissioners within his Province and we arranged dates so that we can go and workshop SAPS members. Workshops were conducted in the Lowveld, Far North, Bushveld and Central Region. In all these workshops, each police station



was represented by a Station Commissioner, Members from the Detective Branch, Uniform Branch and CPF members. The workshops were positively received by the members of the SAPS.

- 11.4.2.5 After meeting with the Provincial Commissioner from Mpumalanga, similar workshops were conducted in Mpumalanga covering the following regions:-

*Highveld, Eastern Highveld and Lowveld.*

These workshops were attended by SAPS members within Management level with the hope that they will impart the same information to those at lower level.

- 11.4.2.6 The Deputy Director addressed various structures e.g.:-

- Nkuzi Development Association and Lowveld Traditional Leaders.
- Mopani TV.
- Thobela FM Radio Station
- Provincial Detective Services
- Monitor Newspaper
- Provincial Pathologists – Northern Province
- Lowveld and Highveld Tribal Chiefs, Indunas and CPF.
- Phalafala FM
- Jacaranda FM
- Communication Services within the Office of the Premier - Northern Province
- Northern Province Director-General
- Members from the Office of the Premier – Mpumalanga
- Secretariat for Safety and Security – Mpumalanga
- Provincial Commissioner and all Area Commissioners – Mpumalanga

### **11.4.3 NOTABLE CASES**

Those in which criminal charges /disciplinary steps are recommended

#### **11.4.3.1 THE BLINKPAN CASE**

It is alleged that on the 2nd June, 1998 the victim (deceased) was arrested and detained at Blinkpan police station for housebreaking and theft. In the early morning of the 4th June, 1998 he was found dead, hanged with cell blankets.

After the ICD had conducted a preliminary investigation, it discovered that there was negligence on the part of SAPS members because they had violated Regulation 18 (21) of the disciplinary

regulations of the SA Police Service in that they failed to comply with some of its provisions. The case was referred to the Police with a recommendation that disciplinary steps be taken against those SAPS members who had failed to comply with the relevant Standing Order. Two members were charged accordingly.

The outcome of the disciplinary hearing was that both members admitted committing the misconduct as charged and were sanctioned as follows:-

**Sergeant number one**

Charge 1:Reduction in salary to a lower notch on the scale from R 47 612 to R 44 514 per annum for six (6) months.

*Charge 2:* R 300 of which R100 is suspended for twelve (12) months on certain conditions.

**Sergeant number two**

*Charge 1 and 2:* Reduction of salary to a lower notch on the scale from R 47 612 to R 44 514 per annum for six (6) months.

**11.4.3.2 THE TZANEEN CASE**

It is alleged that the deceased was assaulted by other inmates at Tzaneen police cells. After the ICD was notified, a preliminary investigation was conducted. The inmates, who happened to be in the same cell with the deceased, were interviewed.

According to the information from other inmates, the deceased was assaulted by two other inmates who were demanding his money and after he had refused they started singing, whilst at the same time assaulting the deceased. The brother to the deceased was also present the deceased was being assaulted. The deceased's brother tried to intervene but his intervention did not bear fruit. One of the inmates who is alleged to be the attacker, called the Police by hitting the cell doors and shouting for help. The Police immediately responded and the two inmates admitted hitting the deceased.

The ICD referred the matter to SAPS for investigation. The involved inmates were accordingly charged and the matter has been to court. No evidence exists to conclude that the members of the SAPS were negligent.

**11.4.3.2 THE PHALABORWA CASE**

11.4.3.3.1 The deceased was arrested for drunkenness. He was found lying on the ground and was picked up by

Police. Police noticed a scratch wound at the top of the right eye. He was detained in the police cells. The following day the deceased was found dead in police cells. According to the post-mortem report the deceased died of injuries to him. According to the Occurrence Book entry made when the deceased was detained, the police had noticed minor injuries on him.

11.4.3.3.2 Our investigation into this matter has uncovered sufficient evidence for the ICD to conclude that acts of misconduct in violation of Standing Order No. 36116 and Regulations 18(1)(c) and 21 of the Regulations of the SAPS, were committed by various members present and on duty at the time of the deceased's arrest and incarceration.

11.4.3.3.3 We recommended that disciplinary proceedings be instituted against all members on duty and present at the time of the arrest of the deceased (including the arresting officers, Station Commander, Charge Office Commander and all other members who had any dealings whatsoever with the deceased during his incarceration and prior to his death), and that they be charged with the contravention of the above-mentioned Standing Order and Regulations.

11.4.3.3.4 SAPS members were charged departmentally under Regulation 18(1)(a), 18(29) and 18(21). The result of the proceedings was that one officer was found not guilty and discharged. The second officer was found guilty and sanctioned R 500.00 on each count, the two remaining officers were also found guilty and both sanctioned R 400.00 on each count.

#### **11.4.4 PROBLEMS**

The delay in opening of the office in Nelspruit has put considerable strain on the Pietersburg office because the present six (6) Investigators, two (2) doing monitoring and four (4) investigation, cannot realistically serve the Northern Province, which is vast, and Mpumalanga effectively. Investigative equipment was not available and the investigators were complaining about that time and again.



**ICD Staff –  
North Eastern  
Region**

## **11.5 EASTERN CAPE**



**Ms. Alfradeen Jenneker  
Regional Director  
Eastern Cape - based in  
King Williams Town**

### **11.5.1 INTRODUCTION**

- 11.5.1.1 The establishment of an office in the Eastern Cape was prioritised for the 1998 / 1999 financial year, because it was essential to enable citizens in the Eastern Cape to be able to access the services of the ICD and to provide an efficient and cost effective service. Initially complaints from the Eastern Cape were received in the Cape Town office. However, with the appointment of additional investigators and monitoring staff in the Eastern Cape office from the 1st of October, 1998, the function of receiving complaints and investigating them was given to the ICD Eastern Cape in respect of complaints emanating from the province. The breakdown of cases, which we will be referring to later, clearly supports the ICD's priorities and the importance of having to establish a regional presence in the Eastern Cape.
- 11.5.1.2 Of significance to the Eastern Cape Regional office is the fact that a significant proportion of complainants emanated from inside the police service as well as from the Provincial Minister for Safety and Security. This is an indication which leaves one without empirical research to be able to conclude that there has been confidence in the ICD from within the SAPS (to the level of senior management in the province) as well as within the ranks of our colleagues in the Department of Safety and Security to fight misconduct and offences committed by the police.
- 11.5.1.3 When we met with the Provincial Commissioner and with the MEC for Safety and Security in July, 1998, we made it clear that tackling police misconduct and offences

would require the support of both their departments and the community, as well as the relentless struggle of the ICD to establish a reputation for vigilance and for exercising our duties fairly, impartially and according to the law. We also made it clear to all levels of management within the SAPS that the priorities of the ICD for 1998/1999 financial year would be death in police custody and as a result of police action, torture and racial discrimination. Our focus with regard to these three types of complaints was backed up by the vigilance of office staff in receiving complaints, the vigilance and relentless pursuit of investigations by a competent team of investigators on twenty four hour standby and monitors who made efforts to attend crime scenes at great personal cost.

- 11.5.1.4 In an attempt to prevent the opportunities for death in police custody and as a result of police action occurring, we set out to encourage the use of safe mechanisms by the police in apprehending alleged suspects. The intention was to prevent the opportunities for deaths in police custody and as a result of police action, more vigorously. An immediate spin-off from such action was that the police are consulting with us in some instances where operations were being planned. Another drive by the office was to not only conscientise the community and various government officials to the goals of the ICD, but to make our services more accessible to all members of the community, particularly those situated in rural areas. In matters where we have received complaints in the nature of a class action, we attempted to organise mass meetings with the community to notify them of the existence of the ICD in the province and to alert them to their rightful expectations from the SAPS. Two such meetings in Venterstad and in Dordrecht attracted high community attendances of more than 300 community members per session.

We drew strength from this co-ordinated three pronged approach of investigation, education and prevention in many instances. It certainly is a strategy which we will look at more closely during the coming financial year.

## **11.5.2 ESTABLISHMENT**

- 11.5.2.1 We have yet to complete our first year of operation within the province and as was expected, much of the energies in the office went towards recruitment, setting up office, preparing equipment and the establishment of operating procedures. We are happy to report however, that this process is practically finalized and we hope in the ensuing

financial year to dedicate all our energies towards service delivery and a speedy resolution of cases.

11.5.2.2 It is significant to report that during this financial year we were able to appoint the following personnel to the Eastern Cape office:

- a Regional Director,
- one Secretary,
- an Assistant Director of Complaints Registry and Monitoring,
- two Legal Administration Officers (on contract),
- an Intake and Registration Clerk,
- an Assistant Director of Investigations,
- two Principal Investigators,
- one Senior Investigator,
- an Administration Officer,
- a Finance Clerk,
- a Typist.

It is significant too to indicate that whilst three of the Investigators have been SAPS members previously, the majority of our staff are civilians. Our staff members, including some of the previous SAPS members, have an impressive record and have shown tireless independence in investigating SAPS members. Some of the appointed staff, however, will only begin their duties at the ICD at the beginning of May 1999.

### **11.5.3 TRAINING**

11.5.3.1 There have been significant achievements within the province and nationally in the training and development of staff members to enable them to exercise their duties efficiently and effectively.

Firstly, managers from the Regional office were trained in managerial skills by trainers from ICITAP (International Criminal Investigations Training Assistance Program) of the United States Department of Justice.

Secondly, all investigative and monitoring staff were trained in various practical legal aspects and forensic aspects.

Thirdly, Medico-legal training was also offered to monitors and investigators.

Fourthly, firearms training had also been conducted. The

training above should be read in conjunction with in-house induction courses as well as the continuous fine-tuning of Standard Operating Procedures within the office to be able to deliver a more effective service.

#### **11.5.4 AUXILIARY SERVICES**

Office space was found through the assistance of the Provincial Department of Public Works and Administration within an under-utilised National Department of Public Works building. The existing renovations to the building to accommodate all the appointees within the present post structure of the office, delayed the appointment of staff to the office unduly and as a result some staff members will be commencing as late as May 1999. However, we are pleased to report that as at the end of the financial year, the renovations were almost complete. Structurally we are pleased that the building we are occupying is safe and accessible to various modes of public transport.

#### **11.5.5 OFFICIAL TRANSPORT**

The ICD is fortunate to have obtained the use of a government vehicle on loan from the Government Garage in addition to its own vehicle. We have also purchased two additional vehicles through the Provincial Department of Transport. As soon as those vehicles have been received, the loaned vehicle will have to be returned to Government Garage.

It is also envisaged that in addition to the three official vehicles which would be owned by the ICD office in the coming financial year, three more vehicles would be required to be purchased for general investigative/monitoring work and for office work.

#### **11.5.6 INFORMATION TECHNOLOGY**

The permanent nature of the office's present premises also permits the installation of the database located at National office and for the Regional Office to be networked to the other ICD offices. Another achievement has been that we are now reasonably equipped with computer equipment to cope with the current staff levels.

#### **11.5.7 OPERATIONS**

11.5.7.1 We will attempt to deal with the related aspects of Marketing, Complaints Registry and Monitoring and Investigations under one head before dealing specifically with investigations.

11.5.7.2 The office management decided to keep a relatively low profile until the appointment of all the staff members to



ensure that it was not inundated with complaints which it would not have been able to resolve quickly. The situation was however exacerbated by the fact that cases, which were previously handled by Cape Town office, were transferred to our office when our full staff complement had not yet been appointed. In addition to coping with the current cases, the two investigators as well as the two monitors were also responsible for the 1997 and 1998 cases from the 1st of October, 1998 without first receiving training. These staff members, three of whom are civilians, were literally trained on the job. Nevertheless, the ICD made its goal known to members of the SAPS Provincial as well as Area levels and particularly to police areas in which the greatest amount of complaints had been received. The message from the ICD was clear that even though it was relentless in its pursuit to weed criminality and misconduct in the SAPS, it would not interfere with the police in the exercise of their legitimate duties and that such respect for their role would assist in restoring confidence in the SAPS.

- 11.5.7.3 In general, the co-operation from the police, with the exception of some pockets of resistance, particularly in Umtata, has been favourable. These pockets of resistance to some extent have been overcome by the co-operation of particularly the Provincial Head of Detectives. However, much work needs to be done and the direct obstruction of some members of the police still remains a constant source of frustration for our investigators.
- 11.5.7.4 We are finding an increasing number of timely notifications of deaths in police custody and as a result of police action. This is partly due to the vigilance of staff members to attend at scenes of crime. We sent out a clear message to the police that late notifications of deaths will not be tolerated. We are in direct contact with radio control centres within the province to notify us as soon as a death is reported.
- 11.5.7.5 Following our priorities, the majority of the complaints in our office are deaths in police custody and as a result of police action. Our expectations, based on last year's figures when we recorded an average of five deaths per month were too optimistic. The amount has increased to six. Of significance is that when we first opened our doors in October 1998, a record high of fourteen deaths were received in the Province. The increase, however, could possibly be attributed to under-reporting because we did not have a Provincial office. Thirteen of the deaths in October 1998, were occasioned due to shooting by police

in the course of arrest. The amount of deaths due to shooting in the course of arrest has dropped significantly subsequently and instead, there has been an upsurge in deaths involving off duty members not acting in the course of arrest. Table 1 represents the distribution of cases according to the nature of complaints received relative to the classes. As indicated from Table 1, the areas of concern are those of deaths, torture and racial discrimination. Table 2 reflects a total number of complaints received as well as the number of cases that had been finalised during the period. It is evident from Table 2 that deaths in police custody and as a result of police action constitute the highest number of complaints received per category.

11.5.7.6 Due to the inadequate capacity of ICD investigative staff to personally investigate cases, some of these cases were reluctantly referred to the police whilst the ICD is supervising the investigation.

11.5.7.7 **Problems and Challenges:** For the whole period under review, the office was beset by a number of problems, those being particularly:

- Inadequate office space;
- Insufficient human resources;
- Lack of vehicles;
- The long distances to complaints due to the vastness of the area.

A further problem, which we will experience in the coming year, will be the lack of funding to employ independent medico-legal, ballistic and forensic experts for their specialist services. Most crucially affected will be the inability to access an independent pathologist to conduct post mortems due to the lack of pathologists within the province. It should be borne in mind that the Eastern Cape only has one state pathologist.

11.5.7.8 As would be seen from Table 2, 43 cases were finalised during the year. The office undertakes to finalise the outstanding cases that will be carried into the new financial year as a matter of priority.

## **11.5.8 INVESTIGATIONS**

11.5.8.1 Since the establishment of the office on 1 October 1998, the Provincial office has investigated 197 cases. In all 50 cases of death reported to the ICD from September, 1998, we have attended at all scenes of crime and the post

mortems, except where there have been late notifications. We have accordingly conducted our preliminary investigations into all these matters to ensure that the evidence had been secured and the investigation had been performed correctly.

11.5.8.2 Most notable of the problems experienced by the investigative component have been the lack of investigative capacity. Other problems, which were experienced, are:

- The lack of legislative and policing powers to the members;
- Resistance of some members of the SAPS;
- Lack of resources and investigative equipment; and
- Limited co-operation from members within the Department of Health.

11.5.8.3 We have made some inroads already into alleviating some of the problems peculiar to investigations:

- We have purchased investigative equipment through National office;
- We have also purchased resources such as vehicles and computers;
- Additional investigators have been appointed permanently;
- Legal Administration Officers were appointed as far as possible to assist the investigators and to conduct monitoring work.
- We are still looking into the establishment of intake offices in the areas where we received the most complaints, noticeably Umtata and Port Elizabeth. We envisage that these offices could be used for receiving complaints and as a base for investigators during their absence from the office. It will also facilitate that investigators visit these areas for longer periods of time and that they will therefore be able to reach the scenes of death in those areas quickly and render a more effective service.
- The assistance and co-operation of some of the senior managers at Area and Provincial levels have overcome the lack of co-operation by some members of the SAPS.

### **11.5.9 CONCLUSION**

In conclusion, we remain confident that the office will be able establish itself more thoroughly in the coming year and that it will be able to make a greater impact. The staff are united and loyal to improving the quality of the ICD's work through constant vigilance and by improving their own professional skills constantly.

We also remain positive that in view of the support of other Government departments, particularly Health, Justice, Safety and Security and the SAPS, the community, particularly the Community Policing Forums and non-governmental organisations, and the Trade Unions, we have staunch support in our endeavours towards a crime-free police service.



**ICD Staff -- Eastern Cape**

## **11.6 NORTH WEST**



**Mr. Paul Mogothe  
Regional Director  
North Western Region –  
based in Mafikeng**

### **11.6.1 INTRODUCTION**

This office was established and commenced operations the 1st July, 1998 in Mafikeng. The Regional Director was appointed with effect from the 1st July 1998 and was joined by two investigators, one Assistant Director, Secretary and Administrative Clerk on the 1st August 1998. One additional Assistant Director: Investigations, an Administrative Clerk and Typist joined on the 1st January, 1999.

Due to the acute accommodation problem, two staff members had been deployed in the Public Protector's offices in Mafikeng in order to be accessible to the public. However, the rest of the staff members are still accommodated at Khupe, approximately 15 kilometres from Mafikeng.

### **11.6.2 MARKETING INITIATIONS**

The Regional Director was introduced to the Premier of the Province and the MEC for Safety and Security on the 14th of July 1998. The mandate and objectives of the Independent Complaints Directorate were explained to these political office bearers by the Executive Director.

During the year under review, the Regional Director addressed the following structures (at times twice or thrice) with the aim of making known the existence of the ICD as well as its services to the public.

- Standing Committee on Safety and Security
- District Councils
- Provincial Police Board
- Provincial Community Police Board
- Area Police Board
- Area Community Police Board
- Provincial Detective Services Management Meeting

Station Managers Meetings  
The Mail Newspaper  
Motsweding FM  
The Director General; North West  
The Attorney General (Bophuthatswana)

In addition to these addresses and presentations, a general memorandum was circulated to all legal practitioners, the courts, Department of Health, Correctional Services, Human Rights Commission and the Provincial office of the Public Protector, introducing the organisation as well as to spell its vision, mission and overall mandate. Brochures and posters were also placed at various community service centres, the district councils as well as to detainees in various detention centres.

### **11.6.3 NOTABLE CASES**

#### **11.6.3.1 Those in which criminal charges / disciplinary steps are recommended:**

##### **11.6.3.1.1 THE TEMBA CASE**

A member of the SAPS based at the Public Order Policing Unit in Rosslyn was robbed of his service pistol and other properties at gunpoint in Hammanskraal. He subsequently laid charges with the Temba police station. Later he got a telephone call from one of the suspects asking him to come to Maubane to collect the articles that were robbed of him. He then made contact with his commander who authorised that he be accompanied by three uniformed policemen.

At Maubane he met a lady who gave him one of his necklaces and led him to the deceased. He proceeded together with this lady leaving the rest of the entourage behind in the vehicle in order not to arouse suspicion, lest the suspect fled before the encounter. The member had a firearm borrowed from his girlfriend who also happens to be a member of the SAPS.

They arrived at a certain house where they found the deceased. A scuffle ensued between the member and the deceased, resulting in the fatal shooting of the deceased. The investigation has been finalised and it is recommended

that the member be charged with murder. It is also envisaged that recommendations will be made that disciplinary steps be taken against the member's girlfriend for having lent her service pistol to another member without the consent of her commander.

#### **11.6.3.1.2 THE LEEUDORINGSTAD CASE**

In the afternoon of 11th December, 1998 four prisoners were being transported from Wolmaransstad court to Klerksdorp via Leeudoringstad where one detainee had to be dropped off. On arrival at Leeudoringstad, the police vehicle stopped in front of a café so that two awaiting trial prisoners could purchase some food.

At that stage the deceased and one other detainee alighted and entered the shop in the company of one policeman. After making their purchases and while proceeding to the vehicle, the deceased started to run away.

The escorting policeman chased after him and fired one warning shot. The deceased failed to stop and another shot was fired hitting him on the back. He died on the scene. An inquest docket was opened and investigations have been completed.

It is being recommended that disciplinary steps be taken against the member for the negligent manner in which the detainees were guarded and that he failed to discharge his duties appropriately.

#### **11.6.3.1.3 THE VRYBURG CASE**

The Complainant in this matter is a South African Police Service member who alleges that a certain member of the SAPS was arrested as a suspect on a housebreaking case that took place at a certain police station. He was detained at Vryburg police station and on 9th January, 1999 another member booked him out for investigation. The victim was taken to detective service offices where he was brutally assaulted. He was later then taken to the police

station and was left outside in the police station yard in the vicinity of the parade ground where some of the officers on duty noticed him and took him to hospital. Subsequently, the member who had booked the victim out for investigations was arrested, appeared in court and was granted bail.

The investigation has been finalised and it has been recommended to the Attorney General that two members of the SAPS and a civilian be charged with assault with intent to do grievous bodily harm.

### **11.6.3.2 Those in which the complaint was unsubstantiated/dismissed.**

#### **11.6.3.2.1 THE KLERKSDORP CASE**

A complaint was received from the family of the deceased who died while under police custody at Tshepong hospital on 27th March 1990. The cause of death in the burial removal order was stated as “still under investigation”. Our investigation revealed that shortly after admission at the Klerksdorp prison the deceased’s co-detainee, who is a qualified doctor noticed that he was not well. This doctor performed some medical examination and diagnosed “possible meningitis”. He arranged for him to see the district surgeon and the latter confirmed the earlier diagnosis. The prisoner was then admitted at Tshepong hospital for several days. His condition deteriorated and he later died. The diagnosis at the hospital was still that of meningitis. The post mortem was done at Hillbrow government mortuary and the findings were that he died of meningitis. Toxicology examinations revealed no poisoning.

According to his co-detainee, the deceased never complained of any assault during arrest, neither did he show any outward signs thereof. The case was closed as unsubstantiated and the family was notified accordingly.

#### **11.6.3.2.2 THE BUFFELHOEK CASE**

The deceased was held at the Buffelshoek



police station on a charge of rape. In the afternoon of 17th September, 1998 the police, while on routine cell inspection, found him hanging from the cell window with torn blankets. He was already dead, and was alone in the cell after the other inmates were released in the morning of the very same day. The deceased left a note in which he apologised to the victims and his relatives for the suicide.

Investigations and the post mortem report revealed that his death was consistent with hanging. No foul play is suspected and the inquest docket has been referred to the Attorney General for his decision. The file has been closed as unsubstantiated.

#### **11.6.3.2.3 THE LETLHABILE CASE**

The complainant (Chairperson of the Standing Committee on Safety and Security of the North West Legislature) alleges that he was telephonically contacted by members of Maboloka community alleging that the deceased was shot during a shoot out between the police and himself (the deceased). The deceased then ran into his shack and allegedly shot himself on the head with his own gun. The police also fired a number of shots at this shack. It is further alleged that the deceased used several people as his shield during the shoot out before he ran into his shack.

The first post mortem was conducted by the district surgeon after the ICD was contacted. It was arranged that an independent pathologist be employed to conduct the second post mortem which was attended by ICD personnel.

In both post mortems the primary cause of death was a gunshot wound to the head and the features of the wound were found to be consistent with a contact entrance firearm wound and suicide being a possibility. There was only one gunshot wound to the deceased despite a number of shots having been fired by the police at him. Investigations have been finalised and the inquest docket has been forwarded to the

Attorney General for his decision. The ICD file has been closed as unsubstantiated.

#### **11.6.3.2.4 THE KURUMAN CASE**

The complainant, a school principal alleges that while travelling with pupils by bus at Kuruman the driver lost control of the bus and the bus collided with a street light pole. They had immediately before this collision, heard a loud sound like that of a firearm. They then saw the deceased lying down bleeding from the head. They suspected that a stray bullet might have struck the deceased. They also alleged that they heard the policemen at the scene talking about the cause of death as possibly due to a gunshot wound.

The first post mortem was conducted by the district surgeon at Kuruman. Once the ICD was contacted, it was arranged that the second post mortem be conducted in Johannesburg by the State Pathologist in the presence of the family members.

According to the first post mortem report, the cause of death is "Multiple injuries to the head". The second post mortem report states that the cause of death is "cranio cerebral trauma".

No gunshot wound could be detected on the first and second post mortem examination on the body of the deceased. No foul play by SAPS members is suspected. The investigations has also been finalised and the matter has been sent to the Attorney General for his decision. The ICD file has been closed as unsubstantiated.

#### **11.6.3.2.5 THE VRYBURG CASE**

The complainant alleged that he was falsely accused of a crime of pointing a firearm and further stated that the arresting officer insulted him during his arrest.

The investigations revealed that a case of pointing of firearm was opened against the

complainant by a member of the public. The statements from relevant witnesses were obtained. The pointing of a firearm case did have an eyewitness but the complainant's witness never witnessed any insult to the complainant during his arrest. Other members of the SAPS who were present during the arrest alleged that the complainant was lawfully arrested upon a complaint from a member of the public and that no insults were hurled at the complainant. The complaint was found to be unfounded and the ICD file has been closed.

#### **11.6.5 SUCCESSES**

The office has been in operation for eight months during the year under review and not much can be recorded in terms of success, given teething establishment problems.

The office has however, despite having only two investigators for the first five months, to take over investigations from the police with effect from the 1st December 1998 on all cases of death as a result of police action or in police custody.

Despite the initial scepticism within the police ranks about our motives and intentions the office has largely been able to establish good working relationships with the SAPS in the province. More complaints are also being received from SAPS members, which is an indication of confidence they have in the ICD and their willingness to eradicate crime or misconduct in their own ranks.

#### **11.6.6 PROBLEMS**

To date no office accommodation could be secured in Mafikeng, as pointed out in the introduction. This has resulted in sharing resources, which were meant for one office, between the two offices. This has severely hampered the activities of the region. Transport to and from work also is of serious concern.

During the first three months the region had only one motor vehicle and this exacerbated the problems.

No investigative equipment was available and the investigators could, therefore, not be expected to perform to their fullest in this regard.

The training in the Public Service has temporarily been withdrawn and as a result no training could be offered to the staff members.

### **11.6.7 STRATEGIC FOCUS FOR 1999/2000**

In order to maximise civilian oversight on the police sector, this region will focus more on impromptu cell visits from time to time. A high level inspection on exhibits held in police stations will also be made. We will also hold workshops in particular with the remote community centres in the province.



**ICD Staff – North Western Region**

## **11.7 CENTRAL REGION**

**Mr Nyaniso Ngele  
Regional Deputy Director -  
Northern Cape**



### **11.7.1 INTRODUCTION**

11.7.1.1 Prior to the establishment of this office the cases which arose in the Northern Cape were referred to Western Cape Regional Office while those emanating from Free State were dealt with by the KwaZulu Natal Regional Office.

It was only on 1 December, 1998 that the Head of the region, who is a Deputy Director, was appointed with a staff complement of one Senior Investigator and one contract worker. It was at this stage that the Northern Cape Office in Kimberley took full responsibility for both provinces.

### **11.7.2. THE STAFFING SITUATION**

11.7.2.1 In January, 1999 the staff complement was increased to four people with the appointment of an Assistant Director (Investigations) whose task it is to supervise the investigators in the unit.

11.7.2.2 During March, 1999 a contract worker was appointed into the permanent establishment as an Administration Clerk and a Typist was also appointed.

11.7.2.3 The Free State Province which is part of the Central Region, has been staffed by two seconded South African Police Service Members who are stationed in Bloemfontein.

11.7.2.4 It has been a concern within ICD that we continue to use seconded personnel. But because of budgetary constraints we could not afford to appoint ICD officials. These two officials continue to be housed in the Police building and using some police equipment.

11.7.2.5 On 1 January 1999 the Kimberley Office took over from Kwazulu-Natal and the Free State.

11.7.2.6 As at 31 March 1999, the staff complement was:

- Deputy Director
- Assistant Director Investigations
- Senior Investigator
- Administration Clerk
- Typist
- Two Seconded Members from SAPS

### **11.7.3 OFFICE ACTIVITIES**

11.7.3.1 The office has engaged itself in the following activities:

- *Investigation of complaints*
- *Monitoring and supervision of SAPS*

11.7.3.2 Given our limited resources we have tried to investigate all Class I complaints that have arisen in the region. A lot of time has been taken by investigation of Class II, III and IV cases. Some of these complaints were old complaints which were referred to the ICD by the Provincial Executive.

11.7.3.3 Because ICD resources do not allow it to investigate all complaints against the members of the SAPS, some had to be referred to the Police for investigation and ICD officials monitored or supervised the police investigations. In this case a member of the Police Service will physically carry out investigations.

### **11.7.4 MARKETING**

11.7.4.1 During the last three months of its existence, the office has been able to conduct marketing campaigns which included meeting the stakeholders, eg, all Provincial Commissioners in the region, all Area Commissioners in the Free State and some in the Northern Cape. We have been able to secure slots in radio interviews and addresses to communities. As a result of these initiatives, the number of complaints received between January, 1999 and 31 March 1999 grew to 40 in the Northern Cape and 32 in the Free State.

### **11.7.5 CONCLUSION**

11.7.5.1 The office is currently housed in a Government building

which is shared by a host of other departments including the Police Witness Protection Services. This has compromised our campaign of advertising the ICD as an independent body. The security of the ICD building has also been a concern to this office. Negotiations with the Department of Public Works are still continuing to secure better accommodation.

- 11.7.5.2 The lack of personnel still continues to be a problem as mentioned earlier. This is of course as a result of budgetary constraints that the ICD cannot establish a proper presence in the Free State Province and provide adequate equipment to the officials.
- 11.7.5.3 of these problems, the ICD Central Region is committed to fulfill its legislative obligations. Our plan is to visit all police stations, all Area Commissioners, address as many community policing forums as possible as well as other community organisations.
- 11.7.5.4 of lack of personnel we have started with the process of prioritising our cases, so that only the most serious can be attended to.
- 11.7.5.5 Although it is ICD policy that we should have two ICD investigators on standby, our staff complement cannot afford this. For the Northern Cape we have one official on standby with the Deputy Director and the Assistant Director on permanent standby to assist when necessary. For the Free State, we are following the same system where one of the two members would be on standby with the other being on standby as back-up.
- 11.7.5.6 Because of the dedication of our staff members and to a certain extent co-operation from the SAPS, we have been able to fulfill our mandate.



**ICD Staff  
Central Region**



## **PART D**

### **12 EXTERNAL RELATIONS**

#### **12.1 THE EXECUTIVE DIRECTOR**

12.1.1 In September, 1998, the Executive Director partook in the Autumn meeting of the IACOLE Board as a board member and delivered a paper at IACOLE's World Conference in Seattle, Washington, USA. The presentation generated considerable interest among delegates.

12.1.2 The Executive Director returned via Washington D.C. where he met with officials of the US Justice Department to discuss possible assistance with training programmes. He also briefed members of the State Department and a parliamentary committee on the activities of the ICD.

12.1.4 In March, 1999, the Executive Director attended the Spring meeting of the IACOLE Board in Boston, Massachusetts, USA. The Executive Director's bid to have the year 2000 IACOLE World Conference held in South Africa was successful. The conference should be of tremendous value to South Africa and the region. It is hoped that it will be possible to obtain international experts to speak on issues such as the role of civilian oversight in a democracy. It is also hoped that it will be possible to secure, as speakers, senior foreign police officers, to share their experiences on the advantages, to them, of civilian complaint bodies.

12.1.4 During the year the Executive Director met with:

Mr Chris Gale (DFID);

Mr Alex Harper (DFID);

Commissioner Fivaz (SAPS);

Mr Andre Haspels (Netherlands Embassy);

Mr Azhar Cachalia (Secretariat for Safety & Security);

Mr Dave Bruce (INTERPOL);

Ms Bronwyn Manby (Human Rights Watch);

Ms Marlene Hedland (Danish Embassy);

Dr Bernie Fanaroff (Secretariat for Safety & Security);

The French Embassy;

Representatives of the Canadian High Commission;

Portfolio Committee on Safety & Security

Mr Gounden (Public Works);

Bill Hoover, Miles Alban, Rick Lang with the US Justice Department ICITAP programme;

The Swedish Embassy;

Commissioner Lavisa;

Adv du Plessis (Secretariat for Safety & Security);

## **12.2 TRIP TO THE NETHERLANDS**

### **12.2.1 INTRODUCTION**

Deputy Director: Monitoring – Western Cape, Ms R. Harmse and Assistant Director: Special Investigations – Pretoria, Mr S. Seisa, were nominated by the organisation to attend an annual investigative symposium at Zutphen, Netherlands.

The symposium was organised by the International Homicide Investigators Association which is based in North America. The symposium lasted for six days (from the 5th to 10th July, 1998).

### **12.2.2 ATTENDEES**

The symposium was attended by participants from mostly European and North American countries such as the United Kingdom, Spain, Finland, Germany, France, Belgium, Denmark, Portugal, Norway, Sweden, Switzerland, Canada and the Netherlands.

There were also some representatives from South America as well as Asia. South Africa was the only African country which was represented.

### **12.2.3 THEME**

#### **HOW TO ENHANCE EFFECTIVE INVESTIGATIONS AND THE USE OF MODERN INVESTIGATIVE TECHNIQUES**

12.2.3.1 Various guest speakers from the U.S. Federal Bureau of Investigations (FBI), United States Police Agencies, United Kingdom, Netherlands and France presented their specific complex cases and the various techniques they applied to reach the desired solutions.

12.2.3.2 Experts in the medical field also presented their murder cases and shared their experiences with the audience.

12.2.3.3 After some time, the meeting was broken into smaller groups where intensive demonstrations and interactions were presented.

12.2.3.4 ICD members had the opportunity to grasp the international techniques and also shared South African problems and challenges with other countries.

12.2.3.5 Representatives from countries such as Canada and the Netherlands showed their willingness to assist ICD personnel (Investigators) in training in the future.

12.2.3.5 The symposium was closed by representatives of the Netherlands government.

12.2.3.7 At the end of the symposium all attendees were issued with attendance certificates.

### **12.3 SEMINAR ON HUMAN RIGHTS AND THE POLICE**

12.3.1 The Regional Director for KwaZulu-Natal attended a five-day seminar on Human Rights and the Police which was held in Copenhagen, Denmark, from 9 to 13 November, 1998 under the auspices of the Danish Centre for Human Rights.



Adv. Stix Mdladla in Denmark

12.3.2 The seminar attracted participants from many other African countries which made presentations at the Seminar about the institutions they represent and about Human Rights Education for the police in their respective countries.

12.3.3 The participants were also briefed on international standards and documents on Human Rights and Law enforcement. They were further exposed to the type of culture and treatment meted out to non-Danish citizens by the police.

12.3.4 The participants were given the opportunity to visit several centres dealing with Human Rights and took part in an exercise to evaluate the Seminar.

12.3.5 The Regional Director attended another seminar on Human Rights and the Police which was held in Zambia, Malawi from 19 to 23 April, 1999 as a follow-up to the Denmark seminar.

12.3.6 The seminar was addressed by various Malawi Government officials who outlined the structures of their Human Rights institutions. Further briefings were funded by members of the Judiciary and the Police Service during visits to several of their institutions.

## **12.4 THE WORLD CONFERENCE ON MODERN CRIMINAL INVESTIGATION, ORGANISED CRIME AND HUMAN RIGHTS, SUN CITY, SEPTEMBER 1998**

### **12.4.1 INTRODUCTION**

During the third week of September 1998, a world conference on Criminal Investigation, Organized Crime and Human Rights was held at Sun City in the North West Province. The ICD was represented by a delegation consisting of five people and one of the delegates, Stephen Tiro, submitted that the four-day conference, was attended by such eminent personalities as Mr Albert Percy and the former Director-General of the UK National Crime Intelligence Service, and Justice Richard Goldstone of the Constitutional Court who addressed the conference on topics ranging from the role of Intelligence and Utilization of Information in tackling organized crime to international criminal prosecutions.

### **12.2.4 ATTENDANCE**

The conference was well attended, with delegates coming from all over the world. As the theme of the conference suggests, the focus was on organized crime with all its manifestations, criminal investigation in general and Human Rights. Out of the many papers presented some common threads were clearly discernible.

Firstly, one of the common themes was that organized crime has no respect for national boundaries and that national strategies to combat it must, therefore, take cognizance of the internationality and universality of the problem.

Secondly, another common theme was that strategies adopted to combat organized crime must of necessity include measures designed to deprive criminals of their ill-gotten assets and properties.

Thirdly, there was consensus that actions taken by law enforcement authorities to uproot organized crime must themselves take place within the context of the Rule of Law and Human Rights.

### **12.4.3 ICD PRESENTATION**

One of the ICD's representative's presented a paper on remedies available to victims of police abuse of power - his main focus was on remedies available within the ICD itself. The paper evoked positive comments from the participants and indeed this also provided the opportunity to make the ICD known to the important role-players in the international community in the area of law-enforcement and criminal investigation.

### **12.4.4 IMPRESSIONS**

The overall impression about the conference was that it was beneficial for

reasons that apart from providing ICD personnel with opportunities to exchange views with internationally acclaimed experts in the areas of criminal law and criminal investigation, it also made it possible for the ICD to create friendships and establish contacts which will in the long term prove to be beneficial.

The Technikon SA must be commended for having organized a conference of this magnitude in South Africa.

## **12.5 THE HONG KONG CONFERENCE, MARCH, 1999**

The ICD delegation to the Hong Kong conference. Left to Right: Paul Mogotlhe, Jabu Ngwane, Julian Snitcher, Tobeka Jozi, Mpho Themba and Alfradeen Jenneker



### **12.5.1 INTRODUCTION**

A delegation of six ICD officials attended a conference organised by the Independent Commission Against Corruption (ICAC) in Hong Kong in March, 1999. ICAC is a statutory body which operates within the jurisdiction of the Hong Kong Special Administrative Region.

### **12.5.2 PURPOSE OF THE CONFERENCE**

The purpose of the conference was to:

- 12.5.2.1 remind the community about the importance of fighting corruption;
- 12.5.2.2 to reinforce Hong Kong's determination to fight corruption;
- 12.5.2.3 to learn strategies from various other jurisdictions on their fight against corruption;
- 12.5.2.4 to celebrate the twenty-fifth anniversary of the establishment of the ICAC.

### **12.5.3 ATTENDANCE**

- 12.5.3.1 Approximately fifty-two jurisdictions were in attendance. From

South Africa it was the ICD, the Heath Special Investigations Unit, the Public Protector, the Auditor General and the Institute for Security Studies.

- 12.5.3.2 From SADC were anti-corruption institutions from Botswana, Swaziland, Namibia and Mozambique.
- 12.5.3.3 Concerns were raised at the conference that not enough was being done to extend invitations to African countries whose anti-corruption context could be different from that of developed countries.
- 12.5.3.4 Other developed countries with similar agencies were the United Kingdom, Australia, Canada and the United States, among others.

#### **12.5.4 ISSUES RELEVANT TO THE ICD**

- 12.5.4.1 Of significance were the effective tools granted to the ICAC to discharge its mandate. It is indeed a body that is independent of all government structures.
- 12.5.4.2 Unlike the ICD, the ICAC boasts a big budget, its own witness protection scheme, its own detention cells, intelligence gathering, surveillance capacity and a forensics department.
- 12.5.4.3 Its proactive and reactive mandate also distinguishes it from the mandate of the ICD which is only reactive.



ICD Staff countrywide

### **13. CONCLUSION**

It is evident that the ICD has made a great effort to establish itself as a significant role-player in the transformation of the South African Police Service during its second year of operation.

The successes it has achieved need to be considered in the light of the fact that the ICD is still devoting much of its energies to establishment activities, such as acquisition of

accommodation and equipment, recruitment and training of staff and marketing of the organization to role-players.

While the ICD is making solid progress in a hostile environment, its under-resourcing is preventing it from capitalizing on its good start. To fulfil its mandate fully, it would require at least four times its present budget allocation.

With the increase to the ICD's responsibilities in terms of the Domestic Violence Act of 1998 and the draft regulations relating to the Municipal Police Services, together with the increase in the level of complaints to it following from its increased publicity profile, there is a danger that the ICD will be swamped and rendered ineffectual.

The ICD must be resourced to enable it to fulfill its legal obligations adequately, otherwise legislation will have to be amended to narrow the scope of its mandate and to remove the requirement that it be established provincially (in addition to nationally).

The latter option would not be acceptable if the initial goal of establishing the ICD of effectively and efficiently investigating public complaints against members of the SAPS is to be realised.

## **14. DEFINITIONS**

### **14.1 ACRONYMS AND ABBREVIATIONS**

Batho Pele (People centred service delivery)  
CSVR (Center for the Study Violence and Reconciliation)  
CPS (Center for Policy Studies)  
CMS (Case Management Systems)  
CPU (Crime Prevention Unit)  
CIU (Compliance Investigation Unit)  
CPF (Community Policing Forum)  
DPSA (Department of Public Service and Administration)  
DFID (Department For International Development)  
DPP (Director of Public Prosecutions)  
DCHR (Danish Centre for Human Rights)  
FMS (Financial Management Systems)  
FSL (Forensic Science Laboratories)  
FBI (Federal Bureau of Investigation)  
GC (Gender Commission)  
GOVNET (Government Networks)  
GCF (Government Communicators' Forum)  
GCIS (Government Communications and Information System)  
HSRC (Human Sciences Research Council)  
ICD (Independent Complaints Directorate)  
ICITAP (International Criminal Investigative Training Assistance Program)  
IMLU (Independent Medico-Legal Unit)  
IT (Information Technology)  
IBM (International Business Management)  
IEC (Independent Electoral Commission)  
IPLT (Institute for Professional Legal Training)  
IIU (Internal Investigation Unit)  
IACOLE (International Association for Civilian Oversight of Law Enforcement)  
ICAC (Independent Commission Against Corruption)  
INTERPOL (International Police Organisation)  
KZN (Kaw-Zulu Natal)  
LAN (Local Area Network)  
MTEF (Medium Term Expenditure Framework)  
MRU (Murder and Robbery Unit)  
MEC (Member of the Executive Committee)  
NRA (National Rifle Association)  
NIA (National Intelligence Agency)  
NGO (Non-Governmental Organization)  
NP (National Party)  
PC (Personal Computer)  
PERSAL ((Personal Salary Administration)  
POPU (Public Order Policing Unit)  
PWPS (Police Witness Protection Unit)  
SAPS (South African Police Services)  
SAMDI (South African Management Development Institute)



SOP (Standard Operating Procedure)  
SIU (Special Investigation Unit)  
SIIU (Special Investigation Internal Unit)  
SADC (Southern African Development Community)  
TRC (Truth and Reconciliation Commission)  
TV (Television)  
US (United States)  
UK (United Kingdom)  
WAN (Wide Area Network)

## **14.2 CLASSIFICATION OF ICD COMPLAINTS**

### **Class I**

A complaint alleging the death of a person in police custody or as a result of police action.

### **Class II**

A complaint referred to the ICD by the Minister or a Provincial Executive.

### **Class III**

A complaint which alleges that a member of the SAPS committed a serious criminal offence.

### **Class IV**

A Complaint which alleges a member of the SAPS committed a less serious offence or act of misconduct in violation of SAPS regulations.

## **14.3 Definitions**

"Crimen injuria" means an offence that appears to belittle the integrity of another person

"deceased" refers to the victim of a death in custody or as a result of police action

"oversight" refers to supervision or the act of overseeing an institution.

## COMMUNICATION AND MARKETING SUB-DIRECTORATE

### MONTHLY REPORT FOR JULY, 1999

1. The sub-directorate was involved in the correction of the final draft of the ICD Annual Report for 1998/99. It is hoped that the final printed document will be available by the end of August, 1999.
2. On Monday 5th we attended a meeting at the GCIS to look into a Communication Strategy for the African Renaissance. This is an on-going discussion forum to come up with the document by the end of August, 1999.
3. On Thursday 8th, we attended a meeting of the Government Communicator's Forum (GCF) and GCIS Midtown Building. Among issues discussed was the development of a corporate image of Government. It was also observed that the deadline for the establishment of the Special Investigation Unit of SAPS and the National Lottery was Friday 9 July, 1999. An announcement would be issued regarding the two issues shortly.
4. The General Staff Meeting took place on Friday 9th under our Chairmanship.
5. We attended the third GCIS Consultative Conference which was held at the CSIR Conference Centre. The Conference was officially opened by the Minister in the office of the President Dr. Essop Pahad. The overall theme was to develop a general communication strategy for Government. Emphasis was laid on the establishment of Multi-Purpose Communication Centres which would be equipped with facilities which would enable the communities to access information easily.
6. Attended a two-day consultative workshop in Nelspruit, Mpumalanga on the White Paper process organized by the ICD Chief Director for Monitoring and Development. This was part of a series of workshops which were meant to discuss the process which provide the framework for strategies and priorities of the organization in the new millenium.
7. Compiled information and edited the July edition of "ICD Gazette" for the first time items were being received from the Regions which is a very encouraging development.

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**T.E. NTSANE**

**DEPUTY DIRECTOR: COMMUNICATION AND MARKETING SERVICES**