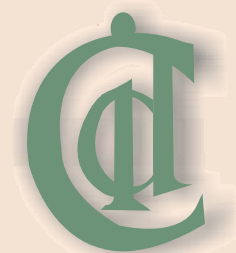


ANNUAL REPORT 2003-4

INDEPENDENT COMPLAINTS DIRECTORATE

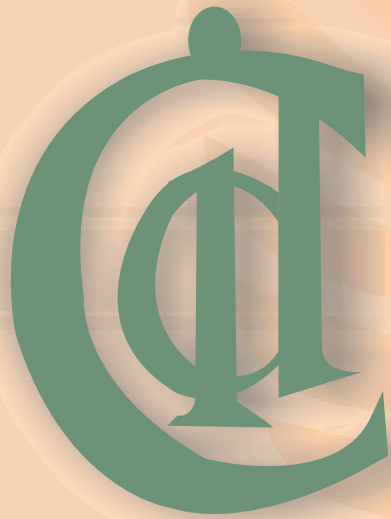


Independent Complaints Directorate

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SUBMISSION OF THE ANNUAL REPORT TO THE EXECUTIVE AUTHORITY



Independent Complaints Directorate

**To the Minister for Safety and Security, Mr Charles Nqakula,
I have the honour of presenting the 2003/04 Annual Report of the
Independent Complaints Directorate.**

RP No: 121/2004

ISBN No: 0-621-35188-1

This report is dedicated to the memory of the late
Masebole Ezekiel Nicodemus Lekganyane
Assistant Manager: Research and Development



Born: 12 May 1972
Died: 19 October 2003

Robala ka kgotso Mohwaduba

INTRODUCTION BY THE EXECUTIVE DIRECTOR



Adv. KD McKenzie
Executive Director

The Independent Complaints Directorate (ICD) was established merely three years into the new democracy in April 1997 and as a democracy strengthening institution, we have reason to celebrate our first ten years of democracy and freedom.

The ICD is faced with serious challenges with regard to the added workload brought about by the increase in deaths in police custody and as a result of police action and the increased reporting of criminal offences and misconduct, which have an impact on the rate at which we can finalize investigations and also the quality of such investigations. It is clear that given the increase in the number of police officers which is not accompanied by some increase in the number of ICD investigators, it is difficult for the ICD to contend with the number of complaints against an ever-increasing police agency. Another serious challenge that the ICD will attempt to overcome is dealing with the increase in complaints against members of the Municipal Police Service. However, despite these challenges, we have sought to deliver a quality service to many communities.

Deaths in police custody and as a result of police action

There has been an increase of 35.2% in deaths in police custody and as a result of police action compared to the same period in the financial year 2002/03. Substantial increases have been notable in KwaZulu Natal, the Eastern Cape, the Northern Cape as well as the Western Cape. The increase in these deaths can be attributed to a number of factors, including:

- an increase in vigilantism within our communities, who are less tolerant of criminals in their midst;
- an increase in people who committed suicide in police custody or at the time of arrest;
- an increase in the number of incidents of assault taking place in custody, perpetrated by both SAPS members and fellow inmates;
- natural causes.

Efforts to improve capacity and skills development

In the interest of capacity building and strengthening the skills of our investigative cadre, we have entered into a partnership with the British High Commission and Scotland Yard to upskill our investigators.

The project started with a focused Training Needs Analysis, followed by a determination of the scope of training and the third phase was the train-the-trainer phase. The fourth phase of this project was the delivery of the identified training areas to the ICD trainers, who in future will be able to train new investigators who join our ranks.

The penultimate phase will be delivery of the aforesaid training to the current pool of ICD investigators and this was initiated in 2003/2004. The final phase, which will be undertaken after the lapse of a year, will also include an impact assessment of the training, thus an assessment of whether the training has added value and whether this has led to improved service delivery.

Key initiatives on reduction of deaths in police custody and improvement of police disciplinary process

During the financial year 2004/05, focus will be on promoting the implementation of recommendations contained in the ICD's "Strategy to reduce the risk of deaths in police custody", particularly in relation to custody management. Our monitoring activities will include cell inspections to ensure compliance with acceptable standards.

INTRODUCTION BY THE EXECUTIVE DIRECTOR

The ICD continues to face challenges relating to the police disciplinary processes. It still takes far too long for cases which have been referred to the police by the ICD, to be finalized. The extent to which the SAPS management and labour unions consider discipline an essential component of service delivery, has an impact on the adjudication of ICD recommendations. There appears to be no uniformity in the application of discipline in terms of the speed with which these cases must be adjudicated.

Improved levels of cooperation

Levels of cooperation have continued to improve between the ICD and the South African Police Service, and here I specifically wish to mention the Provincial Commissioners of the SAPS. I am particularly appreciative of the fact that in a number of high profile and sensitive investigations, we received full cooperation from the SAPS.

Policing Oversight in Africa

Our model of policing oversight is envied internationally and has aroused considerable interest on the African continent. In furtherance of the goals of NEPAD, we will continue to engage our counterparts throughout the continent to promote the concept of policing oversight.

We have successfully hosted a Policing Oversight in Africa conference on 26-29 January 2004 at the Indaba Hotel in Fourways. The purpose and objective of the conference was to advocate and lobby for external policing oversight, as well as the establishment of a chapter for policing oversight, in Africa. This objective culminated in a resolution taken by the conference, for the establishment of the African Policing Oversight Forum (APCOF) and the ICD was appointed as its Secretariat.

During 2004/2005, the work of this Secretariat will be the setting up of the Steering Committee which will work towards the establishment of APCOF; preparing for a workshop for the African Human Rights Commission at its 36th session; and continuing to provide assistance to countries on the continent who may request same.

Community Outreach Programme

The ICD will continue conducting community outreach programmes striving to reach the remotest and most vulnerable communities. Many communities were visited during 2003/04 and some of these visits are featured in this report.

Strategic Plan 2004-2007

The strategic objectives of the ICD for the new financial year are as follows:

- Investigation of all deaths in police custody and as a result of police action
- Investigation of all allegations of misconduct and criminal offences by SAPS members, reported to the ICD.
- Skilling of investigators through training
- Promotion of corporate governance practices
- Development of efficient and effective Human Resources
- Refining/Strengthening of internal business processes
- Improvement of complaints processing

Tribute to leadership and stakeholders

The continued support of the Minister for Safety and Security, the Deputy Minister for Safety and Security, the provincial MEC's for Safety and Security the South African Police Service, the Directors of Public Prosecutions, civil society and the communities we serve, is appreciated.

INTRODUCTION BY THE EXECUTIVE DIRECTOR

International and Continental Liaison

The ICD visited Nigeria at the invitation of the Centre for Law Enforcement Education (CLEEN), to deliver a paper on the South African model of policing oversight. Another paper was delivered in Belfast, Northern Ireland, at the invitation of the Northern Ireland Police Ombudsman.

The Executive Director was invited by the African Human Rights Commission and the Association for the Prevention of Torture (APT) to attend a Consultative Meeting in Ouagadougou, Burkina Faso as an Expert - Advisor to the Commission on the Prevention of Torture in Africa

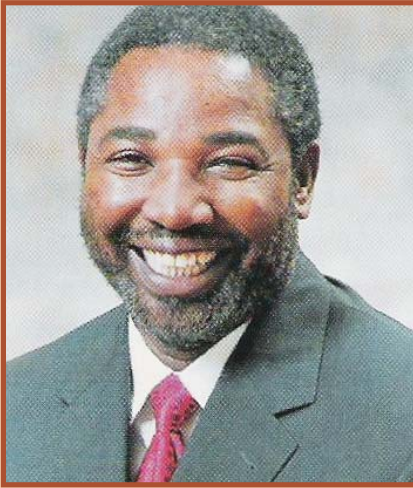
Tribute to ICD Staff

I wish to commend "Team ICD" for the commitment and dedication and for getting the work done. The valuable contribution of each and every ICD staff member, is appreciated.



**ADV. KD MCKENZIE
EXECUTIVE DIRECTOR**

FOREWORD BY THE MINISTER



Mr. C. Nqakula
Minister for Safety and Security

I present the eighth Annual Report of the Independent Complaints Directorate, the third since I became the Minister for Safety and Security.

During the year under review, the ICD received 5 903 complaints falling within their mandate, representing an increase of 32, 9% against the previous financial year. The figure for deaths in police custody and as a result of police action is 714, representing an increase of 35.2%. For the same period in the previous financial year there were 528 deaths - a decrease of 9.7% from the year 2001/02. There is still much work to be done to ensure that deaths in police custody and as a result of police action are reduced to acceptable levels, comparable to international standards. This work needs to be done by both the ICD and the SAPS.

There are further increases in the ICD case intake, notably, 47% for criminal offences and 27.6% for misconduct. In light of the increase in the workload and change in strategy, from monitoring of certain cases, to investigation of all cases, it will be imperative to review future budgets of the ICD.

The ICD will focus in coming years, on promoting the implementation of recommendations contained in the ICD's "Strategy to Reduce the Risk of Deaths in Police Custody", particularly in relation to a system of custody management and custody officers.

A handwritten signature in black ink, appearing to be 'C. Nqakula'.

MR. C. NQAKULA
MINISTER FOR SAFETY AND SECURITY

1. LEGISLATIVE MANDATE OF THE ICD

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

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

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

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

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

In terms of Section 640 of the SAPS Act, read with Regulation 9 and Annexure 5 of the Regulations for Municipal Police Services, the ICD has been given the same civilian oversight duties in respect of Municipal Police Services that it has in respect of the South African Police Service.

VISION AND MISSION STATEMENTS

VISION

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

MISSION

To promote proper police conduct

2. PROGRAMME PERFORMANCE

SUMMARY OF PROGRAMMES

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

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

Overview of the service delivery environment for 2003/04

The intake of complaints falling within the mandate of the ICD from 1 April 2003 to 31 March 2004 amounted to 5 903, an increase of 32.9% compared to the same period in the financial year 2002/03. Cases recorded for the same period in 2002/03 amounted to 4 443. In the case of deaths, an increase of 35.2% was recorded compared to the same period in 2002/03.

There was a substantial 47% increase in reports of serious criminal offences allegedly committed by SAPS members. A total of 1 473 allegations of criminal offences were reported to the ICD nationally. The majority of criminal offences registered by the ICD were committed in Gauteng (27.4%), followed by the Western Cape (20.8%) and the North West (10.1%). Nine percent of allegations of criminal offences were reported in Limpopo and both the Eastern Cape and the Northern Cape recorded 6.8% of the incidents, while 8.4% of the reports came from KwaZulu Natal, and 7.2% were reported in Mpumalanga.

Incidents of misconduct reported to the ICD increased by 27.6% compared to the same period in 2002/03. A total of 3 716 cases of police misconduct were reported to the ICD. Of these cases, 86.4% related to neglect of duty by police members, while 6.4% of misconduct related to failure/refusal to perform duties. The rest of the alleged misconduct cases (7.3%) related to gross discourtesy.

It must be mentioned that all people who lodged complaints not falling within the ICD's mandate were referred to relevant organisations with a mandate to assist in particular complaints. These referrals are also recorded by the ICD.

The Directorate of Special Operations (Scorpions) requested the ICD to investigate the circumstances surrounding the death of a suspect in their custody. The incident occurred in August 2003 in their offices in Durban where the suspect who was being questioned, allegedly fell from the 3rd floor of the building occupied by the Scorpions and died on the scene. This was the first death in Scorpions custody.

Our model of policing oversight is envied internationally and has aroused considerable interest on the African continent. The ICD has successfully hosted a Policing Oversight in Africa conference in January 2004 in Johannesburg.

Overview of the organisational environment 2003/04

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

The Employee Assistance Programme which is envisaged to enhance and support corporate governance is a challenge to implement. Resolution 7 has immensely impacted on the department's ability to deliver due to delays in the filling of posts.

The skilling of investigators through training interventions - in-house training based on local content and through partnerships forged with international policing agencies - remains a critical challenge.

2. PROGRAMME PERFORMANCE

Similarly, the promotion of ethical values and integrity through training and workshops and the conducting of service delivery audits in terms of investigations.

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

Another challenge is to refine Proactive Oversight so that it not only facilitates the analysis of trends and patterns but also adds value to collated research data by formulating and recommending practical and implementable solutions to identified problems regarding police misconduct. There is a need to maintain a database so that it can always be up-to-date, due to the important role that accurate information plays in decision-making and accountability to stakeholders.

The internship policy was implemented, with a view to create a pool of potential employees to the unemployed youth in possession of tertiary qualifications.

Strategic overview and key policy developments for 2003/04

The development of the Anti Corruption Command Policy framework has already started and it will continue in the financial year 2004/05.

The ICD has developed and reviewed the following policies during the year under review:

- Lost, Stolen and Damaged Assets
- Transport & Subsistence - Domestic
- Transport & Subsistence - Overseas
- Petty Cash
- Leave
- Resettlement
- Overtime

3. PROGRAMME 1: ADMINISTRATION

Purpose:

To render a comprehensive service to the line function within the parameters of good governance.

Main Activities

The main activities of this programme include the following:

The implementation of the Public Finance Management Act (PFMA) and Treasury Regulations in order to promote effective and efficient service delivery through sound financial management and administration in the department.

Managing the establishment of the department, identification of developmental and training needs of personnel and ensuring proper implementation of performance management.

Conducting internal audits to promote corporate governance and to foster fiscal discipline.

Asset and fleet management, as well as provision of logistics, cleaning and auxiliary services.

Security management in compliance with the Minimum Information Security Standards (MISS) and other national safety regulations.

Management of all Special Programmes identified by the Presidency, such as HIV/AIDS, disability, gender and youth, in line with government strategies and initiatives.

Measurable Objectives

The objective of the Programme: Administration is to provide for the overall management and organization of the Department.

The above-mentioned objective implies that the Programme: Administration conducts activities which provide for the strategic leadership, overall management and corporate services, including the policy formulation responsibilities of the Executive Director and Senior Management. Through the development and maintenance of effective and efficient administrative and support systems, the programme strives to enhance service delivery on the constitutional and legislative mandate of the ICD with special attention given to people-centred governance and, the provision of centralized administrative office support, human resource management and financial management services.

Service delivery objectives and indicators

The MISS document has been largely complied with through the development of a security policy, the acquisition of security equipment, drills in certain offices and practical training on a number of security issues covering IT, document, building and the safety of people. Access to most of the buildings occupied by the ICD was improved, and a new card access system was introduced in National Office.

The department succeeded in implementing and rolling out the Basic Accounting System (BAS) as directed by the Minister of Finance. The Logis system, an electronic asset management system, has been fully implemented in the National, Western Cape and KwaZulu Natal offices.

Several training and awareness campaigns were presented to increase the awareness to prevent the spread of HIV/AIDS among employees of the department.

During the year under review, 40% of the service providers used by the ICD, were from identified Small, Medium and Micro Enterprises and Black Economic Empowerment service providers, in line with government directives.

3. PROGRAMME 1: ADMINISTRATION

Service delivery achievements

The achievements are in accordance with the ENE 2003:

Sub-programme	Output	Output performance Measures/service delivery indicators	Actual performance against target	
			Target	Actual
Human Resource Management	Human Resource Plan	HR Plan developed and implemented	March 04	Oct 03
	Policy development	Leave, Resettlement and Overtime policies were developed.	March 04	Nov 03
Supply Chain Management	Asset Register	All assets were consolidated and the Asset Register was compiled in terms of offices and chief users.	March 04	Feb 04
	Asset Management	Asset management strategy revived and implemented	March 04	Mar 04
Financial Management	Budget Management	Monitoring expenditure monthly to avoid over/under expenditure. Unqualified audit report obtained	Monthly	Monthly
Internal Audit	Minimising risks through the developments of policies in order to ensure corporate governance	Anti-Corruption Policy	March 04	March 04

3. PROGRAMME 1: ADMINISTRATION

Capital Investment, maintenance and asset management

Capital Investment

The department has no capital investments.

Asset Management

The department has no fixed assets, and for the movable assets, a Logis system was implemented to control the assets of the department.

- A list of all assets due for disposal was compiled and circulated first to our provincial offices. There
- were no items lost due to theft.
- During the period under review procurement of assets was done through the Logis Information System and the system automatically updates the register on finalisation of such a procurement.
- State of department's stock:

Good	%	Fair	%	Bad	%
60		25		15	

The items that are in a bad condition are official vehicles, due to their age, however the fleet will be finalized during 2004/2005.

The tendering process will change during 2004/2005, to include activities of committees in terms of specification, evaluation and bid adjudication, before awards are made.

Maintenance

The ICD occupies rented/leased buildings and does not own any property, in view thereof we are not affected by any maintenance backlogs.

The only maintenance project that was undertaken during the period under review was the refurbishment of some of the buildings occupied by the ICD in Pretoria, Mpumalanga and North West Province.

HUMAN RESOURCE MANAGEMENT

The statistics and information published in this part of the Annual Report is required in terms of Regulation III J.3 of the Public Service Regulations and have been prescribed by the Minister for the Public Service and Administration for all government departments within the Public Service.

Objective

Managing the establishment and structure of the department, identification of developmental and training needs of personnel and ensuring proper implementation of performance management in the department.

I. Service Delivery

All departments are required to develop a Service Delivery Improvement (SDI) Plan. The following tables reflect the components of the SDI plan as well as progress made in the implementation of the plan.

Table 1.1 - Main services provided and standards

Main services	Actual customers	Potential customers	Standard of service	Actual achievement against standards
The investigation of all deaths in police custody and as a result of police action and, misconduct or offences committed by SAPS and MPS members.	Victims	Public	Family Liaison conducted immediately and on an on-going basis.	Written confirmation in docket.
	Victims	Public	Production of preliminary reports within 180 days (Class 1 and Class 3).	Report captured on database within 48 hours.
	Victims	Public	Production of final recommendation reports within 14 days of receipt of technical reports (Class 1 and Class 3).	Report captured on database within 48 hours.
	Victims	Public	Production of final report in respect of Class 4 cases within 180 days.	Final report captured on database within 48 hours.
	Victims	Public	Quality and thorough investigation of dockets to the DPP / SAPS / MPS.	Queries attended promptly, dockets forwarded to the DPP within 30 days.
	Victims	Public	Reporting progress to stakeholders.	Further progress reported on a monthly basis.

HUMAN RESOURCE MANAGEMENT

	Victims	Public	Response to Service Delivery Complaints.	Response to query within 7 days.
Provision of effective legal advisory and liaison services.	ICD Employees	ICD Employees	Attend and respond to legal queries.	Within 5 days and on-going.
Capturing of cases on database	Victims	Public	Within 24 hours	50% Achieved
Development of efficient and effective Human Resources.	ICD Employees	ICD Employees	Trained and multi-skilled human resources.	70% of staff have been trained on the basis of a skills audit.
	Youth	Youth	Empowerment of youth to be employable.	Implementation of Internships started during the year under review.
Refining/Strengthening internal business processes.	ICD Employees	ICD Employees	Improvement in service delivery.	Review the SDIP annually.

Table 1.2 - Consultation arrangements with customers

Type of arrangement	Actual Customers	Potential Customers	Actual achievements
Personal consultation	Public	Public	Attending to clients within five minutes
Progress report	Public	Public	Progress regarding investigations reported to clients on regular basis

HUMAN RESOURCE MANAGEMENT

Table 1.3 - Service delivery access strategy

Access Strategy	Actual achievements
Community Awareness	Participation in awareness programmes
Media	Prompt responses

Table 1.4 - Service information tool

Types of information tool	Actual achievements
Publicity Material	Brochures and posters available in all official languages
ICD Website	Availing information about ICD's activities
Government Website	Availing information on ICD activities
MPCC	Availing information on ICD mandate, especially during launches

Table 1.5 - Complaints mechanism

Complaints Mechanism	Actual achievements
Consulting at ICD offices	Prompt attendance
Telephone, Fax and Email	Acknowledgement of receipt
Referral System	Referring complainants to relevant organizations

2. Expenditure

The following tables summarise final audited expenditure by programme (Table 2.1) and by salary levels (Table 2.2). In particular these tables provide an indication of the amount spent on personnel costs in terms of each of the programmes or salary levels within the department. The training expenditure includes the expenditure in terms of bursaries as well as other training interventions.

Table 2.1 - Personnel Costs per programme: 2003/04

Programme	Total Expenditure (R'000)	Personnel Expenditure (R'000)	Training Expenditure (R'000)	Professional and Special Services (R'000)	Personnel cost as a percent of total expenditure	Average personnel cost per employee (R'000)
Programme 1	15 187	7 811	366	1 434	55	205
Programme 2	16 140	9 039	165	348	54	161
Programme 3	5 664	2 914	69	219	48	91
Total:	36 991	19 674	600	2 001	53	156