

The Independent Complaints Directorate/ Independent Police Investigative Directorate

A review of statistics towards a clear and standardised approach for the future

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Introduction

It is considered mandatory that a police oversight agency which aims to enhance public confidence in it and the police agencies with which it works, makes public a summary of the key indicators of its work.¹ These include the number of complaints received, the nature of the complaints and the outcomes of these complaints. Outcomes might include details of unsubstantiated complaints, disciplinary action taken, number of officers criminally prosecuted and the outcomes thereof. Apart from contributing to public accountability, the recording of data and measurement of results is important for a number of interconnected reasons:²

- If you do not measure results, you cannot tell success from failure;
- If you cannot see success, you cannot reward it;
- If you cannot reward success, you are probably rewarding failure;
- If you cannot see success, you cannot learn from it;
- If you cannot recognise failure, you cannot correct it; and
- If you can demonstrate results, you can win public support.

Until recently the primary police oversight body in South Africa was the Independent Complaints Directorate (ICD). First established in 1997, the ICD was reconstituted as the Independent Police Investigative Directorate (IPID) in April 2012. Established in accordance with a new IPID Act, the

Directorate's mandate has been narrowed to focus on a select range of incidents involving death, police action and criminality as follows:³

- Any deaths in police custody;
- Deaths as a result of police actions;
- Any complaint relating to the discharge of an official firearm by any police officer;
- Rape by a police officer, whether the police officer is on or off-duty;
- Rape of any person while that person is in police custody;
- Any complaint of torture or assault against a police officer in the execution of his or her duties;
- Corruption matters within the police initiated by the Executive Director on his or her own, or after the receipt of a complaint from a member of the public, or referred to the Directorate by the minister, an MEC or the Secretary, as the case may be; and
- Any other matter referred to it as a result of a decision by the Executive Director, or if so requested by the Minister, an MEC or the Secretary as the case may be.

Furthermore:

- The Directorate may investigate matters relating to systemic corruption involving the police.

The IPID Act compels police to report any of the crimes or events listed under (a) to (f) to the Directorate. As a result the IPID is able to provide new insights into how these crimes and events manifest within the country's police agencies. Tasked with strengthening and maintaining a close relationship with the Civilian Secretariat for Police, and with reporting to the Secretariat any legislative needs regarding policing, the IPID, police and civil society can use this data to understand key challenges in police conduct and professionalism. With this new mandate, and with the transition from ICD to IPID, comes an opportunity to revisit and revise the manner in which the ICD has in the past, and the IPID will in future, work with, record, and learn from the data it generates, and to consolidate it as a body through which to understand and improve policing. This will involve the development of a clear, consistent and unambiguous classification system.

The importance of this need is evident from a review of ICD Annual Reports which, from 1998/99 to 2011/12, categorise and report on data in a range of ways. This diversity of approach makes longitudinal comparison, impact measurement and analysis difficult. In turn, assessing the impact of the ICD and understanding trends in police misconduct is complicated. This makes the development of targeted interventions and policy recommendations based on the Directorate's work difficult. For example, until the 2012/13 Annual Report, IPID statistics on deaths as a result of police action had ceased to distinguish between deaths occurring as a result of firearm and non-firearm related action. As such, it was not possible to monitor overall trends, and provincial variations, in the use of lethal force by police, or the relative role played by shootings and other police use of force in police work. The recent reintroduction of this data is important and commendable.

There are also apparent inconsistencies between statistics dealing with the 'description' of deaths and those dealing with their 'circumstances'. Similarly, until the 2012/13 Annual Report, IPID statistics did not distinguish deaths occurring in crowd management situations. Given the recent events such as the Lonmin mine strikes in Marikana and the Farm Worker strikes in the Western Cape, it is clear that strike and protest related action can significantly influence the overall picture of deaths as a result of police action, and that this issue warrants the attention the IPID has given it in the 2012/13 report.

This report makes recommendations regarding categorisation and rules relating to the IPID's new mandate areas. Having provided the IPID with an earlier version of this report in mid-2013, it appears to have implemented many of these recommendations, beginning in 2012/13. These improvements in reporting are commendable. Recommendations are based on literature on monitoring and evaluating the performance of police oversight agencies, a review of indicators and information management in seven agencies abroad, and a review of indicators measured and presented as statistics in eight annual reports published by the ICD and IPID between 1998/99 and

2011/12. For more on the monitoring of performance in police oversight agencies more generally, see APCOF Policy Paper 8.

Good practice and the IPID mandate

This section explores the IPID's mandate in relation to literature on information management and the monitoring of police oversight agencies.

Literature on performance evaluation relating to police oversight agencies is not abundant, but does contain some important lessons of relevance to the IPID.⁴ Like the ICD before it, and the IPID today, most oversight agencies consider their key performance indicators to be those relating to:⁵

- The number of complaints received and finalised annually;
- The time taken to finalise complaints; and
- The outcomes of complaints.

However, while these remain the primary indicators on which performance is measured, agencies collect a range of data on victims, police and the circumstances out of which complaints of misconduct and criminality occur. When recorded and analysed over time, such data can be used to design interventions and inform policy to prevent offence recurrence.⁶ As such, while the recommendations on data collection included in this report might increase the data collection burden of the IPID, this additional data will enable the directorate and partners to better respond to trends in types of cases received and those most affected by them. Sub-group analysis is understood as necessary to understand a problem's prevalence, incidence and determinants.⁷ The most important question to be answered prior to responding or providing suggested solutions, for example, via the Secretariat, is 'Who is affected most by what under which circumstances?'⁸ Answering this question with regards to IPID's mandate is only possible if detailed demographic and other information on the cases investigated is collected.

According to the Commissioner for Human Rights at the Council for Europe, 'Statistical and empirical research and analysis of complaints is of fundamental importance to democratic and accountable policing.'⁹ Police agencies that are reflective, willing to address grievances and acknowledge and learn from mistakes, position themselves to win public trust. One way of doing this is by ensuring that all complaints against police officers received by police agencies are reported to an independent body. Compulsory reporting is an important part of the IPID Act.

Similarly, Brereton recommends that oversight agencies combine both policy and investigative roles in order to be most effective in promoting organisational and behavioural change among police.¹⁰ By doing this, agencies can provide the police and public with informed advice on how to improve the services police deliver and the relationship between them and communities.¹¹

With regards to the IPID this can be achieved through its goal to strengthen relations with the Civilian Secretariat for Police, and in turn provide important policy input. Under the IPID Act police officers must report knowledge of specific acts and deaths, even in the absence of a complaint from the public. This positions the Directorate to track and analyse more authoritatively those crimes and deaths which fit its mandate. Data recorded will help the Directorate improve its performance and generate empirical data informing a more nuanced understanding of police criminality and deaths in custody. Data can also inform the commission of surveys and case studies in order to introduce new layers of understanding to the data.¹²

Lessons from other police oversight agencies

A review of key indicators and statistics reported on by seven police oversight agencies in Canada, the US, UK and Australia, reveals the impressive levels of performance management and record

taking achieved by the ICD in the past. While its early reports were very scant, from the early 2000s the ICD was reporting on its case load, performance, and disaggregating data in comparable, sometimes more advanced ways, than some other agencies.

The 20010/11 and 20011/12 annual reports for the IPID represent a drastic narrowing of focus with regards to key indicators and information dissemination. While this change is understandable considering the state of flux the Directorate has been in over this period, it is promising that the 2012/13 Annual Report has once again begun to track and report on data in more detail. The IPID could look to old ICD reports for inspiration, but could build on and improve what was done in the past. It could also learn from the work comparable agencies do abroad.

The following ideas and practices drawn from other agencies may be considered by the IPID:¹³

- Robust and consistent recording of statistical data providing a foundation for qualitative research.
- Capturing and making available as much data as possible with regards to investigations, including detail of offences, detail on implicated officers and detail on complainants/victims. This may require tweaking IPID systems so that they can capture, collate, disaggregate and compare a broad range of demographic, geographic and technical data. This is the most ambitious idea for consideration and should only be attempted if consistent recording and reporting mechanisms are in place.
- Producing detailed case studies illustrating, for example, systemic problems facing police agencies which emerge through longitudinal data analysis.
- Even robust data capture systems can fail to reveal certain trends. The IPID could conduct qualitative sample audits of investigations to evaluate patterns that might not be easy to pick up using regularly tracked indicators.
- Conducting or drawing on regular research into the levels of public confidence in the SAPS and Municipal Police Services (MPS), as well as in the IPID. This can take the form of an annual survey and should involve a random sample of the population rather than of complainants.
- Conducting research and surveys to test IPID complainant satisfaction, particularly concerning those categories that make up the bulk of the IPID's workload, such as assault and deaths.
- Conducting research and surveys exploring police views, experience and confidence in the IPID.
- Developing learning feedback mechanisms and products through which to disseminate lessons learned through data analysis.

With regards to qualitative research, the ICD has over the years conducted some impressive analysis based on concerns arising from complaint reports. This could be revisited by the IPID and can be improved on. For instance, stakeholder confidence and satisfaction represent important indicators of oversight performance that have not in the past been used by the ICD. One way to measure this is through surveys. These can take a number of forms and aim to measure a variety of variables. It is important that such surveys seek to measure and assess the manner in which both the public *and* police experience the Directorate. In that it can be very difficult to substantiate allegations against police, and because the motivation behind a complaint might be malicious, it is important that oversight agencies are seen to treat both public and police with respect and fairness. Police officials need to be able to trust in the legitimacy of the IPID if they are to cooperate with it willingly. However, it would also be useful to gauge police officials' views on the efficacy of the IPID, in other words, whether they consider it an effective investigative body which provides a deterrent to misconduct and criminality among police.

Surveys (or interviews/case studies) can also be used to gauge IPID investigator experiences on the job. It is likely that investigators struggle with their own confidence in the police. If this is true, it may impact on the manner in which they approach the work. This would be valuable knowledge for managers hoping to improve productivity. It might also be useful to conduct interviews (or surveys) with investigators following the completion of cases in order to explore their experiences, challenges and learning during the process.

Surveys can be easily and economically conducted via cell phone SMS/text messaging. This means the use of regular surveys need not mean huge outlay in resources for the IPID.

It should be remembered that surveys do not measure absolute truth and that in some instances police will have acted legitimately and properly, despite possible disaffection from complainants.

The United Nations Office on Drugs and Crime (UNODC) recommends that police oversight agencies not only publish information that reflects key targets, but also information on lessons learned.¹⁴ This can in part be accomplished by compiling regular and diverse case study reports outlining case processes and results; recommendations for changes in procedures, and advice to both police and civilians on how to respond to aggression from the other. Topics might include lessons on the use of force, the experiences of police in the complaints system, an illustration of systemic corruption, characteristics of complaints-prone officials and/or victims of police abuse, or lessons learned from police found guilty of misconduct.

Wherever possible, complaints data located at police stations/units, or sourced from Head Office, should be incorporated into case study reviews targeting those stations. This will help provide a clearer picture of possible systemic challenges facing those stations/units.

Neither surveys, nor case studies, can be optimally deployed without a foundation of reliable and consistent primary statistical data. Ultimately it is the collection and reporting on this foundation data which is key to the IPID's contribution to understanding police misconduct and deaths in custody.

New standards for the presentation of IPID data

The language and culture of performance management has incrementally seeped into the governance of South African institutions over the past decade. The change is visible in the comparison of key statistics and indicators on which the ICD has reported over the years. In 1997/98 and 1998/99 the ICD reported on 5 categories of data using 5 tables and charts. By 2000/01 this had expanded to 12 categories of data using 13 tables and charts, by 2004/05, 34 categories using 41 tables and charts, and by 2007/08 it was using 48 categories of data using 51 tables and charts. In contrast, the report for 2011/12 reports on only 17 categories using 18 tables and no charts. Four things are apparent from this discrepancy: (1) Until 2012/13 the IPID had become far more minimalist in reporting on indicators and targets. (2) This meant that a large amount of data relating to complaints against police was until recently missing from the public domain so that (3) it was difficult to learn lessons from this data. Finally, (4) there has been limited consistency in the presentation of data making longitudinal analysis more difficult than it need be.

With regards to point one, it is considered good practice when evaluating performance to only select a few indicators by which to measure success.¹⁵ These should be based on those areas which cause the most public concern (regions, type of criminality) or are the source of the greatest threat to police legitimacy. However, consolidating performance measurement around a select group of indicators does not mean that recording and reporting on other indicators should be discontinued, as is the case in recent ICD reports. On the contrary, while such data need not necessarily be used to measure performance, it serves a vital role in allowing an agency to develop depth of understanding regarding the challenge of police conduct and criminality. Considering the unique data on South Africa's police which is gathered by the IPID through its work, it makes sense that this should be made public so that it can be engaged with by the broader community, in effect aiding the IPID to understand the phenomena with which it works, and the impact it is having. Disaggregation of data allows an organisation to learn about itself and its subject.¹⁶ As such, the IPID should continue to capture in a clear and systematic way, data that allows for disaggregation and analysis thereof, both for itself and for the police and public.

In the past the ICD divided the reporting of complaints into four broad areas:

- Criminal;
- Misconduct;
- Domestic violence related; and
- Deaths.

Under the new mandate the IPID will no longer investigate reports relating to compliance with the Domestic Violence Act, nor will it deal with misconduct. Deaths and a range of criminal acts remain in its domain.

The IPID website refers to its new mandate as related to complaints or notifications regarding ‘specific criminality’ committed by police. While there is truth in the specificity of complaints to be investigated by the Directorate, not all of its work is of a ‘criminal’ nature. Deaths in police custody or as a result of police action, as well as the discharge of a firearm, do not automatically constitute crimes. Similarly, South African criminal law does not yet contain a definition for ‘torture’ – a challenge the ICD faced in the past – although a bill has been drafted closely based on the United Nations definition of the act.

There are three logical starting points for consideration regarding the classification of complaints and notifications to the IPID. The first is the IPID’s mandate, which for the first time compels the Directorate to investigate a list of 8 categories. The second is the performance plan for 2013/14 already in the public domain, which lists a number of performance indicators based on the new mandate. Thirdly, the definitions of crimes used by the South African Police Service (SAPS) and National Prosecuting Authority (NPA) may be useful.

The IPID’s annual performance plan for 2013/14 presents performance indicators based directly on the mandate categories listed in the Act. These are:

Table 1: Foundation investigation and information management indicators, 2013/14 ¹⁷
Deaths in custody
Deaths as a result of police action
Discharge of an official firearm by a police officer
Rape by a police officer
Rape while in police custody
Torture
Assault
Corruption
Systemic corruption

The remainder of this report discusses each of these categories, exploring how they have been engaged with in reports up until 2011/12, and suggesting definitions that will encourage consistency in reporting moving forward. Following consultations with the Directorate, some of these recommendations had already been adopted by the IPID by the time that this paper went to print. As such, where the paper refers to ‘*current definitions*’, these refer to those employed up to 2011/12, not 2012/13.

‘Any deaths in police custody’ and ‘deaths as a result of police actions’

‘Deaths’ have historically been the ICD’s priority concern. Both as a result of police action and in police custody, death was the one mandate area to which the Directorate was obliged to respond. All other work was discretionary. As a result deaths have been reported on fairly consistently since the earliest days of the ICD. However, while one might think the category fairly self-explanatory, it has not been without variance. Furthermore, while all deaths have historically first been reported on in one category then disaggregated, the IPID Act distinguishes between ‘Any deaths in police custody’ and ‘Deaths as a result of police action’ separately. The IPID will need to do the same, though reporting on total deaths may still be of some use, particularly for reasons of consistency.

The following discussion covers the main shifts in reporting on 'deaths' in ICD reports. After the first report, only changes in reporting are mentioned:

1998/99

- In 1998/99 the ICD reported on *all deaths* as '**police related deaths**' and on the sub-category: '**deaths as a result of police action**'. It did not report on 'deaths in police custody' as a separate category.
- 'Deaths as a result of police action' are importantly disaggregated as: '**during course of arrest**', '**during course of crime**', '**during course of investigation**', '**intentional shooting**', '**possible negligence**', '**others**'. Unfortunately some of these sub-categories are quite ambiguous and are not defined in the report.

2001/02

- In 2001/02 the ICD reported on '**deaths in police custody**' and '**deaths as a result of police action**' as separate categories.
- Both categories were disaggregated as follows: '**deaths in police custody**': 'natural causes', 'suicide', 'injuries in custody', 'possible negligence'; and '**deaths as a result of police action**': 'during the course of arrest', 'during the course of a crime', 'during course of investigation', 'during course of escape', 'other intentional shooting', 'possible negligence', 'negligent handling of a firearm', 'other', 'struck by police vehicle', 'beaten with hands/fists or other object', 'innocent bystanders shot by police', 'tortured'.
- The '**circumstances of shootings**' are categorised by '**cause of death**' broken down as: 'shooting during course of arrest', 'shooting during course of a crime', 'shooting during course of investigation', 'shooting during course of escape', 'other intentional shooting', 'possible negligence', 'shooting due to negligent handling of firearm'. *Comparable disaggregation is next found in 2007/08.*
- *This is the only year reviewed in which the ICD captures the 'classification of the deceased suspect' as: 'suspect', 'awaiting trial', 'sentenced', 'mental patient', 'other/unknown'.*
- *The rank and race of the accused officers, and race and gender of victims, is recorded in this report and all others until 2010/11 when it stops.*

2004/05

- All deaths are first presented as one '**death cases**' category. *All deaths remain reported as a single total using slight variations in name in subsequent reports up to 20010/11.*
- Later these are disaggregated as '**deaths in police custody**' and '**deaths as a result of police action**', but the categories do not exactly mirror those of 2001/02. For example, in 2001/02 there were 11 sub-categories for 'deaths as a result of police action' while in 2004/05 there were only 7. *This comparison is reported in subsequent reports up to 2008/09.*
- The report offers a comparison of sub-categories compared with the previous year.
- '**Death cases against members of the municipal services**' are recorded as a separate category for the first time. *These are reported each subsequent year up to 2009/10.*
- *This is the only year in which 'weapon used' is captured, broken down into the sub-categories: assault, 'other (knife, stone, bare hands, etc.)', 'shot with firearms(s)', 'unspecified'*
- Deaths listed by province and station for the first time.

2007/08

- The category '**yearly change of deaths**' compared to previous year, and over a five-year period *repeated up to the 2009/10 report.*
- '**Circumstances of deaths**' divided into '**deaths in police custody**' (with four sub-categories) and '**deaths as a result of police action**' (with nine sub-categories)
- '**Objects used in suicides**' reported for the first time *and repeated in 2008/09.*
- '**Circumstances of death per gender**' presents sub-categories of deaths by gender. *This is repeated in 2008/09.*
- '**Police stations with more than 5 deaths**' reported for the first time, *repeated in 2008/09, becoming 'police stations with more than 20 deaths' in 2009/10 and ending there.*

2008/09

- 2008/09 is very similar and easily comparable with 2007/08.
- Sub-categories for '**death as a result of police action**' change a little. Whereas 2007/08 referred to 'a suspect **was shot** during the course of a crime', 'a suspect **was shot** during the course of an escape', etc., 2008/09 makes no reference to whether the deaths were the result of shooting. Instead it reads, 'a suspect **died** during the course of a crime', 'a suspect **died** during the course of an escape', etc. Also, the sub-category '**domestic violence and off-duty shootings**' is used for the first time *and repeated in 2009/10 (accompanied by a footnote reading 'referred to "other intentional shootings" in past reports'*.
- '**Circumstances of deaths per province**' is presented as its own category.
- '**Incidents per day of the week**' are reported for the first time, *repeated in 2009/10 only*.
- '**Deaths due to Municipal Police Services**' provides disaggregation for the first time using the sub-groups: 'a suspect died during the course of a crime', 'a suspect died during the course of arrest'. *This is repeated in 2009/10 only*.

2009/10

- '**Number of deaths received by month**' used for all deaths.
- '**Deaths in police custody and as a result of police action**' reported with a percentile target for the first time, 60%.
- The category '**person responsible for death**' is introduced for the first and only time with sub-categories '**co-detainee**', 'himself/herself', 'member of the public', 'natural causes', 'SAPS members'.
- The category '**places of death**' is also used for the first and only time with sub-categories '**ambulance/transit**', '**court cell**', '**hospital/clinic**', '**police cell**', '**SAPS vehicle**', '**other**'.

2010/11–2011/12

Both reports are identical in terms of categories and wording used.

- '**Deaths in police custody and as a result of police action**' is the only category used for deaths, with a target of 65%.

Most notable about this overview is how the ICD steadily expanded the manner in which it recorded and disaggregated data, then contracted it all down to one indicator in recent years before expanding again in 2012/13. This is understandable with regards to the changes the Directorate has undergone, and still is undergoing, but should be changed as soon as is feasible. The IPID might also want to retrospectively release data from 2010/11 and 2011/12 which might have been captured, but not released. This would allow both the Directorate, police and the broader public to engage with it longitudinally.

Description codes proposed by the IPID in relation to deaths

The description codes currently being proposed for use by the IPID for the purposes of case management in relation to deaths are discussed in this section, beginning with 'death in police custody'.

Table 2: Current IPID sub-categories of 'death in police custody'

Death in police custody Sec 28(1)(a)	Natural causes
	Injuries sustained in custody (Inmates/suicide)
	Injuries sustained prior to custody (vigilantism)

As self-evident as categories and sub-categories may appear to be, it is important that the IPID develops fixed descriptions for each. This will help prevent individual interpretation of offences. Main categories can be listed in annual reports which can point readers to the IPID website for definitions of sub-categories if space in reports is limited.

The definition currently proposed in the IPID's Standard Operating Procedures (SOP) manual is:

Death in custody: means the death whether natural or unnatural, which occurred while the deceased was in the custody of the SAPS or MPS.

This is a good, succinct description, but it begs the questions, when is a person considered to be 'in custody'? Although category definitions have seldom been offered in ICD reports, the Directorate has previously defined '**death in police custody**' as:

The death of any person which occurs during a period commencing upon the arrest of such person and ending when the person leaves police custody either legitimately or by escape. In the case of a person who is arrested by someone who is not a member of the Service, the period shall commence at the delivery of such person into police custody.

This grapples with the notion of custody, but is still unsatisfying. One weakness of this definition is that very few police in South Africa formally arrest civilians in the official manner, i.e. the laying on of hands, identifying themselves, stating the reason for arrest and reciting the individual's rights. Rather, any record of arrest tends only to emerge once police have returned to the police station and completed the necessary paper work. Also, police fairly often detain and release individuals without ever formally charging them. As such, it is recommended that the above definitions be adjusted to:

Death in police custody: means the death, whether natural or unnatural, of any person which occurs during a period commencing upon the deceased being taken into custody by means of verbal instruction or physical force by SAPS or MPS members, [in a manner that would be understood by a reasonable person as being for purposes of arrest]. The period ends when the person leaves police custody either legitimately (with police consent) or by escape. In the case of a person who is arrested by someone who is not a member of a Service, the period shall commence at the delivery of such person into police custody as defined here. All causes of death are considered 'apparent', but are based on the best evidence available including the expert opinion of a mortician or medical doctor.

An alternative to the bracketed 'in a manner that would be understood by a reasonable person as being for the purposes of arrest' is to replace this with '*as a result of which the person is under the effective control of the police*'.

'This definition could still be criticised for not covering contexts in which, for instance, an otherwise innocent friend of a wanted person is intimidated and/or beaten by police in an effort to persuade him/her to divulge the location of the suspect. The friend might agree to travel with the police in order to deliver them to the suspect. But the police vehicle might be involved in an accident and the innocent friend is killed. It is assumed that in such instances the death would be recorded as 'death as a result of police action: negligent handling of an official vehicle leading to a death', but this would hide much of what had actually happened.

An equally important concern involves cases where police officers are 'in the company' of civilians, but the civilians are not 'in custody' in relation to arrest. For example, a victim of a hijacking might flag down police on the side of the road. While being transported to the police station he/she may be killed in an accident resulting in the death being recorded in the same way as the previous example despite it being very different. Such challenges should be discussed internally by the IPID and kept in mind when settling on definitions.

It is also necessary to define the sub-categories: 'natural causes', 'injuries sustained in custody (inmates/suicide)', and 'injuries sustained prior to custody'. These need not be particularly detailed but should provide enough guidance to avoid mis-categorisation by IPID staff. The following are suggested starting points, building on literal dictionary definitions:

- **Natural causes:** means someone dies of or from natural causes while in police custody, they die *solely* because *they are ill or old* rather than because of an accident or violence.

Here it is important to stress 'solely ill or old'. This is a classification which should only be designated by an authorised medical doctor or relevant mortuary employee.

- **Injuries sustained in custody:** means someone dies of or from injuries sustained while in custody as defined in '*deaths in police custody*'.

The bracketed 'inmates/suicide' should be dropped from the current definition. (Even if it were retained or used elsewhere, 'inmate' should be replaced with 'detainee'. An 'inmate' is someone who has been incarcerated in a correctional facility; a 'detainee' is someone who has been detained by police.) The current definition should be broken into at least three subcategories. These are:

- **As a result of police action in custody:** means someone dies of or from injuries sustained as a result of police action while in custody.
- **As a result of detainee action:** means someone dies of or from injuries sustained as a result of the actions of fellow detainees while in custody.
- **As a result of an apparent suicide:** means someone dies of or from injuries sustained as a result of an apparent suicide while in custody.

Inconsistencies in the reporting of suicides in previous ICD reports has been pointed out in the past, including the suggestion that these inconsistencies make some prior data unreliable.¹⁸ As such, the IPID should endeavour to make the classification of related cases as unambiguous as possible. An alternative to the three sub-category approach outlined above would be for the IPID to make 'suicide' or 'apparent suicide' an entirely separate category; this should be considered.

The next 'death in police custody' sub-category code offered by the IPID is:

- **Injuries sustained prior to custody (vigilantism):** means someone dies of or from injuries sustained prior to custody as defined in '*death in custody*' where the cause of death is not the result of any action taken by police.

Of importance here is to distinguish between injuries sustained, for instance, during a high-speed pursuit. In such a situation a person, suspect or not, might be killed as a result of police pursuit. Their injuries would be sustained as a result of police action and yet this would not be evident from data captured. An alternative category for such a scenario would be 'a suspect died during the course of an escape', but if the 'suspect' has not formally been arrested, the use of this category would be misleading. Perhaps in such a scenario the death would be captured under 'Death as a result of police action'. It is recommended the IPID consider and fine tune categories with this in mind and finalise a definition that avoids ambiguity.

Similarly, it is recommended that the bracketed 'vigilantism' be dropped. Its presence creates ambiguity around whether the category refers *only* to deaths as a result of vigilantism or if this is one of many possible causes of death. As in the previous category the IPID could consider introducing sub-categories such as 'vigilantism' or 'accidental' based on past trends populating this category to improve understandings of data captured under this heading.

It is also suggested that the IPID employ the use of an 'other' category to capture outlying causes of death which might not be met by any of the other categories, for example as a result of substances ingested.¹⁹ If an 'other' category is used it would be beneficial if this could be disaggregated in reports by type and percentage, or the types of causes briefly explained in a few sentences.

Revised categories for this section would look like the following where bold text represents changes:

Death in police custody Sec 28(1)(a)	Natural causes
	Injuries sustained in custody <ul style="list-style-type: none"> • As a result of police action • As a result of detainee action • As a result of an apparent suicide
	Injuries sustained prior to custody <ul style="list-style-type: none"> • <i>(insert possible sub-categories here)</i>
	Other

The second half of this section discusses 'death as a result of police actions' and its sub-categories.

Deaths as a result of police actions Sec 28(1)(b)	A suspect died during the course of arrest
	A suspect died during the course of a crime
	An innocent bystander died during the commission of a crime
	A suspect died during the course of an escape
	An innocent bystander died during the course of an escape of another
	A suspect died during the course of an investigation
	Domestic violence related deaths
	Negligent handling of a firearm leading to a death
	Negligent handling of an official vehicle leading to a death
	Negligent handling of a private vehicle leading to a death
	Crowd management related incidents
	Private capacity related death

The current definition proposed by the IPID's SOP manual is:

Death as a result: means the death of any person, including a member of SAPS/ MPS or the action of SAPS/MPS, that was caused, or is reasonably believed to have been caused, by a member of the SAPS/MPS while acting in his or her capacity as a member of the SAPS/MPS, and shall include a death that occur in connection with:

- (i) an attempt to effect an arrest or to prevent an escape;
- (ii) a SAPS/MPS member's actions taken in private defence in the execution of his/ her duties;
- (iii) a motor vehicle accident involving one or more SAPS/MPS vehicles (marked or unmarked) during the execution of their duties;
- (iv) mass action where the SAPS/MPS is present;
- (v) any action or inaction by a SAPS/MPS member which amounts to a criminal offence or misconduct; and
- (vi) any action that caused death where a SAPS/MPS state asset was involved.

This definition raises at least one important question. There appears to be ambiguity around Section 28 (1) (b) as a whole; does it refer to any deaths as a result of the actions taken by people who work as police officials, or only deaths as a result of 'police action', i.e. in official capacity. Previously off-duty deaths would have been captured under 'domestic violence related and off-duty deaths'. The new proposed list includes 'domestic violence related deaths' and 'private capacity related deaths' suggesting that the IPID intends investigating deaths as a result of police action while off-duty. If this is the case then the words 'by a member of the SAPS/MPS while acting in his or her capacity as a member of the SAPS/MPS' should be deleted and replaced with 'by a member of the SAPS/MPS whether on or off-duty'.

As a result a suggested reconfiguration is:

Death as a result: means the death of any person, including a member of SAPS/MPS, that was caused, or is reasonably believed to have been caused, by a member of the SAPS/MPS whether on or off-duty and shall include, but not be restricted to, a death that occurred in connection with:

- (iii) a motor vehicle accident involving one or more SAPS/MPS vehicles (marked or unmarked) during the execution of police duties.

Also the IPID might want to change 'mass action' to 'crowd management related' as in the official sub-categories listed in the 'description codes for case flow management' document.

Sub-categories listed in this document should be addressed individually. As before, readers of IPID reports should be able to locate definitions of these categories either in IPID reports or on its website. Considerations regarding the 12 sub-categories:

- (i) **A suspect died during the course of an arrest:** means a death occurring as a result of an attempt by a member of the SAPS or MPS to take into or keep a person in custody by authority of law by means of verbal instruction or physical force that would be understood by a reasonable person as being for purposes of arrest and includes uses of lethal force against a person fleeing from a scene of crime or to avoid arrest where that person has not already been taken into police custody.

The use of 'suspect' is not unproblematic. Police conduct illegal stop and searches of people and vehicles daily without reasonable grounds to do so. If something goes wrong, and a young man who is being searched is accidentally shot or hit by a car, would they be classified as a 'suspect'? Similar questions can be asked about the idea of 'an innocent bystander'. The IPID should consider these ambiguities and whether they can be dealt with/made clear.

Other suggested definitions are:

- (ii) **A suspect died during the course of a crime:** means a death occurring as a result of police action taken during a crime in progress (e.g. a hostage situation or robbery). This category does not include deaths of people who are obviously fleeing from the scene of the crime or the police.

It is suggested that (iii) below is changed from the original proposed by the IPID to the following:

An innocent bystander died during an arrest, crime or escape: means a death occurring as a result of police action taken in response to police coming into contact with persons committing a criminal act where the deceased is not one of the persons committing, or suspected of being a part of conspiracy to commit the criminal act.

While the IPID currently proposes both the category '(iii) An innocent bystander died during the course of a crime' and '(v) An innocent bystander died during the course of an escape of another', the above amendment allows for (v) to be dropped while allowing for the inclusion of a wider range of deaths. With regards to (iii), the IPID may want to distinguish between 'action taken by police' and 'action taken by any party'. It is assumed that the IPID wants the category to reflect only persons deceased as a result of police action (i.e. a police bullet) rather than including those who die as a result of the criminal actor's actions (i.e. a bank robber's bullet while shooting at police).

- (iii) **A suspect died during the course of an escape:** means any action by a member of the SAPS or MPS taken to prevent a person who, having been lawfully detained, attempts to get away from police confinement or control as if to permanently flee custody.

Two points relate. One regards maintaining consistency with concepts of 'custody', that the detention is lawful. For instance, if someone was illegally detained by police, and assaulted or

tortured by them, should his/her attempt to flee be seen as 'escape'? Whereas a person lawfully detained would be breaking the law by attempting to get away from police, someone who has been illegally detained or treated should not be put in this same category. This is only offered as a suggestion to be considered by the IPID. One option would be to make a note about such hypothetical possibilities in the definition write-up and to state that the IPID will report on the distinction if ever it needs to be made. In the absence of such a report, readers could assume the category refers to illegal escapes.

The other point worthy of mention, and relating to all IPID categories, is whether the term 'suspect' is a valid one. Police are able to justify numerous illegal actions by framing innocent persons as 'suspects' and constructing what they believe are grounds based on 'reasonable suspicion'. As such, the IPID may want to refrain from using the word and instead replace it with 'person'.

It is recommended that the IPID's category (v) below be dropped. However, in the event that this recommendation is rejected the following is provided for consideration:

- (iv) **An innocent bystander died during the course of an escape of another:** means a death occurring as a result of police action taken in response to a person, having been lawfully detained, who attempts to get away from police confinement or control as if to permanently flee custody, where the deceased is not (one of) the person(s) attempting to get away/escape.

As with (iii) above, the IPID may want to distinguish between 'action taken by police' and 'action taken by any party' depending on whether the category reflects only persons deceased as a result of police action (i.e. a police bullet) or as a result of the criminal actor's actions (i.e. an escapee's knife or vehicle). Alternately, the category should be titled 'An innocent bystander died' and be broken into the sub-categories 'During a crime' and 'During an arrest or escape'. However, as suggested under (iii), removing (iv) may be simplest.

(v) **A suspect died during the course of an investigation**

This is a particularly ambiguous category which has never been clear from ICD reports and will require input from the IPID before an example can be formulated. The key question to consider here is: What police action taken during the course of an investigation would not be covered by another sub-category? For example, 'negligent handling of an official vehicle leading to death' or 'a suspect died during the course of an escape' or a new category such as 'a suspect died as a result of illegal and/or criminal action by police' such as torture or assault GBH? Perhaps the best way to define this category would be to include what it *is not*. It *is not* a death during an escape, it *is not* a death during an arrest, it *is not* a death during a crime. Another option would be to create a category such as 'Other deaths as a result of police action in the course of police duties', though again it would be important to define this so that IPID staff do not confuse it with categories. This should be discussed by IPID staff with an eye to defining the category clearly, making it a third-tier sub-category, or dropping it entirely.

- (vi) **Domestic violence related deaths:** means deaths occurring as a result of police action, whether the member is on or off-duty, against a person or persons with whom he/she is in a domestic partnership as defined by the Domestic Violence Act No. 116 of 1998, including physical or sexual abuse.

This category links to an important question raised at the start of the discussion relating to 'deaths as a result' on page 12. The current definitions proposed by the IPID cover only deaths as a result of police action in an official capacity. However, the IPID then includes (vii) which relates to domestic violence, something which tends to occur off-duty. As such, the IPID may want to include the words 'and off-duty' in the above definition so that the category captures any deaths caused by police while off-duty. This would allow for continuity with past reporting. Of importance here is ensuring that the SAPS is aware of this sub-category and reports all deaths as a result of police action, both on and off-duty, to the IPID.

For (vii) below it is recommended that 'negligent' be removed and changed to:

- (vii) **Accidental discharge of a firearm leading to a death:** means the accidental discharge of a firearm, state or non-state, resulting in the death of a person or persons.

The IPID suggested title for this category is 'Accidental discharge of a firearm'. The change has been made based on the assumption that this category is only intended to capture accidental discharges. Decisions relating to negligence would be decided in court. As with (vii), accidental discharges can take place at home when police are off-duty. The reference to 'non-state' firearms is important for instances where police are recovering or seizing firearms in the course of their duties, but can also refer to off-duty handling of non-state firearms.

- (viii) **Negligent handling of an official vehicle leading to a death**

It is recommended this be changed to:

- Vehicle collision or action involving or caused by police:** means death as a result of a collision with or caused by police action taken while police operate a vehicle of any type while on duty.

This new category could also then replace the IPID's suggested category:

- (ix) **Negligent handling of a private vehicle leading to a death**

It is unclear how the second category fits the IPID's mandate, particularly if 'private vehicles' are interpreted as referring to police driving while off-duty. 'On duty' would need to be defined, for example, as 'having a presence in the Occurrence Book of the police station or unit at which the official serves'. It appears that key to this category is finding out 'who died'. In the course of their duties police may recklessly expose pedestrians or other vehicle users to danger. The person who is killed may be (i) a person who is being pursued, but they may just crash while fleeing police rather than actually being hit by the police, (ii) a person in a police vehicle (which raises multiple complications) or (iii) another road user or pedestrian. If in (ii) police are hit by another vehicle this may be 'in custody', but may not be 'as a result of police action'. Additionally, police may cause accidents while simply driving around, by parking in an obstructive position, or even while on foot. The category could also be broken into the sub-categories 'A suspect/person died in a vehicle collision or action involving police' and 'An innocent person died in a vehicle collision or action involving police'. Again, any negligence would be decided on in court.

These categories raise a number of concerns which the IPID should reflect on carefully when deciding on final definitions.

- (x) **Crowd management related contexts resulting in death:** means police action taken in a crowd management context involving the formal policing of assemblies, demonstrations and all gatherings, as defined in the National Municipal Policing Standard for Crowd Management during Gatherings and Demonstrations (Act No. 307 Of 2008).

The word 'incidents' proposed by the IPID has been changed to 'contexts' here. The incident (event/occurrence) is less important than the context (the circumstances that form the setting for an event). While this is an excellent sub-category for the IPID to record and track, it will require disaggregation for it to fulfil its potential. This will be discussed in the next section.

- (xi) **Private capacity related death:** means a death occurring as a result of any action or omission by a member of the SAPS or MPS while off-duty, including any action unrelated to police duties.

While this is an excellent category to track it may be difficult to report on uniformly. As with others regarding off-duty actions by police, reporting will require educating SAPS and MPS officials. Category (xii) is the last of those in the current IPID draft of categories relating to death.

Finally, it is important to retain an 'other' category for instances that might not fit neatly into any of the pre-defined categories.

Deaths as a result of police actions Sec 28(1)(b)	
	A suspect died during the course of arrest
	A suspect died during the course of a crime
	An innocent bystander died during an arrest, crime or escape
	A suspect died during the course of an escape
	An innocent bystander died during the course of an escape of another
	A suspect died during the course of an investigation
	Domestic violence related deaths
	Accidental discharge of a firearm leading to a death
	Vehicle collision or action involving or caused by police
	Negligent handling of a private vehicle while on duty leading to a death
	Crowd management related contexts resulting in death
	Private capacity related death
	Other

It is recommended that for each sub-category, relative third-tier categories/incident codes are also recorded (discussed at the end of this report). These will provide details which will help the IPID, Police Secretariat and civil society understand trends and challenges relating to death in the policing context.

Table 6 presents all suggested categories related to death, together with their descriptions (note that some recommended omissions are not included here):

Deaths in police custody	
Short description	Description
Death in police custody	means the death, whether natural or unnatural, of any person which occurs during a period commencing upon the deceased being taken into custody by means of verbal instruction or physical force by SAPS MPS members, in a manner that would be understood by a reasonable person as being for purposes of arrest. The period ends when the person leaves police custody either legitimately (with police consent) or by escape. In the case of a person who is arrested by someone who is not a member of a Service, the period shall commence at the delivery of such person into police custody as defined here. All causes of death are considered 'apparent', but are based on the best evidence available including the expert opinion of a mortician or medical doctor.
Natural causes	means someone dies of or from natural causes while in police custody, they die <i>solely</i> because <i>they are ill or old</i> rather than because of an accident or violence.
Injuries sustained in custody	means someone dies of or from injuries sustained while in custody as defined in ' <i>deaths in police custody</i> ' <ul style="list-style-type: none"> • As a result of police action in custody: means someone dies of or from injuries sustained as a result of police action while in custody. • As a result of detainee action: means someone dies of or from injuries sustained as a result of the actions of fellow detainees while in custody. • As a result of an apparent suicide: means someone dies of or from injuries sustained as a result of an apparent suicide while in custody.
Injuries sustained prior to custody:	means someone dies of or from injuries sustained prior to custody as defined in ' <i>deaths in police custody</i> ' where the cause of death is not the result of any action taken by police.
Deaths as a result of police action	
Short description	Description
Deaths as a result of police action	Death as a Result: means the death of any person, including a member of SAPS or MPS or the action of SAPS/MPS, that was caused, or is reasonably believed to have been caused, by a member of the SAPS/MPS whether on or off-duty and shall include a death that occur in connection with.

Table 6: Suggested revisions for all sub-categories related to deaths, and their descriptions (continued)

Deaths as a result of police action	
Short description	Description
A suspect died during the course of an arrest	means a death occurring as a result of an attempt by a member of the SAPS or MPS to take into or keep a person in custody by authority of law by means of verbal instruction or physical force that would be understood by a reasonable person as being for purposes of arrest and includes uses of lethal force against a person fleeing from a scene of crime or to avoid arrest where that person has not already been taken into police custody.
A suspect died during the course of a crime	means a death occurring as a result of police action taken during a crime in progress (e.g. a hostage situation or robbery). This category does not include deaths of people who are obviously fleeing from the scene of the crime or the police.
An innocent bystander died during an arrest, crime or escape	means a death occurring as a result of police action taken in response to police coming into contact with persons committing a criminal act where the deceased is not one of the persons committing, or suspected of being a part of conspiracy to commit the criminal act.
A suspect died during the course of an escape	means any action by a member of the SAPS or MPS taken to prevent a person who, having been lawfully detained, attempts to get away from police confinement or control as if to permanently flee custody.
An innocent bystander died during the course of an escape of another	means a death occurring as a result of police action taken in response to a person, having been lawfully detained, who attempts to get away from police confinement or control as if to permanently flee custody, where the deceased is not (one of) the person(s) attempting to get away/escape.
Accidental discharge of a firearm leading to a death	means the accidental discharge of a firearm, state or non-state, resulting in the death of a person or persons.
Vehicle collision or action involving or caused by police	means death as a result of a collision with or caused by police action taken while police operate a vehicle of any type while on duty.
Crowd management related contexts resulting in death	means police action taken in a crowd management context involving the formal policing of assemblies, demonstrations and all gatherings, as defined in the National Municipal Policing Standard for Crowd Management during Gatherings and Demonstrations (Act No. 307 Of 2008).
Private capacity related death	means a death occurring as a result of any action or omission by a member of the SAPS MPS while off-duty, including any action unrelated to police duties.

Reminders related to 'deaths'

- It is important that each category and sub-category of the IPID mandate be clearly defined to prevent inconsistent recording of incidents, and to allow for long term measurement and analysis of IPID work.
- Key terms such as 'custody', 'suspect' and 'innocent bystander' should also be clarified. Some recommendations have been provided.
- The IPID should remain wary of allowing even the most apparently self-evident categories to go without explanation.
- The sub-category 'a suspect died during the course of an investigation' should be clarified or dropped.
- The sub-categories 'negligent handling of a private vehicle leading to a death', 'private capacity related death' should be clarified or dropped so that their relevance to the IPID mandate is clear.
- Yearly changes in death-related statistics should be reported each year, as should longitudinal comparison covering past years.
- Additional third and fourth-tier sub-categories should be employed to capture as much detail as is practically possible relating to the contexts in which deaths take place, the actions leading to them, and the demographics of those involved. This is discussed further at the end of this report.
- The IPID should ensure that the SAPS is aware of responsibilities relating off-duty deaths so that these are reported to it consistently.

'Any complaint relating to the discharge of an official firearm by any police officer'

This section discusses the new IPID mandate category 'any complaint relating to the discharge of an official firearm by any police officer'. This is a category not previously engaged with by the ICD. This mandate area was not previously a priority area for the ICD unless discharged firearms resulted in harm or death. The closest comparison in ICD reports is found in 2001/02 and 2007/08 when the

Directorate noted the ‘circumstances of shootings’ using these sub-categories:

- shooting during course of arrest;
- shooting during course of a crime;
- shooting during course of investigation;
- shooting during course of escape;
- other intentional shooting;
- possible negligence; and
- shooting due to negligent handling of firearm.

The IPID has already made recommendations regarding sub-categories for the new mandate area, as in Table 7. If these are retained they should be defined in detail in order to prevent overlap with other mandate areas. Suggestions in this regard are listed below. However, two alternatives also seem feasible. One suggestion would be a drastic change in categories. In their current proposed form, categories assume an intention to kill (‘attempted murder’). It might be important to focus on the circumstances in which discharges take place, rather than on the intention of the officials involved. Intention can be decided on based on evidence collected by the IPID. Current suggestions could then be modified to reflect those used in the ‘deaths’ section already discussed, but inserting the words ‘a person was injured by a firearm discharged [during the course of an arrest]’ for example, where the bracketed element reflects the context. Another wording option would be ‘a firearm was discharged [during the course of an arrest]’ if the bullet did not hit anybody.

Another option would be to continue using categories used in 2001/02 and 2007/08, possibly adjusting them slightly. ‘Shooting’ does not imply judgement and so avoids the problem raised in the previous paragraph.

Despite these two possible objections, it is recognised that the same problems apply to any criminal act in South African law. Any reported crime is recorded as if intentional and is treated as such until a legal decision is made on the matter. As such, one could argue for the retention of the categories below. It is recommended that the IPID consider all three of these options. The definitions below are provided to guide the IPID should it choose to retain its original categories.

Table 7 shows the sub-categories currently proposed by the IPID:

Any complaint relating to the discharge of an official firearm by any police officer Sec 28(1)(c)	Attempted murder – live ammunition
	Attempted murder – crowd management ammunition
	Discharged of official firearm – intentional
	Discharged of official firearm – accidental

Without any precedent to work with, the following are suggested starting points for definitions of these categories:

- **Any complaint relating to the discharge of an official firearm by any police officer:** means a complaint involving the discharge (firing) of an official state firearm by any police officer that does not relate to a death as a result of police action or complaint of rape or torture.

The original wording does not differentiate between the discharge of a weapon in a context that might more readily be captured under another IPID mandate area, for instance ‘death as a result of police action’ or ‘torture’ (where the intentional firing of a weapon is used to cause fear in a detained person).

- **Attempted murder – live ammunition:** means the unlawful discharge of live ammunition from an official firearm with the apparent intention of killing another human being, but which does not result in the death of that human being, in any context other than crowd management.

The IPID may want to consider dropping the word 'unlawful' although this is the definition of 'attempted murder' employed by the SAPS.

- **Attempted murder – crowd management ammunition:** means the unlawful discharge of crowd management ammunition from an official firearm with the intention of killing another human being, but which does not result in the death of that human being.

It is recommended that this category and definition be dropped. It would be difficult to prove intent to kill using non-lethal ammunition in a crowd management context. It would also be difficult to prove that the firing of the weapon was 'unlawful'. Rubber bullets fall under the category 'less than lethal' or 'non-lethal' ammunition which also makes 'attempted murder' problematic. Rather, it is suggested this sub-category be replaced with the following two categories:

- **Intentional discharge of an official firearm – non-lethal ammunition in a crowd management context:** means the discharge of an official firearm using non-lethal ammunition in a crowd management context as defined in the National Municipal Policing Standard for Crowd Management during Gatherings and Demonstrations (Act No. 307 Of 2008); and
- **Attempted murder – crowd management context:** means the unlawful discharge of live ammunition from an official firearm with the apparent intention of killing another human being, but which does not result in the death of that human being, in a crowd management context as defined in the National Municipal Policing Standard for Crowd Management during Gatherings and Demonstrations (Act No. 307 Of 2008).

The next sub-category is:

- **Discharge of official firearm – intentional:** means the intentional discharge of live ammunition from an official firearm without the intention of killing another human being in any context other than crowd management. For example, firing a warning shot in the air, or clearly directing a bullet at an arm or leg.

The challenge here is proving that the intentional discharge of the firearm is not intended to kill. As such, the IPID might consider dropping or further amending this sub-category to better differentiate it from 'attempted murder – live ammunition'.

- **Discharge of official firearm – unintentional:** means the unwilling, unintended discharge of live ammunition from an official firearm.

It is recommended that 'accidental' be changed to 'unintentional' to emphasis this category as the opposite of the previous, 'intentional' category. Also, for both these categories the IPID might want to consider dividing them into two, one for 'live rounds' and one for 'non-lethal rounds'. Alternately this could be captured as a third-tier category (discussed at the end of this report).

Table 8 summarises suggested changes to the IPID's proposed sub-categories for complaints relating to the discharge of firearms, should the IPID consider retaining its recommended list. Shaded categories would be omitted and bold text represents changes.

Any complaint relating to the discharge of an official firearm by any police officer Sec 28(1)(c)	Attempted murder – live ammunition
	Attempted murder – crowd management ammunition
	Intentional discharge of an official firearm – non-lethal ammunition in a crowd management context
	Attempted murder – crowd management context
	Discharged of official firearm – intentional
	Discharged of official firearm – unintentional

Table 9 summarises these suggested changes together with their definitions.

Any complaint relating to the discharge of an official firearm by any police officer	
Short description	Description
Any complaint relating to the discharge of an official firearm by any police officer	means a complaint involving the discharge (firing) of an official state firearm by any police officer while on duty which does not more obviously fall under any other IPID mandate area.
Attempted murder – live ammunition	means the unlawful discharge of live ammunition from an official firearm with the intention of killing another human being, but which does not result in the death of that human being, in any context other than crowd management.
Intentional discharge of an official firearm – non-lethal ammunition in a crowd management context	means the discharge of an official firearm using non-lethal ammunition in a crowd management context as defined in the National Municipal Policing Standard for Crowd Management during Gatherings and Demonstrations (Act No. 307 Of 2008).
Attempted murder – crowd management context	means the unlawful discharge of live ammunition from an official firearm with the intention of killing another human being, but which does not result in the death of that human being, in a crowd management context as defined in the National Municipal Policing Standard for Crowd Management during Gatherings and Demonstrations (Act No. 307 Of 2008).
Discharge of official firearm – intentional	means the intentional discharge of live ammunition from an official firearm without the intention of killing another human being in any context other than crowd management. For example, firing a warning shot in the air, or clearly directing a bullet at an arm or leg.
Discharged of official firearm – unintentional	means the unwilling, unintended discharge of live ammunition from an official firearm.

In addition to these categories, the IPID might want to consider the suggestions made at the start of this discussion regarding dropping these categories and aligning them with those used related to ‘death’, or bringing them in line with categorisations of shootings used by the ICD in the past.

Defining categories of ‘Rape’

The IPID Act compels the IPID to investigate two categories of rape, those allegedly committed by police and those committed in police custody. The crime of rape was previously recorded under the broad category ‘criminal offences’ in ICD reports. Because it was listed as one of a long list of other criminal offences, it was not generally compared to previous years, and never tracked longitudinally.

In 2010/11 the ICD began focusing on reported rape whether a police officer was on duty or not.²⁰ It is assumed that this decision was made in light of the then developing IPID Act. It is not known whether complaints captured as ‘rape’ prior to 2010/11 represent only those rapes alleged to have taken place while a police officer was on duty. It would be good if the IPID could clarify this with a footnote in reports covering the early years of these new categories. This will support readers in linking future reports to past data. Additionally, if the IPID is able to disaggregate past rape data according to whether the rape was alleged to have taken place while officers were on or off-duty, this could be published online as a once-off release. This would help aid longitudinal analysis of future data for anyone interested, including the IPID.

Currently ‘rape’ and ‘rape by a police officer’ is not defined in the IPID’s SOP manual. As such, the following is offered as a suggestion:

- **Rape by a police officer, whether the police officer is on or off-duty:** means any person employed as a police officer, whether on or off-duty, who unlawfully and intentionally commits an act of sexual penetration with a person without that person’s consent, whether in police custody or not.

The final words, ‘whether in police custody or not’ are intended to clarify the distinction between complaints captured under this category from those falling under the second category of rape. In other words the second category only applies to incidents of rape alleged to have taken place in police custody that *do not* involve a police officer. Also, within this category it will be important for the IPID to distinguish a number of variables, including whether the accused officer was on duty

or not. **This should be achieved by populating the case management system with, and selecting from, a detailed list of indicators, outcomes, actions and objects.** These would provide each complaint with a range of detailed markers on which analysis can be based. (This is discussed in more detail in the final section of this report.)

It is also worth noting for both this category and others, the uncertainty around whether offences committed by off-duty reservists would fall within the IPID's mandate. For example, would a shooting, rape, vehicle accident or private capacity related death involving an off-duty reservist fall within the IPID's mandate? It would be beneficial if the IPID could clarify this in its reports.

The only sub-category currently proposed for 'Rape by police officer, on or off-duty' in the IPID's 'description codes' document is 'Rape – SAPS/MPS member'. It is unclear what this is intended to indicate and so it is suggested that it be dropped.

Some other sub-categories which the IPID may want to consider are:

- Rape by a police officer of a person in police custody whether on or off-duty;
- Other rape by a police officer on duty; and
- Other rape by a police officer off-duty.

This type of disaggregation might also be achieved by capturing on and off-duty data for any IPID complaint, as outlined at the end of this report. Even so, the above categories could be considered for reporting purposes.

Notwithstanding the recommendations for consideration above, a suggested definition for this category is:

Table 10: Suggested definition of 'Rape by police officer, whether the police officer is on or off-duty'	
Short description	Description
Rape by police officer, whether the police officer is on or off-duty Sec 28(1)(d)	means any person employed as a police officer, whether on or off-duty, who unlawfully and intentionally commits an act of sexual penetration with a person without that person's consent, whether in police custody or not.

The second category of rape listed in the IPID's mandate is 'rape in police custody'. Again, the IPID's 'description codes' document does not offer a description of the category. The following is suggested:

- **Rape in police custody:** means any allegation that a person ('A') who is not a police officer unlawfully and intentionally commits an act of sexual penetration with a complainant ('B'), without the consent of B, while in police custody.

In this definition, 'in police custody' would be defined as it is under 'death in police custody' as being:

A period commencing upon the victim being taken into custody by means of verbal instruction or physical force by SAPS or MPS members, in a manner that would be understood by a reasonable person as being for purposes of arrest. The period ends when the person leaves police custody either legitimately (with police consent) or by escape.

The only sub-category currently proposed for 'Rape in police custody' in the 'description codes' document is 'Rape – civilian'. Again, it is unclear what this is intended to indicate. Furthermore, use of the word 'civilian' excludes the rare possibility that a police official, detained in police custody, is raped. If this category were to be retained it is recommended the word 'detainee' be used to replace 'civilian'. But without a clear need for the category it is suggested that it be dropped. As such, the suggested definition for this category is:

Table 11: Suggested definition of 'Rape in police custody'	
Short description	Description
Rape in police custody Sec 28 (1)(e)	means any person ('A') who unlawfully and intentionally commits an act of sexual penetration with a complainant ('B'), without the consent of B, while in police custody.

The IPID might choose to incorporate a definition of 'custody' into this definition, or rather to foreground it as part of a glossary to reports.

Rape can be difficult to define. Box 1 offers some additional information to aid IPID staff when defining complaints.

Box 1: Notes regarding Rape and the IPID mandate
<p>The Sexual Offences and Related Matters Amendment Act, No. 32 of 2007 states that:²¹</p> <p><i>Any person ('A') who unlawfully and intentionally commits an act of sexual penetration with a complainant ('B'), without the consent of B, is guilty of the offence of rape.</i></p> <p>As such, rape includes:²²</p> <ul style="list-style-type: none"> • Someone inserting their genital organs into the mouth, anus or genital organs of a victim; • Any part of someone's body, such as a finger, going into the anus or genital organs of the victim; • Any object, like a stick or a bottle being put into the anus or genital organs of the victim; and • The genital organs of an animal being put into the mouth of the victim. <p>The Act defines 'compelled rape' which would presumably fall within the IPID mandate as:</p> <p><i>Any person ('A') who unlawfully and intentionally compels a third person ('C'), without the consent of C, to commit an act of sexual penetration with a complainant ('B'), without the consent of B, is guilty of the offence of compelled rape.</i></p> <p>Rape is by definition not consensual. Consent is defined as 'voluntary or uncoerced agreement'²³ As with corruption, police work lends itself to coercion by police, both legal and illegal. As such, a victim is deemed to have been raped if:²⁴</p> <ul style="list-style-type: none"> • They have been intimidated, forced or threatened in any way, through violence or threats of violence against themselves or someone they love, or to their property; • They have been compelled by someone who abuses their power or authority, for instance if a police official tells them he/she will arrest them if they don't participate. (It might be argued that any act of sexual intercourse by a police officer with someone in custody is likely to involve an element of coercion related to the imbalance of power between the police officer and other person); • They are asleep or unconscious, or under the influence of drugs or alcohol; and • They are a child under the age of 12 or if they suffer from a mental disability which impairs their ability to consent. <p>Rape might often be accompanied by other offences including assault, torture or murder. In such instances it is recommended that the IPID capture details of all offences under that which might be considered the primary offence. Not doing so could be considered an additional violation of the victim.</p>

Reminders related to 'rape'

- It is important that IPID investigators and other staff are fully aware of the breadth of the definition of rape in South Africa, including compelled rape, statutory rape and same-sex rape.
- It would be helpful if the IPID could disaggregate its historical data on rape complaints to distinguish whether officers were on duty or not at the time of the alleged offences. This would help in comparisons of IPID and ICD data.
- The IPID should think about and plan for instances in which the offence of rape is coupled with other offences such as assault, torture or murder and put in place a framework to guide recording in such instances.

Torture

By categorising certain complaints as 'torture' in the past, the ICD has played an important role in exposing police practices in the absence of any formal legislation. Like rape, torture has previously fallen under the broad category 'criminal offences' and so has only been reported on in the most basic terms year on year. However, the ICD has at times made an effort to describe some of the practices of torture which have been brought to its attention.²⁵

It appears that the ICD may have not always used a consistent definition where reporting on torture. For example, in 2008/09 there were 20 reported complaints relating to torture while in 2009/10 there

were none. Unless the bulk of the 20 came from one or two particularly problematic stations/units with particularly active victims, this is likely the result of a change in categorisation year on year.

The IPID Act requires that the Directorate investigate ‘any complaint of torture or assault against a police officer in the execution of his or her duties’. This presents a challenge, to conflate ‘torture’ and ‘assault’ into one category with a focus on sub-categorisation, or to report on the two separately. The approach evident in current IPID classification is to separate the two. This section engages with this option. Box 3 at the end of the ‘Assault’ discussion considers conflating the two categories into one.

The IPID’s ‘description codes’ document present torture together with three sub-categories as:

Torture Sec 28(1)(f)	Assault
	Suffocation
	Electrocution

These three sub-categories do not provide enough breadth of description for the range of torture cases the IPID is likely to engage. The ‘Case Description Code – Incident Codes’ IPID document presents the following additional options/formulations:

- Assault – Torture – Beating;
- Assault – Torture – Electrocution;
- Assault – Torture – Suffocation with plastic bag;
- Assault – Torture – Suffocation with tube; and
- Assault – Torture – Suffocation with towel.

These sub-categories are helpful, particularly because they allow for some comparison with past ICD data which has used comparable definitions. However, in order to allow for full breadth of category formation it is suggested that IPID staff use a detailed pre-populated list of indicators, outcomes, actions and objects discussed at the end of this report.

In terms of a primary definition for torture, the SOP manual defines this in line with the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT):

Torture: means any act by which severe pain or suffering, whether physical or mental, is **intentionally** inflicted on a person for such purposes as obtaining from him or her or a third person **information or a confession**, punishing him or her for an act that he, she or a third person has committed or is suspected of having committed, or intimidating or coercing him or her or a third person, or for any reason based on discrimination of any kind, whether such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising from, inherent or incidental to lawful sanctions [original emphasis].

This definition is considered whole and complete and if assault and torture are kept separate, it is recommended that the IPID retain it as such. However, the IPID will have to provide detailed guidance to investigators and other staff on how to identify and distinguish torture from assault, among other challenges. Suggestions in this regard can be found in Box 2.

Reminders regarding ‘torture’

- IPID investigators and staff should be familiar with those elements that distinguish torture from assault. They should be able to identify a complaint as involving torture without the victim having used the word. (Alternately see the discussion after ‘Assault’ below, regarding conflating these categories.)

- Rape (including with objects) can be a form of torture. The IPID’s CMS and its report writers need to be able to record and acknowledge incidences of rape that might also be classified as torture, and report them as such.

Box 2: Guidance in identifying torture inflicted by South African police²⁶

Based on the UNCAT definition and considered in relation to the IPID’s mandate, it can be said that torture is the intentional infliction of severe mental or physical pain or suffering by or with the consent of police officials for a specific purpose.

Torture is often used to punish, to obtain information or a confession, to take revenge on a person or persons or create terror and fear within a population, including among those suspected of having committed a criminal offence.

Some of the most common methods of physical torture include **beating, electric shock, stretching, submersion, suffocation, burns, rape and sexual assault.**

Psychological forms of torture and ill-treatment, which can have the most long-lasting consequences for victims, commonly include: **isolation, threats, humiliation, mock executions, mock amputations, and witnessing the torture of others**, although some of these may not commonly be used by police in South Africa.

Some of these forms of torture overlap with other serious categories of offence falling within the IPID’s mandate such as rape. If the IPID encounters a case in which there is evidence that a rape committed by a police official falls within the definitions of torture, it should be captured to reflect both the rape and the torture. Not doing so could be considered an additional violation of the victim.

Assault

Like rape and torture, assault has traditionally fallen under the category ‘criminal offences’ in ICD reports. In fact, it is the offence which has usually accounted for the single greatest portion of criminal offences recorded each year, with assault GBH usually accounting for many more complaints than common assault. This is likely because victims of severe assaults, medical staff involved and police management are more likely to report such instances than they are common assaults. One can assume, though, that in practice far more common assaults than assault GBH is carried about by police officials. While the IPID Act may result in a slight increase in the capturing of common assault due to the onus placed on police in this regard, it is unlikely.

Because of its prominence, the ICD has over the years provided some detail regarding assaults which is not always found in relation to other criminal offences. These usually only relate to single sentences which describe what per cent of all criminal offences are made up of assaults. Yearly change has not been tracked, nor has assault been tracked longitudinally in reports. However, it is expected that the ICD can easily access past data on assaults. Because the definition of the offence may not change under the IPID’s mandate (unless ‘torture’ and ‘assault’ are conflated), it is recommended that the IPID compares its future assault figures with those collected by the ICD. (Even if ‘torture’ and ‘assault’ are conflated in future, comparison with the past should still be possible with IPID assistance.)

The IPID’s ‘description codes’ document and SOP manual do not offer a definition for assault though it is assumed one exists along the lines of:

- **Assault:** means the unlawful and intentional application of force by a police official to another person’s body, or inspiring a belief in another person that force is immediately to be applied to him or her.

Accepting this as a workable definition, the IPID offers the following sub-categories:

Table 13: Current IPID sub-categories for ‘assault’

Assault Sec 28(1)(f)	Assault – common
	Assault – dog attack
	Assault – indecent
	Assault – with intent to do grievous bodily harm (GBH)

Because these categories will provide some comparison with past ICD statistics, they should be retained if a single category approach is taken. However, additional detail can be added in the recording of future cases using third-tier sub-category incident codes as suggested at the end of this report. Also, 'indecent assault' has been replaced by 'sexual assault' in South African law and the category should be amended to reflect this.

The following are suggested definitions for the above sub-categories with the first being a repeat of the original definition for assault:

- **Assault – common:** means the unlawful and intentional application of force by a police official to another person's body, or inspiring a belief in another person that force is immediately to be applied to him or her.
- **Assault – dog attack:** means the unlawful and intentional application of force to another person's body with the assistance of a dog, or inspiring a belief in another person that force applied by the police official and/or dog is immediately to be applied to him or her.
- **Assault – with intent to do grievous bodily harm (GBH):** means the unlawful and intentional application of force by a police official to another person's body with the intention of causing serious bodily injury.
- **Assault – sexual:** means the unlawful and intentional sexual violation of a person by a police official without their consent, including inspiring the belief in such a person that they will be sexually violated by the police official.

Box 3: Notes regarding 'Assault – sexual' and the IPID mandate

The Sexual Offences and Related Matters Amendment Act, No. 32 of 2007 states that:²⁷

A person ('A') who unlawfully and intentionally sexually violates a complainant ('B'), without the consent of B, is guilty of the offence of sexual assault.

A person ('A') who unlawfully and intentionally inspires the belief in a complainant ('B') that B will be sexually violated, is guilty of the offence of sexual assault.

As such, sexual assault includes:²⁸

- i) Direct or indirect contact between the genitals, anus or female breasts of one person and another part of the body of another person, animal or object, for example, touching a woman's breasts without her consent
- ii) Contact with the mouth of one person and
 - the mouth of another person, for example, kissing someone without their consent;
 - the genitals, anus or breasts of another person;
 - any other part of another person's body in a way that causes sexual arousal;
 - any object that resembles the genitals, anus or breasts, for example, sex toys;
 - the genital organs or anus of an animal;
 - inserting an object that resembles human or animal genitals, for example, a dildo into a person's mouth; and
 - masturbating someone with the mouth without their consent.

Many of these acts might be performed in jest in the workplace among police officials and other employees and it is unlikely that these would be reported to the IPID. It is worth bearing the definition in mind, nonetheless.

As with rape, the Act defines 'compelled sexual assault' as:

A person ('A') who unlawfully and intentionally compels a third person ('C'), without the consent of C, to commit an act of sexual violation with a complainant ('B'), without the consent of B, is guilty of the offence of compelled sexual assault.

In this category a police official would have to force someone else to unwillingly perform sexual acts on a third person. While this kind of coercive action is much less likely from police than coercive rape, there may be some value in IPID staff being familiar with the concept nonetheless. Some examples of compelled sexual assault are:²⁹

- Forcing someone to masturbate themselves;
- Forcing someone to act in a way that is sexually arousing or degrading;
- Forcing someone to penetrate their own genitals or anus, either with a finger or an object;
- Exposing genital organs, anus or female breasts to others (flashing) without their consent; and
- Forcing others to watch sex-acts, self-masturbation or sex crimes without their consent.

As with rape, sexual assault might be accompanied by other offences. In such instances it is recommended that the IPID capture details of all offences under that which might be considered the primary offence. Not doing so could be considered an additional violation of the victim.

Reminders regarding 'assault'

- Assault has traditionally accounted for the greatest proportion of complaints previously defined as 'criminal offences' by the ICD. As such, this is an area to which the IPID should pay particular attention, both in terms of longitudinal comparisons with ICD data, and with regards to disaggregating and seeking to understand the risk factors linked to assault.
- Given the breadth of the interpretation in the category 'assault', it is likely that many such offences go unreported. The IPID might want to provide educational pamphlets at station level so that members understand the range of offences for which they can be prosecuted, and which they are compelled to report to the IPID.
- It is important that IPID investigators and staff are aware of the breadth of meaning in the 'assault' category.

Box 4: Optional conflation of 'torture' and 'assault' into one category

Important

It can be very difficult to distinguish torture from assault, particularly assault GBH. Regardless of how much guidance or training is provided, there is likely to be inconsistency in how the two are differentiated and recorded by IPID staff. The main distinguishing factor relates to the severity of the act, something which is subjective. For example, a single burst of pepper spray directed at a detainee might be considered assault, but five bursts over the course of twenty minutes might be considered torture. The distinction is murky. As such, one solution would be to dispense with the classification of 'torture' and 'assault' in terms of law and instead report 'torture or assault' as one category with the following sub-categories:

- Electrocutation;
- Suffocation (with tube, wet bag, plastic bag, water or other methods);
- Suspension;
- Pepper spray or tear gas;
- Dog attack;
- Beating (minor, e.g. slap);
- Beating (severe, e.g. punch or kick); and
- Prolonged unlawful detention or other 'psychological torture' (including threat of assault).

Corruption

It is required that police officials who become aware of the offences discussed up to this point, report their knowledge of the offences to the IPID. This is not the case for corruption which the IPID is only required to investigate when initiated by the Executive Director, referred by the Minister of Police, an MEC or Secretary, or on receipt of a complaint from the public. The directorate *may* also investigate matters relating to systemic corruption involving police.

These qualifiers position the categories of 'corruption' and 'systemic' differently to the others, as if slightly less important. Nevertheless, complaints are bound to be received and investigations registered. As such, definitions and guiding rules need to be in place to ensure as much uniformity and continuity as possible.

A 2006 report identified inconsistency in the manner in which the ICD reported corruption complaints between 1997 and 2006. It stated that an 'ambiguity results from the use of categories which might otherwise be considered to overlap, including "corruption", "abuse of power" and "extortion"'.³⁰ It went on to cite the head of the ICD's Anti-Corruption Command (ACC) as saying that 'corruption' referred to abuse of power for personal gain while 'abuse of power' referred to abuse which might not result in personal gain. 'Extortion' was used to denote instances in which police used coercion to compel the provision of an advantage or gift. The term 'serious corruption' was employed in 2005/06, but not thereafter, and the category 'corruption related' under which 'corruption', 'extortion' and 'abuse of power' were at times used, further confused things. Subsequent to this report the ICD continued to alter the detail with which it reported on corruption complaints, sometimes employing the six categories retained by the IPID below (e.g. 2008/09), and sometimes – including most recently – not mentioning corruption once (2011/12).³¹ It also sometimes listed the Anti-Corruption Command in disaggregation of corruption by province, so that readers could not tell where the ACC-investigated cases originated.

Nevertheless, the six categories retained by the IPID as per the 'description codes' document provide a good foundation from which to move forward. As they were first used as early as 2002/03 there might be a chance that, while not reporting on such disaggregation, the ICD still captured complaints within these categories. If this is the case, and if these are retained, longitudinal analysis would be possible.

The description code and sub-categories currently proposed by the IPID are:

Corruption	
Sec 28(1)(g)	Corruption – abuse of informers' fees
	Corruption – aiding escape from custody
	Corruption – extortion or soliciting a bribe
	Corruption – issuing of fraudulent vehicle certificates
	Corruption – sale, theft and/or destruction of police dockets
	Corruption – sale, theft and/or disposal of exhibits

In the absence of another definition, the following is offered as a suggestion for the main category of corruption:

- i) **Corruption:** means one party giving another party anything of value with the purpose of influencing them to abuse their power where the police official can be the giver or recipient.

Many analysts are in agreement that corruption can be defined as 'the abuse of power for personal gain'. However corruption is not defined in the IPID Act and this possibly implies that IPID should base its approach to defining corruption on the Prevention and Combating of Corrupt Activities Act. The definition above is intended to be in line with this approach.

The sub-categories are more challenging to define. The following are suggestions:

- ii) **Corruption – abuse of informers' fees:** means the misuse or theft of money provided to a police official for the sole purpose of paying an informer.

This is a difficult category to define as 'corruption' because it is not clear that this is what it is. It is more likely that a police detective or handler who keeps informer fees for him/herself, or spends the money on things unrelated to the informer, would be committing a 'theft'. However, in that corruption, but not theft falls within the IPID's mandate, and in that the ICD previously recorded this act as 'corruption', it is recommended that where possible, the IPID continue to record and investigate relevant complaints in this manner. Alternately, it should drop the category all together.

- iii) **Corruption – aiding escape from custody:** means a police official who receives payment or other benefit for helping a person to escape police custody. 'Custody' is defined as a period commencing upon the person being taken into custody by means of verbal instruction or physical force by SAPS or MPS members, in a manner that would be understood by a reasonable person as being for purposes of arrest.
- iv) **Corruption – extortion or soliciting a bribe:** means a police official who requests, coerces or intimidates a person to provide them with a gratification in order to perform an act, or alternately not to act. The act may be one that the police officer is forbidden from doing by law or regulations (e.g. releasing a detained person from custody) or one that the police officer is obliged or technically able to do as part of his or her duties (arrest a foreign national without required paper work).

In this case there is a close overlap with 'compelled rape' or 'compelled sexual assault', though the latter two would be the more serious and primary offence.

- v) **Corruption – issuing fraudulent certificates:** means a police official or public service employee who willingly and intentionally issues a fraudulent official certificate or other state document.

Here the word 'vehicle' before 'certificate' has been dropped. This is so that the category captures any fraudulent issuing of official documentation by SAPS or MPS staff, including false firearm licenses, police clearance certificates or drivers licences.

In that the ICD has in the past included the category 'fraud' among its list of 'criminal offences', it is unclear why this specific act was captured under 'corruption'. As with (ii) above, it is recommended that where possible, the IPID continue to record and investigate relevant complaints that fit this definition. Alternately, the category should be dropped.

- vi) **Corruption – sale, theft and/or destruction of police docket:** means a police official intentionally and unlawfully sells, steals or destroys a police docket in return for a form of gratification.

As with all corruption categories, in instances where the IPID cannot prove gratification these offences would fall under 'theft' and/or 'malicious damage to property' and not be reported to the IPID. Since the category has been used before it is recommended that it be retained.

- vii) **Corruption – sale, theft and/or disposal of exhibits:** means a police official intentionally and unlawfully sells, steals or disposes of/destroys an exhibit, whether it has been registered in the SAP13 or not.

It is also recommended that, as elsewhere, an 'other' category is included to capture instances that do not fall into the current sub-categories.

- viii) **'Other'**

Corruption cases previously recorded by the ICD were those that were reported directly to it by members of the public. In that the IPID is mandated to investigate comparable cases reported by the public, it is realistic to assume that the number of corruption cases reported to the IPID will remain constant, or increase in comparison to those of the ICD. Recognising this, and because it is hoped that ICD records might allow for historical disaggregation based on the proposed categories, including for those years in which the ICD did not use these categories in its reports, it is suggested that they be retained. This will allow for longitudinal analysis of ICD and IPID data and will allow for the retention of the institutional working knowledge regarding corruption. However, one area in which the IPID cannot draw on institutional knowledge as easily is in its new mandate area regarding 'systemic corruption'. The IPID's SOP manual defines the category as:

- ix) **Systemic corruption:** Systemic corruption is an institutionalised endemic manipulation of a system by individuals or networks or organisations, taking advantage of weakness in the process and systems for illicit gains, where there are leadership deficiencies, collusion and abuse of power.

This is not the simplest of definitions to understand or operationalise. In that the IPID's Strategic Plan 2013/14 has as a performance indicator for the 'Number of cases of systemic corruption identified for possible investigation approval, within a financial year', this could pose a challenge. Identifying cases of systemic corruption might be difficult unless the IPID restricts itself only to clearly defined networks of corruption, rather than to instances where *corruption has become systemic* (common and widespread, but not necessarily linked in any organised fashion; systems are so weak that police officials can regularly solicit bribes and abuse their power without consequences).

Police organisations have for a long time been understood as founded on a system primed for abuse – young men and women with vast discretionary and coercive power, largely working unsupervised.

As such, talk of ‘rotten apples’ is misleading as it lays blame with individuals who, very often, could not have abused their power without the complicit acceptance of abusive acts in the organisational environment. It is therefore the ‘barrel’ holding the apples that causes their rot.³² As soon as abuse becomes relatively widespread, and in the absence of resistance to it from management and other employees, abuse can be considered ‘systemic’. Thus, for example, where metro police are consistently involved in soliciting and accepting bribes, or police officials consistently arrest foreign nationals to extort money from them, this can be considered as ‘systemic corruption’. This will make identifying particular cases and naming them ‘systemic corruption’ problematic. Police officers who are involved in regular corruption can often only keep this up because the environments in which they work, and the colleagues with whom they work, look the other way. If this is accepted, there is systemic corruption throughout South Africa’s various police agencies. At the simplest of levels, in dozens of middle-class police precincts across the country, police officers are offered free coffee and food when visiting local business, and free cool-drink when filling up state vehicles at select petrol stations. These are without question systemic practices, but would the IPID investigate them? On the other hand, if the IPID chooses to focus on corruption within one unit or station and is able to find more than three instances of corruption, might it classify this as ‘systemic corruption’? If so, would each ‘systemic corruption’ case be disaggregated to explain the number and types of corrupt incidences uncovered by the IPID? It would seem this would be necessary.

Box 5: Notes regarding ‘systemic corruption’

The U4 Anti-Corruption Resource Centre defines systemic corruption in a similar, but slightly clearer manner to the IPID.³³

Systemic corruption **is not a special category of corrupt practice**, but rather a situation in which the major **institutions and processes of the state are routinely dominated and used by corrupt individuals and groups**, and in which **most people have no alternatives** to dealing with corrupt officials.

The most important elements of this definition have been highlighted above. They suggest that:

- Systemic corruption is not a special practice;
- It is a situation in which an institution of the state, like a police agency, is routinely abused by corrupt people within that agency for their own personal gain; and
- Most civilians engaging with that institution have no alternative other than to engage with those corrupt state officials in a corrupt fashion.

Perhaps the most important distinguishing point in this definition is the last: the fact that most people engaging with the institution will engage with obviously corrupt officials. Fortunately, this is not yet the case in South Africa (though popular discourse might suggest it is true in the realm of traffic policing) where, despite the endemic nature of corruption, most South Africans are never asked to pay a bribe to police. This is evident from the 2012 Victim Survey which revealed that only 4.5% of households in South Africa had been asked to pay a bribe in the 12 months preceding the survey. This may not appear to suggest systemic corruption, but when one considers half of these victims were asked to pay a bribe to a traffic officer/metro police officer, and 22.9% to other police, and that the bulk of victims lived in Gauteng, one can begin to talk about systemic corruption in that sector and province.³⁴ Also, in addition to road users, it seems reasonable to argue that financially poor or vulnerable foreign nationals as a constituency face ‘systemic corruption’. In other words ‘systemic corruption’ may be concentrated in certain areas or amongst certain ‘target’ constituencies.

Considering the difficulties of this concept and definition it appears the IPID has a number of options with regards to this mandate area. ‘Systemic corruption’ can be considered ‘identified’ as per the IPID Strategic Plan when:

- Three or more complaints are linked to a single police station, unit, or geographical area in a 12 month period. (This may not sound like very many incidents, but one must assume that for every case reported, many will go unreported.)
- A civilian or police official reports having experienced more than one incidence of corruption at a single police station, unit or in a geographical area in a 12 month period.
- A network of police is identified as clearly colluding with one another in corrupt ways for mutual self-enrichment.
- There is evidence that, while not necessarily involved in corruption themselves, the majority of police and management at a particular station, unit, or in a geographical area, have known about, but not acted against one or more colleagues known to have committed a corrupt act (such inaction allows corruption to become ‘systemic’).

This last category is perhaps the broadest, but also the most revealing of the nature of 'systemic corruption'. Such corruption need not be grand or widespread, but is allowed to function due to factors in the organisational environment. For all of these, the IPID would likely pick up on systemic problems in particular areas much sooner if it had regular access to complaints data generated by the SAPS and MPS, primarily at station or unit level. While this would require careful negotiation and may be an ambitious objective, it seems to be the most logical way for the IPID to identify and act against systemic corruption.

A note on counting and ambiguities

A persistent challenge which runs through much of the IPID's mandate emerges when notifications and crimes correspond with multiple mandate areas, or are committed by Public Service Act employees. For instance, rape might often be accompanied by other offences including assault, torture or murder. In such instances it is recommended that the IPID capture details of all offences under that which might be considered the primary offence. Not doing so could be considered an additional violation of the victim. However, other options can be considered, including opening individual investigations/complaints for each victim. This might be important in a crowd management scenario where there are multiple victims. Whatever is decided by the IPID it would be helpful if the counting rules that are used are foregrounded in reports so that readers know how to interpret the data presented.

Similar is the challenge regarding custody touched on under the original 'custody' discussion under 'deaths'. This related to contexts in which a person is voluntarily in the company of police, but is not 'in custody' in the sense of arrest or lawfully coercive control. While the rape by a police officer in this context would be categorised under Sec 28(1)(d), it should be noted that a civilian friend of a police officer who rapes a person in the company of that officer would not, it seems, be captured under any current IPID definition. Other incidences which narrowly evade the IPID's mandate and thus attention, are offences committed by Public Service Act employees working for the police. Such officials can abuse their positions to, for example, rape detainees in custody or assault people with whom they have a grievance while not at work. Similarly, police officials may point their firearms at civilians and suspects in an illegal and threatening manner without this being reported to the IPID. Because this can happen, ideally the IPID would collect and collate all complaints and disciplinary data held at police station and provincial levels. This would give the Directorate important insight into problem areas and significantly strengthen its ability to make informed recommendations based on its own investigations and complaints received.

Categorisation and capture adjustments to bolster the IPID's monitoring, evaluation and reporting capacity

Having considered the definitions of incidents at a primary and second-tier sub-category level, this section makes recommendations regarding the capture of particular details using the IPID's Case Management System (CMS). Though not exhaustive, the intention is to illustrate the value of a detailed approach to data capture. Two versions are suggested with a small variation between them.

Adoption of such a system would position the IPID so that it could easily generate a diversity of both simple and complex statistics and analysis relating to its work. It is based on an example drawn from the ICD's 2008/09 annual report. That year the ICD published a detailed breakdown of 80 suicides in police custody and 28 prior to police custody. There is no comparable detail in other reports reviewed, either prior to or after 2008/09. It is likely that during 2008/09 the ICD paid special attention to capturing this data because, while conducting a review of deaths in police custody in previous years, ICD researchers struggled to access case files. As such, their analysis drew on only 22 of 87 possible cases.

But generating reports as detailed as that on suicide in 2008/09, and almost every other category with which the IPID works, can be made much simpler through adjustments at the point of data capture.

NOTE: the example below draws on past reports and categories so does not employ the exact categories recommended thus far. Where possible these have been incorporated.

Step 1: A data capturer is tasked with the capture of a file on the IPID's file management system. The file relates to a notification of suicide in which a man hung himself with a plastic bag while in police custody. Asked to input the category under which the file falls she begins by selecting 'Deaths' on the system. A drop down menu appears offering two options indicated here as 1.1 and 1.2. She selects 'Any deaths in police custody'.

1. Death	
Director	Short description
1.1	Any deaths in police custody
1.2	Deaths as a result of police actions

Step 2: Another menu appears listing indicators 1.1.1 – 1.1.4, she selects 1.1.1 'Suicide'.

1.1 Any deaths in custody	
Director	Short description
1.1.1	As a result of an apparent suicide
1.1.2	As a result of police action
1.1.3	As a result of detainee action
1.1.4	Other

Step 3: Next the data capturer is offered the list of options below and selects 1.1.1.1 'Hung himself/herself'.

1.1.1 Suicide	
Director	Short description
1.1.1.1	Hung himself/herself
1.1.1.2	Cut himself/herself
1.1.1.3	Jumped to death
1.1.1.4	Shot himself/herself
1.1.1.5	Poisoned himself/herself
1.1.1.6	Other: <inserted here>

Step 4: Finally the data capturer is offered the following:

1.1.1.1 Hung himself/herself	
Director	Short description
N/A	Hung himself/herself – Belt
N/A	Hung himself/herself – Cleaning Cloth
N/A	Hung himself/herself – Clothing
N/A	Hung himself/herself – Handkerchief
N/A	Hung himself/herself – Plastic Bag
N/A	Hung himself/herself – Rope
N/A	Hung himself/herself – Scarf
N/A	Hung himself/herself – Shirt
N/A	Hung himself/herself – Shoe Laces
N/A	Hung himself/herself – String from Blouse
N/A	Hung himself/herself – String from Hooded Top
N/A	Hung himself/herself – String from Mattress

1.1.1.1 Hung himself/herself (continued)	
Director	Short description
N/A	Hung himself/herself – String from Jacket
N/A	Hung himself/herself – String from a Sheet
N/A	Hung himself/herself – Strips of Blanket
N/A	Hung himself/herself – Trousers
N/A	Hung himself/herself – T-Shirt
N/A	Hung himself/herself – Underwear
N/A	Other: <inserted here>

If all case variables were captured in a comparable manner (including demographic data of victims/complainants and accused, geographical data, file status, etc.) the IPID could, at any time, generate a wealth of charts, tables or graphs through which to monitor, evaluate and report on the detail of its work, both internally and externally. At the most basic level data could be generated summarising any of the above phases.

Using such a system would mean access to detailed data, like that presented in the table below from the 2008/09 annual report (and perhaps more detailed than this) need not be difficult to come by.

Suicides in custody		
Suicides (circumstances)	2008/2009	Percentage share
Hanging (Belt)	7	9%
Hanging (Cleaning Cloth)	1	1%
Hanging (Clothing)	4	5%
Hanging (Handkerchief)	1	1%
Hanging (Plastic Bag)	1	1%
Hanging (Rope)	5	6%
Hanging (Scarf)	1	1%
Hanging (Shirt)	3	4%
Hanging (Shoe Laces)	10	13%
Hanging (String)	2	3%
Hanging (String from Blouse)	1	1%
Hanging (String from Hooded Top)	4	5%
Hanging (String from Mattress)	3	4%
Hanging (String from Trousers)	1	1%
Hanging (String from Jacket)	3	4%
Hanging (Strips of a Sheet)	1	1%
Hanging (Strips of Blanket)	14	18%
Hanging (Trousers)	13	16%
Hanging (T-Shirt)	4	5%
Hanging (Underwear)	1	1%
Total:	80	100%
Suicide prior to custody	2008/2009	Percentage Share
Suicides (description)		

This report recommends developing comparable sets of pre-configured variables and incorporating these into the CMS. The system should be reviewable from time to time so that new variables can be added as they become relevant, e.g. 'hanging (electric cord)', but without encouraging unnecessary renaming of labels already in use.

If the CMS cannot be adapted to provide drop down menus of this sort, new lists of incident codes could be developed. These would cover everything from demographic information of victims and police officials, to the actions and objects used in reported incidents. With these codes 'tagged' to each case, it should be relatively simple to run detailed analysis across the IPID database. Below is an example of just a few such codes.

(Code)	Action – (a)	Object used – (b)	Weapon used – (c)	Ammunition/projectile – (d)
001	Hit	Handcuffs	State – Z88	State – live rounds
002	Hung	Rock	State – Beretta	State – non-lethal rubber bullets
003	Cut	Rope	State – R4	State – water cannon
004	Stabbed	String	State – R5	State – canister (gas/smoke)
005	Slapped	Cord	State – Shot Gun	
006	Punched	Rubber tube	State – Pepper Spray	
007	Choked	Belt	State – Stun Grenade	
008	Suffocated	Glass bottle	State – Smoke Grenade	
009	Sprayed	Glass piece	State – Tonfa	
010			State – Taser	
011			State – Shield	
012			State – Other	

Such an approach becomes particularly valuable when overlaid with basic indicators about victims, witnesses, police officers, geographical location, and so on. With such data captured, graphs and charts like the following could be produced easily, allowing for seamless tracking and monitoring of trends over time. It is this kind of analysis which will allow the IPID to answer the key question, ‘Who is affected most by what under which circumstances?’³⁵

For example, demographic data on suicide deceased allows for the compilation of graphs such as Charts 1–3 below. These examples are used only because they are logical extensions of the discussion thus far. Of more relevance to the IPID will be data on complainants, victims and police officials, as well as the times and areas that generate the most IPID work. The IPID might even consider developing an interactive system through which visitors to the IPID’s webpage can generate basic graphs based on its data:

Chart 1: Suicide, race, sex & method

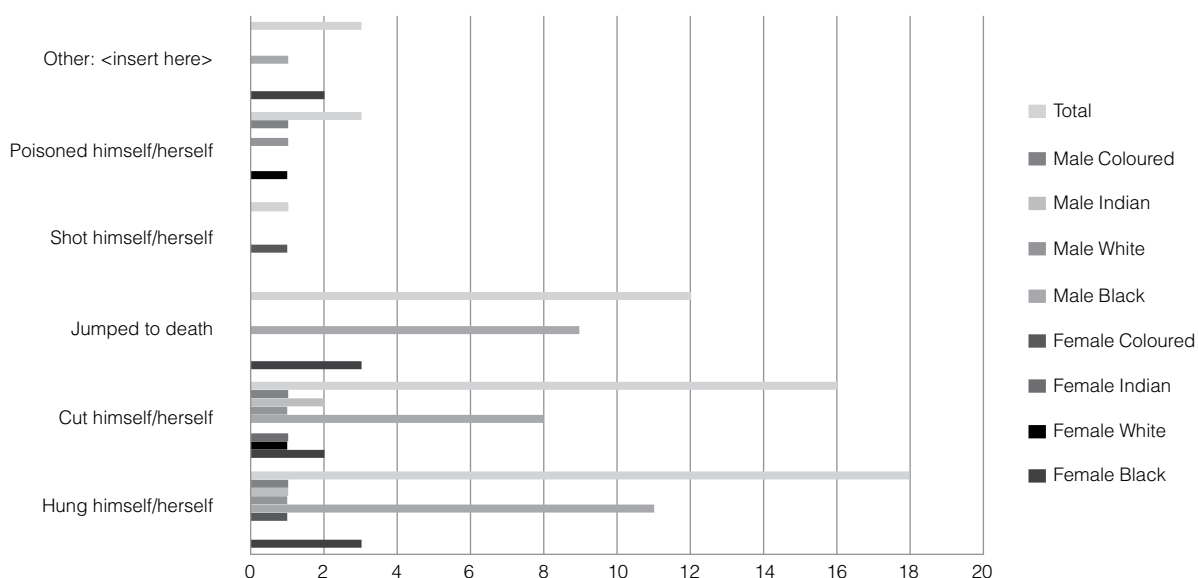


Chart 2: Suicide by age and method

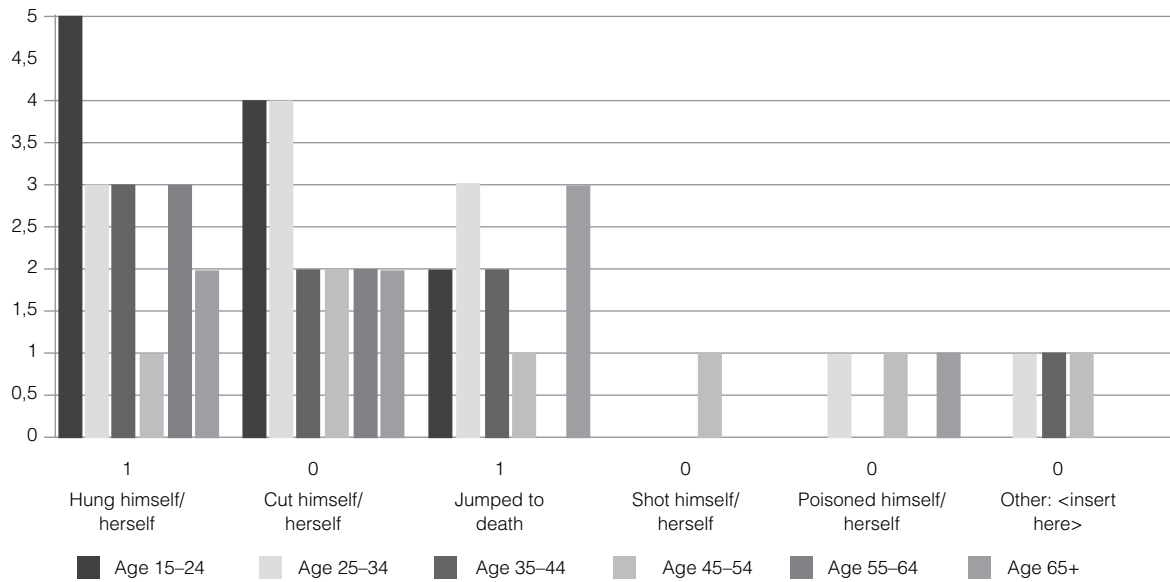
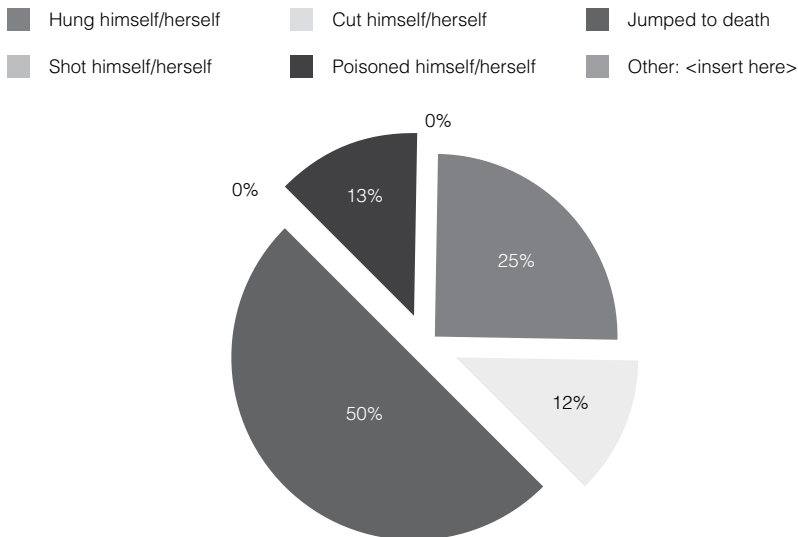


Chart 3: Female suicides by method



IPID staff would be best positioned to fine tune a list of base variables for populating the CMS. However, as a guide to some of the most obvious, and others which appear useful based on the research completed in the *Project 2* report, the following are provided as a start:

Examples of disaggregation rules/options relating foundational demographic and incident data:

NOTE: The following would be captured for every complaint.

1. **Reported:**
 - a) IN PERSON
 - b) BY TELEPHONE
 - c) BY EMAIL
 - d) BY SMS
 - e) BY FAX
2. **Is this a NOTIFICATION or COMPLAINT?**
3. **Does it involve the SAPS or an MPS?**
4. **If SAPS, which PROVINCE, STATION/SPECIALISED UNIT?**
 - a) SPECIALISED UNIT: TACTICAL RESPONSE TEAM, K9, PUBLIC ORDER POLICE,

- TRAFFIC POLICE, VICE SQUAD, TASK FORCE, NATIONAL INTERVENTION UNIT
- b) STATION: DETECTIVES, CRIME PREVENTION, SHIFTS (COMPLAINTS VAN), COMMUNITY SERVICE CENTRE POSTED MEMBERS, UNKNOWN UNIFORM, UNKNOWN CIVILIAN
5. **If MPS, which city?**
- a) MPS: CAPE TOWN, JOHANNESBURG, EKURHULENI, DURBAN, TSHWANE
6. **Details of complainant/victim 1 (repeat for all victims involved):**
- a) AGE
- b) SEX
- c) RACE
- d) PHYSICAL DISABILITY
- e) MENTAL DISABILITY
- f) EMPLOYED/UNEMPLOYED/PART-TIME WORK
- g) HOME ADDRESS
7. **Details of police officers involved 1 (repeat for all officials involved):**
- a) AGE
- b) SEX
- c) RACE
- d) STATION/UNIT
- e) ON OR OFF-DUTY AT TIME OF OFFENCE
- f) MONTHS AND YEARS IN SERVICE
- g) MONTHS AND YEARS IN CURRENT POST (station and or unit)
- h) KNOWN HISTORY RELATING TO ILL-DISCIPLINE, DISCHARGE OF FIREARMS, SEXUAL HARASSMENT, SUBSTANCE ABUSE, ANY CRIMINAL ACT, OTHER COMPLAINTS
- i) PREVIOUSLY ACCUSED OF... AND SANCTIONED...
- ii) FOUND NOT GUILTY OF...
- iii) NO KNOWN HISTORY
8. **Where did the incident take place?**
- a) POLICE STATION
- b) POLICE CELLS
- c) POLICE VEHICLE
- d) ON THE STREET
- e) IN THE VELD
- f) IN A PARK
- g) INSIDE A RESIDENTIAL BUILDING
- h) INSIDE A PUBLIC/PRIVATE BUILDING (mall, bank, shop)
- i) OTHER
9. **NUMBER OF OFFENCES**
- Examples of disaggregation rules/options relating to mandate categories*
- These categories begin with those suggested thus far, but introduce third tier sub-categories and additional variables which should be adjusted based on the IPID's knowledge of trends in each category.*
1. **DEATH**
- a) DEATH IN POLICE CUSTODY
- b) DEATH AS A RESULT OF POLICE ACTION
2. **DEATH IN POLICE CUSTODY**
- a) NATURAL CAUSES
- b) **INJURIES SUSTAINED IN CUSTODY**
- i) **AS A RESULT OF POLICE ACTION**
- I) WITH TONFA
- II) WITH TORCH
- III) WITH BRICK/STONE
- IV) WITH POLE
- V) WITH BODY (hands, feet, knees, head)
- VI) OTHER

- ii) **AS A RESULT OF DETAINEE ACTION**
 - I) WITH BODY
 - II) WITH KNIFE
 - III) WITH FIREARM
 - IV) WITH GLASS
 - V) WITH OTHER SHARP IMPLEMENT
 - VI) WITH CLOTHING
 - VII) OTHER
- iii) **AS A RESULT OF AN APPARENT SUICIDE**
 - I) WITH KNIFE
 - II) WITH GLASS
 - III) WITH FIREARM
 - IV) WITH ROPE
 - V) WITH OTHER SHAPR IMPLEMENT
 - VI) WITH CLOTHING
 - VII) OTHER
- iv) **OTHER:**
- c) **INJURIES SUSTAINED PRIOR TO POLICE CUSTODY**
 - i) DECEASED INVOLVED IN A FIGHT
 - ii) DECEASED SELF-INFLICTED FATAL WOUNDS (delayed death after suicide)
 - iii) DECEASED INVOLVED IN VEHICLE ACCIDENT
 - iv) DECEASED A VICTIM OF VIGILANTE JUSTICE
 - v) OTHER:
- d) **OTHER OFFENCES COMMITTED TOGETHER WITH MAIN OFFENCE**
- e) **OTHER**
- 3. **DEATH AS A RESULT OF POLICE ACTION**
 - a) **A SUSPECT DIED DURING THE COURSE OF AN ARREST**
 - i) DECEASED FELL AND DIED
 - ii) DECEASED HIT BY POLICE VEHICLE
 - iii) DECEASED HIT BY OTHER VEHICLE
 - iv) **DECEASED SUFFERED BLUNT FORCE TRAUMA DELIVERED BY POLICE OFFICER**
 - I) WITH TONFA
 - II) WITH TORCH
 - III) WITH BRICK/STONE
 - IV) WITH POLE
 - V) WITH BODY (hands, feet, knees, head)
 - VI) OTHER:
 - v) **DECEASED SHOT BY POLICE OFFICER(S)**
 - I) WHILE RUNNING AWAY
 - II) HAVING FIRED AT OFFICERS
 - III) WHILE POSING OTHER THREAT TO OFFICERS
 - b) **A SUSPECT DIED DURING THE COURSE OF A CRIME**
 - i) DECEASED FELL AND DIED
 - ii) DECEASED HIT BY POLICE VEHICLE
 - iii) DECEASED HIT BY OTHER VEHICLE
 - iv) **DECEASED SUFFERED BLUNT FORCE TRAUMA DELIVERED BY POLICE OFFICER**
 - I) WITH TONFA
 - II) WITH TORCH
 - III) WITH BRICK/STONE
 - IV) WITH POLE
 - V) WITH BODY (hands, feet, knees, head)
 - VI) OTHER:
 - v) **DECEASED SHOT BY POLICE OFFICER(S)**
 - I) WHILE RUNNING AWAY

- II) HAVING FIRED AT OFFICERS
- III) WHILE POSING OTHER THREAT TO OFFICERS
- IV) OTHER:
- c) **AN INNOCENT BYSTANDER DIED DURING AN ARREST, CRIME OR ESCAPE**
 - i) **DURING AN ARREST**
 - I) SHOT BY OFFICER
 - II) SHOT BY A SUSPECT
 - III) STABBED BY A SUSPECT
 - IV) HIT BY A POLICE CAR
 - V) HIT BY A SUSPECT'S CAR
 - VI) OTHER:
 - ii) **DURING A CRIME**
 - I) SHOT BY AN OFFICER
 - II) SHOT BY A SUSPECT
 - III) STABBED BY A SUSPECT
 - IV) HIT BY A POLICE CAR
 - V) HIT BY A SUSPECT'S CAR
 - VI) OTHER:
 - iii) **DURING AN ESCAPE**
 - I) SHOT BY OFFICER
 - II) SHOT BY A SUSPECT
 - III) STABBED BY A SUSPECT
 - IV) HIT BY A POLICE CAR
 - V) HIT BY A SUSPECT'S CAR
 - VI) OTHER:
- d) **A SUSPECT DIED DURING THE COURSE OF AN ESCAPE**
 - i) DECEASED FELL AND DIED
 - ii) DECEASED HIT BY POLICE VEHICLE
 - iii) DECEASED HIT BY OTHER VEHICLE
 - iv) **DECEASED SUFFERED BLUNT FORCE TRAUMA DELIVERED BY POLICE OFFICER**
 - I) WITH TONFA
 - II) WITH TORCH
 - III) WITH BRICK/STONE
 - IV) WITH POLE
 - V) WITH BODY (hands, feet, knees, head)
 - VI) OTHER:
 - v) **DECEASED SHOT BY POLICE OFFICER(S)**
 - I) WHILE RUNNING AWAY
 - II) HAVING FIRED AT OFFICERS
 - III) WHILE POSING OTHER THREAT TO OFFICERS
- e) **AN INNOCENT BYSTANDER DIED DURING THE COURSE OF AN ESCAPE OF ANOTHER**
 - I) SHOT BY OFFICER
 - II) SHOT BY A SUSPECT
 - III) STABBED BY A SUSPECT
 - IV) HIT BY A POLICE CAR
 - V) HIT BY A SUSPECT'S CAR
 - VI) OTHER:
- f) **ACCIDENTAL DISCHARGE OF A FIREARMS LEADING TO DEATH**
 - I) WHILE CLEANING FIREARM
 - II) WHILE HANDLING NON-STATE FIREARM
 - III) WHILE POINTING FIREARM IN PERFORMANCE OF POLICE DUTIES
 - IV) OTHER
- g) **VEHICLE COLLISION OR ACTION INVOLVING OR CAUSED BY POLICE** (excluding during a crime, arrest, escape or private capacity related death)

- I) HIT BY A POLICE CAR
- II) AS A RESULT OF A POLICE OBSTRUCTING ROAD OR TRAFFIC
- III) OTHER
- h) **CROWD MANAGEMENT RELATED CONTEXTS RESULTING IN DEATH**
 - I) POLICE FIRED WATER CANON
 - II) POLICE USED TONFAS
 - III) POLICE FIRED LIVE ROUNDS
 - IV) OTHER:
- i) **PRIVATE CAPACITY RELATED DEATHS**
 - I) INVOLVED IN FIGHT
 - II) INVOLVED IN CAR ACCIDENT
 - III) OTHER
- j) OTHER

Conclusion

The Independent Police Investigative Directorate is the custodian of information relating to police action and indiscretion, as well as deaths in police custody or as a result of police action, which is otherwise only held by the SAPS and MPS. It is also the only agency that collects related data across police organisations in South Africa, and the only organisation to have disaggregated offence data relating to police in the country. This data is invaluable to police, government and civil society in understanding and tackling challenges in contemporary policing. For it to be used effectively, data needs to be recorded and presented in a clear and consistent manner in each annual report published by the Directorate. Despite its commendable efforts, variations in reporting by the IPID's predecessor, the Independent Complaints Directorate (ICD), meant that interpreting, comparing and tracking data over the years was more difficult than necessary. As the IPID embraces its new mandate areas it will be very valuable if wherever possible, data is recorded in a manner that is consistent or comparable with that collected by the ICD in the past. This can be achieved by (a) aligning new categories with old, (b) bridging the transition period by flagging/ explaining shifts in reporting and how it relates to past reporting or (c) publishing once-off outputs of old data in forms that can be used by government and civil society to draw their own comparisons with past data.

Based on a review of literature, legislation and annual reports, this report has made recommendations regarding the categorisation of notifications and complaints falling within the IPID's new mandate areas. While numerous recommendations have been made, there appears to be no golden rule or fail-safe approaches to this task. As such, the IPID should consider this report as a guide to be used to make final decisions on the matter. Ultimately, these should be spelled out clearly and unambiguously and placed in the public domain (either in annual reports or in a once-off 'categorisation rules explained' type document) for both IPID officials and others to return to when categorising and interpreting IPID data.

Endnotes

- 1 United Nations Office on Drugs and Crime, *Handbook on police accountability, oversight and integrity*, Criminal Justice Handbook Series, New York: United Nations, p.36
- 2 David Osbourne and Ted Gaebler, 1992, cited in CMI, *How to monitor and evaluate anti-corruption agencies: Guidelines for agencies, donors, and evaluators*, September 2011, p.15
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- 4 The scarcity of research is noted in almost every publication on the subject, for example: Joel Miller, *Civilian oversight of policing: Lessons from the literature*, Global Meeting on Civilian Oversight of Police, Los Angeles, May 5–8, 2002, p.16; Peter Neyroud and Emma Disley, 'The Management, supervision and oversight of criminal investigations', p.557; CMI/U4, *How to monitor and evaluate anti-corruption agencies*, p.v; Catherine Filstad and Petter Gottschalk, 'Performance evaluation of police oversight agencies', p.107; David Brereton, 'Evaluating the performance of external oversight bodies', in Andrew Goldsmith and Colleen Lewis, *Civilian oversight of policing: governance, democracy and human rights*, 2000, p.105
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- 7 MW Fraser, JM Richman and MJ Galinsky, *Intervention research: Developing social programs*, 2009, Oxford: Oxford University Press
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- 9 Council of Europe, Opinion of the Commissioner for Human Rights, *Opinion of the Commissioner for Human Rights concerning independent and effective determination of complaints against the police*, 2009, available at: https://wcd.coe.int/ViewDoc.jsp?id=1417857#P160_13740 (accessed 6 June 2013)
- 10 David Brereton, 'Evaluating the performance of external oversight bodies', in Andrew Goldsmith and Colleen Lewis, *Civilian Oversight of Policing: Governance, Democracy and Human Rights*, 2000, p.105
- 11 Council on Europe, *paragraph 87*
- 12 CMI, *How to monitor and evaluate anti-corruption agencies: Guidelines for agencies, donors, and evaluators*, September 2011, p.23
- 13 Agencies reviewed are: Civilian Complaint Review Board (New York City, USA), Special Investigations Unit (Ontario, Canada), Serious Incident Response Team (Nova Scotia, Canada), Crime and Misconduct Commission (Queensland, Australia), Commonwealth Ombudsman (Australia), Independent Police Complaints Commission (England and Wales), Police Ombudsman for Northern Ireland (Northern Ireland)
- 14 United Nations Office on Drugs and Crime, *Handbook on police accountability, oversight and integrity*, p.37
- 15 CMI, *How to monitor and evaluate anti-corruption agencies*, p.26
- 16 *Ibid.*, p.47–48
- 17 Independent Police Investigative Directorate, *Annual Performance Plan 2013/14*, p.20
- 18 Amanda Dissel and Cheryl Frank (eds), *Policing and Human Rights: Assessing Southern African countries' compliance with the SARPCCO Code of Conduct for Police Officials*, 2012, African Policing Civilian Oversight Forum, p.131, available at: http://www.apcof.org/files/6141_SARPCCO%20CoC%20report%20WEB.pdf (accessed 27 June 2013)
- 19 This is discussed further in David Bruce, Gareth Newham and Themba Masuku, *In service of the people's democracy: An assessment of the South African Police Service*, 2007, Centre for the Study of Violence and Reconciliation, p.144
- 20 Independent Complaints Directorate, *Annual Report 2010/11*, p.12
- 21 Sexual Offences and Related Matters Amendment Act, No. 32 of 2007
- 22 Shukumisa, *The definition of rape and consent*, available at: <http://www.shukumisa.org.za/index.php/rape-and-consent/> (accessed 28 May 2013)
- 23 Sexual Offences and Related Matters Amendment Act, No. 32 of 2007, chapter 1, section 2
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- 29 *Ibid.*
- 30 Andrew Faull, *Corruption and the South African Police Service: A review and its implications*, 2007, Institute for Security Studies Occasional Paper No. 150, p.12
- 31 'Abuse of power' is referred to on one occasion but is not linked to 'corruption' in any formal manner.

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- 33 U4 Anti-Corruption Resource Centre, 'Systemic corruption', available at: <http://www.u4.no/glossary/systemic-corruption/> (accessed 6 June 2013)
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- 35 P Craig, P Dieppe, S Macintyre, S Michie, I Nazareth and M Petticrew, 'Developing and evaluating complex interventions: The new Medical Research Council guidance', 2008, *British Medical Journal*, Vol. 337

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ABOUT APCOF

The African Policing and Civilian Oversight Forum (APCOF) is a network of African policing practitioners from state and non-state institutions. It is active in promoting police reform through strengthening civilian oversight over the police in Africa. APCOF believes that strong and effective civilian oversight assists in restoring public confidence in the police; promotes a culture of human rights, integrity and transparency within the police; and strengthens working relationships between the police and the community.

APCOF achieves its goals through undertaking research and providing technical support and capacity building to state and non-state actors including civil society organisations, the police and new and emerging oversight bodies in Africa.

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