



African Policing Civilian Oversight Forum

and



INDEPENDENT POLICE INVESTIGATIVE DIRECTORATE

GUARDIAN OF THE GUARDS

Workshop Report

**Strengthening the Independence of the Independent Police
Investigative Directorate**

**African Policing Civilian Oversight Forum (APCOF) and the Independent
Police Investigative Directorate (IPID)**

**Burgers Park Hotel, Pretoria
13 – 14 July 2017**

1. Overview

The African Policing Civilian Oversight Forum (APCOF) and the Independent Police Investigative Directorate (IPID) held a workshop on 14 and 14 July 2017 at Burgers Park Hotel in Pretoria to discuss the forthcoming legislative amendments to the IPID Act.

The amendments result from a decision of the Constitutional Court on 6 September 2016 in the matter of *McBride v Minister of Police and Another* (CCT255/15) [2016] ZACC 30, which set aside the suspension and disciplinary action against IPID Executive Director, Mr. Robert McBride, on the basis of constitutional invalidity.

The Constitutional Court decision declared certain sections of the IPID Act, the Public Service Act and the IPID Regulations to be invalid, 'to the extent that they authorise the Minister of Police to suspend, take any disciplinary steps pursuant to suspension, or remove from office the Executive Director of [IPID]'. The Constitutional Court instructed that Parliament 'cure the defects in the legislation' within 24 months.

The amendment of the IPID Act provides an opportunity to review the legislative and regulatory environment of IPID not only in terms of independence, but on broader elements identified by the United Nations Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, Mr. Philip Alston, in his study on independent police oversight mechanisms (UN Doc A/HRC/14/24/Add.8). This includes:

- The capacity to make recommendations to policy makers within the government to facilitate organisational change.
- Adequate resources including skilled investigators, appropriate technology, adequate facilities, and financial resources to undertake long term and complex investigations.
- Transparency and reporting.
- Community support.

The workshop was attended by a range of state and non state organisations as per the attached attendance list. Following inputs from a range of expert stakeholders on the first day, attendees identified targeted legislative reform that may be required to strengthen the independence of IPID in conformity with the decision of the Constitutional Court, and in line with international standards and comparative regional good practice in the operation of independent police oversight mechanisms.

2. Welcoming remarks – Moses Dlamini, Spokesperson, Independent Police Investigative Directorate

Mr. Dlamini welcomed participants to the workshop, which is a joint initiative of APCOF and IPID, the primary purpose of which is to obtain IPID staff and stakeholders' views about IPID's independence as it moves towards implementing the Constitutional Court judgment. He recounted some of the challenges experienced by IPID in their work, noting the views of some that the police are

'untouchable' because they fight crime in a country with a high crime rate. He reiterated the importance of IPID's work, and the need for an accountable and fair policing service for South Africa.

3. Presentation on strengthening the independence of IPID and what it means for independent police oversight - Robert McBride, Executive Director, IPID

Mr. McBride welcomed all workshop participants, and gave a special welcome to those who have contributed to the work of IPID, and to the debate on its independence, noting that it is only through collaboration with all stakeholders that IPID will concretise the notion of independence.

Mr. McBride noted that it is common cause that during the transition period from 1993 to 1996, South Africans decided to break with practices of the past. Hence, certain values were agreed as part of the negotiations, and underpin the way government business is now conducted. The interim Constitution, the 1994 elections and the 1996 Constitution charts this way forward. The preamble of the Constitution recognises the injustices of the past, and outlines the values and principles that underpin the Constitution, which includes human dignity. Within this framework, the Constitution provides for the establishment of independent complaints mechanisms, which breaks with the practices of the past with a view to giving expression to a new human rights culture for South Africa.

South Africa's Constitutional framework was ground-breaking for its time, and there are a number of provisions in the Constitution for which challenges or problems were not predicted at the time of drafting, owing to a lack of comparative examples. So too, when the IPID Act was enacted in 2011, as there was no other best practice upon which to base the South African example. As a pioneer in this field, South Africa must ensure that it reviews the framework for police oversight to address any omissions or unintended challenges. For example, the lawmakers at the time could not have foreseen the extent to which the Minister of Police would undermine the independence of IPID. The Constitutional Court challenge to the suspension of the Executive Director and other senior officials was a result of what IPID alleged was undue interference by the Minister. The Constitutional Court confirmed IPID's independence, and made orders to ensure both IPID's structural and operational independence through legislative amendment within 24 months. Exactly what that independence means, and how it will manifest in the legislation is the main purpose of this workshop.

At the same time as the Constitutional Court proceedings, the Marikana Commission of Inquiry recommendations, in effect, spoke to the need for IPID to exercise its independence. Again, in the same time frame, the Auditor-General of South Africa raised similar issues, noting that IPID runs the risk of not fulfilling its mandate unless it has independence in certain aspects of investigation, including forensic and ballistic analysis is strengthened.

Mr. McBride concluded by noting that at IPID, a process has started to review and amend the IPID Act, to ensure that the legislation passes Constitutional muster. By October, the proposed draft amendment will be promulgated for public comment, and a further process is in place to ensure that the legislative amendments are adopted within the 24 months set down by the Constitutional Court. Some of what might be proposed by IPID may be different to that which civil society or other departments in the justice, crime prevention and security cluster may envisage. However, IPID needs to be sensitised to the issues raised by its key stakeholders, and to be made aware of issues that it might not have considered. The workshop is an opportunity to exchange ideas across the sector to ensure that all stakeholders' views are heard and to achieve consensus on the way forward, noting that IPID cannot be the final arbiter of its own interests.

4. Presentation on key observations of the Constitutional Court judgment on the independence of IPID –Francis Antonie, Executive Director, Helen Suzman Foundation

Mr. Antonie commended IPID and Mr. McBride for their perseverance in terms of the Constitutional Court challenge, which he described as an entirely necessary case. Mr. Antonie's presentation focused not on the detail of the Constitutional Court decision, but posed certain questions for further discussion and reflection as IPID works towards legislative amendment. The purpose of the questions is to understand the problems that IPID is facing, and whether there are grounds to intervene.

The first question posed was 'why is IPID important'? We all assume it is important, but the question is whether it really is important. We must not just assume that IPID is important and worth preserving because it exists. There are two possible answers to this – IPID exists to prevent tyranny, and IPID exists to facilitate tyranny.

The question of IPID's importance relates back to the fundamental question of what is the state? The best definition is that agent of society that possesses the sole legitimate means of coercion. This question of legitimacy is often downplayed, and needs to be elaborated and broadened. The agent is that policing function - if that agency lacks legitimacy, it becomes illegitimate, and its actions become unlawful. This results in tyranny (violations of rights and the rule of law) and societal fracture.

The next question is how to prevent this outcome in a Constitutional democracy? All theories of law posit a central coherent and binding source of authority in every society. The agents of that authority are the policing function. They are in effect agents that support the authority, but they are supported only insofar as that authority acts legitimately. If they fail to do this, the agency is compromised, which undermines the role as the guardianship of society.

The question of undermining the guardians raises another question, namely, who guards the guardians? It is not the courts in the case of police – it is IPID. Is IPID important in terms of helping to guard the guardians – yes. If for nothing else than

this reason, IPID is therefore important. IPID's role, which had previously been distant and remote, has been brought to the forefront of public life following the Constitutional Court case. The former Minister of Police has done IPID a service by publicising the issue of IPID's independence, and the reason for its existence.

The reasons for pursuing the Constitutional Court case were founded in preserving South Africa's constitutional democracy, and upholding the rule of law. These two concepts are, to an extent, abstract. Unless they are internalised, IPID will remain compromised. When the rule of law is just something that's mentioned in speeches, but not evident, it means nothing. The question is therefore how to internalise the values that underpin the South African Constitution so that they are reflected in the IPID Act in a way that the legislation 'gives flesh' to the Constitution.

These questions must all be considered in the context of the characteristics of South Africa in 2017. Twenty years ago, the answer would have been different. Today, South Africa has a fractured political elite on all sides, a fractured society, a failing economy, and plagued by endemic corruption. The question of corruption is becoming increasingly important, particularly in terms of its how it is dealt with by the criminal justice system's three pillars, namely the policing function, prosecutorial function, and the judiciary. In terms of the policing function, there is the South African Police Service (SAPS), IPID and the Judicial Oversight of the Directorate for Priority Crime Investigation (DPCI) who are all crucial in terms of the delivery of justice. Likewise, the National Prosecuting Authority (NPA) for prosecutorial functions, and the Constitutional Court as the highest court in the judiciary.

The Helen Suzman Foundation (HSF) has been to court repeatedly in relation to the DPCI (Glenister cases), despite the potential for adverse costs orders. However it is important to utilise the court process to protect and advance the rule of law. In *Glenister v President of the Republic of South Africa and Others*, the question was whether there is a Constitutional obligation creating a corruption fighting entity. HSF were of the view that there is indeed such an obligation, and were able to persuade the court. Does a case like this change South Africa's constitutional jurisprudence? It does by allowing a broader interpretation of the constitutional imperatives that originally understood, as well as confirming that judges can consider broader societal issues in making their decisions. Crucially, however, it recognised that fighting corruption is vital to constitutional interpretation.

This was relevant to HSF's involvement in the IPID case. If previous cases had confirmed the question of operational independence as necessary to fighting corruption in the case of the Hawks (in *Glenister*), it was clear that if IPID has to review the actions of SAPS, including those of the Hawks, it must be at least as well insulated or protected from political interference as DPCI. The decisions of the court in the *Glanister II* and *McBride* cases are therefore mutually reinforcing.

As the court in *Glenister II* matter found that DPCI requires independence from executive interference, it would have been subversive of IPID not to be awarded the same level of independence as DPCI. In paragraphs 31 and 32 of the *McBride*

decision, the court dealt with the issue of what independence means, drawing on its previous decisions in the Glenister cases (McBride decision, paragraph 32):

The question, therefore, is not whether the DPCI is fully independent, but whether it enjoys an adequate level of structural and operational autonomy that is secured through institutional and legal mechanisms designed to ensure that it 'discharges its responsibilities effective', as required by the Constitution.

This must be the starting point for building a new IPID Act, and for determining what independence means in practice, namely structural and operational autonomy.

Mr. Antoine concluded by providing some lessons learned from the DPCI which are relevant here to the question of legislative amendment. In the case of DPCI, 18 months allocated to it for legislative amendment, but this did not result in an effective process. At the last moment, Parliament published the SAPS Amendment Bill, which experts believed would not resolve the problems the amendments were supposed to address. Therefore, depending on the amendments made to the IPID Act through the Parliamentary process, it may be required that a further petition be made at the Court if the amendments are not compatible with their decision or the Constitution. However, this is a situation that IPID must strive to avoid.

5. Presentation on the process for the Independent Police Investigative Directorate Amendment Bill 2017 – A. Soman, Civilian Secretariat of Police

Mr. Soman presented on the process for the development and passage of the Independent Police Investigative Directorate Amendment Bill 2017.

He began by identifying the salient aspects of the confirmation order made by the Constitutional Court in the McBride case, which form the basis of the IPID Amendment Bill 2017. The Constitutional Court declared that the following provisions of the IPID Act are invalid to the extent that they authorise the Minister of Police to suspend, take any disciplinary steps pursuant to suspension, or remove from office the Executive Director of IPID:

- Sections 6(3)(a) and 6(6) of the IPID Act.
- Sections 16A(1), 16B, 17(1) and 17(2) of the Public Service Act.
- Regulation 13 of the IPID Regulations for the Operation of the Independent Police Investigative Directorate (IPID Regulations).

The Constitutional Court directed Parliament to cure the defects in the legislation within 24 months of the date of its order, and declared that the decision of the Minister of Police to suspend Mr. McBride from his position of Executive Director of IPID is invalid and set aside.

The implications of the confirmation order of the Constitutional Court is that the defects in the legislation must be cured through the passage of the IPID Amendment Bill by no later than 5 September 2018 (being 24 months from the date of the Constitutional Court order). In order for Parliament to meet the deadline, the IPID

Amendment Bill must therefore be timeously introduced in Parliament to allow for Parliament to finalise its process and deliberations. In order to ensure that Parliament, as the legislative arm, cures the defects by 5 September 2018, the Minister of Police, who is responsible for the IPID Act, must ensure that the IPID Amendment Bill is introduced in Parliament by 31 March 2018.

At the outset, it must be understood that drafting of the IPID Amendment Bill should not be limited to the certification judgment of the Constitutional Court. The process must be holistic to also include a diagnostic study of the IPID Act to identify any gaps and weaknesses in the Act and take into account regional and international instruments that also deal with police accountability. The initial process, therefore, must involve an analysis and unpacking of the certification judgment of the Constitutional Court insofar as it relates to the independence of the IPID Executive Director, but also research to enhance the mandate, powers and functions of IPID, its relationship with other organs of state, including the Civilian Secretariat for Police (CSP) and entrench the obligations of SAPS to respond to the mandate of IPID. Effective consultations with all role-players, including civil society, is both necessary and important in obtaining inputs. The product of the diagnostic study, research and consultations must be completed by 31 August 2017, with the draft Bill, in its final form, completed by 15 September 2017 and submitted to the Minister of Police for consideration and approval before the Bill is processed further. The draft Bill will also be submitted to the Office of the Chief State Law Advisor for preliminary certification to ensure technical and constitutional compliance.

Following approval of the Minister of Police by 29 September 2017, the draft Bill will need to be submitted to Cabinet by 10 November 2017 for consideration and approval for publication for comment. Before the draft Bill is submitted to Cabinet, it must first be submitted to the following bodies – the JCPS Development Committee by 12 October 2017; the JCPS DGs Committee by 19 October 2017, and the JCPS Cabinet Committee by 26 October 2017.

Given the importance of the Bill and the public interest, it will be recommended that Cabinet approve that the draft Bill be published in the Government Gazette for public comment by 15 November 2017, with the deadline for submission of comments by 15 December 2017. The collation and analysis of public comments may result in the further refinement of the draft Bill. The refined Bill, if it changes substantially from the published Bill, will be submitted, through the Minister of Police, to Cabinet by 22 February 2018 for a decision on its introduction in Parliament. The refined Bill that responds to valid comments will be finalised by 24 January 2018. After the Cabinet has approved the Bill for its introduction in Parliament, the Bill will be submitted to the Office of the Chief State Law Adviser for final certification.

The IPID Amendment Bill will be formally introduced to Parliament by 31 March 2018. After its introduction, the Portfolio Committee on Police will follow its own processes and program relating to the holding of public hearings and Committee

deliberations on the Bill. Once the deliberations of the Committee are finalised, the Bill will be referred to the Select Committee on Justice and Security of the NCOP.

Mr. Soman concluded by noting that the Bill will be finally submitted to the National Assembly for adoption by 5 September 2018. Once the bill is passed by the National Assembly, Parliament would have complied with the order of the Constitutional Court. Parliament must then refer the Bill to the President for assent, providing that the President is satisfied that the Bill complies with the Constitution and the order of the Constitutional Court. Once assented to, the date of commencement of the IPID Amendment Act must be determined and promulgated in the Gazette.

6. Presentation on securing the independence of the Kenyan Independent Oversight Authority, a comparative example – Adv. Macheria Njeru, Chairperson, Independent Policing Oversight Authority Kenya.

Adv. Njeru began by noting that the challenges identified in the workshop are similar to those experienced by Kenya's Independent Police Oversight Authority (IPOA). Prior to independence, Kenya's police force was mainly used as an instrument of coercion by colonialists. After independence, there was not substantive transformation of the police service, and the trend of regime policing continued in Kenya until about 10 years ago. In 2006, a report of the UN Special Rapporteur on Extrajudicial Executions found that Kenya's police were unaccountable, and were complicit in a range of human rights abuses including extrajudicial killings. In 2007, post-election violence resulted in the deaths of many people as a result of police action, the political settlement included Agenda 4 – the need to ensure independent oversight over the work of the police. Following a Commission of Inquiry (the Waki Commission) recommendations, a task force was established to conduct national and international benchmarking for the creation of a police oversight agency. Kenya's new Constitution in 2010 entrenched the need for police oversight, and IPOA was established by legislation in 2011.

IPOA was established to ensure fulfilment of Article 244 of the Kenyan Constitution which gives the objects and functions of the National Police Service, namely to strive for the highest standards of professionalism and discipline among its members, prevent corruption and promote and practice transparency and accountability, comply with constitutional standards of human rights and fundamental freedoms, train staff to the highest possible standards of competence and integrity and to respect human rights and fundamental freedoms and dignity, and foster and promote relationships with the broader society.

The objectives of IPOA are set out in section 5 of its Act, and are to hold the police accountable to the public in the performance of their functions, to give effect to section 244 of the Constitution, and to ensure independent oversight of the handling of complaints by the Kenya Police Service.

To achieve its objectives, the IPOA Act at section 6 provides a wide range of functions, including to investigate deaths and serious injuries by police action,

monitor and investigate police operations affecting the public, conduct inspections of police premises and places of detention, receive complaints, review and audit investigations by the Kenya Police's Internal Affairs Unit, cooperate with other institutions on issues of police oversight, review patterns of police misconduct, make recommendations and perform other functions necessary to achieve its objectives.

IPOA's powers are broad and include, in section 7 of its Act, the powers to investigate on its own motion or receive complaints, requisition reports, records, documents and any other information from the police, enter police premises, and to seize and remove any object pertaining to an investigation.

In carrying out its functions, the independence of IPOA is guaranteed in section 4 of its constitutive Act, which provides that IPOA:

- is not subject to any person, office or authority;
- observes the principle of impartiality and rules of natural justice in the exercise of its powers and the performance of its functions;
- is accorded such assistance and protection as may be necessary to ensure its independence, impartiality, dignity and effectiveness;
- has no interference from any person or body on its decision making, functions or operations; and
- is adequately funded through Parliament to effectively and efficiently perform all its functions.

One of the key measures that protects the operational independence of IPOA is its structure. IPOA is governed by a Board that controls and supervises IPOA's mandate and functions. The Board acts as a protective buffer between the executive and the day-to-day operations of IPOA, which has been a critical element of the successful defence of its independence. This has been evidenced in relation to the Board's relationship with the Parliament in terms of securing its budget despite National Treasury, on behest of the Executive, attempting to reduce its operational budget. The Board has clear membership (section 9), with clear qualification and disqualification criteria (section 10), with members competitively recruited with clear timelines to be met (section 11). The removal of the chairperson or a Board member has a clear procedure (section 14), and requires that there be clear grounds for removal, and that the Public Service Commission recommends the removal to the National Assembly, who then forward the petition to the President. The President then appoints a tribunal to hear and determine the petition and may suspend the member as the case may be, pending the outcome of the petition. The tribunal investigates the matter expeditiously, reports on the facts, makes binding recommendations to the President, who must act in accordance with the recommendations within seven days.

The relationship between the Board and the Executive is functionally limited to providing reports every six months on all activities and recommendations, which is presented to the Executive through the Minister. IPOA is not answerable as such to

the Minister, but the reporting serves as a way to ensure transparency and communication between IPOA and the executive.

It is the Board that appoints the Secretariat of IPOA, which is headed by the Chief Executive Officer (CEO), recruited through an open, transparent and competitive recruitment process (section 19). The CEO is responsible for the day to day management of IPOA, and serves on such terms and conditions as the Board may determine, and has clear field of experience.

Finally, the IPOA Act makes it an offence in section 31 for any person or body to, amongst others, wilfully obstruct or hinder a person acting in the performance of functions or exercise of powers conferred by the IPOA Act, to fail to cooperate with IPOA on issues of police oversight, and to interfere in any way with the functioning or operations of IPOA, whether unduly or unlawfully.

Adv. Njeru concluded by detailing instances when IPOA's independence was tested and challenged. This includes:

- Police Recruitment Case that was filed under Petition No. 390 of 2014 against the Attorney General, the National Police Service Commission and the National Police Service on the grounds of corruption on the police recruitment exercise – IPOA was successful.
- Statute Law (Miscellaneous Amendments) Bill 2015 which sought to amend section 14 of the IPOA Act to empower the President to remove the Chairperson or a Member of IPOA if he deems necessary, without the procedure of receiving a recommendation from a tribunal established for that purpose – the Bill was withdrawn.
- State law (Miscellaneous Amendments) Bill 2016, published in November 2016 which proposed amendment to prevent the Authority from interrogating, accessing records and evidence lodged against rogue officers on grounds of 'privileged information' – the Bill was withdrawn.

7. Presentation on benchmarking for successful independent oversight of police from local and international perspectives –Sean Tait, Director, African Policing Civilian Oversight Forum and Associate Professor Lukas Muntingh, Project Head, Africa Criminal Justice Reform

Mr. Tait presented on the notion of structural independence, reflecting on the information shared by IPOA in an earlier presentation, and on the benchmarking for successful civilian oversight mechanisms by the former United Nations Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, Mr. Philip Alston, in his study on independent police oversight mechanisms (UN Doc A/HRC/14/24/Add.8).

In the report, Mr. Alston identifies the following attributes of a successful external oversight mechanism:

- Adequate powers to carry out comprehensive investigations of police abuses.
- Sufficiently independent from the police and the government.
- Adequately resources.
- Operates transparently and reports regularly, has the support of the public and the government, and involves civil society in its work.

In terms of powers, the report recommends that the oversight mechanism be authorised to receive complaints about police abuses, request information, initiate investigations, and refer matters for prosecution.

The report also recommends that oversight mechanism have and use a proactive oversight mandate, which manifests in the following:

- When fear of the police is high, or where the community's knowledge or access to an oversight mechanism is likely to be minimal, oversight mechanisms should also be able to monitor abuses on its own initiative.
- Maintenance of comprehensive records which allow the mechanism to track specific abuses which may be pervasive.
- Power to make policy recommendations.

Resourcing is also an important feature of a successful oversight mechanism, and this includes:

- Ability to employ sufficiently skilled investigators.
- Appropriate technology.
- Adequate facilities.
- Financial resources to undertake long term and complex investigations.

Independence is a final and critical aspect of a successful oversight mechanism, and the minimum standards set out in the report to ensure operational and functional independence are given as:

- Free from both political interference and from police interference.
- Funding and legislative independence.
- Practical independence – independence from hierarchical institutional connections.
- Reduced reliance on police support and ex-police personnel.
- High ethical and integrity standards.

In terms of IPID's performance against these standards, Mr. Tait noted that IPID has relatively good provision in relation to many of the key points. However in his opinion, there were issues that would strengthen the entity and were worth examining in a process of legislative reform.

Firstly are provisions to provide for a proactive oversight mandate should be considered. This related to the ability to monitor abuses on its own initiative, record keeping that allows for tracking of specific abuses, and the making policy recommendations. As evidence showed this had a positive effective on access to the oversight mechanism when fear of the police is high, or where the community's knowledge or access to an oversight mechanism is likely to be minimal.

To an extent the ability to do proactive oversight was lost in translation in the shift from the Independent Complaints Directorate to IPID, and the referral of some former ICD functionalities to the Civilian Secretariat of Police which was seen to have a monitoring and research role. In considering amendments to the IPID Act, IPID may consider regaining these powers particularly as there was information available to IPID (in terms of dockets and investigations) that cannot be simply be transferred between departments such as the CSP, or to the public through research bodies, and which would assist in identifying systemic issues, and to proactively intervene.

Secondly, while IPID has expanded its accessibility through satellite offices, there is a need to recognise resource inadequacies, particularly as it impacts IPID's capacity to engage in long term complex investigations. This will need to be addressed in the legislative framework for IPID, which will then have flow on impact on the financing of IPID by National Treasury as against that mandate.

This linked to another area of current concern namely IPID's ability to employ sufficiently skilled investigators. There is a need to develop a dedicated oversight knowledge environment to increase the skills of IPID staff, and reduce reliance on the employment of ex-police personnel. The development of investigators and investigation skills independent of the police through collaboration with the oversight community and in cooperation with SASSETA should be made clear in the Act and will contribute to additional protections in terms of IPID's structural independence.

IPID also needs to acknowledge that its capacity is unlikely to ever be on par with the number of complaints received. Other oversight models could be considered, such as the auditing model in use in the United Kingdom (where investigations are completed by the police but with the oversight body auditing the quality of investigations, and intervening where challenges or issues arise). This will increase IPID's capacity to handle sensitive, high profile or other investigations where trends have been identified, or where there are other factors that require IPID's direct investigation. The way in which this auditing model is structured would need to be reflected in legislation, with commensurate resourcing provided to ensure IPID can fulfil this mandate. So too, the legislation should reflect the need for IPID to have its own specialised support, such as forensic and ballistic analysis, to rely on.

Mr. Tait concluded his presentation with a final challenge to the independence of IPID in its current legislation, namely the appointment, dismissal and security of tenure for the Executive Director of IPID. An open and competitive recruitment

process should be set out in the new legislation, along with the issues of hierarchy, institutional connections, and relationship with the Minister of Police, will address not only the Constitutional Court order, but will meet the standards set by the UN in the Special Rapporteur's report on effective independent oversight mechanisms. Guidance is available from the IPOA example, including the establishment of a Board, which provides not only a level of insulation from political interference for the operational management of the mechanism, but a strengthened recruitment process, especially for senior management.

Mr. Tait's presentation was followed by Associate Professor Muntingh who discussed the strengthening of IPID from the perspective of a project currently underway between APCOF, the Africa Criminal Justice Reform, IPID and the Judicial Inspectorate for Correctional Services (JICS). The overall objective of the project is to explore how the legal mandate and operational framework of JICS and IPID can be improved to strengthen oversight and accountability over SAPS and the Department of Correctional Services (DCS). The project is funded by the Magna Carta Fund of the UK Foreign and Commonwealth Office, and includes collaboration and interaction with a range of UK institutions, including dialogue and study tours with the Independent Police Complaints Commission (IPCC), Her Majesty's Inspectorate of Prisons for England and Wales (HMIP) and the Prisons and Probation Ombudsman (PPO).

Four themes have developed from discussions between the UK and South African institutions:

- Recruitment, skills and training.
- The conduct and outcome of inspections and investigations.
- Monitoring and evaluation (M&E) and performance indicators.
- Relationship with external stakeholders.

A number of similarities and differences between the UK and South African institutions have become apparent during the project. While oversight institutions face similar challenges, the degree of those challenges differ. This is especially so when considering the resource levels, which differ significantly between the UK and South Africa. The political context also plays a role, and relies to an extent on whether there is political will at the national level to address impunity. Despite these key differences, there are a number aspects of the IPCC's function and independence that are instructive to IPID as it embarks on its legislative reform.

The IPCC provides independent scrutiny of appeals against complaints dealt with by the police internally, and identifies and shares lessons to improve operational practice of the police on topical themes it identifies through its work. The latter, 'Learning the Lessons', are public and easily available online. The IPCC has a Chair, two Deputy Chairs and six Commissioners. It has five levels of investigative staff: operations managers, operational team leaders, lead investigators, investigators and trainee investigators. They are supported by commissioners, the legal, media,

support staff, policy and engagement and learning the lessons team, amongst others. The IPCC has 350 investigators working in six locations.

In terms of recruitment, skills and training, the IPCC recruits by advertising externally (on its website and in newspapers) and internally. It has stopped advertising in police and law enforcement publications. Linked to this, the proportion of its staff who are former police officials has decreased from 50% to 11% in recent years. The IPCC has also attempted in recent years to recruit from more diverse backgrounds, including diverse cultural backgrounds and members of minority groups, but are struggling to retain staff, possibly indicating that there is a strong culture within the organisation with which not all staff identify. The core competencies required in all staff include: continuous development, valuing diversity, organisational commitment, change orientation, showing initiative and adaptability, analytical thinking and decision making, resilience, task management, teamwork and writing and oral communication. Previous investigation experience is essential for operational managers, and desirable for others on the investigative team.

Investigator recruits undertake an accredited (BTEC level 5) six week basic investigation skills course. The training mainly covers the law, document and management systems, witness and suspect interviewing, disclosure, and investigating deaths and allegations of discriminatory behaviour. Further training is provided to all staff, the needs being assessed by line managers. IPCC also offers a four week (soon to be six week) trainee programme, followed by a formal continued mentoring system. After 12 months, trainees can be approved to investigator level. IPCC has also recently introduced a personal training/needs plan for its staff.

In terms of the conduct and outcome of investigations, IPCC receives mandatory reports of incidents of deaths or serious injury following direct or indirect police contact and all firearm discharges. It also receives complaints regarding serious assault, serious sexual assault, serious corruption, and an offence or behaviour aggravated by discriminatory behaviour. Importantly, IPCC can also investigate poor internal investigations by the police, as a dereliction of duty. It sets its own criteria for investigations and, in this context, the definition of 'serious' can be open to interpretation.

Investigations must be independent, capable of leading to a determination as to whether force was justified, identify those responsible for use of force, be prompt and expeditious and open to public scrutiny to ensure accountability. The overarching goal is to instil trust in the police complaints system, with the ultimate goal being to instil trust in the police.

IPCC investigators have the same powers as those of a police constable including the power to subpoena suspects and witnesses, and have access to all relevant evidence. Staff have specialised expertise in some fields, but rely on the police for some technical expertise, and on external ballistics and forensic experts.

IPCC has a 24 hour response system, but there can be challenges if incidents occur after hours as they have only 13 staff available to deploy country-wide after hours, with only 1 person on call at a time. Their inability to be on the scene swiftly in some instances has led to criticism – in those situations, they will direct the police over the phone on how to proceed.

The families of victims of fatal shootings are involved in the entire investigative process through the 'Family Liaison Managers' and are kept informed at least every 28 days, and can provide input. This closeness to families may impact on the IPCC's perceived independence.

In terms of outcome, the IPCC produces and publishes a report on investigations, containing recommendations, which are used by the Coroner's Court in cases of death. Findings of criminal conduct (e.g. gross negligence, homicide, etc.) are referred to the Crown Prosecution Service, and misconduct is referred to the police to commence disciplinary processes. The police have 15 days to respond to IPCC findings, and the IPCC can then respond to the police's response, with the former having the last word. Police can challenge IPCC findings in court on the basis of the rationality of the IPCC decision. However, in practice, the police accept most IPCC recommendations. The final report is made public (including a section of the report dedicated to 'learning lessons'), and accompanied by a media release, which has proven to be a very powerful tool. IPCC tracks the implementation of its recommendations by the police.

Some of the challenges in the conduct and outcome of investigations include that there is no direct access to police systems, and IPCC's reliance on police cooperation, including that they make IPCC aware of any incidents, and provide IPCC with some technical expertise. Further, the IPCC do not have the power to force police to respond, an outcome that can result in negative public perception of the police and the IPCC.

Over the past three years, the workload of IPCC has dramatically increased, but so too has staffing, with the number of investigations conducted increasing by 50% from 120 in 2014/2015 to 600 investigations in 2016/2017.

In terms of monitoring and evaluation, the IPCC has put a lot of energy into ensuring the quality of its investigations and reports, to reinforce the legitimacy of and confidence in the institution. Terms of reference of the lead investigator are set before the investigation, and IPCC has spent a lot of time developing their operations manual, which has had a positive impact on the quality of investigations. A Quality Unit oversees investigations, and has developed a template for investigation reports, and utilises external editors to edit their investigation reports. The performance data in this regard is made public. In addition, the IPCC has a High Profile Case Panel, which is established to oversee high profile cases. The IPCC's annual report is tabled in Parliament.

In terms of its relationship with external stakeholders, the IPCC defines stakeholders as ‘those groups, organisations and individuals who can affect or are affected by the achievement of an organisation’s purpose should be given the opportunity to influence decisions that affect them’. This allows for a comprehensive assessment of who the different stakeholders are. The objectives of stakeholder engagement are multiple: improved operational practice, an effective public service, coordination, improved reputation by ensuring that stakeholders believe the IPCC delivers its core purpose and vision, and increasing public/stakeholder confidence in the complaints system (particularly in communities with low confidence).

The IPCC has a strong focus on communications strategies with stakeholders, and has concluded memoranda of understanding with the Crown Prosecution Service. It issues regular news releases, is active on social media, has recently developed a new website, and enjoys a robust relationship with Parliament. Its biggest challenge in terms of relationships with external stakeholders is engaging with its fiercest critics without becoming defensive. An oversight institution cannot be a campaigning organisation, and must focus on its mandate. Nor does it run public education campaigns on the criminal justice system, though there is recognition of the role of the IPCC to build awareness of its existence and mandate, especially in relation to receiving complaints, to ensure the public know of and use the mechanism.

8. Presentation on performance indicators for independent police oversight – Dr. Andrew Faull, University of Cape Town

Dr. Faull’s presentation was based on a Policy Paper he wrote for APCOF on the issue of monitoring performance of police oversight agencies, which is available at <http://apcof.org/wp-content/uploads/2016/05/No-8-Monitoring-Performance-of-Police-Oversight-Agencies-Andrew-Faull.pdf>. He provided participants with information on common indicators for performance, the markers of democratic oversight, notable indicators and practices, and key questions for IPID as they relate to the importance of its legal mandate if it wants to move away from simply ‘counting the numbers’ in its own performance management, to more substantially measuring the outcomes of the exercise of its mandate.

Common indicators used in the monitoring of performance for independent police oversight generally include:

- The number of complaints received and finalised each year.
- Time taken to finalise complaints.
- ‘Outcome’ of complaints (e.g. unsubstantiated, declined).

However, there are shortcomings with these indicators, as they measure activity and outputs, rather than outcomes of the activities, such as improved trust in the police/oversight authority.

IPID's current measures of performance are generally limited to 'counting the numbers' and does not take into account the outcome of its activities, which the literature on this issue highlights as critical to an oversight mechanism's effectiveness and success.

To guide IPID's thinking on this issue, two tables from the APCOF Policy Paper were presented which provide examples of how to measure democratic accountability and performance by police oversight authority in a way that is more holistic than simply counting the number of complaints received and resolved.

Table 5 in the APCOF Policy Paper provides a reference point for oversight agencies wanting to explore new indicators which take into account the need for outcome indicators.

| Table 5: Measuring success in civilian oversight agencies based on Miller, 2001; Perez, 1994) | |
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| Criteria for success | Evaluation strategies |
| Integrity -Is the complaints process fair, thorough and objective to both complainants and police officers? -Is decision-making objective in evaluations of facts and statements? | -Audits of complaints/investigation files -Audits of training and recruitment of investigators -Review of management and supervision of investigators -Assessment of staffing levels for investigations -Surveys of public awareness of the complaints process |
| Legitimacy -How is the complaints process perceived by the public, complainant and the police? | -Satisfaction surveys of complainants and police officers -Surveys of public confidence -Interviews with complainants, police officers and the public |
| Learning -How much meaningful feedback is generated through the complaints process? -How many lessons are learned, recorded and disseminated for the benefit of the oversight agency and the police agencies? | -Policy reviews -Interviews with police officials -Analysis of data on police activity (e.g. arrests, stops, searches, complaints) -Observations of police practice -Examining uptake of recommendations for police reform |

Table 6 in Dr. Faull's APCOF Policy Paper applies primarily to evaluating the legislative foundations of oversight bodies, and provides a range of important questions that can be applied to evaluations more broadly.

| Table 6: A framework for evaluating police complaints legislation (based on Stenning, 2000) | |
|--|---|
| Accessibility | -Is the complaints process straightforward? -What resources are available to complainants (The nature of police work means many complainants may have limited access to financial and technical resources, and this may inhibit them) -What protections against abuse of complaints are there? (An easily accessible complaints system may lead to numerous vexatious complaints. Are there appeals processes in place for police?) |
| Fairness and respect for rights | -Is the process fair to both complainants and police officers, as well as to any others who may become involved in the process? -Do parties receive adequate information and notice of upcoming stages, developments and requirements? Do they have sufficient opportunity to have |

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| | their voice heard by decision makers? Do they have access to legal representation? Is the system procedurally fair for all parties? |
| Openness and accountability | -Is the process open and accountable to complainants, respondents, police services and the public while protecting the privacy of those involved, the integrity of police operations, and the viability of the complaints process itself? |
| Timeliness | -Does the process allow for the timely handling and disposition of complaints while allowing sufficient time for adequate and effective investigation and resolution? |
| Thoroughness | -Does the process provide for thorough investigation and adjudication of complaints? |
| Impartiality | -Are those involved in the agency side impartial? |
| Independence | -Those involved on the agency side are free from undue influence of the police |
| A balance between public and private interest | -Where relevant, is the public interest taken into account, even where the private interest of a complainant might prefer alternative means of resolution? -Is there a mechanism in place to distinguish between the two? |
| A balance between formal and less formal complaints | -Is the complaints process suitable for managing many different kinds of complaints? |
| A balance between remedial and punitive dispositions | -Where relevant, does the process support corrective/remedial/restorative rather than punitive recommendations? |
| Provisions of appropriate systemic information to police management and oversight bodies | -Does the complaints process generate information for police managers and oversight authorities about systemic problems or weaknesses with respect to the operations, policies, procedures and management of police services? -Is the information intelligently analysed and used by police managers and policy-makers? -Are police managers held accountable for their use/non-use of this information? |
| Effective integration and compatibility with the police's internal processes | -Is there any unnecessary duplication or overlap between the complaints process and other police complaints processes? |

A number of notable practices from police oversight authorities in other jurisdictions are instructive for IPID, including from the New York City Civilian Complaint Review Board, the Special Investigations Unit (Ontario, Canada), the Crime and Corruption Commission (Queensland, Australia), the Commonwealth Ombudsman (Australia), the Independent Police Complaints Commission (England & Wales) and the Police Ombudsman of Northern Ireland. The details on the potential lessons for IPID are set out in full in the APCOF Policy Brief, and summary of the lessons drawn is provided on page 18:

- Producing detailed case studies illustrating both the manner in which their agency investigated the complaint, but also the lessons learned during the investigation and how these are relevant to the public, the police and oversight agency. Case studies can also be used to illustrate systemic problems facing police agencies, and to illustrate examples of complaints lodged against police who acted lawfully and properly.
- Capturing and making available as much data as possible with regards to all investigations, including detail of offences, detail on implicated officers and detail on complainants/victims. This may require setting up new systems so that they can capture, collate, disaggregate and compare a broad range of demographic, geographic and technical data.
- Conducting sample reviews of investigations to evaluate patterns that might not be easy to track statistically. This can contribute to a general 'lessons learnt' type

database into which other lessons learned are also deposited. These would be different to audits, which would aim to ensure high quality investigations and dockets.

- Conducting or drawing on regular research into the levels of public confidence in both the police and oversight agencies. This can take the form of annual surveys and should involve a random sample of the population rather than complainants.
- Conducting research/surveys to test complainant satisfaction.
- Conducting research/surveys exploring police views, experience and confidence in the oversight agency.
- Adopting the category 'exonerated' as an investigation outcome while highlighting that it does not apply to 'unsubstantiated' cases in which a conclusive finding was not reached.
- Developing learning feedback mechanisms and products such as those used by the IPCC, including internal reviews and external publications.
- Developing 'self inspection' templates for investigators if these do not already exist.
- Developing a tool through which website visitors can easily access a record of complaints/investigation outcomes by precinct.
- Proactively engaging civil society in order to strengthen an agency's capacity and effectiveness (in part to promote consistency in monitoring and evaluation).

Dr. Faull concluded by noting the importance of ensuring that the objectives and mandate of IPID, as detailed in the new Act, are aligned with the type of indicators for success that will promote an effective oversight mechanism – key amongst them, perception indicators to promote an improved relationship between the community and the police, and greater trust by the community in SAPS and in IPID.

9. Presentation on civil society and independent police oversight –Chumile Sali, Head of Safety and Justice Programme, Social Justice Coalition

Mr. Sali presented on the role of civil society in promoting independent police oversight, and the steps taken by a number of organisations, to advocate for the Khayelitsha Commission of Inquiry (KCI), and their follow up on implementation of the Commission's recommendations, particularly as they pertain to the role of IPID in police oversight.

A number of civil society organisations campaigned for the Western Cape Government to establish the KCI, including the Social Justice Coalition (SJC), Equal Education, the Treatment Action Campaign, Free Gender and Ndifuna Ukwazi. This

advocacy was in response to the growing number of individual cases of police inefficiency experienced by the civil society partners, high rates of crime and violence, and the lack of safety for the residents of Khayelitsha, which is one of South Africa's largest township and home to the majority of Cape Town's informal settlement residents.

SJC and its partners successfully applied to the Constitutional Court, in a matter contested by the Minister of Police, that confirmed the powers of the provincial government to establish a Commission and to engage in oversight and monitoring of the police.

The KIC was an open process, providing Khayelitsha residents with an opportunity to tell their stories, and opening the inner workings of the police to the public through the tendering of thousands of pages of SAPS information. The KIC made 20 recommendations, which have the 'potential to change the face of policing and justice in South Africa, particularly in poor and working class communities'. SJC and its partners are monitoring implementation of the KIC recommendations, and failure by the Western Cape government to implement will result in court action, protest action, or both. Indeed, SJC and the Nyanga Community Policing Forum have begun court action against the SAPS for failure to implement Recommendation 27 on the distribution of policing resources.

Of particular relevance to this workshop was the observations of the KIC in relation to its Recommendation 16:

- 'The Commission has concluded that the manner in which complaints made against members of SAPS operating in Khayelitsha have been handled by the three police stations has not contributed to building a relationship of trust between SAPS and the community of Khayelitsha'.
- 'The Commission notes with dismay that a very high proportion of complaints are found to be unsubstantiated. The Commission considers that it is unlikely that 75% of complaints lodged are without foundation'.
- 'The Commission notes that the IPID in the Western Cape receives the highest number of complaints nationally, and that it has the lowest completion rate of any province'.
- 'The Commission also notes that a very high proportion of IPID investigators are drawn from SAPS. Although this means that the investigators understand how SAPS works, the Commission recommends that it would be appropriate, given the SAPS culture of commitment to internal solidarity, described in Chapter 14, to ensure that at least some of the IPID investigators in the Western Cape be drawn from forensic investigators who do not have a SAPS background'.

This last observation speaks directly to the issue of independence of IPID, and should be addressed in any legislative and policy reform to IPID's structure.

The KIC went further in Recommendation 17, noting that the Constitution 'expressly states that provinces may investigate complaints of police inefficiency' through a

mechanism. SJC is pleased to note that the Western Cape Government has implemented this Recommendation 17 through the establishment of the Police Ombudsman. However, it remains concerned about lack of progress on implementation of Recommendation 16, which speaks to the issue of complaints and the independence of IPID. The review of IPID's legislation provides an opportunity for IPID itself to address these issue on a national level, and through legislative reform, to improve allocation of resources to carry out its enhanced mandate from National Treasury. Mr Sali concluded by noting that beyond strengthening the mandate, efficiency and independence of IPID, there must be greater visibility of IPID in the community, to encourage community members to make complaints, and to demonstrate to National Treasury that IPID's work is important to safeguarding rights and safety.

10. Group discussion on key issues to consider in the future IPID legislation

Workshop delegates were divided into two groups where they were asked to consider the key issues to be addressed in the new IPID legislation, based on their own experiences, and the inputs provided by experts during the workshop. The following issues were addressed.

Group 1 identified a number of key issues:

- Section 8 of the IPID Act - there is a need to provide for proactive oversight, which can be achieved by the creation of a dedicated research unit to provide research capacity. The research capacity should be added to the legal mandate of IPID, in addition to the mandate areas already set out in section 8(1)(a) – (e).
- Section 28(1)(f) of the IPID Act – the amendment should separate torture and assault as new subsections (i) and (ii), with a mandatory investigation into allegations of torture, and a pre-assessment of assault complaints to determine whether or not a full investigation should be carried out. The legislation will detail the requirement, with policy required after the Act is adopted to provide a process and procedure for this.
- Section 28(1)(g) of the IPID Act – currently this section does not contemplate all possible sources of information for corruption complaints, and there is a need to amend section 29 to ensure that corruption attracts a mandatory reporting obligation, and that there is a formal relationship between the Executive Director of IPID and the head of the SAPS Anti Corruption Unit at the national and provincial levels, to ensure that reports are made. IPID may not be able to investigate all instances of corruption, but it should be collecting data on the scale of the problem.
- The new IPID Act should make the mechanism accountable to the Parliament, rather than the Minister for Police.

- IPID should adopt a legal structure similar to that of IPOA, in the form of the Board, so that there is a protective layer between the executive and the operational management of the institution. This will have cost implications, but including it in the legal mandate of IPID should ensure that the funding is then made available by National Treasury. The appointment of the Board should be by the National Assembly, and clearly spelled out in the new Act, including the requirement that it be an open and competitive process, with a range of competencies represented across its membership.

Group 2 identified the following issues to be addressed in the new IPID legislation:

- The inclusion of a Board, similar to the model presented by IPOA, to act as an intermediary/buffer between the political and organisational management of IPID.
- Expand the mandate of IPID to include the following:
 - Oversight of Provincial Traffic and Municipal Traffic police, where there is currently no oversight despite challenges in terms of issues of permits, licenses and roadworthiness.
 - Incorporating the current DPCI function.
 - Escapes from custody.
- Include formal cooperation frameworks, at the national and provincial level, in relation to:
 - the Provincial Joint Operational and Intelligence Structure (Prov Joints)
 - the National Prosecuting Authority (NPA) – IPID Act is currently silent on the ability of the NPA to be challenged on decisions whether to prosecute, and in terms of the court in which a matter will be heard.
- Human resources needs to be strengthened. This should include strengthening the recruitment criteria and training. Although there is a benefit to recruiting from SAPS because of investigation skills, this needs to be balanced with an increase in the training capacity of recruits, for example, through cooperation with SESSETA and in a requirement for an oversight knowledge development strategy.
- The objectives of IPID needs to be crafted with a view to encouraging trust in both IPID and SAPS, which then requires that the performance measurements and indicators for IPID’s performance align with this objective.
- Establishing a research unit to ensure proactive oversight – a ‘guarding the guards’ through research.

- Stronger provisions in terms of the current section 33 of the IPID Act (offences and penalties) in line with the presentation by IPOA to ensure that SAPS cooperate and respond with IPID's mandate.
- Create the potential for external assistance to IPID, such as by utilising the model presented by IPOA of engaging UNODC and foreign investigative services to provide technical support and capacity building in the areas of training and information technology.
- In terms of investigations, the categorisation of cases within IPID needs revision to ensure that sufficiently experienced investigators are allocated very serious cases, or cases against senior SAPS officials.
- IPID should include a victim-centred approach to its work, which should be detailed in the new Act, which will promote confidence by the public in IPID as an institution.

11. Presentation on the Way Forward – Mathews Sesoko, Head of Investigations, Independent Police Investigative Directorate

Mr. Sesoko thanked the experts for their inputs, and for all participants for their engagement on the issue of IPID's independence. Noting that the process for amending the IPID Act is underway, he committed to consolidating all inputs received, and reviewing them with a view to identifying further important issues to be flagged for inclusion in the draft Bill. He concluded by encouraging all stakeholders to engage with the Bill process, including during the public consultations, and at the Portfolio Committee stages.

Attendance List

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| Sean Tait | African Policing Civilian Oversight Forum (APCOF) |
| Louise Edwards | African Policing Civilian Oversight Forum (APCOF) |
| Thomas Tshabalala | APCOF |
| Amichand Soman | Civilian Secretariat of Police |
| Zola Mtati | Civilian Secretariat of Police Services |
| Sebasa Isaiah Mehlope | Civilian Secretariat of Police Services |
| Lawson Naidoo | Council for the Advancement of the South African Constitution (CASAC) |
| Zaiboonisa Khan | Department of Community Safety - WC |
| Modiri Matthews | Department of Home Affairs (DHA) |
| Nolwandle Qaba | Department of Home Affairs (DHA) |
| Doctor Mashabane | Department of International Relations and Cooperation (DIRCO) |
| Tshimangadzo Jeremiah Murongwana | Department of International Relations and Cooperation (DIRCO) |
| Vuyelwa Mlomo Ndlovu | Dept of Correctional Services (DCS) |
| Gwen Dereymaeker | Dullah Omar Institute - Africancriminal Justice Reform (ACJR) |
| Lukas Muntingh | Dullah Omar Institute - Africancriminal Justice Reform (ACJR) |
| Felicity Harrison | Goedgedacht Forum |
| Chailane David Moraba | Government Communication and Information System (GCIS) |
| Francis Antonie | Helen Suzman Foundation (HSF) |
| Thabo Leholo | Independent Police Investigative Directorate (IPID)- WC |
| Chris Magobotiti | Independent Police Investigative Directorate (IPID)- WC |
| Moses Dlamini | Independent Police Investigative Directorate (IPID) |
| Robert McBride | Independent Police Investigative Directorate (IPID) |
| Matthews Seseko | Independent Police Investigative Directorate (IPID) |
| Ms Moroasui | Independent Police Investigative Directorate (IPID) |
| P.V.H. Maoka | Independent Police Investigative Directorate (IPID) |
| M.H Molope | Independent Police Investigative Directorate (IPID) |
| N.A.Mphago | Independent Police Investigative Directorate (IPID) |
| Bongiwe Pearl Tukela | Independent Police Investigative Directorate (IPID)- EC |
| Garricks Thabo Mmusi | Independent Police Investigative Directorate (IPID)- FS |
| P Maharaj | Independent Police Investigative Directorate (IPID)- KZN |
| G A Angus | Independent Police Investigative Directorate (IPID)-Mpumalanga |
| Innocent Khuba | Independent Police Investigative Directorate (IPID)-NW |
| B Motlhale | Independent Police Investigative Directorate (IPID)-NW |
| Macharia Njeru | Independent Policing Oversight Authority (IPOA) |
| Johan Burger | Institute for Security Studies (ISS) |
| Masenyani Andrew Chauke | National Prosecuting Authority (NPA) |
| Nompumelelo Radebe | National Treasury |
| Dalli Weyers | Social Justice Coalition (SJC) |
| Chumile Sali | Social Justice Coalition(SJC) |
| Donna Evans | Sonke Gender Justice |
| Commissioner Chris Nissen | South African Human Rights Commission (SAHRC) |

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|--------------------------------|---|
| Captain Jeremiah Motlokwane | South African Police Service (SAPS) |
| Colonel Mutondi Joseph Ratombo | South African Police Service (SAPS) |
| Colonel Gregory Andre Gaillard | South African Police Service (SAPS) |
| Colonel D M Cronje | South African Police Service (SAPS) |
| K.C. Moloko | South African Police Service (SAPS) |
| X.A. Mpeta | South African Police Service (SAPS) |
| A.M Moulalosome | South African Police Service (SAPS) |
| Brigadier Marga van Rooyen | South African Police Service (SAPS): Division Legal and Policy Services |
| Tracy Shaw | SWEAT |
| Lesly Mntambo | SWEAT |
| Ntadimeng Lehrogi | Tshwane Capital |
| Andrew Faull | University of Cape Town |
| Edwin Fernando Bailey | Western Cape Police Ombudsman |
| Adv. Vusi Pikoli | Western Cape Police Ombudsman |