

# African Policing Civilian Oversight Forum

## **Deaths in Police Custody: Why is it still such a problem?**

**Report**

**23 April 2021**

On 23 April 2021, the African Policing Civilian Oversight Forum (APCOF) hosted a webinar to discuss the challenges and drivers behind deaths in police custody in South Africa.

**Themba Masuku**, Programme Manager at APCOF, opened the discussion by remarking that the webinar was taking place on the eve of Africa Pre-trial Detention Day, adopted by the Network of African National Human Rights Institutions (NANHRI) to be held annually on 25 April. Observing the day was an opportunity to promote awareness of key human rights in custodial contexts, and particularly adherence to procedural safeguards for pre-trial detention. The importance of this was highlighted by the subject of the current webinar. In 2019/20, 237 people died while in South African police custody, raising critical questions why this problem persists.

While acknowledging the progress in policing since democracy in 1994, **Commissioner Chris Nissen** of the South African Human Rights Commission (SAHRC) decried the fact that police officers continued to kill, torture and violate the human rights of people in their custody. SAPS members need to put an end to the code of silence on human rights violations within their ranks, and work with prevention and investigation bodies to bring an end to these injustices. The establishment of the National Preventative Mechanism (NPM) under the Optional Protocol of the UN Convention Against Torture (OPCAT) was a recent positive development, with its proactive mandate to conduct unannounced visits

to police custody. The SAHRC and the NPM had recently reported to the National Assembly on deaths in police custody and, at the request of the Portfolio Committee on Police, have undertaken to provide it with a comprehensive report on deaths, torture and assaults in places of detention.

Building on the remarks of Commissioner Nissen, researcher at the NPM, **Nokwanda Nzimande**, outlined the role of the NPM in the prevention of deaths in custody. The NPM has three critical roles: monitoring of places of deprivation of liberty, compiling reports, and making recommendations and engaging with mandate holder's. The areas in which the NPM could have an impact on conditions of detention include the protection of dignity of detainees, reducing contingent liabilities, enabling a more proactive system of governance, and augmenting the capacity of other internal and external oversight mechanisms. Effective stakeholder engagement and alignment to ensure that recommendations are addressed timeously and efficiently will be key to the success of the NPM in fulfilling its mandate.

**Mr Mathews Sesoko**, Head of Investigations for the Independent Police Investigative Directorate (IPID) said that deaths in police custody between 2015/2016 to 2019/2020 financial year revealed that in the past five years, the highest number of deaths were recorded in 2016/2017, when 302 deaths in custody were reported.



Table 1 above represents the cases of death in police custody received by IPID from 2015 to 2020. An increase is noted over the period of five years.

The lowest number of deaths in custody were reported in 2017/2018, when 201 were recorded, but this was steadily increasing. IPID cases were categorised according to

injuries sustained before and in custody, during escape and suicide. The most deaths in police custody are as a result of suicides, natural causes and through injuries sustained prior to custody and as a result of vigilante attacks by community members on suspected criminals. However, many of these deaths could have been avoided if SAPS members complied with their policies and procedures regarding custody management, did not assault suspects before their detention, or subject them to torture. Improvements to custody management, consequence management are required, and continuous training of police is needed on policies related to custody management. IPID, as a cooperative partner in the NPM will be re-assuming its role in proactive police custody monitoring.

**Wayne Ncube** from Lawyers for Human Rights (LHR) indicated that according to the research of the LHR, deaths in police custody take place within the context of torture, assault and failure to comply with Regulations and National Instructions In 2018, police officers were accused of 217 cases of torture and 3,661 cases of assault. In 2019 about 270 cases of torture and 3 835 of assault were reported. In the same year, 558 people were killed by the police, while 201 people died in police custody. Five key drivers of deaths in police custody were suggested: poor oversight; inadequate training on norms and standards for custody monitoring and management; weak accountability; limited independent monitoring; and discrimination.

In a subsequent **discussion**, participants mentioned that the lack of accountability for failure to comply with National Instructions was exacerbated by attitude within SAPS that these offences were not considered serious enough to deter police officers. Lack of capacity within the SAPS is another problem . This was particularly so at night when fewer police officers were on duty to manage the cells. In police stations with limited capacity the frequency of visits to police cells was often negatively affected.

**Col Mutondi Joseph Ratombo**, SAPS Section Commander for Custody Management and Acting Section Head for Custody and Exhibit Management outlined the relevant National Instructions and plans pertaining to custody management including;

- National Instruction 11 of 2019 (Arrest, transportation and treatment of persons in custody).
- National Instruction 12 of 2019 (Arrest and treatment of illegal foreigners).
- National Instruction 13 of 2019 (Management of persons in custody).
- National Instruction 8 of 2016 (Medical treatment of persons in custody).
- National Plan to prevent escapes and deaths in police custody, which is reviewed annually, and provincial plans compiled according to specific risks.

These National Instructions among others required police officers to seek medical help as soon as a suspect has suffered injuries or is unwell. Also, as soon as a person is in custody, the integrated computerised Persons Identification Verification Application (PIVA) system is activated for monitoring purposes. Where any negligence by a police officer is identified, disciplinary measures are instituted and the matter reported to IPID where death, allegations of torture or use of firearm is involved. Reviews of the custody management procedures are conducted annually and through changes identified to risk areas, there has been a decrease in deaths in custody.

Risks associated with deaths in police custody include inadequate searches of persons in custody, facilities, vehicles, visitors and food provided; ablution facilities being out of order; dilapidated facilities; smoking in cells; shortage of human resources to ensure safe and secure custody; insufficient physical resources such as vehicles, leg irons, hand cuffs and pad locks); failure to conduct risk assessments of persons in custody; and medical treatment not sought immediately for injured or sick persons.

To mitigate these risks, members need to comply with the existing directives regulating the arrest, treatment and secure detention of persons in custody. Maintenance and possible redesign of facilities need to be prioritized. Knowledge related to disciplinary procedures cases need to be immediately available to management to ensure that members facing disciplinary action are removed from managing cells. Guidelines were also needed for stations to be able to promptly institute disciplinary proceedings. Persons in custody required ready access to health and social care services appropriate to their physical and mental health needs, and injured persons need emergency medical care where necessary, and medication or support according to their needs. Access to medical response when required needs to be improved. It is vital that the procedures and tools for conducting risk assessments and monitoring the health needs of people in custody are strengthened. The role of station commanders in preventing deaths is critical. They needed to ensure that their orders are complied with and that every death is reported, recorded, thoroughly investigated and analysed.

In a **discussion** that followed the formal presentations, it was noted that there was limited specialised training currently available to police officers on custody management and monitoring and this was a need that could be addressed in the short to medium term. Additionally, the challenge of unnecessary arrest need to be addressed, with discussants agreeing that more training and guidance on arrest was needed to ensure fewer people experience arbitrary arrest, which may mitigate challenges associated with deaths in

custody. Improving compliance with arrest may also have a positive impact on contingency liability as a result of unlawful arrests.

In his closing remarks **Sean Tait**, Director of APCOF expressed his encouragement of IPID's commitment to re-initiate proactive custody monitoring in support of the NPM work, and the need for a follow up discussion around further developing capacity of mechanisms available to prevent and investigate deaths in police custody. Constructive recommendations were also made in the form of the need to improve risk assessment tools and processes for persons in police custody, developing guidelines to streamline disciplinary processes at stations, and training and better guidance on the need to arrest. As an organisation APCOF committed to initiating follow up conversation on each of these issues.

## **PARTICIPANTS**

<b>Name</b>	<b>Affiliation</b>
Sean Tait	African Policing Civilian Oversight Forum (APCOF)
Helene van der Watt	African Policing Civilian Oversight Forum (APCOF)
Louise Edwards	African Policing Civilian Oversight Forum (APCOF)
Themba Masuku	African Policing Civilian Oversight Forum (APCOF)
Dr Thomas Probert	Freedom from Violence, University of Pretoria
Beryl Orao	Freedom from Violence, University of Pretoria
Dumisani Ghandi	Freedom from Violence, University of Pretoria
Mary Rayner	Independent consultant
Prof Ignacio Cano	Independent consultant
Matthew Seseko	Independent Police Investigative Directorate (IPID)
Gareth Newham	Institute for Security Studies (ISS)
Wayne Ncube	Lawyers for Human Rights (LHR)
Ms Ashleigh Ross	NICRO
Jacqueline Hoorn	NICRO
Matthew McEvoy	Omega Research Foundation (UK)
Tina Lorisso	REFORMAR - Research for Mozambique
Vanja Petrovic	REFORMAR - Research for Mozambique
Katleho Molapo	Researcher: National Preventive Mechanism-SAHRC
Lisa Harries	Restore
Khulisumuzi Kenneth Sitembe	South African Human Rights Commission (SAHRC)

Commissioner Chris Nissen  
Col Mutondi Joseph Ratombo  
Nokwando Nzimane

Mmamhane Mfundisi  
Prof Brian Rappert

South African Human Rights Commission (SAHRC)  
South African Police Service (SAPS)  
South African Police Service (SAPS)  
The Centre for the Study of Violence and  
Reconciliation (CSV)  
University of Exeter

## **Appendices**

PowerPoint presentations provided by LHR, SAPS, IPID and the SAHRC

LAWYERS FOR  
HUMAN RIGHTS

DEATHS IN POLICE CUSTODY: WHY IS  
STILL A PROBLEM?

WAYNE NCUBE  
National Director

**DEATHS IN POLICE CUSTODY:**  
Why is still a problem?

FRIDAY, 23 APRIL 2021

LAWYERS FOR  
**HUMAN RIGHTS**

## STATISTICS

### DEATHS IN POLICE CUSTODY: WHY IS STILL A PROBLEM?

- In 2018, South African police service officers were accused of 217 cases of torture and 3,661 cases of assault
- In 2017/18, 217 cases of torture were reported to the directorate. The most recent statistics are from 2018/19, when the number of cases increased to 270.
- A total of 3,661 cases of assault were reported in 2017/18. This figure increased to 3,835 in 2018/19.
- 558 people were killed by the police in 2018, while 201 people died in police custody
- In 2017/18, 558 people died as a result of police action. In the 2018/19 financial year, the number of deaths as a result of police action was lower, at 440.
- Incidents of death in police custody refers to one or more deaths in the custody of the national or municipal police. This includes death by natural causes, suicide, injury and negligence.
- In 2017/18, Ipid recorded 201 incidents of death in police custody. In 2018/19, the figure grew to 214. But these figures are for incidents, not the number of deaths. For example, if two people died in the same prison fire, one incident would be recorded, even though there were two deaths.

SOURCE: <https://africacheck.org/fact-checks/reports/police-violence-south-africa-what-do-numbers-show>

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## STATISTICS

### DEATHS IN POLICE CUSTODY: WHY IS STILL A PROBLEM?

#### Reported cases of torture and assault committed by South African police

Year	Torture	Assault
2009/10	5	920
2010/11	-	-
2011/12	80	1,145
2012/13	50	4,131
2013/14	78	3,916
2014/15	145	3,711
2015/16	145	3,509
2016/17	173	3,827
2017/18	217	3,661
2018/19	270	3,835

SOURCE: <https://africacheck.org/fact-checks/reports/police-violence-south-africa-what-do-numbers-show>

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## STATISTICS

DEATHS IN POLICE CUSTODY: WHY IS STILL A PROBLEM?

### Incidents of death in police custody and deaths as a result of police action in South Africa

Year	Incidents of death in police custody	Death as a result of police action
2009/10	294	566
2010/11	257	544
2011/12	232	488
2012/13	275	485
2013/14	234	409
2014/15	244	423
2015/16	216	400
2016/17	302	467
2017/18	201	558
2018/19	214	410

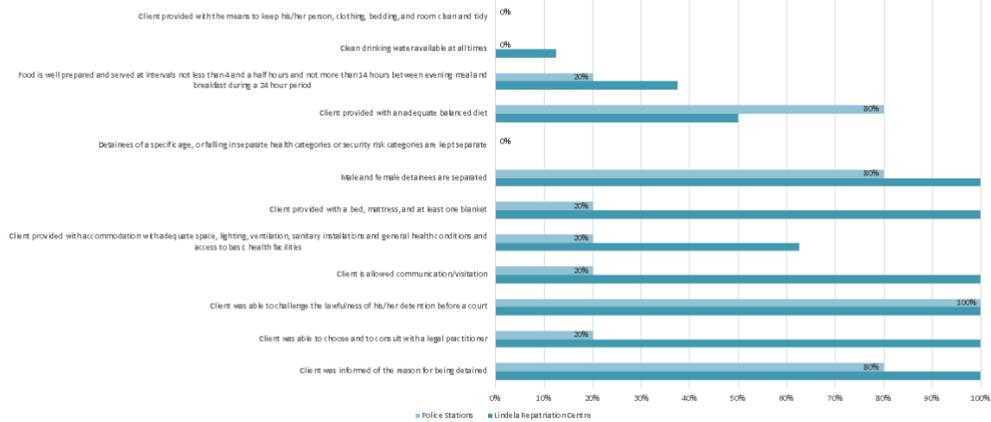
SOURCE: <https://africacheck.org/fact-checks/reports/police-violence-south-africa-what-do-numbers-show>

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## STATISTICS

DEATHS IN POLICE CUSTODY: WHY IS STILL A PROBLEM?

### CONDITIONS OF DETENTION (2021)



# Drivers

1. Oversight
2. Training
3. Accountability models
4. Independent Monitoring
5. Discriminatory factors

## LHR'S RESPONSE

DEATHS IN POLICE CUSTODY: WHY IS STILL A PROBLEM?



LHR's Legal Response Hotline went live in March 2020 to address detention and other requests while in lockdown

From March-July 2021, LHR received 52 reports pertaining to police brutality and/or unlawful arrest. The main challenges were:

- Arrest and detention for indefinite periods;
- SANDF and SAPS members entering civilians' homes, damaging property, assaulting them, and making arbitrary arrests;
- SANDF and SAPS members shooting and killing civilians in enforcing lockdown regulations;
- SANDF and SAPS members randomly assaulting civilians;
- Arbitrary arrests of validly documented non-nationals;
- Civilians arrested and not provided with reasons for arrest.



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## LHR'S RESPONSE

DEATHS IN POLICE CUSTODY: WHY IS STILL A PROBLEM?



### STRATEGIC LITIGATION

**Rodrigues v National Director of Public Prosecutions of South Africa and Others (76755/2018) [2019] ZAGPJHC 159**

- Matter concerned a death in police custody during apartheid
- The court stated that length of delay was unreasonable especially in light of political interference – age and infirmity are to be considered at sentencing - however, no trial prejudice and no exceptional circumstances present to justify radical and far reaching relief of a stay of prosecution – application for stay of prosecution dismissed.
- "The refusal of a permanent stay of prosecution is not a signalling that we are required to be vengeful to those who are alleged to have committed serious crimes in the past but rather, an affirmation that the principles of accountability and responsibility for breaching the rules of society stand at the doorway of our new constitutional order."

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## LHR'S RESPONSE

DEATHS IN POLICE CUSTODY: WHY IS STILL A PROBLEM?



### STRATEGIC LITIGATION

***Khosa v Minister of defense and Others (21512/2020) [2020]***

- Widely published death of a citizen at the hands of members of the defense force
- The court required a code of conduct for state agents in terms of their use of force and publishing of a complaints mechanism

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# DEATHS IN POLICE CUSTODY PRESENTATION IMPACT AND ASSESSMENT OF NATIONAL INSTRUCTIONS



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## DEATHS IN POLICE CUSTODY



### Contents

- National Instructions and directives
- Impact and assessment
- Risks
- Recommendations



## NATIONAL INSTRUCTIONS AND DIRECTIVES



- National Instruction 11 of 2019 (Arrest, transportation and treatment of persons in custody)
- National Instruction 12 of 2019 (Arrest and treatment of illegal foreigners)
- National Instruction 13 of 2019 (Management of persons in custody)
- National Instruction 8 of 2016, (Medical treatment of persons in custody)
- National Plan to prevent escapes and deaths in police custody (Annually reviewed and provincial plans are compiled according to their specific risk)

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## IMPACT AND ASSESSMENT



- Enhanced level of general functioning in respect of compliance to arrest, transportation, restraining measures, cell visits and management of property of persons in custody.
- Quality improvement on conducting risk assessments on persons in custody from the time of arrest.
- Coordinated handling of detainees with regard to medical treatment
- Activation of an integrated computerised system for persons in custody for monitoring of detainees; Persons Identification and Verification Assessment (PIVA).
- Readily available information on disciplinary proceedings instituted where there is negligence by members.
- Awareness of when to institute disciplinary proceedings whilst awaiting the IPID recommendations.
- Impact assessments are done annually and indicate a progressive decrease in deaths in custody

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## RISKS



- Inadequate searches of persons in custody
- Inadequate searches of facilities and vehicles
- Inadequate searching of visitors and food provided
- Ablution facilities out of order
- Dilapidated facilities
- Smoking in the cells (health and fire risk)
- Shortage of manpower to ensure safe and secure detention of persons in custody
- Insufficient physical resources (vehicles, leg irons, hand cuffs and pad locks)
- Risk assessment of persons in custody
- Timeous medical treatment

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## RECOMMENDATIONS



- Compliance to the existing directives regulating the arrest, treatment and secure detention of persons in custody.
- Maintenance and possible redesign of facilities.
- Capturing of information related to disciplinary cases.
- Guidelines to the stations to institute disciplinary proceedings.
- Members must ensure that persons in custody have access to health and social care services appropriate to their physical and mental health needs.
- Ensure they receive emergency medical care where necessary and are provided with medication or support according to their needs.

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## RECOMMENDATIONS



- Risk assessments and monitoring must be conducted to assess the health situation of each person in custody from the moment of arrest.
- Station Commanders to compile a Station Order to prevent or reduce deaths in custody and to ensure that deaths are reported, recorded, investigated or analysed.

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## DEATHS IN POLICE CUSTODY



THANK YOU

# WEBINAR ON DEATHS IN POLICE CUSTODY

INDEPENDENT POLICE INVESTIGATIVE DIRECTORATE (IPID)

23 APRIL 2021

Presentation by Matthews Sesoko

## INDEX

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The mandate of the IPID is to conduct independent and impartial investigations of specified criminality committed by members of the South African Police Service (SAPS) Municipal Police Services (MPS).

#### **What the IPID Act entails?**

This mandate has been expanded and focused by the Independent Police Investigative Directorate (IPID) legislation which was signed into law by President Jacob Zuma on 12 May 2011. IPID Act became operational from 01 April 2012. This means that the IPID will investigate only the matters specified in the IPID Act.

#### **What the IPID regulations entails?**

The IPID Act came into operation with the IPID regulations which were gazetted by the Minister of Police on the 10 February 2012. The regulations provide for the registration and processing of complaints as well as procedures for investigation of the section 28 matters and procedure for conducting integrity strengthening.

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#### **TYPES OF MATTERS THAT MUST BE INVESTIGATED ( section 28(1) of IPID Act)**

- 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;
- investigate 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 of Police, 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 of Police as the case may be.

- May investigate systemic corruption within the police (section 28(2) of the Act)

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- **Section 29** of the IPID Act provides for reporting obligations and cooperation by members of SAPS and MPS.
- **Who should report:**
  - Station Commander
  - Any member of SAPS
  - Any member of MPS
- **What should be reported:** All section 28(1)(a) – (f) cases, i.e.:
  - deaths in police custody
  - deaths as a result of police action
  - any complaint relating to the discharge of an official fire arm by any police officer
  - rape by a police officer, whether the police officer is on or off duty
  - rape of any person in police custody
  - any complaint of torture or assault against a police officer in the execution of his/her duties.
- **Failure to comply with section 29 obligations constitute a criminal offence in terms of section 33**

**IPID INTAKE  
DEATH IN POLICE CUSTODY  
2015/16- 2019/2020**

**REGULATION 2**

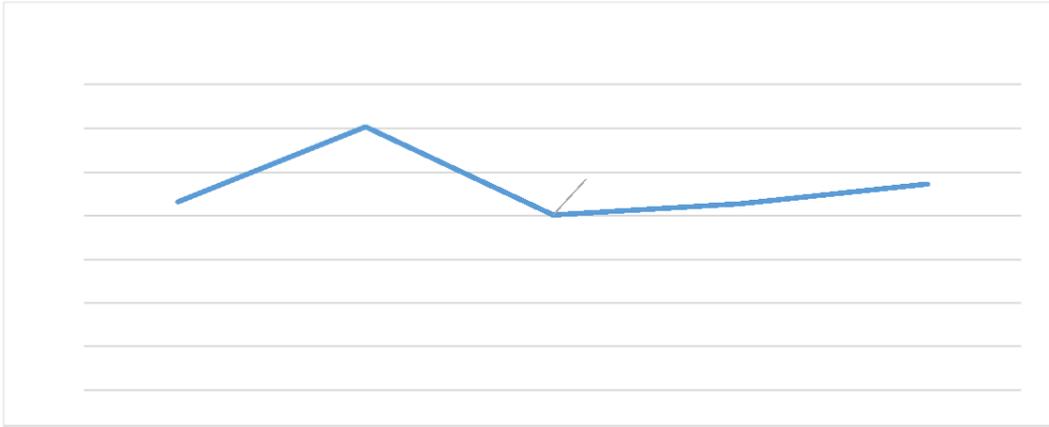


Table 1 above represents the cases of death in police custody received by IPID from 2015 to 2020. An increase is noted over the period of five years.

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**INJURIES SUSTAINED IN CUSTODY  
(ESCAPE)**

**REGULATION 4**

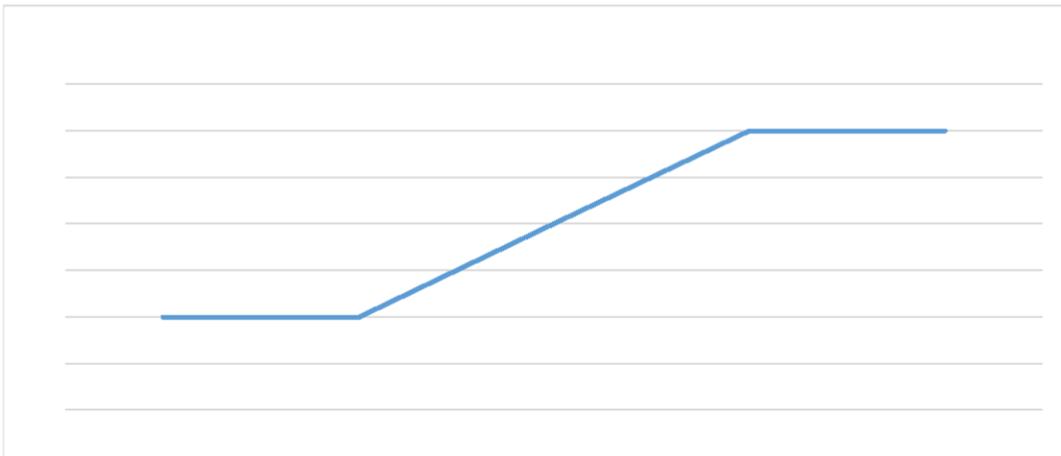
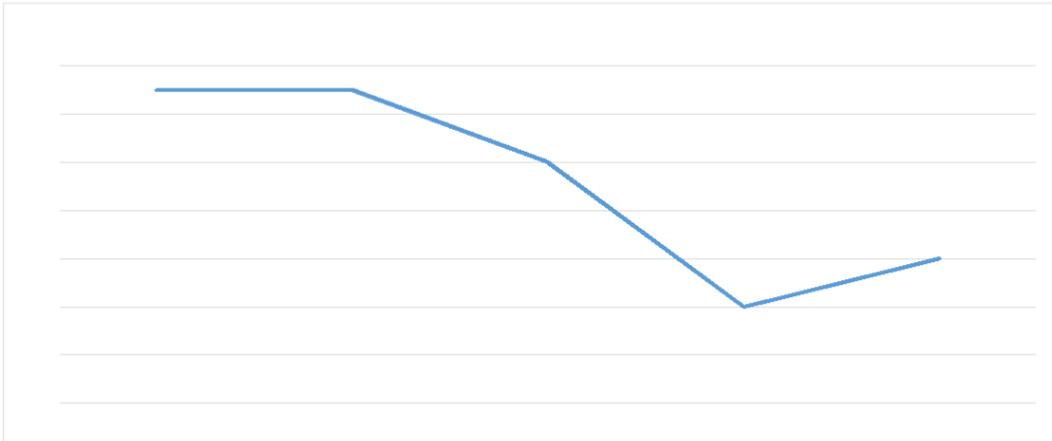


Table above represents injuries sustained in custody during escape. An increase noted over a period of five years

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## INJURIES SUSTAIN IN CUSTODY (INMATES)

## REGULATION 4

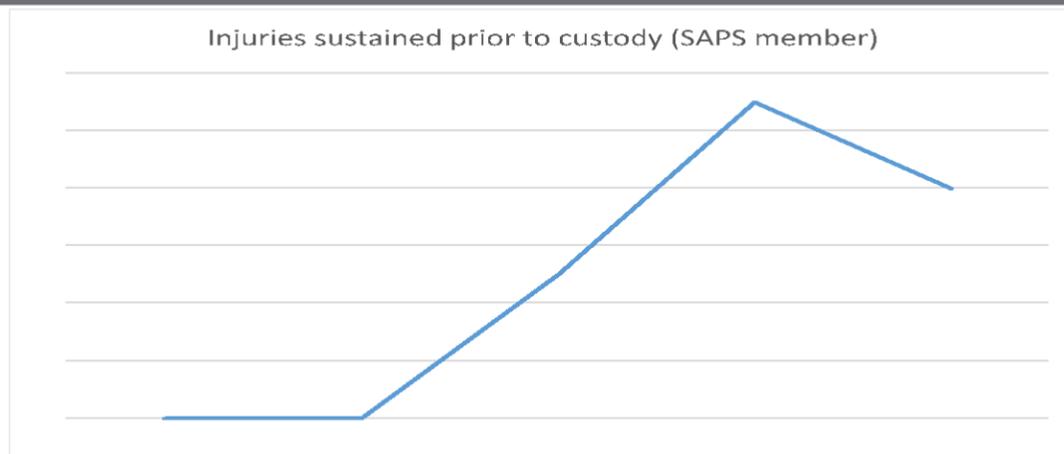


A graph above indicates the injuries sustained in custody were inmates are involved. A decrease is noted over a period of five years.

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## INJURIES SUSTAINED PRIOR TO CUSTODY (SAPS MEMBERS)

## REGULATION 4



The graph above illustrates the injuries caused by SAPS member prior to custody. A peak was noted in 2017 to 2018 with 11 incidents and a decrease in the following year.

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DEATH IN POLICE CUSTODY DUE TO NATURAL CAUSES

REGULATION 4

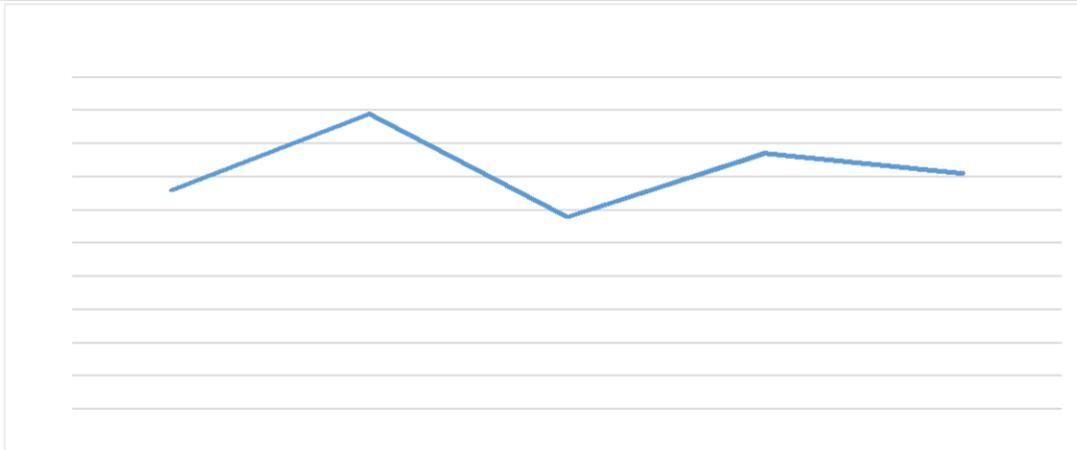


The graph above shows an increase of death as a result of natural causes with a peak of 101 in 2016-2017.

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DEATH IN POLICE CUSTODY DUE TO SUICIDE

REGULATION 4



The above graph represents a number of suicide over five years. An increase was noted with a peak in 2016 - 2017 by 89 incidents.

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## INJURIES SUSTAINED PRIOR TO CUSTODY (VIGILANTISM)

## REGULATION 4



The above graph indicates injuries sustained prior to custody where mob justice is concerned. An increase is noted in 2018-2019 and whilst a decrease was noted in 2017.

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## INVESTIGATION OF DEATHS IN POLICE CUSTODY OR AS A RESULT OF POLICE ACTION

## REGULATION 4

- Attend the scene where the death occurred.
- Record details of the deceased.
- Identify and record details of potential witnesses.
- Authorize the removal of corpse.
- Collect exhibits and other evidentiary material.
- Where necessary, refer to Forensic Laboratory.
- Visit the deceased's next of kin to inform them of the death.
- Visit and interview witnesses and obtain statements.
- Attend post mortem.
- After collecting all evidence and statements:
  - submit a report to the Provincial Head or Executive Director; and
  - make a determination as to whether such member must be arrested or not.
  - Arrest to be done in compliance with section 39 of the Criminal Procedure Act and IPID SOP's.

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- The investigation must be completed within 90 days, failing which the Investigator must give reasons for such failure.
- Feedback to complaint / next of kin must be provided in writing once every month.
- **In case of late notification of a death in police custody or as result of police action:** Investigator must **within 30 days of designation** (by Provincial Head / Executive Director) -
  - Conduct a preliminary investigation / full investigation;
  - Attend post mortem (if not yet been conducted);
  - Interview witnesses;
  - Consider desirably of reconstructing the scene of death;
  - Take police docket over for further investigation; and
  - Make recommendations to NPA / SAPS for disciplinary action.

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- **From the statistical information it is clear that most death in police custody is as a result of suicide, natural causes and vigilante attacks on alleged criminal victims.**
- **These death we find on most cases is as a results of police members failure to comply with SAPS policies on custody management**
- **In some of the cases it is as a result of assault by members of the SAPS before suspects are detained.**
- **Some of the cases reported to IPID as suicide or natural death upon investigation we establish that the death was as a result of torture.**

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- The issue of custody management must be improved to reduce the number of death in police custody.
- Consequence management must be implemented vigorously to deter non-compliance with custody management policies.
- Members need to be continuously trained on custody management policies.

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END

THANK YOU

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## **Webinar: Deaths in police custody: Why is still a problem?**

**Date: 23 April, 2021**

**Time: 10.00 – 12h00**

**Topic:** Proactive custody monitoring – the role and potential impact of the NPM.

### **THE ROLE OF THE NPM**

- **Monitoring of places of deprivation of liberty**
  - Noting that once a person is detained, they are subject to any treatment (good/bad) by the police officer in whose custody they are kept. As they are away from public scrutiny, it is in these spaces that torture and other forms of ill treatment can take place. Conducting oversight visits allows a light to be shone in these places to see the conditions in which people are detained but also to ensure that unfavourable conditions of detention may be improved. This can be improvement to treatment but also infrastructure and meals for example.
  
- **Compiling reports and making recommendations**
  - After conducting the visits, when unfavourable conditions of detention are identified, recommendations are made to start the conversation with key stakeholders and identify a way forward to rectify the challenges observed. This is the conversation and dialogue with stakeholders who manage the places of deprivation of liberty takes place and other governmental partners for example in instances where a police station is owned by the Department of Public Works (DPW), it would be a fruitless exercise to only have a discussion about condemned cells with the SAPS as DPW can assist with the implementation of those recommendations.
  
- **After engaging with stakeholders**
  - After these engagements, stakeholders are given a reasonable period of time to respond and advise on what they can and cannot implement and also advise the NPM of where their assistance is further required to implement the recommendations. For example one police station that

was dilapidated to the extent where the station commander's office became flooded when it rained. The NPM had to intervene to further the discussion with the municipality and DPW to determine whether station premises should be allocated or whether that current station should be repaired where it stands.

## **POTENTIAL IMPACT**

- **Protecting the dignity of those who are detained**
  - It is important to protect the dignity and rights of those detained because although rights such as freedom of movement are curtailed when one is arrested, the right to life and dignity still remain intact and therefore should be respected. I will elaborate on this further, later.
  
- **Reducing contingent liabilities**
  - There are large amounts of money being paid out by the SAPS for contingent liabilities. The significant reduction of deaths in police custody can ensure that these monies are used more effectively to improve the state of police stations, provide for the increase of police officials at station level (this is especially important for visible policing) and ensure that the necessary equipment required for effective policing is available. Some police stations have complained that they are severely understaffed and the staff shortages puts the police officers at risk in terms of safety in the station and also when the community needs their help they cannot attend to a matter as urgently as required because there are not enough vehicles.
  
- **Enabling a proactive system of governance**
  - Effective stakeholder engagement and alignment is required to ensure that for example replacement of light bulbs and flush masters for the toilet at police stations do not take a lengthy period of time to repair. We once visited a station where there was no light bulbs and no light fixtures and the station commander complained about experiencing issues with supply chain and DPW. Again, money saved from the reduction of contingent liabilities can ensure that an adequate amount of artisans are appointed to attend to these issues timeously.
  
- **Assistance from other internal oversight mechanism**
  - In order to support the role of IPID they need more resources in light of ratification of OPCAT. IPID should be given adequate support to comply with the OPCAT provisions to support the prevention aspect. As there are

currently more than 1150 police stations in the country, therefore there is a need for more personnel to conduct the monitoring work.

- Furthermore, there are Parliamentary portfolio committee on police
- SAPS operation management: internal oversight structure to ensure members are complying with National Instructions. – internal oversight monitoring mechanisms.
- CSO like APCOF also play a critical role to monitor on the ground.
- With 1000 plus police stations resources need to be combined to deal with the issue.

- **Prosecution of perpetrators**

- That perpetrators are actually prosecuted and sanctioned for their offences, otherwise those who are tortured will not have faith in the justice system. Payment is only compensation but does not fix the long term damage and those who torture detainees may continue to do so with impunity.

- **Prevention of death in detention**

- The prevention of death in detention lies in not only understanding that torture can cause death but that there may be other elements that may result in death in detention. These include:
  - Overused or old blankets or mats that are torn at the hem and then tied to the cell window and used by detainees to harm themselves.
  - We have also encountered a few detainees who have advised that they have not received their medication and some that have run out of medication. Detainees who are on ARVs, diabetes and tuberculosis medication may relapse and become worse if they are not on receive their medication.
  - We recently encountered a very sick detainee who was lying in his cell and was reported to not have eaten for a few days. The other detainees he was in the cell with informed us that this young man had lost his sense of taste 3 days prior to the visit and had complaining of a headache. This detainee could have possibly had COVID and may have infected the other detainees and the officials with COVID, our recommendation was that the detainee be taken to hospital immediately and tested for COVID.
  - Another major challenge is the lengthy detention of mental health users in police stations. In one police station in the Eastern Cape there was a detainee who had been in the police station for 3

months. Police officers informed us that he would also sometimes fling human excrement in the cell, we saw evidence of this. This is due to the lack of bed space in the relevant psychiatric institutions that cannot accommodate the MHCUs that are stuck in police stations. In this regard we are engaging with the Department of Health, specifically the forensic health as this is not the appropriate place for MHCUs who are not receiving the appropriate care and medication and as a result are a risk to themselves and the police officers.

- **Capacity development**

- The NPM is currently busy with the review of the SAPS training manual to ensure that at the very beginning of a police officer's career, officers are made aware of the importance of human rights in policing but also have continued training throughout the officer's career. The NPM has also offered the SAPS to attend any other training they may hold to provide further capacity development.
- The aim of the capacity development is guide and influence human behaviour- positive contribution for those who manage those in deprivation of liberty.
- Regular capacity development: ensure there is a constant reminder that there is a human face behind detained person, therefore humanising the process for those who are responsible for them. That those detained do not lose their humanity once they are detained.

## **CONCLUSION**

Key take-aways is that the aim to reduce the contingent liabilities but also reduce most importantly reduce the unnecessary loss of life. Continuous collaboration with key stakeholders is necessary to reduce this loss of life which is critical to the NPM. Continuous capacity building,

