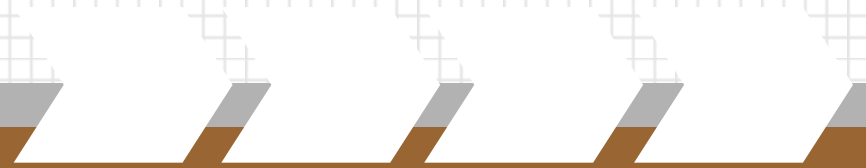
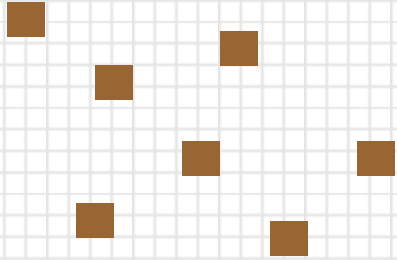


Role & Function of the Retired Judge



COMPLAINTS MECHANISM FOR THE
DIRECTORATE FOR PRIORITY CRIME INVESTIGATION (DPCI)
REPUBLIC OF SOUTH AFRICA

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INTRODUCTION



Section 17L of the South African Police Service Act calls for the Minister of Police after consultation with the Minister of Justice and the Chief Justice to appoint a retired Judge that will investigate

- Complaints from the members of the Public about the unlawful infringement of their rights caused by an investigation by the Directorate.
AND
- Complaints by members of the Directorate in respect of alleged improper influence or interference of their investigations.

INTRODUCTION CONTINUES...



Civilian Secretariat

- The Act further compels the Civilian Secretariat for Police to in consultation with the Judge to develop and implement a communication plan to promote awareness amongst the public and the members of the Directorate on the functions and the role of the Judge.

OBJECTIVES



- To create awareness about the complaints mechanism set out in section 17L of the SAPS Act (Retired Judge)
- To clarify the roles of the IPID in the retired Judge
- The Judge does not usurp the functions of the IPID (Section 17L (2) of the SAPS Act
- The retired Judge may upon receipt of a complaint either investigate or refer such to IPID, (Sec 17L(5))
- Complaints may also be lodged at any IPID offices, which shall ensure that the complaint is submitted to the retired judge without any delay, (Regulation 5(4)).
- A person, who wishes to lodge a complaint at an office of the IPID, shall be assisted by personnel of the IPID to complete the prescribed form, if so required (Regulation 5(8)).

MANDATE OF THE RETIRED JUDGE



The mandate of the Retired Judge is taken from:

- Section 17L of the SAPS Act
- Only two types of complaints
- The retired Judge is precluded from investigating complaints about intelligence matters falling under the jurisdiction of the Inspector- General of Intelligence.
- The Judge does not usurp the functions of the IPID (see section 17L (2) of the SAPS Act

MANDATE OF THE RETIRED JUDGE CONT...



The retired Judge may upon receipt of a complaint either investigate or refer such to, amongst others:

- Civilian Secretariat for Police,
- IPID,
- National Commissioner,
- National Head of the Directorate,
- relevant Provincial Commissioner,
- National Director of Public Prosecutions,
- Inspector General of Intelligence
- South African Human Rights Commission
- Public Protector
- Commission for Gender Equality (CGE)

ACCOUNTABILITY



The retired Judge must report the outcome of any investigation undertaken by him or any referral to

- the Minister of Police &
- to Parliament

POWERS OF THE RETIRED JUDGE



The Retired Judge:

- May obtain information and documents under the control of SAPS (Sec 17L(8)(a)),
- May enter any building or premises of the SAPS in order to obtain such information and documents (Sec 17L(8)(b)),
- Is entitled to all reasonable assistance by a member of the SAPS (Sec 17L(8)(c)).

NB: REFUSAL BY SAPS MEMBERS TO COMPLY WITH THE REQUEST OF THE RETIRED JUDGE IS A CRIMINAL OFFENCE (Sec 17L(16)).

POWERS THE RETIRED JUDGE CONT...



- **The National Head of the Directorate** may also request the retired Judge to investigate complaints or allegations relating to investigations by the Directorate or alleged interference with such investigations.
- According to section 17L (4) a **member** of the Directorate is not compelled to lodge a complaint to the judge via his/her management structures but can lodge a complaint directly to the Judge provided he can provide evidence of any improper influence or interference at his disposal
- **Any person** who makes a complaint in terms section 17L shall not be entitled to use this section to establish whether there is an investigation against him or her, nor be entitled to any delay, interference or termination of such investigation on the basis that such complaint has been made.
- The retired Judge may request and obtain information from the National Director of Public Prosecution in so far as it may be necessary for the Judge to conduct an investigation.

FORM AND MANNER OF COMPLAINTS



- A complaint shall be made in writing in the form set out in Annexure 1 of the complaints mechanism of the DPCI .
- A complaint may be lodged by e-mail, fax or post or be delivered at the office of the retired judge.(contact details: last slide)
- The retired judge may require from any complainant to submit any allegations made to him or her in a form of an affidavit.

TYPES OF COMPLAINTS



Retired Judge shall investigate	IPID shall investigate
<p>1. a complaint by any member of the public in terms of section 17L (4) (a) who can provide evidence of a serious and unlawful infringements of his or her rights caused by an investigation of the Directorate.</p>	<p>1. Any deaths in police custody</p>
<p>2. a complaint by a member of the Directorate who can provide evidence of any improper influence or interference whether of a political or other nature , exerted upon him or her regarding the conducting of an investigation.</p>	<p>2. Deaths as a result of police actions</p>
	<p>3. Any complaints relating to the discharge of an official firearm by any police officer</p>
	<p>4. Rape by a police officer, whether the police officer is on or off duty</p>
	<p>5. Rape of any person while that person is in police custody</p>

TYPES OF COMPLAINTS



Retired Judge shall investigate	IPID shall investigate
	<p>6. Any complaint of torture or assault against a police officer in the execution of his or her</p> <p>7. May investigate corruption matters within the police initiated by the Executive Director</p>
	<p>8. May 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,</p>

COMPLAINT REPORTING FORM

Page 1

COMPLAINT REPORTING FORM IN TERMS OF SECTION 24(1)(eeA)(iv) OF THE SOUTH AFRICAN POLICE SERVICE ACT, 1995 (ACT NO. 68 OF 1995)

COMPLAINT REPORTING FORM TO THE JUDGE APPOINTED TO RECEIVE COMPLAINTS IN RESPECT OF THE DIRECTORATE FOR PRIORITY CRIME INVESTIGATION

NOTE: If additional space is required to provide information, use a Continuation Sheet and refer to item number which is being supplemented.

Please complete all items to the extent possible to enable the Office of the Judge to locate persons who are important to the investigation of this complaint.

1 Date/Time of Complaint	2 Complaint No.
3 Method of Receipt <input type="checkbox"/> In Person <input type="checkbox"/> Written <input type="checkbox"/> E-Mail <input type="checkbox"/> Fax	4 <input type="checkbox"/> SAPS CAS/CR No.

5 Complainant's Legal Name (First Name) (Surname)	6 Complainant's Address	
7 Complainant's Telephone Number	8 Complainant's ID No.	9 City/Town/Province (Postal Code)
11 Complainant's Occupation	10 Directions to Complainant's Home	
12 Work Telephone Number	13 Complainant's Work Address	
14 Complainant's Date of Birth	15 Name of Closest Living Relative (Surname)	(First Name)
16 Relative's Telephone Number	17 Relative's Street Address	
18 City/Town/Province (Postal Code)	19 Name of Nearest Neighbour (Surname)	(First Name)
20 Neighbour's Telephone Number	21 Neighbour's Street Address	
22 City/Town/Province (Postal Code)	23 Nature of investigation of the Directorate for Priority Crime Investigation	

24 Category 1 Complaint by member of the public: Give full details of serious and unlawful infringement of your rights caused by the investigation of the Directorate for Priority Crime Investigation.
Category 2 Complaint by a member of the Directorate for Priority Crime Investigation: Give full details of improper influence or interference whether of a political or any other nature, exerted upon him or her regarding the conducting of an investigation.
NOTE: In respect of both categories of complaints the nature and availability of evidence to support the complaint are required.

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25 Name(s) and details of possible witnesses to support complaint	1.		
	2.		
	3.		

26 Witness 1 Street Address	27 Witness 1 Other Name
28 City/Town/Province	28 Witness 1 Telephone Number
30 Witness 2 Street Address	31 Witness 2 Other Name
32 City/Town/Province	33 Witness 2 Telephone Number
34 Witness 3 Street Address	35 Witness 3 Other Name
36 City/Town/Province	37 Witness 3 Telephone Number
38 Witness 4 Street Address	39 Witness 4 Other Name
40 City/Town/Province	41 Witness 4 Telephone Number

COMPLAINT CERTIFICATION

I have been advised that the filing of a false report may constitute defying the ends of justice, or in appropriate cases perjury, which are criminal offences, and I hereby certify that all of the information contained in this Complaint Reporting Form as well as any supporting Complaint Continuation Sheets is true and correct to the best of my knowledge and belief.

Date _____ Signature/Mark of Complainant _____

Date _____ Signature of Witness _____

42 Printed Name of Report Taker	43 Signature of Report Taker	44 Number of Continuation Sheets Completed and Attached
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FOR USE OF PERSONNEL OF JUDGE'S OFFICE ONLY

45 Preliminary Classification: <input type="checkbox"/> Category I <input type="checkbox"/> Category II	46 Other observations
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TEAR OR CUT ALONG THIS LINE

IMPORTANT - DO NOT LOSE THIS RECEIPT!

This is a receipt for the complaint you have just filed. It bears a Complaint Number in the lower right hand box which identifies the complaint. Please make sure that the numbers are the same as in box no. 2 on the form, before you accept this Receipt. Any future communication concerning this matter should refer to the Complaint Number. If you have additional information or questions, you may call the Office of the Judge at Tel No. _____ during the hours of 0800 to 1600. You will be contacted during the processing of this matter and at the time a decision is reached concerning a final disposition. Thank you for your assistance!

The Office of the Judge: Complaints Mechanism for the Directorate for Priority Crime Investigation

Street Address:

Postal address:

E mail:

Printed Name of Report Taker	Signature of Report Taker	Number of Continuation Sheets Completed and Attached	Complaint Number
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JUDGE'S CONTACT DETAILS



Professional Assistant: Bongliwe Maselana

**120 Plein Building , c/o 9th Floor, office number 939 , 120 Plein Street,
Cape Town 8000.**

Tel: 021 467 7027

Cell: 082 459 3459,

e-mail: MaselanaB@dpcijudge.gov.za