

INVESTIGATION OF DEATHS
IN POLICE CUSTODY AND
AS A RESULT OF POLICE
ACTION BY THE
INDEPENDENT COMPLAINTS
DIRECTORATE (ICD)

Adv KD McKenzie

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Background

- Powers of police exercised without being checked
- TRC implicated police in shocking atrocities
- No oversight mechanism over police
- Incidents of deaths very high (over 750 per annum)
 - Basis for case study

Role and Mandate

- The ICD investigates:
 - All deaths in SAPS / MPS custody or as a result of SAPS / MPS action
 - Criminal offences committed by SAPS / MPS
 - Misconduct committed by SAPS / MPS
- The ICD monitors the implementation of the Domestic Violence Act (DVA) by the SAPS / MPS
- Complaints received from public, police officers, the Minister, MECs, NGOs, CBOs, other Govt Depts

Challenges

- Human resources
 - 36 staff vs 120 000 police members
 - No investigators – depended on seconded SAPS members (police still investigated themselves)
- Budget - R11 m
- Infrastructure - Had to set-up from scratch

Challenges

- No presence in all provinces
 - Could not investigate all deaths
 - We had to prioritise
 - Hybrid model - investigation and monitoring
 - Could not attend all scenes
 - Tampering with the scene
 - Evidence could be contaminated
 - Code of silence and subculture of culture of cover-up

Challenges

- Reception by police and community
 - Suspicious (Rabotapi case)
 - Hostile (Ferreira case)
 - Perception of witch-hunting
- Not all cases of deaths reported by SAPS
 - Lack of understanding of ICD mandate
 - Hostile towards ICD
- Reactive vs proactive methodologies

Methods used

- Phased-in presence in all provinces
- Appointment of own investigators
- Training of investigators
- Linkages with the police
- Marketing strategy – perceptions changed
- Training of the police (recruits, station level)
 - Promoting a human rights ethic in policing

Methods used (cont...)

- Change of strategy from Monitoring to Investigations
- Effective investigations
 - Attendance of all death scenes
 - Forensic capacity to reconstruct scenes (Bheki Mkhize case)
 - Increased acceptance of recommendations by DPP
 - Increase in Convictions and Dismissals

Methods used

- Research and recommendations
 - Set-up of database - better understanding of what was happening
 - Strategy to reduce risk of deaths
 - Recommendations to change practices and policies with the purpose of curbing errant police behaviour

Results (Weaknesses)

- Not realizing the value of keeping an up-to-date database
 - Database phased-in 2 yrs after establishment
- Giving regular feedback to our service standards – even if unchanged status in progress of investigation

Results (Successes)

- Deaths have declined consistently over past 3 yrs
- From over 750 in 1997/8 to 528 in 2002/3
- Unit now setup within SAPS to monitor deaths
- Increased acceptance of recommendations for prosecution
- Police themselves requesting investigation of cases
- Implementation of ICD recommendations
 - Strategy to reduce risk of deaths
 - Use of excessive force in Gauteng
 - International and continental exposure

Lessons learnt

- Inculcating a human rights culture is a process – will remain a work in progress
- Communication breaks down barriers
- Objectivity is essential – not prejudging a complaint
- Respect is earned and not gained merely because of a particular mandate
- Skills profile for recruitment