



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

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DPCI JUDGE'S REPORT ON NATIONAL AND PROVINCIAL AWARENESS CAMPAIGN

BACKGROUND

Section 17 L of the South African Police Service Act (SAPS Act) calls for the appointment of the DPCI Judge who will investigate complaints from the members of the public about unlawful infringements of their rights caused by the Directorate for Priority Crimes Investigation (DPCI also commonly known as (HAWKS) and from members of the HAWKS who can provide evidence of any improper influence or interference when conducting their investigation.

To this effect, Judge Essa Moosa was appointed to head this particular unit, with a staff complement of four employees.

The Civilian Secretariat for Police in consultation with the DPCI Judge's office developed a communications strategy that is aimed at marketing the office of the Judge to its stakeholders.

As per this section of the Act, the identified stakeholders for the Judge's office are the DPCI, IPID, NDPP, Public Protector's office, other Chapter 9 institutions, the SAPS and the general public.

Firstly, an introductory meeting of the Judge, National Commissioner of Police, Secretary of Police and the National Head of the DPCI was arranged in order to pave the way for the Judge to position his office with the DPCI environment.

Subsequent to this meeting, a schedule for the provincial visits aimed at introducing the Judge and further explaining his role and function was developed by the Civilian Secretariat for Police, in consultation with the Judge's office and the National Head of the DPCI.

Prior to the provincial visits, the Judge was afforded an opportunity to meet and discuss his role to the DPCI management on the 10th of March 2014.

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INTRODUCTION

Section 17 L of the SAPS Amendment Act, prescribes that the members of the DPCI are entitled to lodge complaints, in writing to the DPCI Judge if they can provide evidence of interference during their investigations.

THE FIRST MEETING OF THE JUDGE WAS HELD WITH THE NATIONAL POLICE COMMISSIONER, THE SECRETARY OF POLICE AND THE HEAD OF THE DPCI

- The first meeting to create awareness amongst members of the DPCI, in terms of section 17L(15) of the SAPS Act was held in Pretoria at the offices of the National Police Commissioner on 12 February 2014. Present at the meeting was General Phiyega, the National Police Commissioner, General Dramat, the Head of the DPCI, Ms Jenni Irish-Qhobosheane, the Head of the Civilian Secretariat for Police and Judge Essa Moosa, the Head of the DPCI Complaints Mechanism.
- After the Judge was introduced by the Secretary of Police, the Judge addressed the meeting giving a brief profile of himself, the role and function of the DPCI Complaints Mechanism, his powers of investigations and referrals, the reporting mechanism and accountability. He appealed for co-operation amongst parties to carry out their respective constitutional and statutory mandates.
- General Phiyega addressed the meeting and expressed her appreciation to Judge Moosa for setting up the meeting through the Secretariat. She thanked Judge Moosa for introducing himself as the head of the DPCI Complaints Mechanism and having explained his role and function as provided for in terms of section 17L of the SAPS Amendment Act. She indicated that she now has a better understanding of the role and function of the DPCI Complaints Mechanism. She committed both herself and her Organisation to work closely and co-operate with the Judge to carry out their respective mandates. She identified her Professional Assistant as the person who will liaise between her office and the DPCI Complaints Mechanism.
- General Dramat then addressed the meeting. He thanked the Police Secretariat for inviting him to the meeting. He expressed his appreciation to the Judge and the Commissioner for their input. He likewise committed himself and his Organisation to work and co-operate with the DPCI Complaints Mechanism. He identified Colonel Zama Basi as the head of the newly established Integrity Unit within DPCI and his Personal Assistant as the persons who will liaise with the DPCI Complaints Mechanism.
- It was agreed that a Memorandum of Understanding (MOU) will be drawn up between the respective organisations to regulate the respective relationships as well as working co-operation arrangements. The meeting terminated with a vote of thanks by General Phiyega.

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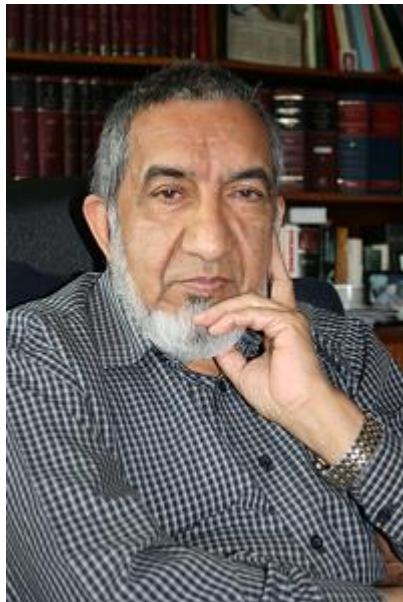
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WHO IS JUDGE ESSA MOOSA



Judge Essa Moosa was born on 8 February 1936 in District Six, Cape Town, South Africa. He qualified as a lawyer and was admitted to practise as such by the High Court of the Supreme Court of South Africa on 1 June 1962. He practised as a lawyer in Cape Town from 1 June 1962 to December 1995. He was the Director of the Planning Unit in the Department of Justice from 1 February 1996 to 31 December 1997. Its task was to produce a Strategic Plan for the Transformation of the Administration of Justice in terms of the New Democratic Constitution of South Africa. It produced the Strategic Plan known as "Justice Vision 2000".

In April 1998 he was appointed by President Nelson Mandela as a judge of the High Court of the Supreme Court of South Africa based in Cape Town. He retired officially from active service on 8 February 2011. He continues to hold the position of a judge and can be called upon, from time to time by the judiciary, to render service in his capacity as a judge.

As a practising lawyer spanning over a period of more than 30 years, he specialised in human rights issues. During the apartheid era, he challenged in court human right violations such as detention without trial, freedom of association, expression and movement. He also challenged in court security and emergency laws and regulations. He acted for a number of prominent anti-apartheid non-governmental and community-based organisations. He also represented leading anti-apartheid political and community activists who were detained without trial in terms of the security legislation and emergency regulations and those who were charged with various political offences.

He was the founding and executive member of the National Association of Democratic Lawyers and chaired its Human Rights Committee. After the unbanning of the African National Congress (ANC) in 1990, he served as the Secretary of the Constitutional Committee of the ANC.

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The Constitutional Committee gave logistical support to the ANC negotiation team led by Nelson Mandela for the establishment of a democratic, non-racial and non-sexist South Africa. He also served as Electoral Agent for the ANC in the Western Cape region for the first democratic elections in South Africa held during April 1994.

He presently serves in a voluntary capacity as the chairperson of the Kurdish Human Right Action Group (KHRAG) which is based in Cape Town. It monitors the human rights violations of the Kurdish people more particularly in Turkey but generally in the Middle East. He also serves on the Board of Directors of the European Union Turkish Civic Commission (EUTCC) which is based in Brussels. It monitors Turkey's compliance with the accession criteria for its admission to the European Union as a full member. He also serves as Chairperson of the International Peace and Reconciliation Initiative (IPRI) which was launched in Brussels on 3rd December 2012 in response to a joint call led by Archbishop Emeritus Desmond Tutu and supported by other leading international figures for the resumption of dialogue between the Turkey Government and the Kurdish leader Abdullah Ocalan for a lasting and peaceful settlement of the Kurdish Question in Turkey.

He served as trustee of the University of the Western Cape for more than 20 years. He also served as the Chairperson of the Council of the Peninsula Technicon and later as a member of the Council until the merger of the institute with the Cape Technicon under the name of the Cape Peninsula University of Technology. He was, among other, a founding member and trustee of the alternative community based media such as Bush Radio, Grassroots Newspaper, Saamstaan Newspaper (Southern Cape) and South Newspaper.

On 20 September 2012 he was awarded a Degree of Doctor of Law by the University of the Western Cape for his contribution to human rights generally and to the struggle particularly for democracy, freedom, equality and dignity in South Africa.

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SCHEDULE FOR NATIONAL AND PROVINCIAL AWARENESS

Each province was visited by the Judge and deliberations between the two parties were aimed at clarifying the role of the office of the Judge and establishment of the working relationship between the DPCI and the DPCI Judge.

In each province, different units within the DPCI environment attended the meeting as follows,

- DPCI Provincial Office
- All DPCI Provincial Components
- All DPCI Provincial Units

01-30 APRIL-2014

No	Date	Province/unit
1.	2014/02/12	National Police Commissioner, The Civilian Secretariat of Police and The Head of DPCI
2.	2014/03/10	Head office, Pretoria DPCI management
3.	2014/04/04	Bellville, Western Cape DPCI
4.	2014/04/08	Polokwane, Limpopo DPCI
5.	2014/04/09	Nelspruit, Mpumalanga DPCI
6.	2014/04/10	The DPCI – Head Office, Pretoria
7.	2014/04/10	<ul style="list-style-type: none">• Head office, Pretoria, DPCI Heads• National Director of Public Prosecutions, NDPP
8.	2014/04/11	East London, Eastern Cape DPCI
9.	2014/04/15	Potchefstroom, Klerksdorp, North West DPCI
10.	2014/04/16	Johannesburg, Gauteng DPCI
11.	2014/04/23	Kimberly, Northern Cape DPCI
12.	2014/04/24	Bloemfontein, Free State DPCI
13.	2014/04/30	Durban, Kwa-Zulu Natal DPCI

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PRESENTATIONS BY THE SECRETARIAT ON SECTION 17L

The following presentation was done to all the provinces visited.

INTRODUCTION

The role functions and mandate of the DPCI Judge

MANDATE

The mandate of the DPCI Judge is taken from: Section 17L of the SAPS Amendment Act and deals with two types of complaints referred to as;

- **Category 1 Complaint**

Shall be a complaint by any member of the public in terms of section 17L (4) (a) who can provide evidence of a serious and unlawful infringement of his or her rights caused by an investigation of the DPCI.

- **Category 2 complaint**

Shall be a complaint by a member of the DPCI 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 his/her investigation.

POWERS OF THE JUDGE AS PROVIDED IN SECTION 17L

The DPCI Judge

- May obtain information and documents under the control of SAPS,
- May enter any building or premises of the SAPS in order to obtain such information and documents,
- Is entitled to all reasonable assistance by a member of the SAPS.

NB: REFUSAL BY SAPS MEMBERS TO COMPLY WITH THE REQUEST OF THE REQUIRED JUDGE IS A CRIMINAL OFFENCE.

FORM AND MANNER OF COMPLAINT

- A complaint shall be made in writing in the form set out in Annexure 1 of the DPCI integrity regulations, which is annexed hereto.
- A complaint made may be lodged by e-mail, fax or post or be delivered at the office of the DPCI judge (see the last slide).
- The DPCI judge may require from any complainant to submit any allegations made to him in the form of an affidavit.
- Complaints may also be lodged at any Independent Police Investigative Directorate offices (IPID), which shall ensure that the complaint is submitted to the DPCI judge's office without any delay.

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- 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 requested.

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COMPLAINTS FORM:

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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 checked="" type="checkbox"/> SAPS CASCR 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)
10 Directions to Complainant's Home	
11 Complainant's Occupation	
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.

25 Name(s) and details of possible witnesses to support complaint	1.	2.	3.
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26 Witness 1 Street Address	27 Witness 1 Other Name
28 City/Town/Province	29 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 defeating 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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THE SECOND MEETING WAS HELD WITH THE DPCI MANAGEMENT TEAM IN PRETORIA

The second meeting was held on 10 March 2014 at the headquarters of the Integrity Unit of the DPCI, 421 Pretorius Street, Pretoria. The meeting was with the management of the DPCI and comprised representatives of the management from head office and from the provincial and regional offices of the DPCI. The DPCI Complaints Mechanism was represented by Judge Essa Moosa as the head of the Unit and by Ms Pinda Ntsaluba the head of the Communications Unit of the Civilian Secretariat for Police. She was seconded by the Secretariat to the Complaints Mechanism to develop and implement a Communication Strategy in consultation with the Judge in terms of section 17L (15) of the SAPS Act. Arising from such Communication Strategy, she prepared a Power Point Presentation which sets out the Mandate of the Judge; his Role and Function; his Powers of Investigation of Complaints; his Right of Referral of such Complaints to other specified Individuals and Institutions; his duty to Report to the Minister of Police and to Parliament and the Form and Manner of Lodging Complaints.

General Dramat chaired the meeting. He welcomed everyone and introduced Judge Moosa and Ms Pinda Ntsaluba to the approximate 80 members of the DPCI Management that attended the meeting. He then called on Judge Moosa to address the meeting. The Judge gave an overview of the Complaints Mechanism established in terms of section 17L of the SAPS Act, the background to the establishment of the Mechanism; he gave a short profile of himself; he appealed for the DPCI and the DPCI Complaints Mechanism to co-operate with each other in order to discharge their respective constitutional and statutory mandates. After his address, Ms Ntsaluba was called upon to make the power point presentation. The Judge thereafter fielded questions from the audience. The meeting was closed after a senior member of the DPCI moved a vote of thanks.

THE THIRD MEETING WITH THE DPCI OF THE WESTERN CAPE PROVINCE

The third meeting was held with members of the Western Cape branch of the DPCI on 4 April 2014 at the Sanlam Auditorium in Bellville. There were approximately 180 members present. The meeting was chaired by Brigadier Oliver, the Acting Head of the DPCI in the Western Cape in the absence of the Head who was on leave. After Brigadier Oliver welcomed those present, he asked Colonel Basi to introduce Judge Moosa. After he was introduced, Judge Moosa addressed the meeting in the same vein as the previous meeting. He then called upon Ms Pinda Ntsaluba to do the Power Point Presentation. After she had made her presentation, Judge Moosa fielded questions from the floor. The meeting closed after a vote of thanks.

THE FOURTH MEETING WITH THE DPCI OF THE LIMPOPO PROVINCE

The Fourth Meeting was held in Polokwane in Limpopo on 8 April 2014. The meeting was held in the boardroom and chaired by General D M Molatjana. There were approximately 50 persons present. After welcoming the attendees, she introduced Judge Moosa to the meeting. Judge Moosa then addressed the meeting and gave an overview of the oversight role of the DPCI Complaints Mechanism.

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This was followed by a power point presentation by Ms Pinda Ntsaluba. The meeting was then opened for questions and comments. A lively discussion ensued thereafter. The meeting was closed, after a vote of thanks was moved.

THE FIFTH MEETING WITH THE DPCI OF THE MPUMALANGA PROVINCE

The fifth meeting was held with the Mpumalanga DPCI in Nelspruit, on 9 April 2014, at the Mbombela Stadium Auditorium. The attendees were welcomed by Major General NJ Mapanyane, the Provincial Head. As he had another urgent engagement elsewhere, he handed us over to Lt Col Riba. The meeting was attended by approximately 66 members. They represented the following components: Organised Crime Investigation Unit, Commercial Crime Investigation Unit, Anti-Corruption Unit, PCMC, FAFI and Support Staff. Col Riba introduced Judge Moosa. He addressed the meeting giving a broad overview of his role and function.

This was followed by a power point presentation by Ms Pinda Ntsaluba, which followed the same pattern as the other presentation at the other meetings. The meeting was thereafter opened for questions and comments. A lively debate ensued. The presentation was helpful and informative but there were concerns that the Judge had limited powers. This was based on the fact the Judge could only make recommendations and referrals and not the final decision on the outcome of his investigation. The meeting terminated after the vote of thanks was moved.

THE SIXTH MEETING WITH THE DPCI HEAD OFFICE IN PRETORIA

The sixth meeting was held with the personnel of the Head Office of the DPCI in Pretoria on 10 April 2014 at 8h00. The Meeting was held at the local Golf Club. The meeting was chaired by Brigadier Bokaba . The total attendees were approximately 150. They comprised in addition to the administrative staff, representatives of various investigative units, which included: Organised Crime, Commercial Crime, Anti-Corruption and Integrity units. The presentation followed the same pattern as the other presentations.

After the Judge was introduced by the Chairlady, he made his introductory remarks, which was followed by the power point presentation by Pinda Ntsaluba. The meeting was thereafter opened for questions and comments. There was a lively discussion. Some of the participants were concerned about the possibility that they would be redeployed and this would mean that they and their families would have to be relocated. Concerns were also raised of the possibility that should they lodge any complaint to the Complaints Mechanism, they could be victimised.

THE SEVENTH MEETING WITH THE NATIONAL DIRECTORATE FOR PUBLIC PROSECUTION AND HIS MANAGEMENT TEAM IN PRETORIA

The seventh meeting was held with the National Director of Public Prosecutions (NDPP) and his professional management personnel at his offices in Pretoria on 10 April 2014 at 11h00.

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After the NDPP made his introductory remarks, he introduced the Judge who made his presentation and which was followed by the power point presentation by Ms Pinda Ntsaluba.

The Judge and his team were favourably received by the NDPP and his staff, and expressed their appreciation that they had taken time off to meet them and make the presentation. They committed themselves to work closely with the Complaints Mechanism. The NDPP suggested that a Memorandum of Understanding (MOU) be concluded between the respective structures. This was agreed to in principle and the NDPP undertook to draft a MOU for an input by the office of the Judge. The meeting terminated with a vote of thanks from the NDPP.

THE EIGHTH MEETING WITH DPCI OF THE EASTERN CAPE PROVINCE

The eighth meeting was held with members of the DPCI –Eastern Cape on 11 April 2014 in East London. We were welcomed by Brigadier K D Galawe, the acting Provincial Head. He had to leave for another meeting with the National commissioner and excused himself from our meeting. Our meeting was chaired by Colonel T. Njikelana. After introducing the Judge, the Judge made his presentation and which was followed by the power point presentation by Ms Pinda Ntsaluba. After her presentation, the meeting was opened for questioning and comments.

There was a lively interchange of ideas and the question of victimisation was again raised at this meeting. There were approximately 39 attendees from the DPCI offices in East London, Port Elizabeth and Mthatha. They expressed their appreciation to the Judge for having visited them and explained his role. The meeting concluded with a vote of thanks from Col Horak and Captain Lwana.

THE NINTH MEETING WITH DPCI OF NORTH WEST PROVINCE

The ninth meeting was held with the DPCI of the North West Province on 15 April 2014 at the Potchefstroom Country Club in Potchefstroom. The meeting was chaired by the Major General Mabula, the Provincial Head of the DPCI, North West. There were approximately 104 members present. They represented the Provincial DPCI Office, Organised Crime Investigation Unit, Commercial Crime Investigation Unit, Priority Crime Management Centre (PCMC), Anti-Corruption Investigation Unit, Klerksdorp, Mahikeng and Tlhabane Organised Crime Investigation Units, and Klerksdorp and Mahikeng Commercial Crime Investigation Units.

The presentation followed the same pattern as before. Judge Moosa gave the introductory address, followed by the power point presentation by Ms Pinda Ntsaluba with questions being fielded thereafter. Major General Mabula expressed the province's appreciation to the Judge and Ms Ntsaluba. He committed that the DPCI, North West will co-operate with Complainant's Mechanism of the Judge at all times.

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THE TENTH MEETING WITH THE DPCI OF GAUTENG

The tenth meeting was held with the DPCI of the Gauteng province in Midrand on 15 April 2014. The meeting was well attended. It is estimated that there were approximately 100 attendees. They comprised both administrative and investigative personnel. The meeting was chaired by Major General SM Sibiya. He introduced the Judge who then gave an overview of his role and function. This was followed by a power point presentation by Ms Pinda Ntsaluba. Thereafter followed questioning and comments. These were at times heated. It was clear that there were tension amongst the personnel of this division. The meeting terminated after a vote of thanks.

THE ELEVENTH MEETING WITH THE DPCI OF NORTHERN CAPE

The eleventh meeting was held with the DPCI of Northern Cape in Kimberley on 23 April 2014. The meeting was attended by approximately 55 officers and staff members. Major General L E Ntshinga welcomed Judge Moosa and his entourage. She briefly explained the purpose of the visit and introduced the Judge to the meeting. The Judge briefly explained the role and function of his office and his background and the various positions he held in his career. He then introduced Ms Pinda Ntsaluba, the Director of Communications in the Office of the Civilian Secretariat, who has been seconded to the Judge to roll out the awareness campaign.

She then presented a power point presentation giving a comprehensive outline of the role and function of the Judge and how the Complaints Mechanism for complaints against and from members of the DPCI will operate. Thereafter questions and concerns from the floor were addressed by the Judge. The meeting terminated after a vote of thanks was passed by Col Perumal who is the Provincial Commander of the Commercial Crime Unit.

THE TWELFTH MEETING WITH THE DPCI OF FREE-STATE

The twelfth meeting was held with the DPCI of the Free State at the Bobbies Park in Bloemfontein on 24th April 2014. The meeting was attended by approximately 86 officers and staff. They represented different Units of the DPCI and from different regions of the Free State. The meeting was chaired by Col. Oliphant on behalf of the General Mosipi, the Provincial Head of the Free State DPCI. He was in Pretoria for a management meeting. The chairperson welcomed those present and introduced Judge Moosa, Ms Pinda Ntsaluba and Warrant Officer Ntlhamu of the Integrity Unit of the DPCI. The Judge then addressed the gathering.

Ms Pinda Ntsaluba gave a power point presentation of the role and function of the Complaints Mechanism. The floor was thrown open for questioning and comments. The Judge responded to them. At the end of the proceedings Col. Van Jaarsveld moved the vote of thanks. Those present regarded the meeting as fruitful and informative and expressed their appreciation and satisfaction at the Judge's input and that of Ms Ntsaluba.

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THE THIRTEENTH MEETING WITH THE DPCI OF KZN

The thirteenth meeting took place with the DPCI of KZN in Durban on 30 April 2014. The meeting was attended by approximately 74 members. Present in the meeting were the different units and most of the regions of KZN. Brigadier DP Mbotho, the Acting Provincial Head, chaired the meeting. After introducing Judge Moosa, the Judge addressed the gathering and gave his background and the purpose of the visit, which was to create awareness of the creation of the DPCI Complaints Mechanism. His address was followed by the power point presentation by Ms Pinda Ntsaluba on the role and function of the Judge. A lively interchange of ideas took place at question time and positive comments were made by some of the attendees.

The presentation was well received by all present and the questions raised indicated the interest displayed by those present in the DPCI Complaints Mechanism. They emphasised the question of confidentiality in order to enhance the public and members confidence in Complaints Mechanism.

THE FOLLOWING CONCERNS WERE RAISED AT THE MEETINGS

- **Question of confidentiality in terms of dealing with the complaints:** Confidentiality is something that has to be arranged between the complainant and the Judge to ensure the delivery of a complaint in the most secure way, e.g. hand delivery where possible, etc. The Judge will obviously also employ measures in his own office to ensure confidentiality of the complaints.
- **Enforcement of the recommendation of the Judge's decision:** Apart from powers to obtain information from the SAPS and the NDPP for purposes of an investigation, the Judge cannot enforce recommendations made by him. The Judge has to report to the Minister of Police on the outcome of his investigations. The Judge must further report to Parliament, on an annual basis, on the performance of his functions. If the Judge is not investigating the complaint himself, he can refer it to the Civilian Secretariat for Police, the IPID, the National Commissioner, and the National Head of the DPCI, a Provincial Commissioner, and the NDPP, the Inspector-General of Intelligence or any Chapter 9 institution such as, the Public Protector's Office.
- **Identification of the investigators from the Judge's office:** They will carry suitable identification that identifies them as such, which may or may not be accompanied with a written instruction by the Judge. This is, however, a question which must still be addressed by the Judge himself.

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- **Compromise of the independence of the DPCI due to the appointment of the DPCI Judge:** No, the office of the Judge enhances independence of the DPCI in that members are shielded against improper influence or interference with regard to the performance of their official functions. Complaints by the public will ensure that DPCI members act bona fide and in accordance with the law and provide a checking mechanism to ensure constitutional conduct. Independency does not mean that DPCI members can do as they please.
- **How is SAPS Beaurocracy going to be dealt with when submitting complaints to the Judge?** There is no need to follow these extended reporting mechanisms since members may directly report to the Judge. There is no requirement in section 17L of the Act, or the Integrity Regulations of 2010 that members must follow “protocol” to lodge a complaint. Any member of the DPCI can do so, irrespective of rank/position.
- **Difference in the roles played by the office of the Judge and the office of the Public Protector.** The Judge and the Public Protector’s offices are different entities with different mandates. The Judge is appointed in terms of section 17L of the SAPS Act whilst the Public Protector (PP) is one of the Chapter 9 Constitutional institutions with powers and a mandate that is set out in the Constitution and the Public Protector Act No. 23 of 1994. According to this Act, the Public Protector is competent to investigate, on own initiative or on receipt of a complaint, any conduct in state affairs or in Public Administration in any sphere of government that is alleged or suspected to be improper or to result in any impropriety or prejudice and to report on that conduct and to take appropriate remedial action.
- **Clarity on the types of complaints that falls within the mandate of the Judge.** In the main, there are two types of complaints, namely a so-called category 1 complaint which pertains to members of the public complaining about serious and unlawful infringements of their rights caused by an investigation of the DPCI or a category 2 complaint which is a complaint by any member of the DPCI about improper influence or interference exerted upon such member regarding the conducting of an investigation by such member.
- **Can the Judge monitor the investigations conducted by the IPID?** The Judge and IPID are two separate entities with separate mandates. Although the Judge can, in terms of the SAPS Act, for purposes of his investigations, obtain information from the SAPS and the NDPP, there is no specific provision that empowers the Judge to request information or progress reports from the IPID. Members of IPID are not members of the SAPS.

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However, nothing stops the Judge from liaising with IPID if there is a matter of mutual concern or which falls in the domain of IPID but which also relates to an investigation of the Judge.

- **Protection of the members of the DPCI who submit complaints against their supervisors.** The function of the Judge is to investigate complaints and to refer the outcome of such investigations to the Minister of Police. Although it is accepted that confidentiality will be maintained at all times, the Judge will require evidence of the allegations made. This is to ensure that only bona fide complaints are acted upon.

There is no specific provision in section 17 L of the SAPS Act in terms of which a “protected disclosure” can be made but members are “protected” by section 17L (4)(b) of the SAPS Amendment Act in that it entitles them to lay bona fide complaints of the nature contemplated by the said section.

- **Possibility of the Judge dealing with other complaints not mentioned in section 17L:** The Judge’s mandate is restricted to complaints from the public regarding serious and unlawful infringement of rights caused by an investigation of the DPCI or, in the case of members of the DPCI, complaints dealing with improper influence or interference, with their investigations. Unlike the PP, the Judge can only act upon receipt of a complaint.
- **If the Judge received any complaints since his appointment, and types of complaints received?** Yes, he has received a few complaints. They were from members of the public who alleged that their rights have been violated by members of the DPCI in the execution of their duties. He also received complaints from members of the DPCI, who complained that there were improper interference with the execution of their work by members of the public and politicians.
- **Elaborate on the MOU Judge spoke of between DPCI and his Unit and will members of the DPCI have access to the Memorandum of Understanding (MOU):** Yes, the object of the MOU is establishing clear lines of communication. Spell out how we are going to carry out our respective mandates and what measures we are going to put in place to make our department effective, efficient and accountable. The MOU will be transparent and accessible.
- **Threat to life of investigators:** Threats to the lives of investigators require immediate preventative action, e.g. removal of investigators, security of investigators, etc. The route of the Judge might be too long to deal with such threats and more appropriate assistance can be rendered by the employer (SAPS) itself. In theory such an “interference” may however, be reported to the Judge.

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- **Will political interference also be reported to the Minister?** The Judge will investigate and make recommendations to the Minister of Police. The Judge must also, on an annual basis, report to Parliament on the performance of his functions. Parliament, consisting of various political parties, can take specific decisions how best to deal with such interference. The Integrity Unit has a specific mandate to ensure integrity within the ranks of the DPCI.

The fact that a member lays a complaint with the Judge does not mean automatically that the Integrity Management Unit has a role to play. The Integrity Management Unit can only come into the picture if the integrity of the member itself is questionable, i.e. criminal conduct of the member, security screening, disciplinary matters, etc.

- **If members of the public make allegations about DPCI members, how will the Judge handle such?** The Judge will investigate and make recommendations to the Minister. Instead of investigating himself, he can also refer complaints to entities that are, in the circumstances, more appropriately placed to deal with the specific complaint, e.g. the National Head of the DPCI or IPID.
- **Can the complaint be submitted anonymously?** There can be no real follow-up in respect of a member who files a report anonymously. The judge will require evidence and affidavits from the complainant to ensure that the complaint is bona fide. If a person is not prepared to provide his name in a complaint one can immediately ask one of two things: Is the complaint real or, does the member fear victimisation? Victimisation is always a possibility, but this aspect can be managed in conjunction with the Judge.
- **Can the Judge advise with day to day operations of the DPCI?** No, the Judge does not provide guidance or legal services in respect of routine work.
- **Can the DPCI members assist the public when submitting the complaints?** If one assists someone to complain against his or her own organisation and having insight into the actual complaint, some persons may doubt one's loyalty and there might be a conflict of interest. There would, however, be no problem, if one only advise on the broad procedure to follow.
- **What kind of complaints will be entertained from the public?** Only complaints that fall within the scope of section 17L (4) (a) of the SAPS Amendment Act, namely where there is evidence of a serious and unlawful infringement of the public's rights caused by an investigation of the DPCI.

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- **Constitutional challenge of the DPCI:** The latest constitutional challenge impacts on the independence of the DPCI and has no impact on the Judge as a complaint mechanism.
- **Who will determine the seriousness of the complaint?** The Judge will make this judgement call.
- **Please, clarify the role that will be played by the NPA within the mandate of the office of the Judge:** The NPA is responsible for prosecution. The judge may request and obtain information from the NDPP for purposes of his own investigations but the Judge cannot interfere in decisions of the prosecuting authority.
- **Resources of the Judge's office:** The Judge is allocated his own operational budget to enable him to carry out his mandate.

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LIST OF PROVINCIAL CHAIRPERSONS OF THE JUDGES AWARENESS MEETINGS

No	Province	Chairperson
1.	The National Police Commissioner, Civilian Secretariat of Police, The Head of DPCI, Pretoria	National Commissioner General M.V Phiyega
2.	DPCI – Head, Pretoria	Lieutenant General Dramat
3.	Bellville, Western Cape	Brigadier Oliver
4.	Polokwane, Limpopo	Major General DM Molatjana
5.	Nelspruit, Mpumalanga	Major General SM Mapyane
6.	DPCI Head office, Pretoria	Brigadier Bokaba
7.	The National Directorate for Public Prosecution, Pretoria	Mr Mxolisi Nxasana, Head of NDPP
8.	East London, Eastern Cape	Colonel T Njikelana
9.	Potchefstroom, Klerksdorp, North West	Major General Mabula
10.	Johannesburg, Gauteng	Major General SM Sibiya
11.	Kimberly, Northern Cape	Major General Ntshinga
12.	Bloemfontein, Free State	Colonel Pitout
13.	Durban, Kwa-Zulu Natal	Brigadier D Mbotho

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



police
Department:
Police
REPUBLIC OF SOUTH AFRICA
CIVILIAN SECRETARIAT FOR POLICE

