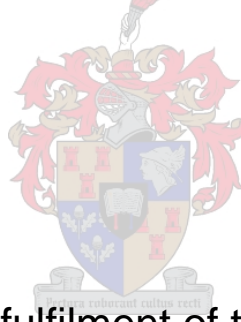


DEVELOPING A MODEL TO IMPROVE SERVICE
DELIVERY REGARDING THE MONITORING OF
POLICING CONDUCT

Zubaida Bardien

14752565



Thesis presented in fulfilment of the requirements for the
degree of Master of Public Administration at the University of
Stellenbosch

Belinda Ketel

December 2005

DECLARATION

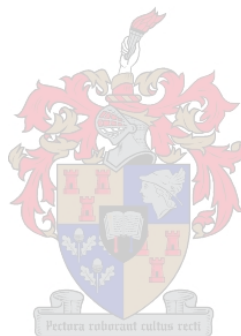
I, the undersigned, hereby declare that the work contained in this thesis is my own original work and that I have not previously in its entirety or in part submitted it at any university for a degree

Signature:

Date:.....

Zubaida Bardien

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I am greatly indebted to many people without whose assistance and encouragement this study would not have been completed. First and foremost is God the provider of all that which is in the heaven and on earth.

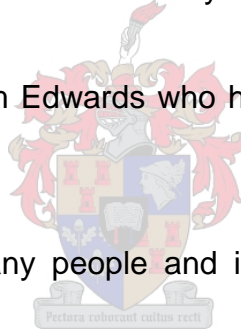
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ABSTRACT

The purpose of this thesis is to develop a new model to improve service delivery regarding the monitoring of policing conduct.

A comparative study of international civilian oversight bodies dealing with complaints against the police will be conducted to develop and implement an appropriate model to replace the current referral model with an investigative monitoring system to improve processes that ensure that the police remain accountable for their performance and conduct. The research design will both encompass model building and comparative studies.

The basis of the theoretical framework of this thesis is service delivery which is the significance of developing a new model for the Policing Complaints Centre. Service delivery is dealt with in terms of the service industry and service processes, its functioning regarding problem solving, finance and accountability, the challenges facing service delivery and the basic principles and values governing public administration and the role and function of the Public Service Commission.

The Legislative Framework for Monitoring Policing Conduct is stipulated in the Constitution of the Republic of South Africa, Act 108 of 1996 and the South African Police Service Act, Act 68 of 1995. This includes the policing functions vested in the Provinces and particularly the mandate of the Policing Complaints Centre in terms of the monitoring policing conduct as well as the limitations set on the provinces.

The Policing Complaints Centre forms part of the Department of Community Safety but as part of the Chief Directorate, Secretariat for Safety and Security. Currently complaints against the police are being dealt with but the current model is ineffective in terms of police accountability.

The new model for the Policing Complaints Centre will be based on two models, namely, the Civilian Complaint Review Board of New York City and the

Independent Police Complaints Commission of the United Kingdom. These models will be used because both these civilian oversight bodies operate independently from the policing agencies and therefore the credibility and integrity of the complaints model will be upheld.

The main objectives of the new model will be to address the issues of the complainants and provide feedback as soon as possible to the complainants so that public confidence and trust in the police and in the complaints system of the Department can be increased.

The new model will concentrate on a different method of dealing with complaints in that all complaints will firstly be evaluated to ascertain whether it is an inquiry or if it is a complaint. If is an enquiry it will be referred to the relevant authority and if it is a complaint it must be decided if an investigation will be conducted, or if an intervention in the form of a formal mediation or informal mediation must take place or in the monitoring of an investigation/inquiry.

It has been recommended that the new complaints model and the database management system be implemented to ascertain whether this new model is keeping the police accountable for their performance and conduct.

OPSOMMING

Die doel van hierdie tesis is om 'n nuwe model te ontwikkel om dienslewering in verband met die monitering van polisie-optrede te verbeter.

'n Vergelykende studie van internasionale siviele oorsig-instansies wat met klagtes teen die polisie hanteer sal uitgevoer word om 'n geskikte model te ontwikkel en te implementeer. Die huidige verwysende model sal vervang word met 'n model wat ondersoek monitor om prosesse te verbeter om sodoende verseker dat die polisie verantwoordelik gehou sal word vir hul werkverrigtinge en optrede. Die navorsingsplan sal beide modelbou en vergelykende studies insluit.

Die basis van die teoretiese raamwerk, soos in die tesis vervat, is die belangrikheid om 'n nuwe model vir die polisiëringsklagte-sentrum te ontwikkel en wat ook dienslewering sterk sal beklemtoon. Dienslewering word behandel in terme van die diensbedryf- en diensprosesse, sy rol aangaande probleemoplossing, finansiële aanspreeklikheid, die uitdagings wat dienslewering aansien en die basiese beginsels en waardes wat Publieke Administrasie beheer en die funksie van die Openbare DiensKommissie.



Die Wetgewende raamwerk om die optrede van die polisie te monitor is uiteengesit in die Konstitusie van die Republiek van Suid Afrika, Wet 108 van 1996 en die Suid Afrikaanse Polisiewet, Wet 68 van 1995. Dit sluit in die polisiefunksies wat in die Provinsie bekleed word en in besonder die mandaat van die polisiëringsklagte-sentrum in terme van die monitering van polisieoptrede asook die beperkings wat op die provinsies geplaas word.

Die polisiëringsklagte-sentrum vorm deel van die Departement van Gemeenskapsveiligheid, maar maak ook deel uit van die Hoofdirekoraat, Sekretariaat vir Veiligheid en Sekuriteit. Huidiglik word die klagtes teen die polisie binne die stelsel hanteer, maar die huidige model is ondoeltreffend in terme van polisie-aanspreeklikheid.

Die nuwe model vir die polisiëringsklagte-sentrum sal op twee modelle gebaseer word, naamlik, die Civilian Complaint Review Board van die Verenigde Koninkryk en die Independent Police Complaints Commission van New York. Hierdie modelle sal gebruik word omdat die siviele oorsig-instansies onafhanklik van die polisiëringsagente optree en sodoende die geloofwaardigheid en die integriteit van die klagte model gehandhaaf word.

Die hoof doelwitte van hierdie model beoog om die griewe van die klaers aan te spreek en om terugvoering so gou moontlik te gee, sodat die Klagte Sentrum van die Departement verhoog kan word.

Die model sal fokus op 'n nuwe metode vir die hantering van klagtes. Volgens hierdie metode sal alle klagtes eers geëvalueer word om vas te stel of dit bloot navraag of wel 'n klagte is. Indien dit slegs 'n navraag is, sal dit verwys word na die relevante departement. Sou dit wel 'n klagte wees, moet daar besluit word of 'n ondersoek geloods sal word, of 'n formele of informele mediasie proses gevolg sal word, of die ondersoek/navraag gemoniteer sal word.

Dit is aanbeveel dat die nuwe model en die databasis bestuurstelsel geïmplementeer word om vas te stel of die nuwe model die polisie aanspreeklik hou vir hulle optrede en houding teenoor die publiek.

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Chapter 1: Introduction and Background

Developing a new model to monitor policing conduct regarding service delivery.

1. Introduction

Since the new democracy in South Africa, oversight bodies have been mandated by the Constitution of the Republic of South Africa, Act 108 of 1996 to keep the police accountable for their performance and conduct, amongst others.

In the Western Cape, the Department of Community Safety is responsible to deliver on the above-mentioned. Since 1998 a service delivery mechanism has been put in place to monitor policing conduct by means of receiving complaints against the South African Police Service. The current complaints model has thus far proven to be ineffective in keeping the police service accountable and giving timeous feedback to complainants (Quarterly Service Index Report, 2005:2).

The research proposal gives the background of the intended research, how the complaints are currently being dealt with, the weaknesses of the system, a literature review, a discussion on civilian oversight bodies dealing with complaints against the police in the United Kingdom and the United States of America, a new complaints model for the Department of Community Safety which must be in line with the current legislative framework and the conclusion and recommendations.

2. Background

In the current policing complaints model, complaints received by members of the public are referred to the police for investigation. From the reports submitted to the Department regarding these complaints, the police are not objective as they are investigating possible misconduct of their colleagues (Quarterly Service Index Report, 2005:2).

The Secretariat for Safety and Security, Policing Complaints Centre of the Department of Community Safety as an oversight body is losing its credibility in terms of the police investigating themselves and the time period it takes to complete these complaints that are seldom substantiated. Thus complainants are not satisfied with the oversight function of the Department (Quarterly Service Index Report, 2005: 8).

2.1. Legislative Mandate

Section 206 of the Constitution of the Republic of South Africa, Act 108 of 1996 makes provision for Provincial Executives to monitor policing conduct. The Provincial Executives and the Departments of Safety & Liaison are held accountable for fulfilling this mandate by the Legislature. In the Western Cape, the Sub-directorate, Policing Complaints Centre, Directorate Monitoring & Evaluation of the Department of Community Safety is responsible for keeping the police accountable for service delivery and particularly for their performance and conduct (Newham & Bruce, 2004: 32-33).

2.2. Police Accountability

According to Newham & Bruce (2004:6) ensuring police accountability is a complex and difficult undertaking in any society, especially during a reform. In South Africa, the police transformed from a police force to a police service. Oversight bodies such as the Secretariats have been tasked to monitor, evaluate and guide the transformation process of the police.

In the Western Cape, a complaints handling model was initiated during 1998 as an indicator to measure police accountability in terms of their performance and conduct. The main objective of the Policing Complaints Centre, therefore, is to keep the police service accountable for their performance and conduct (Mistry & Kiplin, 2004:18).

Police performance is the activities undertaken by the police to achieve their legislative mandate (Newham & Bruce, 2004:7-9). Police conduct deals with the behaviour whilst performing their duties.

2.3. Complaints Referral Model

Since 1998 members of the public are lodging complaints against the police at the Policing Complaints Centre, Department of Community Safety and the Ministry of Community Safety (Quarterly Service Index Report, 2005:4).

The current model of dealing with these complaints is largely a referral model. Complaints received by members of the public are processed administratively by the Policing Complaints Centre and referred to the Provincial Commissioner, South African Police Service, Western Cape to investigate and report back to the Policing Complaints Centre of the Department of Community Safety (Quarterly Service Index Report, 2005:4).

The Provincial Commissioner's office, in turn, refers these complaints to the Area Commissioners who in turn refer these complaints to the stations. This in fact means that it is possible that a colleague of Member A of Station X could investigate a complaint against Member A at Station X (Quarterly Service Index Report, 2005:4).

After the complaints have been investigated and finalised by members of the police service themselves, an information note and draft reply is formulated by the police services. The latter is used by the Policing Complaints Centre to formulate a reply to the complainant (Quarterly Service Index Report, 2005:5).

2.4. Weaknesses in the System

The above-mentioned referral model of the complaints is not feasible due to the following reasons: -

- police are investigating themselves which lack objectivity;
- police take up to two years to finalise a complaint;
- the Department of Community Safety and the Minister are losing credibility as independent investigations are not carried out;
- the current complaints model has resulted in an administrative burden;
- most cases are found to be unsubstantiated and in only about two percent of the cases are police members being disciplined;

- the disciplinary measures are usually being verbally reprimanded, members being sensitised and disciplinary action in terms of Regulation 18.
- The quarterly reports are limited in that it only reflects the number and nature of complaints levelled against the various police stations, units and branches. It could look at other indicators such as number of complaints substantiated, number of police officers disciplined (Quarterly Service Index Report, 2005:8).

2.5. Management Decision Making System

All complaints received are recorded on a database system from which reports are extracted. Reports are written on a quarterly basis but what is lacking is the use of indicators for measuring whether the Policing Complaints Centre is in fact achieving its objective.

The utilisation of indicators (Newham & Bruce, 2004:15) would assist both police management and oversight structures to identify specifically where problems are experienced. According to Mistry & Kiplin (2004:14-15) most oversight bodies do not have a set of indicators that can be used to monitor police performance and policy implementation.

Management reporting (Axson, 2003:156-168) is a systematic process that starts with events and all events create data. An effective management reporting system reports information that is relevant to the organisation in terms of achieving its objectives.

3. Research Problem

Will the new complaints monitoring investigative model improve processes within the Policing Complaints Centre to ensure police accountability and service delivery?

4. Objective of Study

The purpose of the research is to do a comparative study of international civilian oversight bodies dealing with complaints against the police and to

develop and implement an appropriate model to replace the current referral model with an investigative monitoring system in line with the legislative mandate, to improve processes that ensure that the police remain accountable for their performance and conduct.

5. Literature Review

The literature review will consist of:

- The Theoretical Framework
- The South African Legislative Framework
- International Civilian Oversight Bodies

5.1. Theoretical Framework

The theoretical framework will define and discuss the concept of service delivery. This new model aims to improve services being rendered to communities in terms of complaints lodged at the Policing Complaints Centre.

The Batho Pele White Paper is the national government's White Paper for Transforming Public Service Delivery, which is about providing good customer service to the users of government services. The eight principles or guidelines for Batho Pele are consultation, service standards, courtesy, access, information, openness and transparency, dealing with complaints and giving best value for money (White Paper on Transforming Public Service Delivery, 1997:2).

5.2. The South African Legislative Framework

The current legislative framework such as the Constitution of the Republic of South Africa, Act 108 of 1996 and The South African Police Service Act, Act No 68 of 1995 are the main pieces of legislation governing civilian oversight in South Africa thus this new proposed model will have to conform to South Africa's legislative framework.

5.3. International Civilian Oversight Bodies

All over the world there are numerous oversight bodies. The larger bodies dealing with complaints against the police are The Civilian Complaint Review Board of New York and the Independent Police Complaints Commission of the United Kingdom.

The Civilian Complaint Review Board of New York was initially established in 1953 and underwent changes over the years. In 1993 after extensive debate and public comment the Civilian Complaint Review Board was created in its current form as an all civilian body which is independent of the police department and conducting investigations regarding complaints against the police (Civilian Complaint Review Board, 2005).

The Independent Police Complaints Commission of the United Kingdom was established as the Police Complaints Authority in 1984. In the year 2000 a consultation document was published by the Home Office which was based on a KPMG study on “Feasibility of an Independent System for Investigating Complaints Against the Police” and a study by the National Council for Civil Liberties on “An Independent Police Complaints Commission”. Thus the Independent Police Complaints Commission came into operation in 2004 that also investigate complaints lodged against the police by members of the public (Independent Police Complaints Commission, 2005).

6. Research Design: Model Building

The research design of this study will both encompass model building and comparative studies.

Comparative studies focus on similarities and differences between groups of units of analysis such as individual organisations, cultures countries. It also allows researchers to compare different theoretical viewpoints under different circumstances (Mouton, 2001:154).

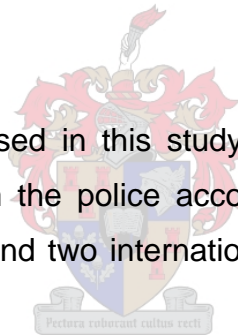
Model building studies aims to develop new models and theories to explain a certain phenomena or refine existing theories and models. Building theories or models mainly occur through inductive or deductive strategies (Mouton, 2001:176-177).

The end product of this design will be a model to be utilised for monitoring complaints against the police in terms of service delivery complaints lodged by members of the public. It will also be inductive since the proposed model will be based on similar international models (Mouton, 2001:176).

7. Research Methodology

Research methodology is the process, the procedure and the mechanisms the researcher intends to take in order to produce the desired results, in this case a model system for complaints against the police in South Africa (Mouton, 2001:56).

All information that will be used in this study will be retrieved from books, documentation retrieved from the police accountability website (works from South African researchers), and two international studies also retrieved from the Internet.



7.1. Unit of Analysis

In the human behavioural sciences, units of analysis refer to humans, groups such as couples married in a particular year, households in a particular geographic region, human products or outputs (Welman & Kruger, 2001:51).

The unit of analysis for this research is police accountability.

7.2. Data Collection and Analysis

The information regarding the units of analysis, as mentioned earlier, will be retrieved from the Internet as complete studies and documentation is available.

Issues such historical backgrounds, purposes, complaints procedures and processes and functions will be studied and analysed so that an appropriate model could be compiled for the Department of Community Safety based on the South African legislative framework.

8. Structure of the Thesis

The research thesis will be structured as follows:-

Chapter 1: Introduction: Research Proposal

Chapter 2: Theoretical Framework: Service Delivery;

Chapter 3: South African Legislative Framework

Chapter 4: Case study - Department of Community Safety, Policing Complaints Centre

Chapter 5: International Case Studies (New York Civilian Complaint Review Board & Independent Police Complaints Commission of the United Kingdom)

Chapter 6: New Complaints Model for the Policing Complaints Centre

Chapter 7: Conclusion and Recommendations

9. Conclusion

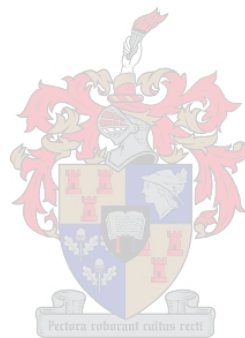
The Policing Complaints Centre of the Department of Community Safety is responsible for monitoring policing conduct. In order to achieve this mandate the Department has embarked on a project to measure the level of service being provided by the South African Police Service to communities, thus a complaints model was established and implemented.

The current complaints model is a referral model in that the service delivery complaints against the police received by the Policing Complaints Centre are referred back to the police service for further investigation. As a result, the police are basically investigating themselves, the complaints take up to two years to finalise and most importantly the Policing Complaints Centre is losing its credibility.

The new monitoring investigative model will largely be based on two international models but will have to be in line with the South African

legislative mandate. The main objective of developing a new model for the Policing Complaints Centre is to provide processes to ensure policing accountability and improve service delivery for both the policing agencies as well as the Policing Complaints Centre.

Therefore the theoretical framework of this research will largely deal with service delivery issues and this is what chapter 2 will focus on.



Chapter 2: Theoretical Framework: Service Delivery

1. Introduction

This chapter deals with the theoretical framework on which this thesis is based, that is service delivery. The significance of developing a new model for the Policing Complaints Centre is to improve on services being delivered to members of the public regarding complaints against the policing agencies.

In order to achieve service excellence organisations must ensure that the customers or clients are satisfied. This can be done by conducting research into the clients needs whether it is the delivery of goods or services. Another aspect to deal with is the employee dealing with the clients. These employees must be well trained and people orientated and can also assist in advising management what are best for their customers/clients. Employees dealing with clients must also be taken care of in terms of benefits for the organisation, being kept motivated and counselling/debriefing as they deal with various personalities and issues which could be detrimental to themselves.

The main objectives of this chapter are:-

- to understand the term service delivery in terms of service industry, service processes, service interactions and service experience;
- to understand characteristics such as functioning, problem solving, finance and accountability that will assist in achieving a high performing organisation;
- the challenges facing service organisations in terms of focusing on people, customer oriented and achieving high quality e-service;
- to discuss the basic principles and values governing public administration and the role and function of the Public Service Commission in terms of service delivery;

- the White Paper on the Transformation of the Public Service, 1995;
- the White Paper on Transforming Public Service Delivery; and
- the key service delivery improvement initiatives such as the Batho Pele concept, public private partnerships and alternative service delivery.

2. Definition of the Concept 'Service'

The word 'service' has been used extensively which demonstrates the importance of this concept and suggests a rapid rate of evolution and development. This is important since words are the means by which managers communicate abstract ideas such as 'service' to front line staff (Johns, 1999:958).

The concept 'service' will be discussed in terms of the service industry, service processes, service interactions and service experience (Johns, 1999:958-965).



2.1. Service Industry

The word 'service' is widely used to denote an industrial sector that "do[es] things for you. They don't make things". Service also denotes organisations which meet the needs of society such as 'health service' and 'civil service'. Traditionally such 'public services' have developed along bureaucratic lines and are quite distinct from the industrial 'service' sector (Johns, 1999:958).

'Public services and goods' refers to the basic and collective needs of communities that are usually supplied by government such as water, sanitation, solid waste collection etc. When government feels that everybody should have access to certain goods and services, regardless of income, status or other criteria, the goods and services are called basic needs (van Rijn, 2005:4).

Services are also described as a 'deed, act or performance' or 'encounters in time' rather than physical objects. Rendering a service may involve some

physical goods, all services/products show some tangible as well as intangible qualities. Tangibility may thus be seen to exist along a continuum (Antonacopoulou & Kandampully, 2000:14).

Services are also often described as 'intangible' and their output is seen as an activity rather than a tangible object. The latter distinction is not clear because much 'service' output has a substantial tangible component, for example, a restaurant provides food and drink, tangible goods supplied. On the other hand, many 'products' have intangible attributes such as service contracts on mobile phones and photocopiers where the tangible part of the "product" may be less significant than the intangible. This can further be clarified as follows: Customers do not buy goods or services in the traditional sense. They buy an offering and the value may consist of many components, some of them being activities (service) and some being things (goods). As a result, the traditional division between goods and services is long outdated (Johns, 1999:959).

2.2. Service Processes

The notion that services are activities rather than things also implies that services are processes. Some authors also consider service as the 'delivery' of something that represents service delivery as a mechanistic process. Various authors sought to clarify the distinction between delivery and performance. Grönroos refers to the technical and functional quality of services while Nikolich and Sparks describe service as having a task dimension and process dimension (Johns, 1999:961).

Services are also described by several authors as performances rather than objects, which introduces a new aspect of service processes because 'performance' goes beyond simple execution. Thus 'service' as a process not only is the delivery of a core service, but also has a style or manner of its own (Johns, 1999:961).

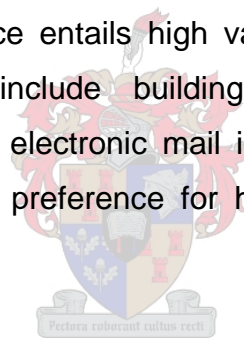
The service processes, and not only the end result, must also be assessed in terms of the quality of the service. The interactive nature of the service

process results in the consumer's evaluation of quality immediately after the provision and performance of that service (Douglas & Connor, 2003:166).

2.3. Service Interactions – The Provider's View

The word 'service' commonly carries a connotation of interpersonal attentiveness, although 'services' may take a different view, for example, Evans and Brown differentiate between 'operations-intensive' service delivery systems, which offer a standardised service to a mass market, and 'interpersonal-intensive' systems which take a more relational view of the market. Many authors make two broad assumptions such as (a) service personnel are there to deliver core services, and (b) the interpersonal interaction they provide is the main contributor to customer satisfaction with the service (Johns, 1999:963).

Human involvement in service entails high value tasks best performed via human interaction which include building trust, providing diagnostic information, escalation when electronic mail is insufficient and dealing with customers who have a high preference for human contact (Hazlett & Hill, 2003:449).



2.4. Service Experience – The Customer's View

The intangible, performance-dependent nature of service offerings, together with a 'service ethic' which emphasises customer focus, lead to a notion that service exists only in the customer's mind. Service quality concerns the superiority of a product or service based on rational assessment of characteristics or attributes, or an affective judgement, an emotional response similar to an attitude. Klaus refers to service quality as an epiphenomenon, that is, a phenomenon within a phenomenon, emphasising the nature of the service itself (Johns, 1999:965).

Thus different customers experience a given service event in different ways and customers must have very different views from service providers about the nature of the service. Various authors acknowledge the holistic complexity of service experiences and note that there is reason to believe that

the entire service encounter is evaluated by the customer and not just the interaction with the service provider (Johns, 1999:965).

The provision of basic services are also important in that customers usually do not expect anything extravagant in the way of promises, but they do take it for granted that they will receive or experience the core product, for example, hotel customers assume that they are going to get a clean room and customers taking their vehicles for repairs want a clear but unpatronising explanation of what needs doing and why (Berry, 1998:31).

3. Characteristics of High Performing Organisations

Certain characteristics of high performing organisations have been identified which will be discussed under the headings of Functions, Problem Solving, Finance and Accountability (Burger, 2001:61).

3.1. Functions

The characteristics under this heading are vision directed, customer driven and stakeholder-focused. A vision directed approach ensures longer-term appropriateness and is more strategically sound than merely being goal-directed. A customer driven approach entails understanding the customer and his/her needs first, rather than merely providing a good product (Burger, 2001:72).

According to Berry et al, the customer defines excellent service and companies are therefore advised to listen to both customers and non-customers. Organisations need to conduct customer research in order to understand what the customer wants, what their experience of the service being offered has been and what they see as the company's strengths and weaknesses (Berry et al, 1994:31).

According to (Harris & Harrington, 2000:31) service providers must also manage service quality by managing people and events rather than trying to understand people and manage processes. When delivering high service value, two major aspects must be considered. The first is to continually

understand what customers perceive and require as value changes. The second aspect is concerned with the design, implementation and supporting the processes that produce and deliver value.

The highest need for every customer is to be understood, listened to and appreciated. This does not always have to be expressed, it can be implied through delivery of goods and services. Customers know that every need cannot be met every time in every transaction, but they want providers to know their needs and to be able to identify when their needs are not met (Harris & Harrington, 2000:32).

A focus on stakeholders entails more than business sector shareholders. Ethics and equity as well as sustainable service delivery in the public sector can only be achieved based on a clear understanding about regulators, competitors and suppliers besides customers (Burger, 2001:72).

3.2. Problem Solving

High performing organisations are 'flat, empowered' rather than hierarchical as it is decentralised with a team authorised to make decisions. In the democratic public sector, hierarchy is given another dimension by the legislative, executive and administrative relationships. Legislative bodies need to focus on outcomes, that is, what is desired and leave the 'how' to the discretion of the managers. The flatter the structure the easier it becomes to address complaints of customers (Burger, 2001:73).

Strategic leadership is basically about vision, direction and making the organisation very successful. Service delivery and satisfied customers are the heart of any worthwhile strategy. Leaders who are focused, visionary and can motivate others to achieving results and address problems at the relevant levels are essential to the organisation (de Villiers, 2002:8).

Customers are notoriously reluctant to come forward with any complaints. Companies can do the following to deal with this so that problems can be resolved and customer loyalty recovered. These are:-

- use proactive recovery strategies: Initiate contact with the customer so that they can voice any dissatisfaction;
- respond quickly: A prompt response makes the customer feel that their complaint is taken seriously. By doing so personally or telephonically a dialogue is established and feedback is immediate; and
- develop a system for solving problems: Dealing with customer complaints requires special skills therefore extra training must be available for the employees who deal with problems (Berry, 1998:32).

3.3. Finance

It has been accepted by high performance organisations that there is not necessarily a direct correlation between price and value. Public sector organisations may be more expensive because of regulation through hierarchy rather than through the market. The public sector is price-orientated as it evaluates performance in terms of adherence to approved input orientated budgets and tendering procedures whilst the value-orientation evaluates value-for-money performance and procurement (Burger, 2001:75).

In order to achieve high performance 'speed' is essential. Speed is classified under the finance heading because rapid service does not entail rushing and skipping important steps but it means achieving the end-result sooner by eliminating waste and improving processes (Burger, 2001:75).

A concept called Best Value Regime is based on the notion of continuous improvement of services and increasing value for money. This concept consists of two interconnecting techniques namely the Servqual model and Quality Function Deployment (Curry, 1999:180).

The Servqual Model is an instrument to assess consumer perceptions and expectations regarding the quality of a service. The five key dimensions are:-

- reliability – the ability to perform the promised service dependably and accurately;
- tangibles – the appearance of physical facilities, equipment, personnel and communication material;

- responsiveness – the willingness to help consumers and to provide prompt service;
- assurance – the knowledge and courtesy of employees and their ability to convey trust and confidence; and
- empathy – the provision of caring, individualised attention to consumers (Douglas & Connor, 2003:165).

Quality Function Deployment is based on assessing the strength of the customer requirements against the major parameters of service specifications. The customer requirements are the 'wants' and the service parameters the 'how'. Implementation of this technique involves four steps:-

- Step 1: Creating the team – a multi-disciplinary team is formed which includes representation from design, marketing, product engineers and any other relevant departments;
- Step 2: Establishing what the customer needs – customer needs are represented on a list of requirements gathered by members of the team by means of recognised questioning techniques;
- Step 3: Generating and selecting ways of meeting needs – the teamwork out how the needs can be met. The interrelationship between the wants and the 'hows' is then considered, based on the value judgement of the team members. Correlation between the 'hows' is evaluated and the relative importance of customer 'hows' is then determined; and
- Step 4: Preparing for action – the most important 'hows' are carried over in priority order to a further matrix where they become the needs input (Curry, 1999:182-184).

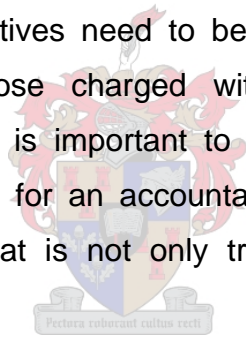
3.4. Accountability

Accountability means 'to give an account' of actions or policies or 'to account for' spending. Accountability can also be said to require a person to explain or justify their decisions or actions (Corder, 1999:2).

A total quality approach as opposed to a product quality approach adds a new dimension to accountability. A product quality approach is aimed at ensuring

a good product or service. In a democratic governance environment a total quality approach relates to the quality of the product, the management processes, quality assurances, quality control and attitude. Product quality alone will not satisfy the beneficiaries because of the scarcity of resources, for example, the provision of housing within the subsidy scheme is too little to satisfy the recipients, unless it is supported by systems and attitudes of officials aimed at adding quality to the process. The aim of the Public Finance Management Act is to hold public managers accountable for this total quality approach (Burger, 2001:76).

Designing citizen-centred service delivery inevitably leads to issues of accountability. Various structures and techniques have been developed to ensure that those charged with the responsibility of performing government functions are held accountable. However, issues of accountability are complex and therefore objectives need to be set as well as processes to enable supervisors and those charged with accountability to conduct assessments periodically. It is important to ensure that reform measures never lose sight of the need for an accountability system of parliamentary control and accountability that is not only transparent but also outcome-oriented (Smith, 1996:43-44).



4. Challenges facing Service Organisations

Some of the challenges facing service organisations are focusing on people, customer orientated and achieving high quality e-service.

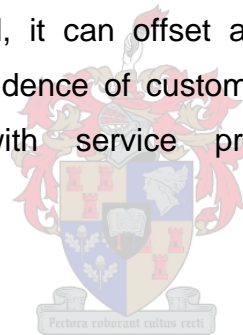
4.1. Focusing on People

Services are acknowledged as people intensive which affects the variation of service quality in almost all service output. Service output is directly influenced by the service provider's interaction with the customer. This interaction also referred to as a 'service encounter' has attained widespread recognition in the marketing literature. The service encounter creates a lasting impression on the mind of the customer, determining customer satisfaction and customers' subsequent perception of service quality. Since quality of service is "defined" by the customer, it is the 'human factor' in

services that hold the ultimate balance of quality (Antonacopoulou & Kandampully, 2000:14-15).

Another vital issue regarding customers are the way the employees interact with the customers. The belief that people do business with those they like and trust has become more important in the information age. Cultivating these relationships is the distinguishing feature that could convert a prospect to a customer especially in a commodity-focused and impersonal business environment (Aldisert, 2002:13).

Excellence in service can be derived through the ability of service employees to make a personal difference to the customer. Services, which are differentiated through people, make the value of the service more personal. Grönroos demonstrated that positive interaction between the employee and the customer is so powerful, it can offset an otherwise poor experience. Parasuraman et al found evidence of customers' desire for a personalised and close relationship with service providers (Antonacopoulou & Kandampully, 2000:15).



4.2. Customer Oriented

The word 'customer' is problematic in the public sector but it is continued to be used because whether a user is using those services or not, they have the right to be treated as if they had a choice. Government must get mechanisms in place to deeply understand its customers. The experience of successful customer-centric services are services that are faster, work the first time, easier, lower cost, more value and sustainable (Janssen, 2004:6).

Among the many challenges facing organisations are how they can become more customer oriented. Central to this is meeting customer needs and management must adopt new ways of thinking and must take action based on the principles of service management. Quality management practices must therefore become an integral part of the life of the service organisation. Management can achieve these practices by:-

- providing clear leadership at the top and at all levels in an organisation;

- integrating all activities for effective planning and deployment processes;
- collecting, analysing and using data for control and improvement;
- creatively involving all people in an organisation;
- focusing on the understanding of customer needs and expectations as well as customers' analysing and using data for control and improvement;
- creatively involving all people in an organisation;
- focusing on the understanding of customer needs and expectations as well as customers' perceptions of performance; and
- controlling and continuously improving processes in the total management system to achieve this (Smith, 2002:55).

According to the Canadian Government, one of the most important tasks regarding service delivery is to serve citizens well. Thus their core challenge is to be responsive to the needs of people and deliver the services they require efficiently, effectively and professionally. The Canadian Government has taken steps to improve service delivery by making government services easier to find by means of client-focused portals for Web sites and toll-free telephone services. The main government of Canada's entry point on the Internet provides links to services arrayed by client, topic and department. Their site receives 1,2 million visits each month and handles over a hundred thousand calls per month. These services has become important sources of information especially in times of crisis, for example, after the tsunami on 26th December information to assist Canadians abroad and friends and family was posted. Visits to this site numbered approximately fourteen thousand by 6th January and more than five thousand telephone calls were answered during the same period (Department of Finance, Canada, Budget, 2005:2-3).

Regarding organisations rendering services, service rendering normally fails at the interface between the customer and the service provider. Management must therefore place emphasis on doing the right things right, that is, placing emphasis on training staff on what is right, how things must be done and managing human interactions (Smith, 2002:55).

4.3. Achieving High Quality e-Service

E-service quality is defined as the extent to which a web site facilitates efficient and effective shopping, purchasing and delivery. In this definition, the meaning of service is comprehensive and includes both pre-and post-Web site service aspects (Zeithaml, 2002:135).

Electronic service delivery creates complex issues for the public sector which must be removed if electronic service delivery by government is to become a reality. The issues include the following amongst others:-

- understanding the needs of the users: The factors that influence consumer attitudes and behaviours towards e-service;
- understanding processes and systems: The real value of e-government lies in the ability to force an agency to rethink, re-organise and streamline their delivery;
- levels of usage: The success of a system is always in the hands of the user. However low levels of usage are not problematic because e-government services don't justify the investment if citizens and businesses don't use them;
- lack of choice or forced choice: Provision of multiple channels, of which Information Technology is only one, provides choice for consumers which is essential; and
- readiness to use Information Technology: Some consumers have a stronger preference for human contact whilst others would prefer to use technology (Hazlett & Hill, 2003:446-449).

According to Janssen, the e-Government Framework aims to apply public and private sector experiences to the public sector agenda and so to inform the next phase of the Government's transformation action plans. It also provides an opportunity for collaboration and knowledge sharing, a powerful self-assessment, e-Readiness checklist and tools to develop an effective e-Government implementation plan. In order to deliver cost effective-enabled public sector reform, Information Communication Technology must make provision for effective e-Services to the customer, integrated back-office

across the public sector and support from the back-office for front-line staff (Janssen, 2004:1).

5. Service Delivery in the Public Service

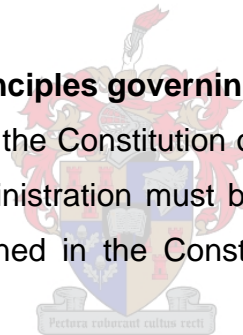
In the public service the legislative framework for service delivery are amongst others, the Constitution of the Republic of South Africa, Act 108 of 1996, the White Paper on the Transformation of the Public Service and the White Paper on Transforming Public Service Delivery.

5.1. The Constitution of the Republic of South Africa, Act 108 of 1996

Chapter 10, Public Administration, of the Constitution of the Republic of South Africa, Act 108 of 1996 spells out service delivery in terms of the basic values and principles governing public administration, the Public Service Commission and the Public Service.

5.1.1. Basic Values and Principles governing Public Administration

In terms of section 195 (1) of the Constitution of the Republic of South Africa, Act 108 of 1996, public administration must be governed by the democratic values and principles enshrined in the Constitution, including the following principles, amongst others:



- a high standard of professional ethics must be promoted and maintained;
- efficient, economic and effective use of resources must be promoted;
- public administration must be development-oriented;
- services must be provided impartially, fairly, equitably and without bias;
- people's needs must be responded to, and the public must be encouraged to participate in policy-making;
- public administration must be accountable; and
- transparency must be fostered by providing the public with timely, accessible and accurate information.

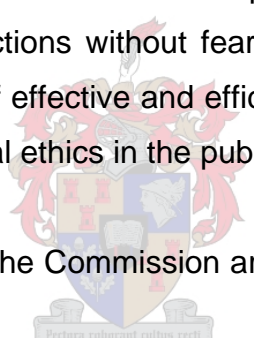
Section 195(2) states that the above principles are applicable to administration in every sphere of government, organs of state and public enterprise.

According to the Public Service Commission's Report, 2005 the key challenge is to consolidate the foundations of the developmental state. This requires a public service that is attuned to the needs of the citizens, capable of meeting these needs and highly focused on effective policy and implementation of service delivery.

5.1.2. Public Service Commission

The Public Service Commission's role is defined by section 196 of the Constitution of the Republic of South Africa, Act 108 of 1996. This Commission is independent and must be impartial and must exercise its powers and performs its functions without fear of favour or prejudice in the interest of the maintenance of effective and efficient public administration and a high standard of professional ethics in the public service.

The functions and powers of the Commission are stipulated in section 196 (4) as follows:-

- 
- to promote the values and principles set out in section 195 throughout the public service;
 - to investigate, monitor and evaluate the organisation and administration, and the personnel practices of the public service;
 - to propose measures to ensure effective and efficient performance within the public service;
 - to give directions aimed at ensuring that personnel procedures relating to recruitment, transfers, promotion and dismissals comply with the values and principles set out in section 195;
 - to report in respect of its activities and the performance of its functions, including any finding it may make and directions and advice it may give, and to provide an evaluation of the extent to which the values and principles set out in section 195 are complied with; and
 - either of its own accord or on receipt of any complaint –

- investigate and evaluate the application of personnel and public administration practices, and to report to the relevant executive authority and legislature;
- to investigate grievances of employees in the public service concerning official acts or omissions, and recommend appropriate remedies;
- to monitor and investigate adherence to applicable procedures in the public service; and
- to advise national and provincial organs of state regarding personnel practices in the public service.

5.1.3. Public Service

Section 197 of the Constitution of the Republic of South Africa, Act 108 of 1996 states that there is a public service within the public administration which must function, and be structured, in terms of national legislation, and which must loyally execute the lawful policies of the government of the day.

5.2. The White Paper on the Transformation of the Public Service, 1995

In terms of the White Paper on the Transformation of the Public Service, 1995 the Government of National Unity inherited a society marked by deep social and economic inequalities, as well as by serious racial, political and social divisions. The new South African Government adopted the Reconstruction and Development Programme (RDP) to reorient and reunite society towards a common purpose, which is a socially coherent and economically equitable society (White Paper on the Transformation of the Public Service, 1995:11).

5.2.1. Purpose of the White Paper

The basic aim of the White Paper is to establish a policy framework to guide the introduction and implementation of new policies and legislation aimed at transforming the South African Public Service (White Paper on the Transformation of the Public Service, 1995:11).

5.2.2. Scope of the White Paper

The scope of the White Paper is guided by the terms of the Constitution of the Republic of South Africa (Act 200/93) and the Reconstruction and Development White Paper. The mandate is to cover those parts of the public sector, national and provincial, which are regulated by the Public Service Act (White Paper on the Transformation of the Public Service, 1995:12).

Three types of agencies have been identified, namely, (a) Administrative agencies such as the Office of the Minister for the Public Services and Administration, which provide services to other departments rather than directly to the public, (b) Service Delivery agencies such as the departments of Health, Agriculture and Education which deliver services directly to the public and (c) Statutory agencies, such as the Public Service Commission and the Auditor-General which are established by the Constitution or other legislation (White Paper on the Transformation of the Public Service, 1995:12).



5.2.3. Structure of the White Paper

The White Paper is divided into three parts:

Part 1 is concerned with the transformation process by outlining:-

- a new vision and mission for the South African public service;
- the main challenges and opportunities presented by the transformation process;
- comparative insights and lessons from abroad;
- priority areas and processes for transformation;
- the police instruments necessary to effect change; and
- the principal financial implications of the transformation process.

Part 2 outlines a strategic framework for change, by specifying policy objectives, guidelines and instruments to carry the transformation process forward in the following priority areas:-

- rationalisation and restructuring the public service;

- institution building and management;
- representativeness and affirmative action;
- transforming service delivery;
- democratising the state;
- human resource development and training;
- employment conditions and labour relations; and
- the promotion of a professional service ethos.

Part 3 of the White Paper is the conclusion of the document regarding the way forward.

5.3. The White Paper on Transforming Public Service Delivery

The White Paper on Transforming of Public Service Delivery was published on 24 November 1995 and sets out 8 transformation priorities amongst which Transforming Service Delivery is the key. This is because a transformed South African public service will be judged by one criterion above all which is effectiveness in delivering services which will meet the basic needs of all South African citizens. The ultimate goal of the public service transformation programme is therefore to improve service delivery (White Paper on Transforming Public Service Delivery, 1997:9).

5.3.1. Purpose of the White Paper

The purpose of the White Paper is to provide a policy framework and a practical implementation strategy for the transformation of public service delivery. It concerns the manner in which 'how' public services are to be provided, improving efficiency and the effectiveness in the way in which services are to be delivered and not 'what' services are to be delivered. That is, the volume, level and quality of the services will be addressed by the relevant Members of the Executive Councils and other executing authorities (White Paper on Transforming Public Service Delivery, 1997:9).

5.3.2. Background

Section 1.2 of the White Paper on Transforming Public Service Delivery states that public services are not a privilege in a civilised and

democratic society but a legitimate expectation. Therefore meeting the basic needs of all citizens is one of the five key programmes of the Government's Reconstructive and Development Programmes. This means that government institutions must be reoriented to make services accessible to all citizens (White Paper on Transforming Public Service Delivery, 1997:10).

Chapter Eleven of the White Paper on Transforming Public Service Delivery requires that national and provincial departments must identify, amongst others, the following:-

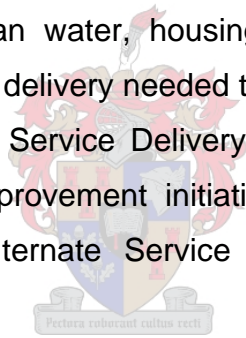
- a mission statement for service delivery, together with service guarantees;
- in line with the Reconstruction and Development priorities, the principle of affordability, the principle of redirecting resources to areas and groups previously under-resourced;
- service standards, defined outputs and targets, and performance indicators, benchmarked against comparable international standards;
- monitoring and evaluation mechanisms and structures, designed to measure progress and introduce corrective action, where appropriate;
- plans for staffing, human resource development and organisational capacity building, tailored to service delivery needs;
- the redirection of human and other resources from administrative tasks to service provision, especially for disadvantaged groups and areas;
- potential partnerships with the private sector, non governmental organisations and community based organisations which will provide more effective forms of service delivery; and
- the development, particularly through training, of a culture of customer care and of approaches to service delivery that are sensitive to issues of race, gender and disability (White Paper on Transforming Public Service Delivery, 1997:10).

5.3.3. Improving of Service Delivery in Public Services

According to the White Paper on Transforming Public Service Delivery, improving service delivery of public services means redressing the imbalances of the past and, while maintaining continuity of services to all

levels of society, focusing on meeting the needs of the 40% of South Africans who are living below the poverty line as well as the disabled and black women living in rural areas who have been previously disadvantaged. Improving service delivery is also moving away from inward-looking bureaucratic systems, processes and attitudes. It should however be a search for new ways of working which will put the needs of the public first, better, faster and more responsive to the needs of the citizens. It also means a complete change in the manner in which services are delivered and should include welfare, equity and efficiency (White Paper on Transforming Public Service Delivery, 1997:11).

These changes were important, fundamental and far-reaching, but the importance of internal changes to public service structures, procedures and regulations may well be lost on, for example, rural people who lack basic public services such as clean water, housing or roads. It later became increasingly clear that service delivery needed to be in central focus. Later for the same reasons, Alternate Service Delivery came to be a key objective. The key service delivery improvement initiatives were Batho Pele, Public Private Partnerships and Alternate Service Delivery (Russell & Bvuma, 2001:244).



6. Batho Pele

In 1997 the government introduced the concept of Batho Pele, “putting people first” which was expanded in the White Paper of Transforming Public Service Delivery (Batho Pele Handbook, 2005:8).

Batho Pele is an initiative to get public servants to be service oriented, to strive for excellence in service delivery and to commit to continuous service delivery improvement. It is a simple transparent mechanism, which allows customers to hold the public service accountable for the type of service they deliver (Batho Pele Handbook, 2005:8).

Batho Pele is the government’s single most important policy initiative to bring excellence into service delivery and to put the citizens at the centre of

planning and operations. However, its implementation has been slow especially in the provinces. In order to address this issue the Batho Pele Revitalisation Strategy was developed and disseminated during 2001. The four main pillars of the strategy are:-

- re-engineering and improving the back-office operations of government;
- re-engineering and improving the front-line operations of government;
- internal communications; and
- external communication (Public Service Commission Report, 2005:46).

6.1. Principles of Batho Pele

The eight principles of Batho Pele are consultation, service standards, access, courtesy, information, openness and transparency, redress and value for money (White Paper on Transforming Public Service Delivery, 1997:15).

Below is an explanation of these principles as well as what has been envisaged by government in obtaining improved service delivery as spelt out in the White Paper on Transforming Public Service Delivery.



6.2. Consultation

Citizens should be consulted about the level and quality of the public services they receive and, wherever possible, should be given a choice about the services being offered (White Paper on Transforming Public Service Delivery, 1997:15).

All national and provincial departments are required to consult regularly and systematically about the current services provided as well as the provision of new basic services to those who are in need. Consultation would give the citizens the opportunity to influence decisions about public services, by providing objective evidence that will determine service delivery priorities. The consultation process could also assist to foster a more participative and co-operative relationship between the providers and users of public services (White Paper on Transforming Public Service Delivery, 1997:16).

Consultation could take place in many ways such as customer surveys, interviews with individual users, consultation groups, and meetings with consumer representative bodies, non-governmental organisations and community based organisations, including bodies representing previously disadvantaged groups. Regardless of the method of consultation that will be utilised, the consultation process must cover the entire range of existing and potential customers. It is also essential that consultation include the views of those who have previously been denied access to public services (White Paper on Transforming Public Service Delivery, 1997:16).

In terms of the White Paper, the results of the consultation process must be reported to the relevant Minister, executing authority and the relevant Portfolio Committee, and made public, for example, in the media. The results should also be publicised within the organisation so that all staff members are aware of how their services are perceived. The results must be considered when provisions and levels of service delivery decisions are being made (White Paper on Transforming Public Service Delivery, 1997:16).

6.3. Setting Service Standards

National and provincial departments must publish standards for the level and quality of services they will provide, including the introduction of new services to those who have been denied access previously. Service standards must be relevant and meaningful to the individual user, which means that it must cover the aspects of the service which matter most to the users. Standards must also be precise and measurable so that those members of the public who are utilising the services can ascertain for themselves whether or not they are receiving optimal service delivery as discussed during the consultation process (White Paper on Transforming Public Service Delivery, 1997:17).

Standards may cover processes or outcomes of government departments such as the length of time it takes to authorise, for example, a claim, to issue a passport or identity document or to respond to letters from members of the public. Service standards must also be set at a level that is demanding but

realistic, that is, these standards should reflect a level of service which is higher than the current services offered but which is achievable with dedicated effort and by adopting a more efficient and customer-focused working processes. Standards should also be benchmarked against international standards, taking into account South Africa's current level of development in order to make South Africa globally competitive (White Paper on Transforming Public Service Delivery, 1997:17).

The elected representatives such as the Ministers/Members of the Executive Committee and other executing authorities who are accountable to the legislature are responsible for deciding what services are to be provided. It is therefore imperative that these elected representatives approve these service standards. Once approval has been obtained, the service standards must be published and displayed at the points where the services will be delivered and communicated as widely as possible to all potential users so that they know what level of service they are entitled to expect, and can complain if they do not receive it (White Paper on Transforming Public Service Delivery, 1997:17).

Performance against these standards must also be measured regularly and the results must be published at least once a year and more frequently where appropriate. Performance must also be reviewed annually and, as these standards are met, they should be raised progressively. Once standards are set and published they may not be reduced. If a standard is not met, the reasons must be explained publicly and a new target date must be set for when it will be achieved (White Paper on Transforming Public Service Delivery, 1997:17).

6.4. Access

One of the key aims of Batho Pele is to provide a framework for making decisions about delivering public services to the many South Africans who were and still are denied access. In order to address this issue, all national and provincial departments are required to specify and set targets to progressively increase access to their services for those who have not

previously received such services. In setting these targets, institutions which promote the interest of the previously disadvantaged groups, such as the Gender Commission, and groups representing the disabled should also be consulted (White Paper on Transforming Public Service Delivery, 1997:18).

Geographical logistics is a key factor affecting access, as people who live in remote areas have to travel long distances to access public services. National and provincial departments should therefore develop strategies to address this issue by setting up, for example, mobile units redeploying facilities and resources closer to those in greatest need. Lack of infrastructure which makes communication difficult with remote areas must also be looked at. Service delivery programmes should therefore address the need to progressively redress the disadvantages of all barriers to access (White Paper on Transforming Public Service Delivery, 1997:18).

6.5. Ensuring Courtesy

The principles of Batho Pele require that the behaviour of all public servants is raised to the level of the best. National and provincial departments must specify the standards for the way in which customers should be treated. These standards must be included in departmental codes and should cover the following aspects:-

- greeting and addressing customers;
- the identification of staff by name when dealing with customers, whether in person, per telephone or in writing;
- the style and tone of written communications;
- simplification and 'customer-friendliness' of forms;
- the maximum length of time within which responses must be made to enquiries;
- conducting of interviews;
- how complaints should be dealt with;
- dealing with people who have special needs, such as the elderly or infirm; and
- language.

The performance of staff dealing with clients must be monitored regularly and performance falling below the specified standards should not be tolerated. Service delivery and customer care must be included in all future training programmes, and additional training should be given to all those who deal directly with the public, whether face to face, in writing or telephonically. All managers must ensure that the values and behavioural norms of their organisations are in line with the principles of Batho Pele (White Paper on Transforming Public Service Delivery, 1997:19).

Encouraging customer-focused behaviour should provide staff with opportunities to suggest ways of improving service delivery and for senior managers to take these suggestions seriously. All managers should also ensure that regular feedback is received from front-line staff and should personally visit front-line staff regularly so that they themselves can see what is happening (White Paper on Transforming Public Service Delivery, 1997:19).

6.6. Provide More and Better Information

Information is one of the most powerful tools at the customer's disposal in exercising his or her right to good service. National and provincial departments must ensure that they have full, accurate and up-to-date information about their services they provide, and who is entitled to them. It must also be ensured that the people who need the information the most are being informed including the members of the public who have been previously excluded from the provision of such services (White Paper on Transforming Public Service Delivery, 1997:19).

The information must be provided via various media campaigns and languages to meet the differing needs of different clients. It must also be ensured that everybody must be included especially those who have been disadvantaged by physical disability, language, race, gender, geographical distance or any other way. Written information should be free from jargon and supported by graphical material which will make it easier to understand. There should also always be a name and contact number for obtaining further

information and advice (White Paper on Transforming Public Service Delivery, 1997:19).

As a minimum, information about services should be made available at the point of service delivery. For other users the information could be made available through the schools, libraries, clinics, shops, local non-governmental organisations and community based organisations. Service providers should also make regular visits to remote communities to disseminate information (White Paper on Transforming Public Service Delivery, 1997:19).

6.7. Increasing Openness and Transparency

Openness and transparency are fundamental to the public service transformation process. It is important to build confidence and trust between the public sector and the members of the public being served. A key aspect is that the public should know more about the manner in which national and provincial departments operate, how well functions are being performed, the resources and the management (White Paper on Transforming Public Service Delivery, 1997:20).

In order to achieve the above-mentioned, national and provincial departments should publish Annual Reports to citizens and which should include the following aspects:-

- staff numbers employed and the names and responsibilities of senior officials;
- performance against targets for improved service delivery, financial savings and increased efficiency;
- resources consumed, including salaries, staff costs, and other operating expenses;
- any income, such as fees for services;
- targets for the following year; and
- a name and contact number for further information (White Paper on Transforming Public Service Delivery, 1997:20).

6.8. Redress: Remedying Mistakes and Failures

The principle of redress should be seen by public servants as a manner in which dissatisfactory services could be addressed and improved. National and provincial departments are required to review and improve their complaints systems in line with the following principles:-

Accessibility

Complaints systems should be made known to all communities and easy to use. Excessive formality should be avoided and systems which require written complaints only can be disturbing to most clients. Complaints could be made in other ways such as personal interviews with the complainants, or telephonically (White Paper on Transforming Public Service Delivery, 1997:21).

Speed

Complainants become despondent and dissatisfied if departments take too long to respond to a complaint. Should a delay be experienced, an immediate apology together with a full explanation should be provided to the complainant. If a delay is unavoidable, the complainant should be kept informed of the progress and told when an outcome could be expected (White Paper on Transforming Public Service Delivery, 1997:21).

Fairness

All complaints should be investigated fully and impartially. Often people are not happy about complaining to a senior official about a member of staff or about some aspect of a system for which the official is responsible. If possible an independent avenue should be offered if the complainant is dissatisfied with the response they received initially (White Paper on Transforming Public Service Delivery, 1997:21).

Confidentiality

The complainant's confidentiality should be protected so that they are not deterred from laying a complaint by feeling that they would be victimised in the future (White Paper on Transforming Public Service Delivery, 1997:21).

Responsiveness

All complaints should be responded to regardless of how trivial it may seem. Responses should take full account of the individual's concerns and feelings. Where a mistake has been made, or the service has fallen below the promised standard, the response should be immediate, starting with an apology, a full explanation, an assurance that the occurrence will not be repeated and whatever remedial action necessary (White Paper on Transforming Public Service Delivery, 1997:21).

Review

Complaints systems should incorporate review mechanisms to allow feedback to be given to enable the system to be improved (White Paper on Transforming Public Service Delivery, 1997:21).

Training

Complaints handling processes should be publicised throughout the organisation and training should be provided to all staff so that they know what action to take when a complaint is received (White Paper on Transforming Public Service Delivery, 1997:21).

6.9. Getting Best Value for Money

The improvement of service delivery and extending access to public services to all South Africans must be achieved alongside the government's strategy to reduce public expenditure and creating a more cost-effective public service. The Batho Pele initiative must be delivered within departmental resource allocations, and the rate at which services are improved will therefore be significantly affected by the speed with which national and provincial departments achieve efficiency savings which can be put back into the system to improve services (White Paper on Transforming Public Service Delivery, 1997:22).

All national and provincial departments will be required, as part of their service delivery improvement programme, to identify areas where efficiency savings

will be sought, and the service delivery improvements which will result from achieving the savings (White Paper on Transforming Public Service Delivery, 1997:21).

7. Institutional Mechanisms

The political and administrative heads of departments are ultimately responsible for the implementation of the Batho Pele concept. As a first step, the necessary institutional arrangements need to be made to ensure that the Batho Pele concept is communicated throughout the departments. A service delivery improvement programme must be drawn up, driven forward and must be integrated with the other departmental transformation priorities within the department's strategic plan (White Paper on Transforming Public Service Delivery, 1997:24).

A service delivery improvement programme should set out, amongst others:-

- the existing levels of service and the proposed service standards to be adopted in the short, medium and long term;
- how service standards will be monitored and reported on, and the management information systems which will support this;
- the organisational and systems arrangements which will ensure standards are met;
- the human resource training, supervision and appraisal arrangements which will ensure that staff behave in accordance with the Principles of Batho Pele;
- how the department's communication systems will be geared up to provide information about a type and frequency of services that customers require;-
- how complaints systems will be developed to identify and rectify failure to deliver the promised standard to individual 'customers' and the financial management systems which will collect data on the unit costs of key services, in order to provide information for standard and priority setting in subsequent years (White Paper on Transforming Public Service Delivery, 1997:25-26).

8. Steps to Service Delivery

An eight step cycle to improve service delivery in the public sector in terms of the Batho Pele principles have been identified, namely, identify the customer, establish the customer's needs and priorities, establish the current service baseline, identify the improvement gap, set service standards, gear up for delivery, announce service standards and monitor delivery against standards and publish results (White Paper on Transforming Public Service Delivery, 1997:28).

8.1. Identify the Customer

Recipients of the service must first be identified such as members of the public, external organisations, other departments and other components within the department. A thorough stakeholder analysis will be required to establish who the customers are, and their relative priority in determining levels of service (White Paper on Transforming Public Service Delivery, 1997:26).

8.2. Establish the Customer's Needs and Priorities

Delivering on standards involve decisions about resources, therefore it would be imperative to have accurate information regarding the customer's needs. This would require systematic, regular consultation, using objective methods to ensure that the views of all customers, including potential customers, are represented (White Paper on Transforming Public Service Delivery, 1997:26).

Particular care must also be taken to get the views of those persons who were previously denied access to services and those persons who have difficulty to speak for themselves. The methods of collecting this information must be sensitive to persons who are not literate or do not have a high level of literacy, therefore both verbal and written methods should be used (White Paper on Transforming Public Service Delivery, 1997:26).

8.3. Establish the current Service Baseline

In order to make improvements to a system, accurate information about the current level and quality of the system must be obtained. This information

would include issues such as the average time a customer will wait before being attended to, how long does it take to reply to letters or telephonic enquiries, how long does it take to process applications etc. (White Paper on Transforming Public Service Delivery, 1997:26).

The current baseline can be obtained by scrutinising the organisational arrangements, work processes and practices and the motivation and skills of employees involved (White Paper on Transforming Public Service Delivery, 1997:26).

8.4. Identify the “Improvement Gap”

The ‘improvement gap’ is the gap between what the customers want and the level and quality of service currently provided. The main objective of a service delivery improvement programme is to close this gap. The accurate identification of customer’s needs and of the current service baseline will enable targets to be set for improvement in a systematic, prioritised way, considering the availability of resources (White Paper on Transforming Public Service Delivery, 1997:26).



8.5. Set Service Standards

Service standards can be set as soon as the ‘improvement gap’ has been identified. Service standards are commitments to provide a specified level and quality of service to individual customers at any given time. Service standards must be customer driven such as accessibility to services, response times, turnaround times, accuracy, courtesy, the provision of information and dealing with complaints (White Paper on Transforming Public Service Delivery, 1997:26).

8.6. Gear up for Delivery

The success of any service delivery improvement programme is the responsibility of the organisation as a whole and will involve significant changes in the organisation and management of the department. Therefore managers at all levels, starting from the top must be held accountable for ensuring that the necessary changes are implemented. The service delivery

improvement programme should set how standards of service will be improved and how the organisation will be prepared to deliver (White Paper on Transforming Public Service Delivery, 1997:27).

Management and organisational issues such as monitoring and reporting systems will be needed to enable senior management to check on progress, and take remedial action where necessary. Management information systems will be required to provide data on, for example, unit costs for key services. Human resource training, supervision and appraisal systems will need to be refocused on service delivery and senior management must ensure that human and financial resources are re-aligned to ensure that delivery of service standards can be met (White Paper on Transforming Public Service Delivery, 1997:27).

8.7. Announce Service Standards

After all the above-mentioned steps have been taken, the organisation would be ready to announce its service standards and launch its service delivery programme. It is important that all customers and potential customers must know and understand what level and quality of service they can expect to receive and what recourse they have if the standard is not met (White Paper on Transforming Public Service Delivery, 1997:28).

8.8. Monitor Delivery against Standards and publish Results

The final step is to ascertain whether services have met the standards that were set, to announce the results to customers and to explain the reasons where the service has not been met. These results will provide valuable insights to guide further efforts to improve services in the future and also keeping the organisation accountable for service delivery (White Paper on Transforming Public Service Delivery, 1997:28).

9. Public Private Partnerships

In order to improve service delivery and cost-effectiveness in the public sector, most bureaucracies have adopted privatisation initiatives. The South African Government also adopted this initiative which was implemented by the

national treasury department and an interdepartmental task force was established to address 6 issues, namely, an audit of public private partnership activities in South Africa, an analysis of possible fiscal impacts, a preliminary scan of the legal framework, a consideration of institutional options, a review of international best practices and an assessment of organisational capacity to carry out public private partnerships (Russell & Bvuma, 2001:247)-248).

The work of the task force led to the issue of three documents namely, Strategic Framework for Delivering Public Private Partnerships, Treasury Regulations under the Public Finance Management Act 1999 and Guidelines for Public Private Partnerships (Russell & Bvuma, 2001:248).

The treasury regulations provided the definition of public private partnerships which involves three elements:-

- a contractual element whereby a private party performs a departmental function on behalf of a national or provincial department for a specified time;
- substantial risk transfer to the private party; and
- a schedule of outcome-based financial rewards derived either from service tariffs or user charges, from a departmental budget or from a combination of these sources. Contract for the supply of goods and services were not seen as public private partnerships (Russell & Bvuma, 2001:248).

The Guidelines for Public Private Partnerships provide more detail distinguishing five types of contracts, namely, service contracts, management contracts, leases, build operate transfer and concessions. At the time that this article was written, some thirty projects were under consideration by the Treasury Public Private Partnership Unit and therefore results were not available (Russell & Bvuma, 2001:249).

However, according to (Kroukamp, 2004:28), governments are increasingly entering into partnerships with more independent agencies to deliver public goods and services to improve the general welfare of inhabitants. This has

led to producing a more responsible and efficient customer focused service. These reforms which are largely influenced by the market model, are founded on two postulates:-

- that management methods originating from the private sector are superior to those traditionally used in the public sector; and
- that the management of the economy must gradually make way to market forces.

As governments become more comfortable with involving the private sector in public services, they are beginning to explore long term solutions where applicable. The yardstick for the success of these partnerships is whether publicly funded services deliver their core purpose. In this regard the following key indicators can be identified:-

- output based specifications where services are specified as outputs and payment is linked to the quality and timing of their delivery;
- the long term nature of contracts which provides scope to recover the initial capital investment, to develop alternative approaches to service delivery and to focus on whole life costing;
- performance measurement and incentives which provide the means of securing the value for money promised by the original deal;
- competition which makes it easier to demonstrate that value for money has been achieved; and
- private sector management skills delivering efficiencies and innovation with the financing, construction and operation of the total project.

It is therefore in the interest of both sectors to manage their contractual relationships with as much flexibility as possible in a spirit of partnership (Kroukamp, 2004:28).

Private sector participation in the delivery of public services raises challenges, but also opportunities if regulated properly. The challenges are that the private sector has no incentive initiative to serve the poor population segments, private sector participation leads to price increases as the private sector is motivated solely by profits and the private sector is socially

irresponsible and has no interest in monitoring quality. The opportunities are that private sector participation fuels expansionary investments and can obtain low interest loans for risky investments. It also enhances efficiency, cuts losses and introduces technical management expertise (Shehadi, 2005:4).

There should also be prerequisites on the usage of public private partnerships. These are:-

- government should not accept private sector involvement in key areas;
- the private sector should play a rescue function in relation to core public services;
- a level playing field should be created between different service providers;
- the default position should be private or voluntary sector provision;
- motivational issues such as a true commitment to restructure government systems, roles and relationships;
- political issues where it will probably be unwise to begin the process of restructuring in areas of high political interest where public interest and that of the media are evident;
- agreement on the leading roles in respect of outcome evaluation, information management, quality assurance and policy audit by the public sector; and
- interrelationships being the dynamics between the different stakeholders and where cognisance should be taken of extensive consultation with those affected and the impact of cultural differences – not only between people, but also between the public, private and volunteer sectors of society (Kroukamp, 2004:29).

Care should therefore be taken to ensure that partnerships help resolve the underlying problems of public services rather than to erode the values on which they were founded (Kroukamp, 2004:29).

10. Alternate Service Delivery

Alternate service delivery is the identification, development and adoption by public departments and agencies as a means of delivering public services other than through traditional, hierarchical bureaucracy. It may take place within or out of the public service or through partnerships between the public, private and or non-profit sectors (Russell & Bvuma, 2001:250).

It is developmental in that it involves the nurturing and support of creative solutions by those directly responsible for customer service innovation, transforming the role of top management into supporters and advocates for service delivery achievement rather than micro managers or controllers. Alternate service delivery is also neutral with respect to ownership of state assets and employment levels. Its focus is on identifying and spreading practical approaches that make the services required by the public more effective, more equitable and more accessible (Russell & Bvuma, 2001:251).

Alternate service delivery encompasses reforms of service delivery functions:-

- within the existing public service (providing such reforms are customer focused rather than customer neutral and bureaucratically focused);
- through the full range of mechanisms for the involvement of the private and non profit sectors in service delivery (providing always that the objective is service delivery improvement rather than simply ownership transfer, job shedding or cost cutting);
- through service-wide and technologically sophisticated innovations, such as electronic service delivery, e-government, and call centres; as well as
- through a wide diversity of locally focused initiatives for better service (Russell & Bvuma, 2001:251).

The commercialisation of government services or delivery of services on a quasi-commercial basis is another form of alternative service delivery. Commercialisation is defined as a 'process where markets are established for selected public sector goods and services in order to increase competitive

pressures on suppliers'. One study showed that commercialisation found positive aspects that included improved staff performance and client satisfaction, better accountability and transparency regarding financial management. Several problem areas were also identified such as downsizing, poor trading results, conflicts of interest when agencies undertook contract oversight and were also commercial bidders. There was also a concern that commercialisation may compromise ethical standards and reduce public interest considerations (Brown et al. 2000:207-208).

A paper by Henderson explores the record of alternative urban service delivery in selected world areas and assesses the prospects for new designs intended to implement specific programs. Their main concern is how education, health, housing, transportation, utilities, micro-credit and other goods and services may be provided to urban residents of the 'Third World' without exclusively governmental agents and agencies. An example of this is that a German educator living in Sao Paulo began organising meetings of slum dwellers in her home which led to the formation of the Monte Zaul Community Association. Later the activities of the Association were expanded to 2 other slum areas and it now provides education, health, social development and other services. A medical clinic was built by the inhabitants themselves (Henderson, 2001:327-330).

Thus alternate service delivery is about management having the capacity to select from a wide menu the technique or approach calculated to bring service delivery changes that will move away from traditional bureaucracy and maximise service delivery benefits to citizens (Russell & Bvuma, 2001:251).

11. Conclusion

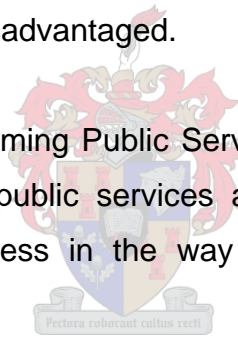
Various authors have made it abundantly clear that the customer is the main target in delivering of services. Organisations must be customer oriented, must manage human interactions, must ensure accessibility to services and must also offer benefits that will interest the consumer. The customer must experience the service that is being delivered and in this way the organisation will keep the customer and/or increase their customers.

As far as public service delivery is concerned the main pieces of legislation dealing with service delivery are the Constitution of the Republic of South Africa, Act 108 of 1996, the White Paper on the Transformation of the Public Service and the White Paper on Transforming Public Service Delivery.

The Constitution of the Republic of South Africa, Act 108 of 1996 deals with the basic values and principles governing public administration such as professional ethics, a development oriented public administration, the efficient, economic and effective use of resources amongst others.

The main objective of The White Paper on the Transformation of the Public Service, 1995 is to develop a policy framework and guidelines to ensure the provision of basic services to all citizens of South Africa and especially to those who were previously disadvantaged.

The White Paper on Transforming Public Service Delivery is concerned with the manner in which 'how' public services are to be provided, improving efficiency and the effectiveness in the way in which services are to be delivered.



The concept of Batho Pele is an initiative to motivate public servants to become service orientated, to strive for service excellence and to be committed to improve service delivery to the communities. The eight principles of Batho Pele and the Steps to Service Delivery as spelt out in the White Paper on Transforming Public Service Delivery are tools to assist public servants to improve service delivery in government as a whole.

The next chapter deals with the legislation regarding the monitoring of policing conduct and also the limitations placed on the Policing Complaints Centre in delivering an optimal service.

Chapter 3: The Legislative Framework for Monitoring Policing Conduct

1. Introduction

The Legislative Framework for the Policing Complaints Centre is stipulated in the Constitution of the Republic of South Africa, Act 108 of 1996 and the South African Police Services Act, Act 68 of 1995.

The mandate of the Secretariat for Safety and Security is legislated in the Constitution which are, amongst others, to monitor policing conduct, to oversee the effectiveness and efficiency of the police service, to promote good relations between the police and the community and to assess the effectiveness of visible policing.

The Constitution also gives certain powers to the provincial Minister of Community Safety regarding the appointment and dismissal of the head of policing. The concurrent policing powers of both Parliament and the Provincial Legislatures are also stipulated in Schedule 4. At the same time the powers of the Provincial Government regarding policing issues are also limited in terms of Section 206(1) and (2).



Section 2 of the South African Police Services Act, Act No 68 of 1995 spells out the functions and the powers conferred upon the Minister of Community Safety in terms of the policing oversight functions.

The main objectives of this Chapter are:-

- to indicate the policing functions vested in the Provinces and particularly the mandate of the Policing Complaints Centre in terms of monitoring policing conduct as well as the limitations set on the provinces;
- the functions and powers of the Policing Complaints Centre regarding the monitoring of policing conduct as stipulated in the South African Police Service Act, Act No 68 of 1995; and

- the limitations set on the Minister of Community Safety regarding the monitoring of policing conduct.

2. The Constitution of the Republic of South Africa, Act 108 of 1996

The Constitution of the Republic of South Africa, Act 108 of 1996 outlines the policing functions vested in the Provinces, concurrent powers of the police by National and Provincial Governments and the limitations placed on Provincial Legislatures.

2.1. Policing Functions Vested in the Provinces

The following functions are vested in the Provinces and by implication the Provincial Executives in terms of Section 206(3) of the Constitution:-

- to monitor police conduct;
- to oversee the effectiveness and efficiency of the police service, including receiving reports on the police service;
- to promote good relations between the police and the community;
- to assess the effectiveness of visible policing; and
- to liaise with the Cabinet member responsible for policing with respect to crime and policing in the province.

In terms of Section 206(5) of the Constitution, provinces 'may investigate, or appoint a Commission of Inquiry into, any complaints of police inefficiency or a breakdown in relations between the police and any community', though it 'must make recommendations' to the Minister of Safety and Security.

In Section 206(6) of the Constitution, authority is provided to lodge complaints with the Independent Complaints Directorate regarding 'any alleged misconduct, or offence committed by a member of the police service in the province (Newham & Bruce, 2004:27).

The Provincial Executive, that is, the Member of the Executive Committee of a Province is also concerned with the appointment and dismissal of a provincial commissioner. Section 207(3) requires that the national commissioner

appoint the provincial commissioner 'with the concurrence of the Provincial Executive' and provides for the Minister of Safety & Security to mediate if they cannot reach agreement (Newham & Bruce, 2004:27).

In terms of Section 207(6) of the Constitution the Provincial Executive also has the authority to institute proceedings for the removal of the provincial commissioner. The latter would be done by means of the South African Police Service Act, 68 of 1995 whereby the Minister of Safety & Security would be notified that the Provincial Executive has lost confidence in the provincial commissioner (Newham & Bruce, 2004:26).

The Provincial Executive is also responsible for policing functions 'assigned to it in terms of national legislation' and 'allocated to it in the national policing policy' in terms of Section 206(4) (Newham & Bruce, 2004:26).

2.2. Concurrent Legislative Powers of National Government and Provincial Legislatures

According to Schedule 4 of the Constitution of the Republic of South Africa, Act 108 of 1996, both Parliament and the Provincial Legislatures have legislative powers over the police concurrently. This is, however, subject to the provisions that Chapter 11 in the Constitution of the Republic of South Africa, Act 108 of 1996 confers on the provincial legislature's legislative competence (Newham & Bruce 2004:25).

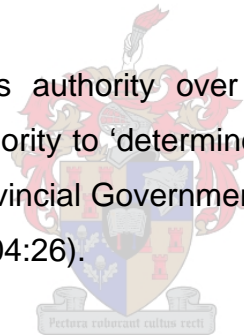
Section 205(2) in Chapter 11 of the Constitution of the Republic of South Africa, Act 108 of 1996 stipulates that national legislation must establish the powers and functions of the police service and must enable the police service to discharge its responsibilities effectively, taking into account the requirements of the provinces (Newham & Bruce 2004:25).

2.3. Limitations of Provincial Legislatures

Section 206(1) and (2) of the Constitution of the Republic of South Africa, Act 108 of 1996 deal with governmental policy directives of the police. These sections stipulate that:-

- 'a member of the Cabinet must be responsible for policing and must determine national policing policy after consulting the provincial governments and taking into account the policing needs and priorities of the provinces as determined by the provincial executives'; and
- 'the national policing policy may make provision for different policies in respect of different provinces after taking into account the policing needs and priorities of these provinces'.

The Provincial Government's authority over the police is limited as the national Minister has the authority to 'determine' national policing policy. The Minister must consult the Provincial Governments and 'take into account' their needs (Newham & Bruce, 2004:26).



The Provincial Legislature also does not have the power to pass legislation that is binding on the police and similarly the Provincial Government does not itself have the authority to directly issue policing policy (Newham & Bruce, 2004:26).

Section 206(8) of the Constitution of the Republic of South Africa, Act 108 of 1996 which is related to the above section states that :

'A committee composed of the Cabinet member and the members of the Executive Councils responsible for policing must be established to ensure effective co-ordination of the police service and effective co-operation among the spheres of Government'.

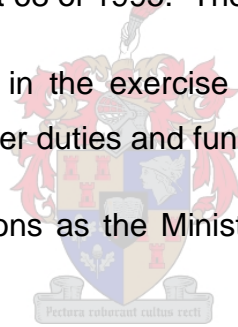
The above-mentioned indicates that the Constitution not only requires that the concerns of the provinces be taken into account in formulating policy, but also attempts to institutionalise 'effective co-operation' between the Minister of Safety & Security and the Members of the Executive Councils through the above committee (Newham & Bruce, 2004:26).

3. The South African Police Service Act, Act No 68, 1995

In terms of section 2 of the South African Police Service Act, Act 68 of 1995 the Member of the Executive Council (the Minister) is required to establish a Secretariat under a Secretary. The Secretary in consultation with the Minister is required to appoint personnel to manage and administer the Secretariat (Mistry & Kiplin, 2004:7).

The functions of the Secretariat are indicated in Section 3(1) of the South African Police Service Act, Act 68 of 1995. These functions are:-

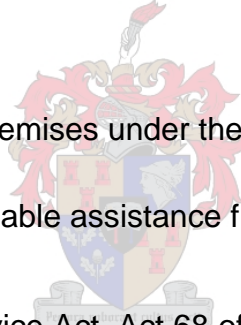
- to advise the Minister in the exercise of his or her powers and the performance of his or her duties and functions;
- to perform such functions as the Minister may consider necessary or expedient;
- to promote democratic accountability and transparency in the Service;
- to promote and facilitate participation by the Service in the Reconstruction and Development Programme;
- to provide the Minister with legal services and advice on constitutional matters;
- to provide the Minister with communication support and administrative services;
- to monitor the implementation of policy and of directions issued by the Minister, and report to the Minister on these matters;



- to conduct research into any policing matter in accordance with the instructions of the Minister, and report the results to the Minister;
- to perform such functions as may from time to time be assigned to the Secretariat by the Minister; and
- to evaluate the functioning of the Service and report to the Minister.

Section 3(5) of the South African Police Service Act, Act 68 of 1995 stipulates that the sub-sections mentioned above as applicable to the national secretariat apply to all provincial secretariats for Safety and Security. The South African Police Service Act also gives broad powers of access to the Secretariat. In terms of section 3(2) it may if it is reasonably necessary for the performance of its functions do the following:-

- request and obtain information and documents under the control of the Service;
- enter any building or premises under the control of the Service; and
- be entitled to all reasonable assistance from a member of the Service.



The South African Police Service Act, Act 68 of 1995 also makes provision for provincial secretariats in terms of section 2(b). The latter states that a provincial government may establish a provincial secretariat, to be called the Provincial Secretariat for Safety and Security (Mistry & Kiplin, 2004:8).

4. The Political Accountability of the Member of Executive Council

The Member of the Executive Council does not have direct authority over the South African Police Service but has significant powers and needs to be able to demonstrate that his/her office has exercised its powers in a responsible way. These powers are:-

- to input on the national policing policy;
- to ensure effective co-ordination of the police service and effective co-operation among the spheres of government;

- to monitor policing conduct, oversee the effectiveness and efficiency of the service, to promote good relations between the police and the community, and assess the effectiveness of visible policing;
- to investigate or appoint a commission of inquiry into any complaints of police inefficiency or a breakdown in relations between the police and community;
- to refer cases of alleged misconduct or offence committed by a member of the police service in the province to the Independent Complaints Directorate; and
- to be involved in appointing the provincial commissioner and to institute proceedings for the commissioner's removal (Newham & Bruce, 2004:27-28).

In holding the police accountable, the broad areas of concern are (a) the standards of service delivery which may be understood as being questions of the 'effectiveness and efficiency of the police service; and (b) the question of police conduct. It may therefore be understood that the Constitution indicates that the Provincial Executive's responsibility relates to all aspects of service delivery and police conduct as well as specific additional issues. These issues include 'good relations between the police and community and the 'effectiveness of visible policing' (Newham & Bruce, 2004:28).

Furthermore the Constitution appears to differentiate between how the Provincial Executive should deal with different types of problems. Regarding complaints of police inefficiency or a breakdown in relations between the police and any community, the Constitution indicates that the Executive may itself investigate, or appoint its own Commission of Inquiry to investigate the reason for the complaint. When it however comes to cases of alleged misconduct or offence, the Constitution indicates that these cases should be referred to the Independent Complaints Directorate (Newham & Bruce, 2004:26).

It appears that the Provincial Executive has powers to monitor police conduct, but if it wishes, it may refer cases of alleged misconduct to the Independent Complaints Directorate (Newham & Bruce, 2004:26).

5. Opinions regarding the Political Accountability of the Member of Executive Council

Strydom as quoted by Newham & Bruce, in terms of complaints regarding police inefficiency or a breakdown of relations between the police and any community, or an allegation of police misconduct, the Provincial Executive do not really have the discretion to act or not to act because the principles and values underlying the Constitution prohibits this. In terms of Section 1 of the Promotion of Administrative Justice Act 3 of 2000, the decision to act or not to act qualifies as an 'administrative action' and is justiciable (Newham & Bruce, 2004:28-29).

In deciding what course of action to take, the Provincial Commissioner may consider conducting an investigation, or appointing a Commission of Inquiry in terms of Section 206(5). Strydom is of the opinion that Section 206(5) grants discretion to a provincial organ whether or not to investigate a matter mentioned in the said provision. This provision may also be understood as merely providing for one possible way of performing the functions in Section 206(3). A province could decide to consider other kinds of action depending on the circumstances and what would be most appropriate in those circumstances (Newham & Bruce, 2004:26).

Regarding the issue of the Provincial Executive not having the authority to exercise direct control over the South African Police Service, Strydom indicates that the direct responsibility of the Member of the Executive Council may be construed based on Section 207(4) which states that the provincial commissioner is directly under the jurisdiction of the Provincial Executive (and legislature) and these two organs will be first to take action if improper control has been exercised (Newham & Bruce, 2004:26).

It therefore appears that the Member of the Executive Council could be held politically accountable in so far as they need to be able to demonstrate that they have taken action within their powers regarding questions of police conduct, the effectiveness and efficiency of the police and relations between the police and the community (Newham & Bruce, 2004:26).

6. Conclusion

In terms of the Constitution of the Republic of South Africa, Act 108 of 1996, the oversight of policing functions are vested in the Provinces. The mandate of the Policing Complaints Centre is to monitor policing conduct. Section 206(5) of the Constitution stipulates that, provinces 'may investigate, or appoint a Commission of Inquiry into, any complaints of police inefficiency or a breakdown in relations between the police and any community'.

In terms of the South African Police Service Act, Act No 68 of 1995 the Minister may establish a Secretariat under a Secretary. This Act also gives broad powers to the Secretariat in that the Secretariat may request and obtain information and documents from the police, enter any building or premises under the control of the police and the Secretariat may also be entitled to reasonable assistance from a member of the police.

The functions of the Secretariat regarding the monitoring of policing conduct now falls under the Policing Complaints Centre which is part of the Secretariat. The Secretariat has now become a Chief Directorate, namely The Secretariat for Safety and Security that now forms part of a bigger department, namely the Department of Community Safety.

To put the Policing Complaints Centre into perspective within the Secretariat and the Department of Community Safety, the next chapter will focus on this as well as how the mandate of monitoring policing conduct is currently being conducted.

Chapter 4: Department of Community Safety, Policing Complaints Centre, Western Cape Provincial Government

1. Introduction

This chapter intends putting the Policing Complaints Centre into perspective in terms of the composition, vision, mission and objectives of the Department of Community Safety that is responsible to monitor policing conduct as a part of its mandate.

The functions of the Chief Directorates, such as Corporate Services, Secretariat for Safety and Security, Traffic Management and Safety Training and Security Risk Management are explained to indicate where the function of the Policing Complaints Centre is housed.

The current complaints model, the management system as well as the short-comings of this current model is further discussed in detail.

The main objectives of this chapter are to analyse:-

- the vision, mission, objectives, composition and functions and powers of the various Chief Directorates of the Department of Community Safety;
- the aim and objectives of the Policing Complaints Centre and the current methodology of receiving complaints;
- the current complaints monitoring process and its short-comings; and
- the current complaints data management system and its short-comings.

2. Department of Community Safety

The Department of Community Safety was initially established as the Secretariat for Safety and Security in terms of the South African Police

Service Act, Act 108 of 1995. It later became the Department of Community Safety as it incorporated other functions such as Road Safety and Traffic Management.

2.1. Vision, Mission and Objectives

The vision of the department is *“The Western Cape: A Safer Home for All. Free of the fear of crime”*. The mission is *“To promote safety and security through a process of civilian oversight, integrated crime prevention strategies and effective traffic law enforcement and traffic safety education and security risk management”* (Strategic Plans 2005/2006-2007/2008, 2005:7).

The main objectives of the department are:-

- to build active, crime resistant, responsible citizens and develop social cohesion, with the focus on Youth, Children and Women;
- to strengthen effective and sustainable partnerships such as with Community Based Organisations, Faith Based Organisations, Non-Governmental Organisations and private sector organisations for improved service delivery;
- to co-ordinate, integrate and enhance safety and security agencies to achieve professional and effective policing;
- to build community networks and organisational capacity and readiness to participate in contributing to civic responsibilities; and
- to improve service delivery and protect human rights by effective civilian oversight over law enforcement agencies (Strategic Plans 2005/2006-2007/2008, 2005:2).

2.2. Composition

The Department currently consists of the Head of the Department, four Chief Directorates and 11 Directorates. The Chief Directorates are Corporate Services, Secretariat for Safety and Security, Traffic Management and Safety Training and Security Risk Management (see Annexure A).

2.2.1. Corporate Services

The Chief Directorate: Corporate Services consists of three Directorates namely Finance, Strategic Services and Human Resources. This programme deals with the management functions of the Head of Department as well as corporate services including finance, personnel, administration, strategic communication and services (Strategic Plans 2005/2006-2007/2008, 2005:33).

The strategic objective of Corporate Services is to manage and render corporate functions to the Department, which include the formulation of policy, rendering centralised administrative, legal and office support services, strategic and communication services, determining work methods and policy procedures and exercising control through head office (Strategic Plans 2005/2006-2007/2008, 2005:33).

2.2.2. Secretariat for Safety and Security

The Secretariat for Safety and Security consists of four directorates, namely, Crime Prevention, Community Liaison, Monitoring & Evaluation and Safety and Information Research.



The purpose of the Secretariat is the implementation of the constitutional and legislative mandate of civilian oversight over law enforcement agencies and the implementation of both National and Provincial policies on Safety and Security. The strategic objectives of the various directorates are as follows:-

Crime Prevention:

- to initiate and implement special and victim empowerment awareness projects, co-ordinating and funding crime prevention through the institutionalisation of community safety structures.

Community Liaison:

- to ensure an increased level of consciousness through the active mobilisation and structural support of communities in their fight against crime;
- Enhancing and empowering community policing structures and uniformed partnerships to fight crime.

Monitoring and Evaluation:

- to ensure that effective policing services are delivered, monitored and evaluated;
- to ensure that human rights are respected and protected.

Safety and Information Research:

- to research policing needs and priorities, crime trends and safety needs for the Province (Strategic Plans 2005/2006-2007/2008, 2005:34-36).

2.2.3. Traffic Management

Traffic Management consists of two directorates, namely, Traffic Law Enforcement and Road Safety Management. The strategic goals of Traffic Management are:-

Traffic Law Enforcement:

- increased compliance with traffic laws, rules and regulations by the general public.

Road Safety Management;

- continuous strategic direction of the programme in promotion of road safety throughout the Province and aligning the programme with the vision and strategic thrusts of the Department and the Province; and
- increased awareness among the general public about road safety issues resulting in behavioural changes by both drivers and pedestrians (Strategic Plans 2005/2006-2007/2008, 2005:56).

2.2.4. Safety Training and Security Risk Management

Safety Training and Security Risk Management Chief Directorate consists of two directorates, that is, Safety Training and Development and Security Risk Management. The strategic objectives are:-

Safety Training and Development:

- to provide training and development for impact for traffic law enforcement officers and volunteers, municipal police, community members involved in structures contributing to a safer environment, and youth through the Chrysalis Academy Youth Project (Strategic Plans 2005/2006-2007/2008, 2005:50).

Security Risk Management;

- to safeguard the resources of the Provincial Government (Strategic Plans 2005/2006-2007/2008, 2005:52).

3. Policing Complaints Centre

In August 2004 with the implementation of the new macro structure of the Department of Community Safety, the Policing Complaints Centre was established as a unit in the Chief Directorate Secretariat for Safety and Security, Directorate: Monitoring & Evaluation: Sub-directorate Policing Complaints Centre.

The Policing Complaints Centre forms part of the Secretariat for Safety & Security which has been mandated with monitoring policing conduct as stipulated in the Constitution of the Republic of South Africa, Act 108 of 1996 and the South African Police Service Act, Act No 68 of 1995.

3.1. Aims and Objectives

The main thrust of the Policing Complaints Centre is to monitor policing conduct, thus the complaints system was initiated and was called the Quality Assurance Project. This project was designed to undertake a review process every quarter on police service levels in the province. The Quarterly Service

Index Report of the Department of Community Safety reflects the public's perceived levels of satisfaction and dissatisfaction with the South African Police Service (Quarterly Service Index Report, 2005:1).

Within the province communities expect and is indeed entitled to, an efficient and effective service. Although resources will be a stumbling block in this process, the nature of certain complaints centres around other issues such as unprofessional conduct, non-service delivery etc and not solely on resources or the lack thereof (Quarterly Service Index Report, 2005: 1).

The main aims and objectives are:-

- to monitor and evaluate the functions and performance of the South African Police Service;
- to improve levels of service delivery in the South African Police Service;
- to promote transparency within the South African Police Service;
- to monitor dominant patterns at local stations and the radio control centre;
- to ensure that an effective service is rendered to communities by the South African Police Service;
- to provide the Area Commissioners with information regarding performance of the respective police stations; and
- to report on good services/compliments to the police service (Quarterly Service Index Report, 2005: 2).

3.2. Methodology

Different independent methodologies were adopted to measure complaints against the South African Police Service, namely, the Service Delivery Poster Campaign, SAPS Radio Control, Written Complaints, Complaints retrieved from the Media and Electronic Mail (e-mail).

3.2.1. Service Delivery Poster Campaign

In December 1999 the Service Delivery Poster Campaign was initiated as a way of gauging complaints against the South African Police Service in the

Western Cape. Posters were displayed at police stations across the province encouraging individuals and communities to contact the Department of Community Safety using the number 483 4332 with regard to their levels of satisfaction or dissatisfaction with the South African Police Service (Quarterly Service Index Report, 2005:2).

3.2.2 SAPS Radio Control/Flying Squad

Complaints are also received via the SAPS Radio Control/Flying Squad telephone number (10111) (Quarterly Service Index Report, 2005:2).

3.2.3. Written Complaints

Members of the public may also write to the Department of Community Safety or the Minister of Community Safety at Private Bag 5346, Cape Town, 8000. These complaints may also be faxed to 021 483 6026. From April 2004 written complaints may also be channelled through an electronic mail system, policingcomplaints@pgwc.gov.za. (Quarterly Service Index Report, 2005:2).

3.2.4. Complaints Retrieved from the Media

Complaints are also retrieved from the written media on a daily basis by employees of the Policing Complaints Centre (Quarterly Service Index Report, 2005:3).

3.2.5. Personal visits

Members of the public also come directly to the offices or to the office of the Minister to lodge complaints regarding police service delivery.

4. Current Complaints Monitoring Process

The main reasons for redeveloping the complaints handling mechanism is due to the fact that currently the manner in which these complaints are dealt with are not conducive to, amongst others, objectivity and the time period it takes to finalise complaints and give feedback to complainants. Cases are also seldom found to be substantiated, police officers are not being disciplined and the data management system does not provide accurate statistics.

4.1. Objectivity of cases

In terms of Section 206(5) of the Constitution, provinces 'may investigate, or appoint a Commission of Inquiry into, any complaints of police inefficiency or a breakdown in relations between the police and any community', though it 'must make recommendations' to the Minister of Safety and Security (Newham & Bruce, 2004:27).

The South African Police Service Act also gives broad powers of access to the Secretariat for Safety and Security. In terms of section 3(2) it may if it is reasonably necessary for the performance of its functions do the following:-

- request and obtain information and documents under the control of the Service;
- enter any building or premises under the control of the Service; and
- be entitled to all reasonable assistance from a member of the Service.

In spite of the above-mentioned legislation, currently, in practice, complaints are referred to and investigated by the police themselves. The Policing Complaints Centre receives complaints via the different methods. These complaints are referred to, in writing, to the Provincial Commissioner of the South African Police Service (Quarterly Service Index Report, 2005:4).

This means that the complaints lodged against members of the South African Police Service are in fact investigated by themselves. From the date the complaints have been referred to the South African Police Service until these complaints are finalised by the South African Police Services, officials of the Policing Complaints Centre constantly write to SAPS enquiring when the complaint will be finalised. The officials also write to the complainant on a monthly basis informing the complainant that their complaints are still being dealt with (Quarterly Service Index Report, 2005: 4).

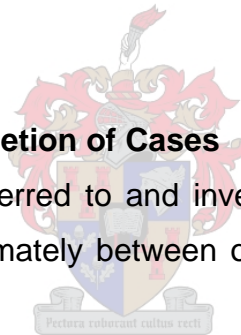
During the investigation process conducted solely by the members of the South African Police Services, the officials from the Policing Complaints

Centre has no input regarding the direction and control of the investigation, the choice of the investigator or by when the complaint should be finalised. When these complaints are finalised by the South African Police Services, a draft report is submitted to the Policing Complaints Centre who in turn peruses the case report and consider the matter finalised. The complainants are in turn informed in writing of the outcome of their complaint by the Policing Complaints Centre based on the information received by the South African Police Service or other policing agency (Quarterly Service Index Report, 2005:5).

It has happened that when the complainants receive the response from the Policing Complaints Centre, the complainants will contact the Policing Complaints Centre to express their dissatisfaction with the response. Consequently the Policing Complaints Centre is losing its credibility and trust from the complainants.

4.2. Time Period of Completion of Cases

Generally, the complaints referred to and investigated by the South African Police Service takes approximately between one month and one and a half years to finalise.



4.3. Substantiated Cases

From the period of 1999 to date most cases referred to the South African Police Services for investigation have been unfounded because the police are investigating the complaints themselves.

This situation is not only peculiar to South Africa alone but all over the world. Particularly over the last forty years there have been scandals and inquiries involving police complaints systems all over the world. A cyclical pattern of corruption and misconduct followed by attempted reforms has occurred in many countries including Australia, Canada, the USA and Northern Ireland (Harrison & Cunneen, 2000:2).

Perceived inadequacies of internal police investigation has been cited in the following reports:-

- Knapp Report, New York City (1972): “At the present time a citizen wishing to complain about a policeman knows that his complaint will ultimately be investigated by other policemen.”;
- Christopher Commission, Los Angeles (1991): “No area of police operations received more adverse comment during the Commission’s public hearing, than the Department’s handling of citizen complaints against LAPD officers”; and
- The Wood Report, (1997): “There is an inherent bias in investigations as the result of which the Service has failed to carry out impartial investigations or pursue allegations with the same rigour or approach seen in ordinary criminal enquiries” (Harrison & Cunneen, 2000:2).

4.4. Police Officers Disciplined

The disciplinary procedure of police members is the direct responsibility of the Provincial Commissioner, South African Police Service.

Due to the above reasons, it has been found that during the 2004/2005 financial years twelve police officers were disciplined which is 3.4% of the total number of cases being investigated.

5. Current Complaints Data Management System

All the complaints received by the Department of Community Safety are recorded on a database. The database is updated on a daily basis and various reports are generated from the system such as:-

- number of cases received per police station, per area and the total number for the Province;
- number of complaints received via the complaints line, written complaints, complaints retrieved via the media, complaints reported to the Independent Complaints Directorate and complaints reported directly to police stations; complaints reported to the SAPS Radio Control/Fyling squad;

- number of complaints finalised;
- number of complaints outstanding;
- number of police officers disciplined; and
- number of cases substantiated etc.

There are however shortcomings in the Complaints Data Management System;

- all complaints received are recorded on the database and reported as complaints against the police. Some of these “complaints” are not actually complaints but merely inquiries;
- some of these complaints are also not actually against the South African Police Service but against the Independent Complaints Directorate and the Municipal Police Officers; and
- currently indicators such as substantiated complaints, unfounded complaints, truncated complaints, police officers disciplined, the time period it takes to complete investigations and if the complainants are satisfied or not are not being reported.

5.1. Statistics: 2004/2005 Financial Year

For the 2004/2005 financial year 3719 complaints were received and recorded as follows:-

- 278 complaints were received via the SAPS Radio Control Centre;
- 197 complaints were received via the Complaints Line 483 4332;
- 127 written complaints were received;
- 6 complaints were retrieved via the media;
- 1952 complaints were lodged directly at police stations; and
- 1159 complaints were lodged at the Independent Complaints Directorate (Annual Service Index Report, 2005:4).

The complaints received are categorised as follows:- unprofessional conduct; assault by SAPS members; SAPS members under the influence of alcohol; search without warrant; criminal/illegal activity and non-service delivery. For

the 2004/2005 financial year, complaints were received in terms of the categories as follows:-

• unprofessional conduct	1888
• assault by SAPS members	233
• SAPS members under the influence of alcohol	16
• search without warrant	14
• criminal/illegal activity	63
• non-service delivery	1505

(Annual Service Index Report, 2005:12).

6. Conclusion

One of the mandates of the Secretariat for Safety and Security in terms of the Constitution of the Republic of South Africa, Act 108 of 1995 is to monitor policing conduct.

The Department of Community Safety was initially established as the Secretariat for Safety and Security in terms of the South African Police Service Act, Act No 68 of 1995. The latter act stipulates the functions and powers of the Secretariat giving the Secretariat access to police stations, dockets upon request and the services of members of the police service regarding monitoring and evaluation of complaints lodged against the police. It however does not give the officials of the Secretariat any policing powers.

The Policing Complaints Centre, Directorate Monitoring and Evaluation within the Chief Directorate, Secretariat for Safety and Security is responsible for monitoring policing conduct. However, the current complaints referral model is not suitable in terms of services being delivered to communities, building trust in communities and keeping the police accountable for its actions as the police are currently investigating these complaints themselves.

In order to improve the current complaints model, a study was made of international civilian oversight bodies regarding their complaints against the police models that will be addressed in the next chapter.

Chapter 5: International Case Studies: The Civilian Complaint Review Board (CCRB) and the Independent Police Complaints Commission (IPCC)

1. Introduction

There are many civilian oversight bodies all over the world dealing with monitoring and evaluation as well as complaints against the police.

The model for the Policing Complaints Centre will be based on the two models, namely, the Civilian Complaint Review Board of New York City and the Independent Police Complaints Commission of the United Kingdom. These models will be used because both these civilian oversight bodies operate independently from the policing agencies and therefore the credibility and integrity, amongst others, of the complaints model will be upheld.

The main objectives of the Chapter are:-

- the historical background of both oversight bodies as well as their new composition;
- the role and function of the oversight bodies;
- to discuss the type of complaints being dealt with and how investigations are conducted.

2. New York City: Civilian Complaint Review Board (CCRB)

This board was initially established in 1953 as the “Permanent Co-ordination Committee of Minority Groups” to lobby the city to deal with police misconduct in general, and police misconduct relations specifically with Puerto Ricans and Negroes. In 1955 under the authority of Mayor Robert Wagner the board remained within the police department and the investigations were carried out by police officers. The decision to discipline or not was made by the deputy commissioners (Civilian Complaint Review Board, 2005).

The board underwent certain changes over the years and by 1993 after extensive debate and public comment, the Civilian Complaint Review Board was created in its current form, that is, an all-civilian body that is independent of the police department (Civilian Complaint Review Board, 2005).

2.1. Composition of the board

The board consists of thirteen members of the public appointed by the Mayor who selects a chairperson. The members must be residents of New York and must reflect the city's diversity. These members are also part-timers (Civilian Complaint Review Board, 2005).

The board also have 173 full-time civilian employees. It has nine teams of investigators with each team consisting of twelve persons. Each team has a supervisor. The supervisors have at least fifteen years law enforcement experience or other investigative experience and are drawn from a number of agencies (Livingston, 2005:4).

The board hires the executive director and holds monthly public meetings, oversees the operations of the agency through numerous committees and sets policy (Civilian Complaint Review Board, 2005).

2.2. Functions of the Board

The functions of the board are to:-

- receive, investigate, hear, make findings and recommend action on complaints against the New York City police officers;
- issue semi-annual reports describing its activities and summarising its actions;
- inform and educate the public about the board and its duties; and
- offer a mediation program (Civilian Complaint Review Board: Roster, 2004).

The types of complaints investigated by the board are the following:-

- the use of excessive or unnecessary force;
- abuse of authority; and

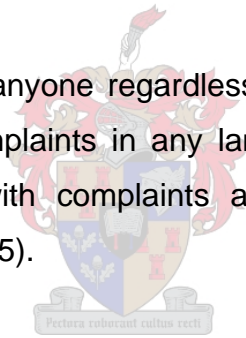
- discourtesy, or the use of offensive language (Civilian Complaint Review Board: Roster, 2004).

The board also have the authority to issue subpoenas to compel the attendance of witnesses or the production of documents. The board can also compel interviews with New York City police officers and can obtain records from the police department (Civilian Complaint Review Board: Roster, 2004).

After investigations have been completed, the board is also responsible for reviewing all the evidence and vote on the disposition of every allegation of the complaint. If any allegations are substantiated, the case will be forwarded to the police commissioner who has the authority regarding disciplinary matters (Civilian Complaint Review Board, 2005).

2.3. Complaints System

Complaints may be filed by anyone regardless of their age. The system is also equipped to accept complaints in any language and complainants are advised to come forward with complaints as soon as possible (Civilian Complaint Review Board, 2005).



2.3.1. Method of Filing a Complaint

Complaints are received by means of :-

- telephoning the CCRB Hotline 24 hours a day, seven days a week;
- personally visiting the various complaints centres;
- filing a complaint online using an online complaint form;
- writing a letter to the CCRB; and
- sending an e-mail using a complaint form provided by the CCRB (Civilian Complaint Review Board, 2005).

2.3.2. The Investigative Process

After a complaint has been lodged with the CCRB and assigned to an investigator, the complaint will receive attention within 24 hours. The investigator to whom the complaint is assigned will investigate the case until its completion. The investigations are processed as follows:-

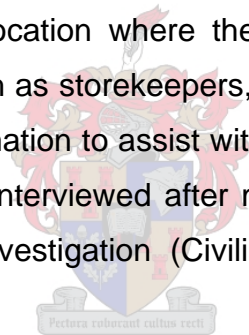
In-person Statement

The investigator personally interviews the complainant in order to obtain the most accurate and thorough description of the events on record. Complainants are generally interviewed at the main offices of the CCRB and in exceptional cases the investigator may travel to the complainant.

All information pertaining to the complaint is obtained such as the exact time, date and location of the incident, the name/s of the police officer/s if the complainant has it and any other paper work related to the event. Obtaining the names and contact details of witnesses will also assist with the investigation (Civilian Complaint Review Board, 2005).

Witness Statements

After interviewing the complainant, the investigator will contact the witnesses. Investigators also visit the location where the incidents occurred to locate other possible witnesses such as storekeepers, neighbourhood residents who may be able to provide information to assist with the investigation. Witnesses may also be required to be interviewed after more information is uncovered during the course of the investigation (Civilian Complaint Review Board, 2005).



Documentary Evidence

The Civilian Complaint Review Board also has the power to subpoena which means that they are able to obtain records from establishments. In the case of medical files, the board will require the complainant's permission. Relevant documentary evidence can also be obtained from the police department. These documents sometimes provide critical insight into the circumstances surrounding the complaint (Civilian Complaint Review Board, 2005).

Police Officer Interviews

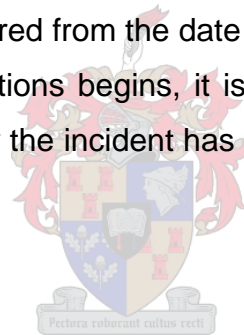
Investigators are generally required to interview witnesses and subject officers as soon as they have been identified. Police officers are frequently interviewed upon obtaining new information through witness interviews and review of complaint evidence (Civilian Complaint Review Board, 2005).

The Board

After the investigation has been completed it is submitted to the board. A panel of three members will read the case, review all the evidence and vote on the disposition of every allegation regarding the complaint. If any of the allegations are substantiated, the case will be forwarded to the police commissioner as he has the final say in disciplinary matters (Civilian Complaint Review Board, 2005).

Statute of Limitations

In terms of the New York State Civil Law, officers who are subjects of substantiated CCRB investigations must be disciplined or served with disciplinary charges within eighteen months of the date of the incident except when the alleged misconduct committed constitutes a crime. Since the statute of limitations is measured from the date the incident took place and not the date the CCRB investigations begins, it is important that complaints are filed as soon as possible after the incident has taken place (Civilian Complaint Review Board, 2005).



Outcomes

Substantiated, exonerated or unfounded dispositions are considered “findings” on the merits they reflect in the board decision on the validity of the complaint.

- **Substantiated:** There is sufficient credible evidence to believe that the subject officers are guilty of the act charged in the allegation and committed misconduct. The board can recommend appropriate disciplinary action to the police commissioner.
- **Exonerated:** The subject officer was found to have committed the alleged act, but the actions of the officer were determined to be lawful and proper.
- **Unfounded:** There is sufficient credible evidence to believe that the subject officer did not commit the alleged act of misconduct.

Unsubstantiated outcomes refer to cases where the police officer was never identified, and misconduct closures do not constitute findings on the merits, as the allegations remain unresolved.

- Unsubstantiated: The weight of the available evidence is insufficient to substantiate the allegation.
- Officer (s) unidentified: The agency was unable to identify the subject(s) of the alleged misconduct.
- Miscellaneous: The subject of the allegation is no longer a member of the New York Police Department.

Figure 1 illustrates the number of cases substantiated, unfounded, employees exonerated, unsubstantiated, police officers not identified and miscellaneous (Civilian Complaint Review Board, 2005).

Figure 1: Outcomes of cases for the year 2004

Outcome	%
Substantiated	11%
Unfounded	17%
Employees exonerated	35%
Unsubstantiated	25%
Police officers not identified	8%
Miscellaneous	3%

2.4. Mediation

Complainants would prefer to meet the police officers face to face rather than seeking a full investigation and disciplinary action against the police officer. For this type of complaint, the CCRB offers mediation as an alternative way of resolving complaints (Civilian Complaint Review Board, 2005).

2.4.1. What is mediation

Mediation involves the informal resolution of a complaint or dispute between two parties through a face-to-face meeting in which a professional mediator serves as a neutral facilitator and where both parties ultimately agree that an acceptable resolution has been reached. It is also another means in which a civilian can resolve a complaint that has been filed. Mediation offers the complainant and the officer the opportunity to talk about the incident in a comfortable, quiet environment with a neutral mediator (Walker et al, 2002:1).

Mediators are trained persons experienced in conducting mediations. Mediators will structure the discussion between the complainant and the police officer so that they may communicate effectively. An effective mediation is when both the officer and the complainant agree that the issues raised by the incident and complainant has been resolved (Civilian Complaint Review Board, 2005).

2.4.2. Mediation process

Mediation is a process whereby the relevant parties voluntarily participate to settle disputes. The process aims to develop a mutual understanding between the relevant parties and also wants to give the participants control over the final resolution (Walker et al, 2002:2).

At the mediation session of the Civilian Complaint Review Board, the complainant meets with the police officer and a mediator. Before commencement of the session, both the police officer and the complainant is requested a confidentiality and consent agreement. This means that anything that is said at the mediation session is confidential and it also protects the

mediator from being called to testify in any future legal proceeding. After the document has been signed, the mediator will explain the mediation process and set ground rules for both parties in order to facilitate discussion (Civilian Complaint Review Board, 2005).

Both parties will be afforded the opportunity to describe the details of the incident. The mediator is not a judge and will not determine who is right and who is wrong. The mediator will merely facilitate discussions. At some point when both parties agree and it seems that the incident has been resolved, the mediator will request the parties to sign an agreement which signifies that the complaint has been resolved and the CCRB will not conduct further investigations (Civilian Complaint Review Board, 2005).

After the resolution agreement has been signed, copies will be put on the relevant files and the complaint is closed (Civilian Complaint Review Board, 2005).

2.4.3. Reasons for mediation

Mediating a complaint gives complainant satisfaction because the complainant has the opportunity to engage with the police officer and explain why the complainant was so upset with the police officer. The complainant can also pose questions to the police officer (Civilian Complaint Review Board, 2005).

There is of course no guarantee that the police officer will give satisfactory answers/explanations but nine out of ten individuals who mediate their complaints, mediate successfully. Most studies also show that individuals who mediate their complaints are more satisfied with the complaints process than those whose complaints are investigated (Civilian Complaint Review Board, 2005).

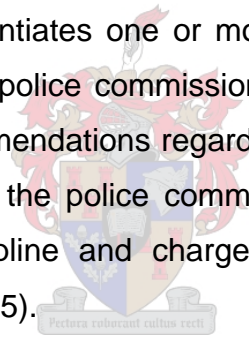
2.4.4. Cases suitable for mediation

The board has set guidelines for determining what types of complaints are appropriate for mediation. Cases not suitable for mediation are where the officer allegedly injured someone or the property, if the allegations stem directly from an arrest, or if there is an extensive complaint against the officer (Civilian Complaint Review Board, 2005).

Cases that could be mediated include those where the officer used mild physical force, made threats, refused to identify him or herself, stopped and searched a civilian, and used discourteous or offensive language (Civilian Complaint Review Board, 2005).

2.5. Substantiated Cases

After the board panel substantiates one or more allegations in a complaint, the case is submitted to the police commissioner for his review. The board can make disciplinary recommendations regarding the complaints. There are three types of penalties that the police commissioner may institute, that is, instructions, command discipline and charges and specifications (Civilian Complaint Review Board, 2005).



2.5.1. Instructions

“Instructions” involve a subject officer’s commanding officer instructing the officer on procedures that should have been followed under the circumstances. This can also involve being sent for in-service training or Police Academy presentations. Instructions are considered a punitive measure because the instruction does not result in formal proceedings (Civilian Complaint Review Board, 2005).

2.5.2. Command Discipline

A “command discipline” is imposed directly by the subject officer’s commanding officer and is based on the seriousness of the misconduct, the subject officer’s disciplinary history, and the subject officer’s performance records. The penalties range from an oral warning and admonishment to a

forfeited ten days of vacation or accrued time (Civilian Complaint Review Board, 2005).

2.5.3. Charges and Specifications

“Charges and specifications” are the most serious type of disciplinary measure. This involves the lodging of administrative charges against the subject officer who, as a result, may face suspension, or termination from the police department (Civilian Complaint Review Board, 2005).

2.5.4. Types of Misconduct Substantiated

In 2004 the largest number of allegations substantiated by the board was for officers using discourteous words and the use of physical force (Civilian Complaint Review Board, 2005).

3. General Performance of the Board

The core mission of the board is to investigate the complaints received against the New York City police officers thoroughly and expeditiously. The New York City Charter also directs that the board establish a system by which complaints can be resolved through alternative dispute resolution processes, ongoing public education programs and the issuing of semi-annual reports about its activities and operations. In addition, part of the board’s duty is to make policy recommendations to the New York City Police Department based on the information it gathered through the receipt and investigations of complaints (Civilian Complaint Review Board, 2005).

3.1. Effect of Complaint Increase on Investigations

In 2004 the board received 6210 complaints, a 12% increase over the 5557 received in 2003 and an increase of 35% from the 4612 filed in 2002. The number of investigations closed per investigator increased from 39 in 2002 to 46 in 2004 which is an increase of 18%. The growth of complaints lodged continued to increase the average investigator caseload from 17 in 2002 to 23 in 2003 and to 26 in 2004 (Civilian Complaint Review Board, 2005).

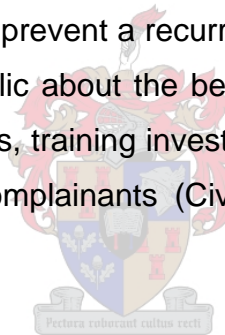
During 2003 it took an average of 8 months (257 days) to close a full investigation. In 2004 it took an average of 9 months (280 days) which is a increase of 9% (Civilian Complaint Review Board, 2005).

3.2. Performance Indicators for Investigations

The board made findings on the merits of full investigations at the rate of 64%. This rate is measured by the quality of the investigation where the findings were made in cases where the investigation uncovers enough evidence to determine cases conclusively (substantiated, exonerated or unfounded (Civilian Complaint Review Board, 2005).

3.3. Mediation

The board has made mediation a priority because the results in satisfactory outcomes for both the complainant and the subject officer enhances police-community relations and may prevent a recurrence of the incident. The board continues to educate the public about the benefits of mediation, encourages mediation in appropriate cases, training investigators in special techniques for discussing mediation with complainants (Civilian Complaint Review Board, 2005).



In 2004 the board successfully mediated 113 complaints which was a significant increase over the cases mediated in 2003 and the 73 mediated in 2002. The board also closed 96 cases as mediations attempted, which means that the subject officer agreed to mediate but the complainant failed to continue with the process. In 2004 it took an average of 5 months to mediate a case (Civilian Complaint Review Board, 2005).

3.4. Outreach

The outreach unit promotes awareness of the Civilian Complaint Review Board by visiting high school classes, religious organisations, political groups and non-profit organisations around boroughs. In 2004 the members of the outreach unit conducted 100 face-to-face meetings with various groups. The outreach unit has developed material in different languages including Arabic, Chinese, Russian and Spanish (Civilian Complaint Review Board, 2005).

3.5. Policy Recommendations

In 2004 the board made two significant policy recommendations to the police department, namely (a) the New York Police Department to enhance its training of officers, particularly to ensure that they adhere to Patrol Guide strip-search procedures; and (b) the facilitation of the identification of officers policing large-scale demonstrations (Civilian Complaint Review Board, 2005).

4. United Kingdom: The Independent Police Complaints Commission (IPCC)

The Police Complaints Authority, the forerunner of the Independent Police Complaints Commission was set up by the 1984 Police and Criminal Evidence Act. The members of the Authority who do not have police backgrounds oversee the work of the police officers who investigate complaints, they could direct that particular lines of investigation be followed up, but they do not themselves conduct any investigations themselves. The complaints that were supervised by this Authority included deaths or serious injury in police custody (Pyne, 2000:1).

Various calls were made to move towards the independent investigation of complaints by amongst others, Lord Scarman in his 1981 report on the Brixton disorders, by the House of Commons Home Affairs Select committee in its 1997 Report into the police complaints system and in Sir William McPherson's Report of the Inquiry into the death of Stephen Lawrence (Pyne, 2000:1).

On 17 May 2000, the Home Office published a consultation document which was based on a KPMG study on "Feasibility of an Independent System for Investigating Complaints Against the Police" and a study by the National Council for Civil Liberties, Liberty, on "An Independent Police Complaints Commission" (Independent Police Complaints Commission, 2005:3).

As a result of the consultation document a decision was made that the Independent Police Complaints Commission (IPCC) will replace the Police

Complaints Authority as part of the Police Reform Act 2002 (Independent Police Complaints Commission, 2005:3).

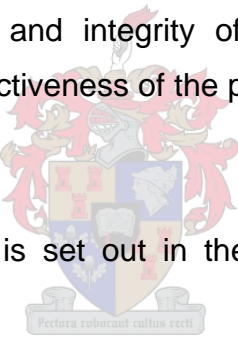
4.1. Composition of the Commission

The Independent Police Complaints Commission consists of the Chairperson, two Deputy Chairpersons, 18 Commissioners, a Chief Executive Officer (Susan Atkins), six Directors and four Regional Directors. In addition it has its investigators (Independent Police Complaints Commission, 2005).

4.2. Functions of the Commission

The purpose of the Commission is to ensure that suitable arrangements are in place for dealing with complaints or allegations of misconduct against any person serving with the police in England and Wales. In doing so the Commission must increase public confidence by demonstrating the independence, accountability and integrity of the complaints system and therefore contribute to the effectiveness of the police service as a whole (Draft Statutory Guidelines, 2004:5).

The role of the Commission is set out in the Police Reform Act 2002 as follows:

- 
- setting standards, monitoring, reviewing and inspecting the police complaints system;
 - promoting confidence in the complaints system as a whole;
 - ensuring the accessibility of the system as a whole; and
 - promoting policing excellence by drawing out and providing feedback on the lessons arising from the Commission's work (Draft Statutory Guidelines, 2004:5).

4.3. The New System for the Commission

The IPCC has been given new, stronger powers which mean that the Commission can supervise, run and where necessary conduct investigations into complaints lodged against the police. The Commission also has a wider responsibility to monitor the way complaints are handled by local police forces

which is the guardianship role (Independent Police Complaints Commission, 2005).

4.3.1. What the changes mean for complainants

- even though most complaints will be investigated by the local police forces, they have to adhere to the new strict IPCC standards;
- a number of investigations into serious issues are run by the IPCC's own investigators which include deaths in police custody;
- in certain circumstances, the IPCC's investigators have full police powers and rights to access to premises, documents and other evidence upon request;
- complainants have the right to appeal to the IPCC if they feel that they have not been given sufficient information by the police or they are unhappy with the outcome of an investigation by the police;
- people, other than victims or anybody who feels they have been adversely affected by an incident, which could include a witness, may lodge a complaint;
- the IPCC has a legal obligation to keep complainants informed of the progress of an investigation which may include giving complainants a copy of the investigating officer's report (Independent Police Complaints Commission, 2005).

4.3.2. Lodging of a complaint

A complaint may be lodged by a member of the public who:-

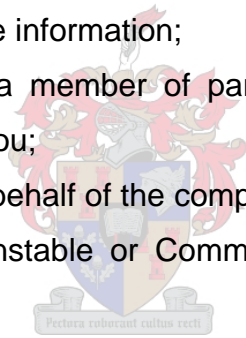
- has been the victim of the misconduct by a person serving with the police. Misconduct could include a police officer or member of the police staff being rude, using excessive force, unlawful arrest or abuse of the complainant's rights;
- was present when the alleged misconduct took place, or close enough to see or hear the misconduct, and as a result suffered loss, damage, distress or inconvenience, or was put in danger or at risk;
- is a friend or relative of the victim of the alleged misconduct, distressed by the effects of the incident on the victim;
- has witnessed the alleged misconduct; and

- is acting on behalf of any of the above. If someone makes a complaint on behalf of someone else, written consent must be given by the person on whose behalf the complainant is complaining (Independent Police Complaints Commission, 2005).

4.3.3. How to lodge a complaint

Complaints may be lodged directly at the police force concerned or through the IPCC or another advice organisation. Regardless of the route, all complaints, by law, must be recorded by the police force itself. A complaint may be lodged via the following processes:-

- at any police station;
- at any police station via telephone, email or post;
- at any local Citizens Advice Bureau, Racial Equity Council, Neighbourhood Warden, Youth Offending Team or Probation Service, all of whom can provide information;
- contact a solicitor or a member of parliament and request them to make a complaint for you;
- nominate a person on behalf of the complainant (with written consent);
- write to the Chief Constable or Commissioner of the police service concerned; and
- contact the IPCC Commission in London (Independent Police Complaints Commission, 2005)



5. Investigations

The Commission has teams of investigators headed by Regional Directors in each of its regions to assist with supervision and management of some police investigations. The Commission also conducts independent investigations into serious incidents or allegations of misconduct by persons serving with the police (Independent Police Complaints Commission, 2005).

Serious incidents are those involving death or serious injury. Serious allegations include:-

- allegations of serious or organised corruption;
- allegations against senior officers;

- allegations involving racism; and
- allegations of perverting the course of justice (Independent Police Complaints Commission, 2005).

The IPCC is also responsible to increase the efficiency of the handling of complaints. Investigations can be time consuming and where the IPCC will be involved in supervising, managing and independently investigating it will do the following:-

- ensure that the initial terms of reference for the investigation is clearly defined;
- maximise the value of independent oversight to reach evidenced conclusion as soon as possible;
- adopt a flexible approach to allow the mode of investigation to change as appropriate;
- be totally independent and consider the needs and positions of all throughout the process; and
- in the absence of a public complaint, and where appropriate, investigate the incident and necessarily to people concerned (Independent Police Complaints Commission, 2005).



5.1. Types of investigations

Even though the majority of the complaints are investigated by the local police, certain types of investigations are overseen by the IPCC. These are:-

- police investigations supervised by the IPCC;
- police investigations managed by the IPCC; and
- investigations conducted by the IPCC's independent investigative teams (Independent Police Complaints Commission, 2005).

In all three types of investigations the IPCC will keep the complainant or their family informed. At the start of an investigation a Liaison Officer will be appointed and introduced to the complainant. The Liaison Officer will be responsible for keeping the complainant or the family informed of the progress of the investigation and its outcomes and will be available to answer questions

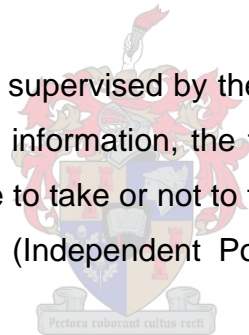
or discuss any concerns with the complainant (Independent Police Complaints Commission, 2005).

5.1.1. Investigations supervised by the IPCC

This type of investigation is undertaken by an investigating officer of the police but supervised by an IPCC Commissioner. The latter approves the choice of the police investigation officer and in some cases the IPCC Commissioner may decide to bring in an investigating officer from another police force (Independent Police Complaints Commission, 2005).

The IPCC Commissioner is responsible for reviewing the progress throughout the investigation and provides advice to the investigating officer. The direction and control of the investigation will remain the responsibility of the investigating officer (Independent Police Complaints Commission, 2005).

At the end of an investigation supervised by the IPCC, the complainant is not satisfied with the provision of information, the findings of the investigation or the actions the police propose to take or not to take, the complainant have the right to appeal to the IPCC (Independent Police Complaints Commission, 2005).



5.1.2. Investigations managed by the IPCC

The police carry out these investigations but the IPCC has direction and control of the investigation and can instruct the police for example to interview certain witnesses. An IPCC Commissioner will agree to the process of the investigation and oversee the way it is conducted (Independent Police Complaints Commission, 2005).

Managed investigations are led by an investigating officer from the police and the choice of investigating officer is also approved by the IPCC Commissioner. In some cases the Commissioner may also bring in an investigating officer from another police force (Independent Police Complaints Commission, 2005).

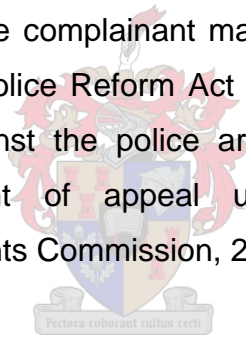
The investigating officer is managed by the IPCC Regional Director who agrees to the investigation plan and has regular meetings to review progress. Complainants do not have the right to appeal to the IPCC in an investigation managed by the IPCC (Independent Police Complaints Commission, 2005).

5.1.3. Independent Investigations

This type of investigations are carried out by the IPCC's independent investigators, based around England and Wales. An IPCC investigator will be appointed to conduct the investigation and will report to an IPCC Regional Director. The entire case will be overseen by an IPCC Commissioner (Independent Police Complaints Commission, 2005).

6. Appeals to the IPCC

If a case has been made and the complainant is dissatisfied with the manner in which it was dealt with, the complainant may appeal against the decision that has been taken. The Police Reform Act of 2002 includes measures to ensure that complaints against the police are properly handled, and that complainants have a right of appeal under certain circumstances (Independent Police Complaints Commission, 2005).



There are three types of appeal. Each type applies at different stages of the complaints process, on different grounds and with different consequences. The classes of appeal are:-

- Appeals against the non-recording of a complaint;
- Appeals against the local resolution process; and
- Appeals against the outcome of a police complaints investigation (Independent Police Complaints Commission, 2005).

6.1. Appeals against the non-recording of a complaint

In England and Wales, the Police Reform Act of 2002 stipulates that each police force must either record a complaint received or must provide reasons why it has been decided not to record a complaint received from a member of the public (Independent Police Complaints Commission, 2005).

If a member of the public tried to make a complaint against a person serving with the police but the police refuses to officially record the complaint, an appeal can be made to the IPCC who will peruse the case and see whether the refusal was justified (Independent Police Complaints Commission, 2005).

A decision made by the police could be overturned by the IPCC on the following grounds:-

- The police did not make a decision whether or not to record a complaint:
 - The police must make a decision whether or not to record a complaint. If the complainant has not heard from the police within a reasonable time a complainant may appeal to the IPCC. The reasonable time depend on circumstances of each complaint, but the IPCC recommends that generally a decision should be made within 10 working days. Should a complainant have any queries regarding the length of time it takes a police force to make a decision, the complainant may contact the IPCC (Independent Police Complaints Commission, 2005).
- The police did not record the complaint:
 - If a complaint has been lodged, verbally or in writing regarding the conduct of a person serving with the police, the police must record the complaint. However, if the complaint has been withdrawn before the police have recorded it, the police do not have to make a record of the complaint (Independent Police Complaints Commission, 2005).
- The Chief Constable, Commissioner or police authority did not inform the complainant either that the complaint has been recorded or the reason why the complaint has not been recorded:
 - The police must inform the complainant that the complaint has been recorded or they must provide reasons for deciding not to record

the complaint. The police must also inform the complainant of their right to appeal to the IPCC against the decision.

Appeals must be made to the IPCC within 28 days of the date of the letter received from the police notifying the complainant that the complaint has not been recorded.

If an appeal is made because the police did not inform the complainant about their decision and the 10-day recommended period has expired, the complainant has 28 days to lodge an appeal (Independent Police Complaints Commission, 2005).

6.2. Appealing against the local resolution process

The local resolution process enables complaints made at a local level be resolved by means of meetings and discussions. This process allows for both parties, that are the complainant and the police member to reach a satisfactory conclusion as quickly as possible without the need for a full investigation (Independent Police Complaints Commission, 2005).

When making a complaint regarding the local resolution process, strict procedures must be followed. The police force must explain these procedures to the complainant as well as how the complaint will be addressed. This can vary from police force to police force. The police force should also explain the right to appeal if these procedures are not properly adhered to (Independent Police Complaints Commission, 2005).

When the local resolution process is explained to the complainant, the complainant must be specifically asked to give consent for a complaint to be dealt with in this manner (Independent Police Complaints Commission, 2005).

On completion of the local resolution process the police force must inform the complainant in writing of the outcome of the complaint and how a copy of the record could be obtained (Independent Police Complaints Commission, 2005).

An appeal can be made to the IPCC to get a decision made by the police overturned if the complainant believes that the procedures agreed to were not followed correctly (Independent Police Complaints Commission, 2005).

Appeals cannot be made against the outcome of the local resolution process which means that an appeal cannot simply be made because the complainant is not satisfied with the decision that was made. When a complainant wants to appeal regarding the procedure, an appeal must be made within 28 days of the date on which the complainant thinks that the procedures were incorrectly followed (Independent Police Complaints Commission, 2005).

6.3. Appealing against the outcome of a police complaints investigation

If a complaint was lodged against the police and investigated by them, the police should keep the complainant informed in writing of the progress of the complaint. Upon completion of the investigation the police should provide the complainant with a letter or report which (a) gives details of their findings; (b) says whether or not they propose to take any action as a result of the investigation; (c) says what that action will be; and (d) tells the complainant about his/her right to appeal to the IPCC. These rules apply whether or not the investigation was supervised by the IPCC (Independent Police Complaints Commission, 2005).

An appeal can be made to the IPCC to overturn a decision made by the police on the following grounds:-

- adequate information was not provided to the complainant regarding the findings of the investigation or the actions the police propose to take or not to take; In many cases the police can give information by providing the complainant with a copy of the investigating officer's report, however the police is not obliged to provide this information;
- there are reasons to disagree with the action the police propose to take as a result of the investigation. These reasons could include:-

- some witnesses were not traced and interviewed;
 - some part(s) of the complaint were not investigated; and
 - the evidence does not support the results.
- the complainant has reasons to disagree with the action the police propose to take as a result of the investigation for example, the complainant is of the opinion that the action the police propose to take is inappropriate to the case concerned (Independent Police Complaints Commission, 2005).

An appeal must be lodged within 28 days of the date of the letter received from the police regarding the outcome of the complaint (Independent Police Complaints Commission, 2005).

In all the appeals, if an appeal is not lodged within 28 days the IPCC cannot deal with the appeal. The IPCC may extend this time period only under very special circumstances and the reasons requesting an extension is fully explained (Independent Police Complaints Commission, 2005).

7. Comparison between the CCRB and IPCC

These oversight bodies are very similar but there are however a few differences as well. The similarities and differences will be discussed below:-

7.1. Composition

Both the Civilian Complaint Review Board and the Independent Police Complaints Commission consists of civilians and headed by a chairperson selected by their members. The most significant aspect of these oversight bodies is that they are completely independent from the police and can therefore exercise objectivity.

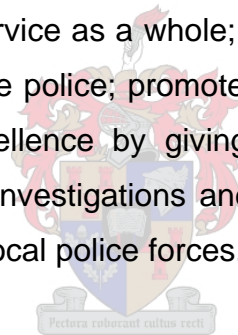
Being independent from the police means that public confidence will be increased, the police can be held accountable for their performance and conduct, the civilian oversight bodies will maintain their credibility and integrity

in the manner in which the complaints are being dealt with and the public will tend to trust the civilian oversight bodies to deal with their complaints.

7.2. Role and Function

The core functions of the Civilian Complaint Review Board are to investigate complaints thoroughly and expeditiously; to establish a system of complaints that are lodged against the police; to educate the public regarding the activities of the board by means of submitting regular reports; and to make policy recommendations to the police department based on the types of complaints received.

In terms of the Independent Police Complaints Commission, their core functions are very similar, namely, to increase public confidence, accountability and integrity in the complaints system; to contribute to the effectiveness of the police service as a whole; to set standards, manage, and inspect complaints against the police; promote confidence in their complaints system; promote police excellence by giving regular feedback; to ensure accessibility and to conduct investigations and monitor the manner in which complaints are dealt with by local police forces.



The role and functions of these oversight bodies are mainly to ensure that complaints lodged against police officers are dealt with objectively. This is to promote confidence and trust in communities, to ensure that communities have access to the complaints systems available and to make recommendations to the police departments to increase their effectiveness.

7.3. Types of complaints being dealt with

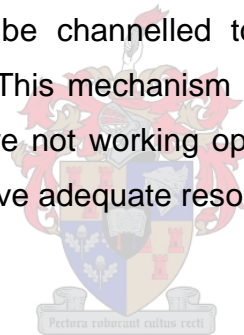
The Civilian Complaint Review Board deals with complaints of excessive force, abuse of authority and discourtesy, that is, use of offensive language. The Independent Police Complaints Commission largely deal with very serious issues such as deaths in police custody but they oversee less serious complaints.

7.4. Method of receipt of complaints

The manner in which complaints are received by these bodies are also very similar such telephonically, personal visits to the offices, written communication, online and via e-mail.

In addition the Independent Police Complaints Commission may also oversee complaints that are lodged directly at police stations. Complaints may also be lodged at other organisations such as the Local Citizens Advice Bureau, the Racial Equity Council, the Neighbourhood Warden and the Youth Offenders Team.

The Independent Police Complaints Commission has increased its accessibility to communities by letting organisations also take complaints against the police that will be channelled to the Commission for further investigation or monitoring. This mechanism would work well in rural areas where telecommunications are not working optimally and in very poor areas where communities do not have adequate resources to contact the complaints centres.



7.5. Investigation Process

The manner in which these bodies operate regarding the investigation of complaints are slightly different. The Civilian Complaint Review Board conduct all their own investigations from the time the complaint has been received until the finalised stage. After the complaint has been finalised by the investigator, the members of the Board will review the complaint and make a decision to determine whether the complaint has been substantiated or not. If the complaint has found to be substantiated, the board may make recommendations to the provincial commissioner regarding the disciplinary procedure to be instituted.

The Independent Police Complaints Commission conducts their own investigations and monitor investigations. Investigations are conducted by this Commission under certain circumstances such as deaths in police

custody, complaints of alleged organised corruption, alleged complaints against senior police officials, racism and perverting the course of justice. In other cases the police will investigate the complaints but supervised or managed by the Independent Police Complaints Commission, in other words, the Commission will monitor the complaints being investigated by the local police forces.

The investigation process is largely determined by the legislation governing the complaints committees. Both the Civilian Complaint Review Board and the Independent Police Complaints Commission have full investigative powers similar to those of police officers therefore they are able to conduct independent investigations.

8. Conclusion

The Civilian Complaint Review Board and the Independent Police Complaints Commission have both undergone major changes in terms of its independence from the police. Both oversight bodies consist of civilians and not police officers, which indicate the level of objectiveness of these bodies.

The independence from the police is the most important aspect of any civilian oversight body in terms of its objectivity, credibility and gaining the trust and confidence of the members of the public.

The method of receipt of the complaints, the types of complaints being investigated and the manner in which complaints are conducted are very similar with only slight differences.

A few aspects of the above-mentioned models such as lodging complaints online, mediation of complaints, monitoring of investigations by interviewing complainants and witnesses and obtaining information from the police service will form the basis of the new complaints model for the Policing Complaints Centre for the Department of Community Safety which will be discussed in the next chapter.

Chapter 6: New Complaints Model for the Policing Complaints Centre

1. Introduction

A new model for the complaints against the police regarding service delivery is being designed in terms of the legislative mandate applicable to the Policing Complaints Centre, Department of Community Safety, Western Cape. Some of the ideas have been taken from the two case studies, namely the Civilian Complaints Review Board of New York and the Independent Policing Complaints Centre of the United Kingdom.

The main objectives of the chapter are:-

- outlining the current policing complaints model processes;
- the weaknesses in the current delivery of services by the Policing Complaints Centre;
- ideas taken from the international case studies to improve service delivery; and
- the new proposed model for the Policing Complaints Centre which includes the composition, purpose and objectives; methodology and the new investigative process.

2. The Current Model of the Policing Complaints Centre

As indicated in Chapter 4, the current complaints model does not address the issue of service delivery as described in the theoretical framework.

The current complaints model also has various weaknesses such as inquiries received for other Departments, the Investigation Process and the Database Management System as described below.

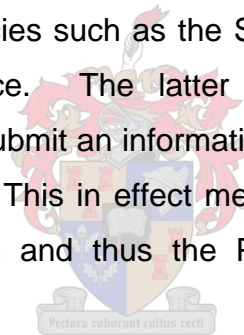
2.1. Inquiries received for other Departments

Currently submissions are received concerning policing complaints, policing inquiries, inquiries for other Departments such as social services, health, justice etc. All these inquiries/complaints are logged onto a database that does not clearly indicate whether it is an inquiry or complaint.

All inquiries about Departments other than complaints are logged under the heading of 'other' and therefore statistics cannot be kept to ascertain to whom the inquiry was sent. The enquiry is however, physically sent to the relevant department.

2.2. Investigation Process

All complaints currently received by the Policing Complaints Centre are referred to the policing agencies such as the South African Police Service or the Municipal Police Service. The latter services will investigate the complaints themselves and submit an information note and a draft reply to the Policing Complaints Centre. This in effect means that the policing agencies are investigating themselves and thus the Policing Complaints Centre is losing its credibility.



2.3. Database Management System

The current database is not effective as it does not separate inquiries from complaints, give detailed information on police officers disciplined, the time period it takes for the policing agency to decide whether to discipline their members or not, cases substantiated or unsubstantiated and the reason therefore. These are all significant statistics if the Policing Complaints Centre wants to make recommendations and assist the policing agencies in improving their services to the communities.

The current system also operate on different programs, that is, all complaints received telephonically will be on one data base, all written complaints will be recorded on another database which makes it difficult when compiling a comprehensive report.

The database also do not indicate which cases are assigned to which officials of the Policing Complaints Centre and therefore a separate computer file is kept to track cases within the Policing Complaints Centre.

3. Service delivery of the Policing Complaints Centre

This referral model has largely become an administrative burden as services are clearly not being delivered as described and discussed in the theoretical framework in Chapter 2.

Major disadvantages of this referral model are the following:-

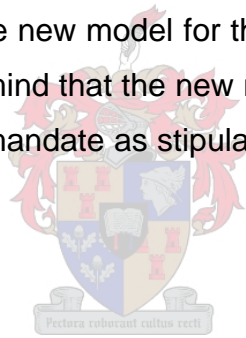
- complaints are not immediately attended to which may seem to complainants that their complaints are not important and the Policing Complaints Centre is not serious in delivering a service to the communities;
- upon receipt of a complaint the Policing Complaints Centre will acknowledge receipt of the complaint in writing which means that there is not personal contact with the complainant;
- the complainant will also be informed in writing that their complaint will be referred to the policing agency that will then investigate the complaint. This in effect means that the policing agencies are investigating themselves and the complaint will therefore not be dealt with objectively;
- the policing agency will take between 1 month and eighteen months to complete an investigation. The policing agency will interview the complainant regarding the complaint against them and thus the complainant can feel intimidated by the policing agency. Whilst the investigation is ongoing by the policing agency, the complainants receive a letter from the Policing Complaints Centre informing them that their cases are still being investigated. Consequently the complainants are losing faith and trust in the complaints model and the services of the Policing Complaints Centre;
- after the case has been finalised by the policing agency, an information note and a draft reply is submitted by the policing agency to the

Policing Complaints Centre. The latter will then, based on the information received and without verifying any information, respond to the complainant. It has happened that the complainants come back to the Policing Complaints Centre even more furious than before because their complaint has been not addressed as alleged by the policing agency. Thus the quality and the credibility of the Policing Complaints Centre and ultimately the office of the Minister of Community Safety is being compromised;

- during the investigation process, regular feedback is also not given to the complainant.

4. Ideas taken from the International Case Studies to improve Service Delivery

A few significant ideas were taken from the international case studies to improve service delivery in the new model for the Policing Complaints Centre. It must however be borne in mind that the new model must also be in line with the South African legislative mandate as stipulated in the South African Police Service Act, Act 68 of 1995.



The ideas are as follows:-

- in order to increase accessibility to all members of the public, complaints may also be lodged on-line on the website www.capegateway.policing_complaints.gov.za The Provincial Government of the Western Cape is currently busy with a process of making all government services available to all the communities of the Western Cape via the internet. This idea was taken from both case studies;
- the Independent Police Complaints Commission allows complaints to be lodged at other government and non-government institutions. Similarly would it be proposed that complaints also be made at local municipalities all over the Western Cape with Community Development Workers, which is a recent initiative aimed at bringing government closer to the people. Complaints could also be lodged at non-

government institutions such as Rapcan, Nicro and at Multi Purpose Community Centres etc; The Multi Purpose Community Centres deliver services of government at a single location in townships, rural areas close to communities that have been previously marginalised;

- changing the manner in which complaints are dealt with which forms the basis of the Policing Complaints Centre in delivering excellent services to the communities. Upon receipt of a complaint, it will first be established if it is a complaint or an inquiry and against which policing agency the complaint is or for which policing agency or government department the inquiry is. If it is a complaint, the officials will first interview the complainant to ascertain the nature of the complaint and what the complainant want to achieve. Thereafter the policing agencies will be consulted and the complaints will be investigated, mediated or monitored. In this way the complaint will receive immediate attention, regular feedback will be given to the complainant and the complainant will feel that their complaint is serious and that the Policing Complaints Centre is interested in delivering an excellent service to the communities. This will also entail delivering a service to the community that will include consultation, giving preference to the complainant and the complaint, ensuring courtesy when dealing with the complainants, provide the complainant with information and regular feedback and dealing with the complaint professionally and as speedily as possible. This however will also build trust in the new complaints model and the policing agencies; and
- management of the complaints model – A reporting mechanism that clearly indicate the number of complaints, inquiries, which policing agencies were affected, the nature of the complaints; substantiated or unsubstantiated complaints and the reasons; number of disciplinary cases requested and the number of disciplinary cases actually implemented by the policing agencies and the time period it takes to complete cases and disciplinary cases. In this way recommendations

could be made to the policing agencies regarding the improvement of their service delivery as well as that of the Policing Complaints Centre.

5. New Complaints Model for the Policing Complaints Centre

The proposed model for the Policing Complaints Centre will be outlined below and will encompass all of the above-mentioned ideas that were taken from the international case studies and discussed in detail.

5.1. Composition of Policing Complaints Centre

The Policing Complaints Centre consists of six personnel members as follows:-

- deputy Director: Manager of the Policing Complaints Centre responsible for the vision and overall management of the unit;
- two Assistant Directors: One Assistant Director will be responsible for the Administrative Component of the Policing Complaints Centre and the other Assistant Director will be responsible for the investigation processes;
- two Administrative Officers: One Administrative Officer will be dealing with the administration of the Policing Complaints Centre and with telephonic complaints via the Complaints Line; the other Administrative Officer will be doing the investigative monitoring of complaints;
- an Administrative Clerk responsible for the data capturing, filing and other basic administrative duties.

5.2. Purpose of the Policing Complaints Centre

The purpose of the Policing Complaints Centre is to monitor policing conduct regarding service delivery complaints or allegations of misconduct against any person serving with the policing agencies in the Western Cape. In doing so, the Policing Complaints Centre of the Department of Community Safety aims to increase public confidence by demonstrating the independence, accountability and integrity of the complaints system and thus contributing to the effectiveness of the policing services as a whole (Draft Statutory Guidelines, 2004:5).

5.3. Objectives of the Policing Complaints Centre

The envisaged objectives of the Policing Complaints Centre should lead to:-

- increased public confidence and trust in the police and in the complaints model as a whole;
- increased accessibility, openness and independence;
- quicker resolution of complaints;
- increased accessibility to complainants;
- educating the members of the public regarding the activities of the Policing Complaints Centre;
- improved communications with complainants; and
- improved collection, collation and reporting of data (Illingsworth, 2001:1).

5.4. Method of Receiving Complaints

Complaints will be received via the following methods:-

- complaints Line 483 4332;
- written Complaints to the Ministry of Community Safety and/or the Department of Community Safety: P O Box 5346, Cape Town, 8000;
- complaints retrieved from the media;
- by Fax at 021 483 6026;
- personal visit to the office: 12th Floor, Tower Block, 4 Dorp Street, Cape Town;
- e-mail: policingcomplaints@pgwc.gov.za; and
- website: www.capegateway.policing_complaints.gov.za. Complainants will be able to register their complaints online by filling in forms and submitting the complaints via electronic mail.

5.5. Who are considered Complainants?

Complainants are any members of the public who:-

- have been the victim of any misconduct by a person serving in a policing agency;

- were present when the alleged misconduct occurred or close enough to have seen or heard the misconduct, and as a result suffered loss, damage, distress or inconvenience, or was put in danger or at risk;
- is a friend or relative of the victim of alleged misconduct;
- have witnessed an alleged misconduct (Independent Police Complaints Commission, 2005).

Complaints will only be considered by members of the public and not by police officials complaining about internal management issues. Police officials must follow their internal channels of communication.

6. What are considered as Complaints?

The Policing Complaints Centre has been mandated to monitor policing conduct regarding service delivery, that is, complaints dealing with police performance and conduct (Newham & Bruce, 2004:7).

6.1. Police Performance

Police performance refers to the activities that the police undertake to achieve their Constitutional and legislative mandate. The Policing Complaints Centre as an oversight body should focus on ensuring that service delivery principles and standards that have been clearly established through the Batho Pele document, are being adhered to by police officers. It must be clearly established whether or not the policing agencies are responding appropriately and adequately to public concerns relating to crime and service delivery (Newham & Bruce, 2004:7).

6.2. Conduct

Policing conduct refers to how officers of policing agencies behave while carrying out their duties. The extent to which the police have accepted democratic values and understand the concept of professionalism is measured less in the way they behave towards people with relative power, for example, middle class professionals and more in the way they treat poor or vulnerable groups in society such as homeless people, drug addicts, the aged and young people (Newham & Bruce, 2004:7).

7. Processing of Complaints

When a submission is made to the Policing Complaints Centre, the submission must first be perused to ascertain the following:-

- if it is a complaint against a policing agency, namely, the South African Police Service, the Municipal Police Service, Traffic or any other law enforcement agency;
- if it is an inquiry regarding a policing agency about issues such as human resources, vehicles, vacancies, strategies, policies or recruitment issues etc;
- if it is a complaint/concern in terms of the Department of Justice and/or the Independent Complaints Directorate;
- if it is a complaint/inquiry regarding other government departments such as Social Services, Health, Housing etc.
- if it is a compliment to/good services rendered by a policing agency or the Policing Complaints Centre.

7.1. Complaints against a Policing Agency

When an alleged complaint against a policing agency is received, it must first be evaluated and submitted to an Evaluation Committee. The Evaluation Committee will decide, depending on circumstances and on each individual case, the action to be taken, that is:-

- to conduct an investigation;
- to make an intervention, formal mediation or informal mediation; and
- to monitor the investigation/inquiry.

7.1.1. Conducting an investigation

When conducting a full investigation, the Policing Complaints Centre official (investigator) will interview the complainant. During the interview, the official

will try to obtain the most accurate and thorough description of the events on record.

Importantly, the complainant must indicate what he/she wants from the investigation, that is, if the member of SAPS is found guilty of misconduct, does the complainant want the member to be reprimanded/disciplined/sensitised.

The official must also interview the policing agency's investigating officer and (a) inform him of the role and function of the Policing Complaints Centre (b) the alleged complaint received (c) what is going to be done regarding the complaint and get agreement from the policing agency's investigating officer on the way forward to address the complainant's concern, and (d) monitor the investigation to ensure that agreements are carried out.

If need be the Policing Complaints Centre official must also peruse the police docket, get information on witnesses and evidence if at all relevant.

The complainant must be kept informed of the progress of the investigation at all times and be given information regarding the progress of the investigation.

After the investigation has been completed by the Policing Complaints Centre's official, and it has been found that the policing agency's member is guilty of any alleged misconduct, a report will be submitted to the Head of the policing agency, in the case of the South African Police Service, the Provincial Commissioner requesting disciplinary action to be taken against the policing agency's member.

As the Department of Community Safety do not have any jurisdiction regarding the disciplinary action of the policing agency', these disciplinary requests must be monitored. This will take place by writing to the policing agencies until correspondence is received from the policing agency regarding the action taken. The Head of the policing agency may decide to discipline or not to discipline and inform the Policing Complaints Centre of the outcome.

The final outcome of the case will be reported to the complainant who must then indicate whether he/she is satisfied with the manner in which the case was investigated and monitored. If not, the complainant will be requested to state reasons. These reasons could be used to improve the services of the Civilian Complaint Review Board and/or that of the policing agency.

7.1.2. Making a Intervention: Formal Mediation

Some cases, as being implemented by the Civilian Complaint Review Board of New York City, are mediated as an alternative means of resolving complaints. Cases suitable for mediation are, for example, the policing agency members did not want to identify themselves; use of discourteous or offensive language etc (Civilian Complaint Review Board, 2005).

In our situation, cases could be mediated at our office or that of the policing agency or any other suitable office agreed upon by all parties involved. The mediators would be the officials from the Policing Complaints Centre or any other mediator appointed and agreed upon by all parties involved.

The Policing Complaints Centre will also adopt the signing of the confidentiality and consent agreement form. This means that anything that is said during the mediation by the mediator and the policing agency member is confidential and it will also protect the mediator from being called to testify in any future legal proceedings (Civilian Complaint Review Board, 2005).

The proceedings of the mediation process will be recorded. If the mediation is successful, both parties will sign the resolution agreement and at this point the mediation is considered finalised (Civilian Complaint Review Board, 2005).

If the mediation is not successful, the complainant must indicate what other process they want to take, for example, a full investigation. A new complaint will then be registered as such.

Currently officials of the Policing Complaints Centre are not fully trained mediators. This matter will be addressed as part of the training programme and the skills development process.

As mentioned earlier, mediation could be used as an alternative means of resolving a complaint and where a complainant only wanted to talk face to face with the policing agency member, hoping to educate such officers. If the complainant is seeking disciplinary measures or a civil lawsuit, mediation will not be a suitable process (Civilian Complaint Review Board, 2005).

7.1.3. Making an Intervention: Informal Mediation

In some cases the complainant only wants feedback on a case, for example, the complainant will provide a case number and will request feedback on the case. The complainant does not want any further action against any policing agency officer.

In such cases, the Policing Complaints Centre will conduct an informal mediation by contacting the investigating officer of the policing agency and obtain the status of the case or the relevant feedback. This will be reported either in writing or verbally to the complainant and the case will be considered as closed.

However, if the Policing Complaints Centre official or Evaluation Committee feels that the case needs further investigation regarding the attitude of the policing agency official, a submission will be made to the Head of the Policing Agency requesting disciplinary action to be taken. As with the investigation process, correspondence will flow between the Policing Complaints Centre and the Policing Agency until an outcome has been submitted to the Policing Complaints Centre.

Even if the policing agency do not discipline, reprimand or sensitise the policing agency member, the name/s of these policing agency member/s will still be recorded on the database because if these name/s come up repeatedly, the Head of the Policing Agency needs to be informed and

investigations need to take place as this would be an indication that something is wrong somewhere.

7.1.4. Monitoring an Investigation/Inquiry

A complaint could be monitored after an initial investigation has been conducted by the Policing Complaints Centre as described under the heading “Conducting an investigation” or a case could be monitored from the receipt of the complaint.

Some cases will require a full investigation, formal mediation, informal mediation and some cases will require monitoring depending on the request of the complainant.

It may also happen that the Head of the Department of Community Safety or the Minister of Community Safety forward a complaint to the Policing Complaints Centre for monitoring until the completion of the investigation by the policing agency.

In such cases the complaint will be forwarded in writing to the Head of the Policing Agency. Reminder letters will then be sent to the complainant and the policing agency on a regular basis (every 21 days to the policing agency and once a month to the complainant) until a final report has been received by the Policing Complaints Centre.

The final report will be perused/discussed with the Evaluation Committee. In the event the report from the policing agency is not satisfactory further question and requests will be submitted to the policing agency concerned until a satisfactory response has been received.

If the final report is adequate and has addressed the issues of concern, the Policing Complaints Centre will then draft a report/letter to the complainant/inquirer for the Minister or the Head of Department’s signature. After the latter’s approval, the complaint will be considered as finalised.

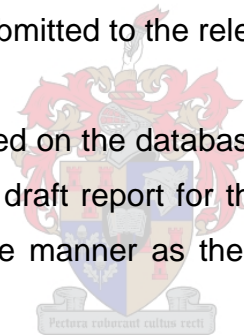
7.2. An inquiry regarding a policing agency

Very often inquiries and not complaints are also received from members of the public regarding a policing agency's human resource allocation, allocation/shortage of vehicles, recruitment procedure, policies and strategies.

In such cases the Policing Complaints Centre will capture the inquiry on the database system for record keeping purposes. The inquiry will then be submitted to the relevant policing agency for their further attention and finalisation. A letter will also be sent to the complainant explaining the process.

In certain circumstances these inquiries are channelled to the Policing Complaints Centre via the office of the Minister of Community Safety or the Head of the Department of Community Safety requesting that the inquiry be addressed and a report be submitted to the relevant office.

These inquiries will be captured on the database, submitted to the head of the policing agency requesting a draft report for the relevant office. This inquiry will be monitored in the same manner as the monitoring process described above.



7.3. Complaints/concerns about the Department of Justice and the Independent Complaints Directorate

Inquiries are also received about complaints that have been investigated by the Independent Complaints Directorate. In this case the complaint or alleged allegation is submitted to the Independent Complaints Directorate requesting a response regarding the concern of the complainant. These cases will also be monitored as described above.

Very often complainants are concerned that cases have been withdrawn by the Director Public Prosecutions or the latter declined to prosecute without giving reasons to the complainants. In these cases the complaints are also submitted to the relevant body and is monitored by the Policing Complaints

Centre. Sometimes cases are re-opened due to police negligence which will then be investigated as a new complaint and follow that procedure.

7.4. Inquiries about other Departments such as Local Government, Housing and Health

Members of the public very often submit complaints to the Policing Complaints Centre that do not only involve policing agencies, but also other departments.

These complaints are also forwarded in writing to the other Departments for their further attention and finalisation.

However, under certain circumstances the Policing Complaints Centre can also be instructed by the Minister of Community Safety or the Head of the Department to monitor certain cases. The monitoring procedure will then be applicable.

7.5. Compliments to/good services delivered

The Service Delivery Poster Campaign of the Department of Community Safety also makes provision for the public to report on good services delivered. This information will also be recorded on the database system for record keeping and reporting processes (Quarterly Service Index Report, 2005:5).

For the proposed complaints model, the Policing Complaints Centre will also need to keep record of complainants commending them on good services delivered as well. This could serve as an indicator of trust and faith in the complaints process.

8. Quarterly Service Index Report

At the end of each quarter a report will be submitted to the head of the policing agencies regarding the complaints received by the Policing Complaints Centre.

The report will include the number of complaints received via the various sources such as the complaints line, personal visits to the offices, written complaints, complaints received via the media, complaints directly lodged at police stations and complaints received and dealt with by the Independent Complaints Directorate and complaints/inquiries referred to other departments.

The complaints received are also categorised in terms of the types of complaints such as unprofessional conduct, assault by members of the policing agencies, members under the influence of alcohol, search without warrant, members involved in criminal/illegal activities and non-service delivery by these members. The report will also indicate how many complaints were received under these categories and against which policing agencies right down the station/unit level.

Pertinent issues will also be indicated in the report such as:-

- how members of policing agencies were disciplined;
- how long the policing agencies took to complete disciplinary cases requested from the Policing Complaints Centre;
- how many cases were substantiated, not substantiated, truncated;
- how many enquiries the Policing Complaints Centre refers to other government agencies; and
- recommendations to the policing agency based on information received and gathered whilst monitoring investigations.

This report will be submitted to the head of the policing agencies via the office of the Minister of Community Safety.

9. Conclusion

The legislative mandate of the Policing Complaints Centre is to monitor policing conduct in terms of service delivery and consists of six personnel members.

The main objectives of the new model are to address the issues of the complainants and provide feedback as soon as possible to the complainants so that public confidence and trust in the police and in the complaints system of the Department can be increased.

Secondly, policing agencies must be held accountable for their performance and conduct so that service delivery is enhanced in these institutions and members of these services are adequately trained in dealing with members of the public.

Complaints may be submitted to the Policing Complaints Centre via various methods such as telephonically, personal visits to the office, in writing, e-mail or the internet.

The Policing Complaints Centre will only deal with service delivery complaints and any other inquiries/complaints will be re-directed to the relevant departments or institutions.

If a complaint is received, an official of the Policing Complaints Centre will personally or telephonically interview the complainant to ascertain the nature of the complaint. The complaint will either be fully investigated, formally or informally mediated. The complainant will be kept informed of the progress of the case at all times until the finalisation of the case.

In the event a policing official is allegedly found to be guilty of any misconduct, the Policing Complaints Centre will make a full submission to the head of the policing agency for further investigation and disciplinary action. All these submissions will be monitored by the Policing Complaints Centre until finalisation have been received from the relevant policing agency.

At the end of each quarter a report will be submitted to the head of the policing agency via the Minister of Community Safety for their further attention and comment to the Minister of Community Safety who is the accountable political head for monitoring policing conduct.

Chapter 7: Conclusion and Recommendations

1. Introduction

The focus of the research was to develop a model for the Policing Complaints Centre to monitor investigations regarding service delivery complaints lodged against the policing agencies by members of the public. The rationale for developing the model was to enhance service delivery to the complainants, make contributions to the policing agencies to improve their service delivery and to keep the policing agencies accountable for their performance and conduct.

In order to develop the model, in-depth research was done in terms of what service delivery is and how to improve service delivery. Cognisance has been given to the various ways in which service delivery can be improved for the customers, the principles of *Batho Pele* and the steps to improve service delivery.

Similar models that are currently in use by the international civilian oversight agencies, namely, the Civilian Complaint Review Board of New York and the Independent Police Complaints Commission of the United Kingdom were analysed and some of their ideas were utilised to develop the complaints model for the Policing Complaints Centre.

The main objectives of this chapter are:-

- to summarise the main points of each chapter and also give the main outputs of the research conducted; and
- to make recommendations in terms of the theoretical framework of service delivery, the international cases studies, the new complaints model and especially for future research purposes regarding keeping the police accountable for their performance and conduct.

2. Motivation for the Study

The Policing Complaints Centre of the Department of Community Safety is responsible for monitoring policing conduct as legislated in the Constitution of the Republic of South Africa, Act 108 of 1996.

In the current model the Department of Community Safety is unable to:-

- constructively contribute towards the effective delivery of services by the policing agencies; and
- deliver a credible and efficient service to communities.

The new model was developed to monitor investigations to improve the processes within the Policing Complaints Centre to ensure police accountability and improve on their service delivery.

In order to develop the new model various sources were consulted to understand the basis of service delivery issues in the private sector as well as the public sector, the South African Legislative Framework on which the mandate of the Policing Complaints Centre is based and two international civilian oversight bodies independent of the police dealing with complaints against the police.



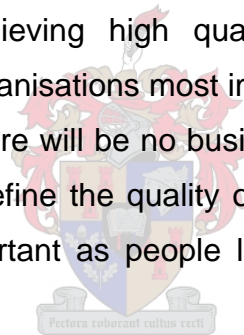
3. Service Delivery

This research is based on the Policing Complaints Centre and the policing agencies improving delivery of services to communities. In terms of improving the services of the Policing Complaints Centre, the complainants must be interviewed as soon as possible, that is, immediate attention must be given to their complaints and they must be kept informed of the progress of the case. As soon as the complaints have been finalised and it has been found that members of the policing agencies were guilty of misconduct, an immediate submission must be made to the provincial commissioner to address the disciplinary enquiry. The outcome of the disciplinary enquiry must be related to the complainant so that the members of the public can see that the Policing Complaints Centre is serious in monitoring policing conduct.

Over and above the individual disciplinary enquiries to the provincial commissioner, reports will be compiled on a quarterly basis which will form part of the Quarterly Meetings between the Minister of Community Safety and the Provincial Commissioner to give account for the report.

Service delivery must be understood in the context of who is providing the services, to whom services are being provided and the type of service being provided. The concept 'service' was discussed in terms of the service industry, service processes, service interactions and service experience. High performing organisations have certain characteristics that make them successful. These characteristics include amongst others, functions, problem solving, finance and accountability.

Organisations also face many challenges such as focusing on people, being customer oriented and achieving high quality electronic service. The customers/clients are any organisations most important asset because if there are not customers/clients, there will be no business. Therefore, to satisfy the customers, the latter must define the quality of the service. Interaction with customers is also very important as people like doing business with those they trust.



In the public sector service delivery improvement is legislated in the Constitution of the Republic of South Africa, Act 108 of 1996, the White Paper on the Transformation of the Public Service and the White Paper on Transforming Public Service Delivery. The Constitution alludes to Chapter 10 which spells out service delivery in terms of the basic values and principles governing public administration, the role and function of the Public Service Commission and the Public Service that is within the public administration that must function, and be structured according to national legislation.

The aim of The White Paper on the Transformation of the Public Service, 1995 is to reorient and reunite society towards a common purpose. The purpose of the White Paper is to establish a policy framework to guide the introduction and implementation of new policies and legislation to transform

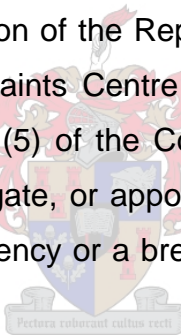
the public sector in serving all sectors of society especially the previously disadvantaged including women and children.

The White Paper on Transforming Public Service Delivery deals with issues to improve service delivery in the public sector. It is based on the eight principles of Batho Pele that are consultation, service standards, access, courtesy, information, openness and transparency, redress and value for money.

In the new model, it has been shown how service delivery could be improved by applying the Batho Pele principles and the steps to improve service delivery.

4. The Legislative Framework for Monitoring Policing Conduct

Section 206(3) of the Constitution of the Republic of South Africa, Act 108 of 1996 gives the Policing Complaints Centre its mandate, that is, to monitor policing conduct. Section 206 (5) of the Constitution gives further clarity in that the provinces 'may investigate, or appoint a Commission of Inquiry into, any complaints of police inefficiency or a breakdown in relations between the police and any community'.



The South African Police Service Act, Act No 68 of 1995 stipulates the functions of the Secretariat for Safety and Security that is now a Chief Directorate in the Department of Community Safety.

These functions are, amongst others, to advise the Minister in exercising his or her powers and the performance of his or her duties, promote democratic accountability and transparency and to provide the Minister with legal services and advice on constitutional matters. As far as the Policing Complaints Centre is concerned, section 3(2) of this Act gives the Policing Complaints Centre broad powers and functions such as requesting and obtaining information and documents under the control of the police service, enter any building or premises under the control of the police service and be entitled to all reasonable assistance from a member of the police service.

The above legislation gives the Policing Complaints Centre its mandate to monitor investigations only. The Policing Complaints Centre does not have the same powers as that of the police members.

5. The Policing Complaints Centre, Department of Community Safety, Western Cape Provincial Government

The Policing Complaints Centre is a sub-directorate of the Directorate Monitoring and Evaluation, Chief Directorate Secretariat for Safety and Security of the Department of Community Safety.

The Policing Complaints Centre is responsible for monitoring policing conduct. In order to give effect to this mandate, the Policing Complaints Centre put a complaints model in place to take complaints lodged against the police by members of the public.

This model has proven to be ineffective because it is a referral model in that it has become standard practice that complaints received by this Department are referred back to the Provincial Commissioner, who in turn refer the complaints to his Area Commissioners who in turn refer the complaints back to station level. Consequently, it is not only the police who investigate themselves, but it has also happened that close colleagues are investigating each other that leave no room for objectivity. Another major drawback of this referral model is that the complainant lodges a complaint at the Policing Complaints Centre who is independent from the police. The complaint is referred back to the police who themselves interview the actual complainant about the complaint and therefore complainants have felt intimidated by the police investigating these complaints.

Other major weaknesses of the complaints referral model is the time period it takes for the police to complete investigations. These cases take approximately between one month and one and a half years to finalise a complaint. Since the police are investigating themselves and are not objective, it has been found that most complaints referred to the police have

been unfounded. The current complaints management system also have shortcomings such as all complaints received are recorded on the database and reported as complaints against the police when in fact some of these are merely enquiries. Indicators such as substantiated complaints, unfounded complaints, truncated complaints, police officers disciplined and whether complainants are satisfied with the services being delivered by the Policing Complaints Centre is satisfactory or not are not being recorded on the current database.

6. International Case Studies: The Civilian Complaint Review Board (CCRB) and the Independent Police Complaints Commission (IPCC)

All over the world there are civilian oversight bodies dealing with complaints against the policing agencies. These two cases studies were selected because they operate independently from the police and have full policing powers and consequently will be objective in their findings. The Policing Complaints Centre also operates independently from the police even though the Policing Complaints Centre do not have policing powers, albeit only the authority to monitor investigations.

Both the Civilian Complaint Review Board of New York and the Independent Police Complaints Commission of the United Kingdom are very similar in the manner in which they operate in order to achieve their objective of dealing with complaints against the police. They are both composed of civilians and have investigators conducting independent investigations.

The Civilian Complaint Review Board deals with complaints of excessive force, abuse of authority and discourtesy, that is, the use of offensive language. The Independent Police Complaints Commission largely deal with very serious issues such as deaths in police custody but they also oversee less serious complaints.

The method of receiving complaints are also very similar such as telephonically, faxing, writing, e-mail, internet and personally at their offices. The Independent Police Complaints Commission however also utilise the

services of other organisations such as the Local Citizens Advice Bureau, the Racial Equity Council, the Neighbourhood Warden and the Youth Offenders Team. This increases accessibility to the complaints system.

As far as conducting investigations are concerned, the Civilian Complaint Review Board conduct all their own investigations from the time the complaints have been lodged until its finalisation. Thereafter the members of the Board will review the complaint and make a decision to determine whether the complaint has been substantiated or not. If the complaint has been substantiated, the board may make recommendations to the provincial commissioner regarding the disciplinary action to be taken.

The Independent Police Complaints Commission conducts their own investigations under certain circumstances such as deaths in police custody, complaints of alleged organised corruption, alleged complaints against senior police officials, racism and perverting the course of justice. In other cases the police investigate the complaints but these are supervised or managed by the Independent Police Complaints Commission.

7. New Complaints Model for the Policing Complaints Centre

The current complaints model has various weaknesses such as the issue of an optimal service delivery, inquiries received from other departments, the investigation process and the database management system.

The new complaints model that was developed based on some of the ideas taken from the international case studies addresses the weaknesses in the current model.

In order to address the issue of increased accessibility, complainants will also be able to lodge complaints via the Internet. Complainants will also be allowed to lodge complaints at local municipalities with Community Development Workers which is a recent initiative aimed at bringing government closer to the people.

The main difference in the new model is the manner in which complaints will be dealt with. Upon receipt of a complaint, the complaint will not be referred to the policing agency as is the current practice. An official of the Policing Complaints Centre will personally interview the complainant to get more clarity on the complaint and to ascertain what the complainant wants from the investigation. The official will then liaise with the investigating officer of the policing agency, monitor the investigation process of the police, obtain the necessary dockets and give regular feedback to the complainant. This way cognisance will be taken of improved service delivery to the complainants who are our customers/clients. The official from the Policing Complaints Centre will monitor the investigations until it has been finalised.

Upon finalisation of a complaint, it will be decided whether the complaint is substantiated or unsubstantiated. If a complaint is substantiated, a submission will be made to the provincial commissioner requesting disciplinary action. If the complaint is unsubstantiated, the complainant will be informed and the complaint will be finalised.

The management system will also be amended in that the new reporting mechanism will clearly indicate the number of complaints, inquiries, which policing agency will be affected, the nature of the complaints, substantiated or unsubstantiated complaints, officers disciplined and the number of requests to discipline officers. In this way recommendations could be made to the policing agencies regarding the improvement of their service delivery as well as that of the Policing Complaints Centre.

8. Recommendations

The following recommendations are made in terms of service delivery, the new complaints model, the database management system and ascertaining whether this new complaints model is keeping the police accountable for their performance and conduct.

8.1. Service Delivery

The eight principles and the steps to improve service delivery as stipulated in the Batho Pele White Paper on the Transformation of Public Service Delivery must be implemented. The viewpoint of the customer being the most important asset of the business must also be recognised and dealt with.

In order to improve service delivery of the Policing Complaints Centre the following must be put in place:-

- after a complaint has been finalised, the complainant must again be interviewed and asked if they were satisfied with the service being rendered or not. If they were not satisfied, they must provide reasons for their dissatisfaction;
- the complaints service must be made more accessible to members of the public by means of developing a website so that complaints could be lodged via the Internet, liaison must take place with the Community Development Workers at local municipalities, Community Policing Forums and non-governmental organisations so that complaints could also be lodged via these mechanisms;
- further training must be given to employees dealing with complainants in terms of client care, listening skills, communication skills and conducting of interviews. This will ensure that complainants will be dealt with courteously. Training in monitoring of investigations must also be given to these employees;
- the management of the Policing Complaints Centre must also constantly ensure that all complaints received are responded to, that the complaints are dealt with speedily, in fairness and confidentially;
- the complaints model must be monitored and evaluated on a quarterly basis to ensure that service delivery is being improved.

8.2. The new complaints model

The ideas from the international case studies must be implemented:-

- increased accessibility in terms of lodging complaints via the Internet, other non governmental organisations such as Nicro, Rapcan, Rape Crisis;
- the role and function of the Policing Complaints Centre to investigate complaints thoroughly and expeditiously, to establish a system of complaints that are lodged against the police, to educate the public regarding the activities of the Policing Complaints Centre by means of submitting regular reports to the Community Policing Forums Area Boards and Provincial Board;
- the investigation process whereby the officials will personally interview the complainants, liaise with the investigating officer of the policing agency, monitor the investigation until the complaint has been finalised and giving regular feedback to the complainants;
- submit requests for disciplinary action in cases where the officials of the Policing Complaints Centre has found complaints to be substantiated;

8.3. Database Management System

The current complaints database management system must be amended in terms of the manner in which complaints are received and processed. The database must differentiate between a complaint, an inquiry and good service delivery issues.

It must also be clear against which policing agency the complaint is lodged, for which policing agency or government department an inquiry is made and for which policing agency a good service delivery report has been received.

Indicators must also be developed for:-

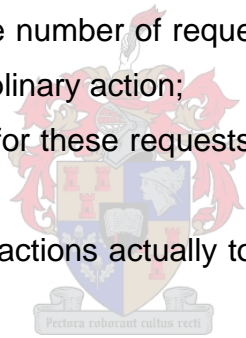
- cases substantiated, exonerated or unfounded;

- if not substantiated, the reasons must be furnished such as unsubstantiated, officer unidentified and miscellaneous;
- how many requests for disciplinary action were submitted to the policing agency;
- how many police members were in fact disciplined;
- how long it took for the disciplinary action to take place;
- how long it takes to monitor investigations;
- how many cases were formally mediated, informally mediation, intervened;

8.4. Police Accountability in terms of their performance and conduct

The reason for improving service delivery of the Policing Complaints Centre is largely to hold the police accountable for the performance and conduct. This can be done on the new complaints model by:-

- drawing a report on the number of requests submitted to the provincial commissioner for disciplinary action;
- the time period it took for these requests to be finalised by the policing agency;
- how many disciplinary actions actually took place from these requests; and
- what type of disciplinary action was instituted;



Over and above the above mentioned reports to hold the police accountable for their performance and conduct, reports could also be drawn on which station had the most complaints regarding a certain type of complaint, for example, it would indicate that at the Mitchells Plain police station, most of the complaints were about unprofessional conduct. A recommendation will then be made to the provincial commissioner to particularly look at the training and what other possible factors could lead to unprofessional conduct at that station.

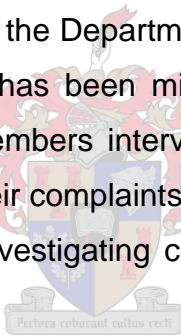
It is therefore highly recommended that once the new model has been implemented in the Policing Complaints Centre, additional research can be

made to ascertain if this new complaints model is in fact keeping the police accountable in terms of the performance and conduct.

9. Conclusion

The main purpose of this research was to develop a model for the Policing Complaints Centre to improve service delivery to communities regarding policing complaints received in order to keep the police accountable for their performance and conduct. The new complaints monitoring investigative model has been developed based on the lessons learnt from the international civilian oversight agencies.

The current complaints model was more a referral model in that the complaints lodged at the Policing Complaints Centre about the police was referred back to the police to investigate. Thus the credibility and integrity of the Policing Complaints Centre, the Department of Community Safety and the Minister of Community Safety has been minimised. The complainants felt intimidated when the police members interviewed them, they were also not satisfied with the outcome of their complaints and most of the complaints were unsubstantiated. The police investigating complaints about policing matters do not lend itself to objectivity.

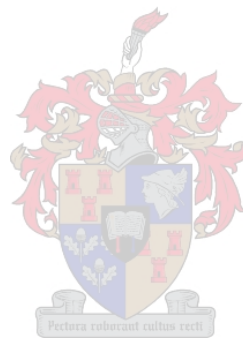


In the new complaints model, complainants will be interviewed by the officials of the Policing Complaints Centre. All information relating to the complaint will be obtained and thereafter the official of the Policing Complaints Centre will liaise with the police member involved. Continuous feedback will be given to the complainant and the official will monitor the investigation until it has been finalised. Once the complainant's concern has been addressed, it must then be ascertained whether or not the complaint is substantiated and if a disciplinary request must be submitted to the policing agency.

The success of this model will be based on whether or not the complainants will be satisfied. This model will definitely be implemented in the Department of Community Safety, Western Cape although two posts are still vacant currently. It is also possible that the other provinces dealing with the same

issues will also be interested in utilising this model. The Western Cape and the Free State are the only provinces that have complaints models in place.

Future research in this field is highly recommended in terms of ascertaining whether the processes of this new model has improved service delivery to communities and whether it has kept the policing agencies accountable for their performance and conduct.



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