

Western Cape
Police



ombudsman

Annual Performance Report

2019/2020

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Western Cape
Police
Ombudsman



The submission of this report to the Minister of Community Safety is in accordance with Section 13 (1) of the Western Cape Community Safety Act, 2013 (Act 3 of 2013).

The Minister is required by Section 13 (3) to table the report in the Provincial Parliament within 30 days of receiving it.

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It gives me great pleasure to present this Annual Performance Report for the Western Cape Police Ombudsman (WCPO) for the 2019-2020 financial year. It is submitted in compliance with Section 13(1) of the Western Cape Community Safety Act, Act 3 of 2013, read with Regulation 16 (1) of the 2016 Western Cape Police Ombudsman Regulations. The Annual Performance report is distributed to relevant stakeholders and will otherwise be made available upon request.

The WCPO seeks to enhance the efficiency of police services and improve relations between the police and communities by investigating complaints of police inefficiency and/or by investigating any breakdown of relations between the police and communities in the Western Cape.

The Ombudsman conducts inquiries and investigations in an impartial manner and free from bias and conflict of interest. Whilst the office of the Police Ombudsman is established in the Department of Community Safety of the Western Cape Provincial Government in terms of Section 10(1), its independence and impartiality is guaranteed by section 14(1) of the Western Cape Community Safety Act of 2013, which states: "The Ombudsman and staff members of the Ombudsman must serve independently and impartially and must perform their functions in good faith and without fear, favour, bias or prejudice, subject to the Constitution and the law".

Our mandate is limited to the investigation of complaints of inefficiencies against members of the South African Police Service (SAPS) in the Western Cape and members of the Cape Town Metro Police Department (CTMPD).

We strongly believe in accountability and we therefore publicly account for our operations by publishing our decisions and information about complaints and our performance targets in this report. The Annual Performance Report contains a detailed and informative reflection of our performance in terms of:

- the numbers and types of complaints we received and their outcomes
- systemic problems arising from complaints
- significant case studies from complaints investigated
- the management and mitigation of risks

- budget management
- outreach campaigns and marketing.

We investigated two more comprehensive, complex and systemic complaints during this financial year. The first one was an allegation that the South African Police Service (SAPS) in the Overstrand area (Gansbaai, Hermanus, Kleinmond and Stanford SAPS stations) are unable to perform their mandate in terms of section 205(3) of the Constitution of South Africa (Act 108 of 1996), as SAPS in the Overstrand area does not have the manpower to function effectively. The second one was a complaint alleging that SAPS vehicles are driven recklessly and negligently when transporting inmates to and from Pollsmoor Correctional facility. It was deemed necessary to publish notices in the Provincial Gazette, in terms of Section 17 (3) of the Western Cape Community Safety Act, Act 3 of 2013, to make these investigations known, and to invite comments from the public regarding the investigations. We want to thank the public as well as human rights organisations and especially the residents from the two affected areas for the overwhelming response we received from them. Their contributions really assisted us tremendously with the investigations. The particulars of these complaints and their outcomes are discussed in a latter section of this report.

As I have reported in the Annual Report for the 2018/2019 financial year, progress has been made concerning amendments to the legislation, both in the Western Cape Community Safety Act (hereafter referred to as the Act) and the Western Cape Police Ombudsman Regulations. The main amendment to the Act will allow the Ombudsman to initiate complaints and not await complaints to be made from the wider public before an investigation is launched. Another amendment will allow us to add the City Law Enforcement Unit to the police units against whom our office can investigate complaints of inefficiencies. The Department of Community Safety has appointed a project team to manage the amendments to the Act. The Provincial Legal Services Unit in the Department of the Premier is currently drafting the changes to the Regulations and it is indicated in the project plan that the amended Regulations will come into effect during the latter part of the 2020/2021 financial year.

As a relatively new oversight establishment, the WCPO is guided by the standards and principles of the International Ombudsman Institute (IOI) and the African Ombudsman and Mediators Association (AOMA). The WCPO is a registered member of both structures.

Partnerships remain key to our business and we are proud to share that we have continued our partnerships with academic institutions, non-governmental organisations (NGOs), the Justice, Crime Prevention and Security (JCPS) cluster, and many others. We also need to acknowledge the partnership with the Institute for Security Studies (ISS) and the assistance we received from them.

Our information booklet which is aimed to create awareness about our office was published in English, isiXhosa and Afrikaans in conjunction with the African Police Civilian Oversight Forum (APCOF) during the 2019/20 financial year.

Our office also needs to acknowledge the assistance from other oversight partners with the investigation of complaints such as the South African Public Protector, the Independent Police Investigative Directorate (IPID), the Military Ombudsman of South Africa (with whom we signed a Memorandum of Understanding [MoU] during September 2019), and the South African Human Rights Commission (SAHRC), with whom we are currently also completing a MoU. To all our other partners and stakeholders: we thank you, as this year would not have been successful had it not been for your contribution to our work.

I wish to thank the South African Police Service and the Cape Town Metro Police Department for their continuous cooperation with our office. I also want to acknowledge all the loyal and hardworking officers and members of these two policing agencies. Despite the fact that there was a change in Provincial Commissioners on three occasions during this financial year, it did not influence the operational capabilities of the WCPO.

We are also in a process of signing a MoU with the National Commissioner and the Provincial Commissioner of SAPS in the Western Cape to ensure the effective co-ordination of the implementation of the Act and to promote a mutual understanding of how investigations

will be conducted by the Ombudsman regarding any allegation of inefficiency of the Service or a breakdown in relations between the Service and the community, and the manner in which investigations will be referred to the Service by the Ombudsman.

As we cannot reach all the areas in the Western Cape, we will continue with our radio campaign and advertising via our digital banners, which will divert users to our website, therefore creating awareness by driving traffic to our website. We have continued with our outreach and stakeholder events.

I especially want to thank every employee of the WCPO for their contributions, loyalty and hard work in ensuring an improvement in the overall performance of our office. The statistics in the latter part of this report bear testimony to the hard work and commitment displayed by WCPO staff members. We can proudly say that the backlog in investigations is now something of the past, despite an increase of almost 70% in complaints received compared to the previous financial year. This is largely due to the growth in our investigation capacity through new appointments on a contract basis in terms of Section 18(4) of the Act due to the delayed modernisation process in the Department of Community Safety. This is also the biggest contributor to mitigating our previously identified risks. However, it still leaves, a limited career path for employees in the WCPO.

We would like to acknowledge the funding from the Western Cape Provincial Parliament and specifically the Department of Community Safety, who make human resources and other resources available to enable us to perform our functions.

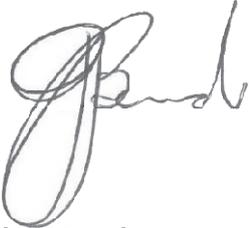
We will continue to raise our standards in order to enhance our service to the communities of the Western Cape and trust that we will be able to make a change in the lives of more people.



Johan Brand
Western Cape Police Ombudsman
19/04/2020

It is hereby certified that this Annual Report

- was developed by the management of the Office of the WCPO and
- accurately reflects the performance targets the Office of the WCPO has endeavoured to achieve with the resources made available to it in the 2019/2020 budget.



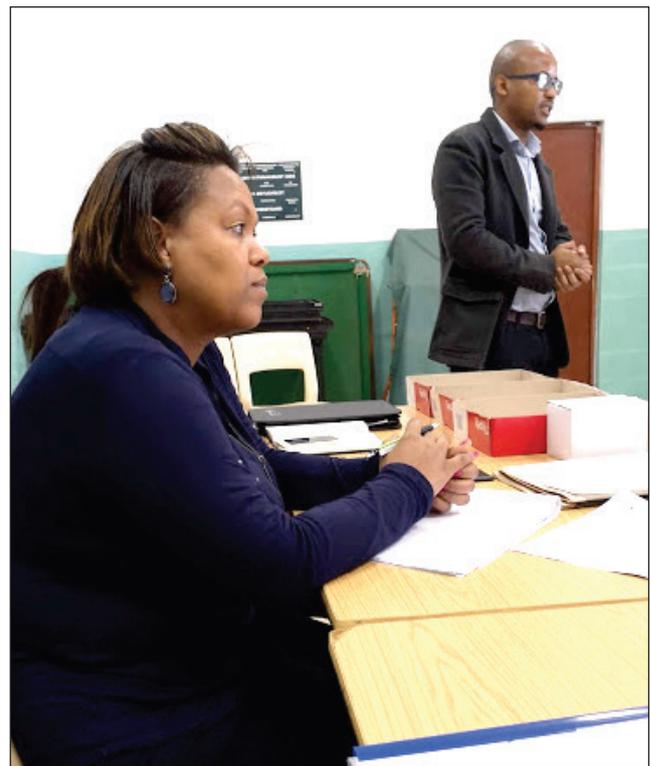
Johan Brand
Western Cape Police Ombudsman



Ombudsman, Johan Brand addressing the Community of Hawston

Acronyms

AOMA	African Ombudsman and Mediation Association	NHW	Neighbourhood Watch
AOP	Annual Operational Plans	PCC	Policing Complaints Centre
AORC	African Ombudsman Research Centre	RICA	The Regulation of Interception of Communications and Provision of Communication-Related Information Act
APP	Annual Performance Plan	SAHRC	South Africa Human Rights Commission
APCOF	African Civilian Oversight Forum	SAPS	South African Police Service
AVL	Automatic Vehicle Location	SPP	Senior Public Prosecutor
CAS	Crime Administration System	VEP	Victim Empowerment Program
Cel	Centre for e-Innovation	WCG	Western Cape Government
CPA	Criminal Procedures Act	WCPO	Western Cape Police Ombudsman
CPFs	Community Police Forums	Police Official	refers to a member of the South African Police Service deployed in the Province or a member of a municipal police service
CSC	Community Service Centre	Police Service	refers to the South African Police Service deployed in the Province and a municipal police service
CTMPD	Cape Town Metropolitan Police Department		
DOCS	Department of Community Safety		
DPSA	Department of Public Service and Administration		
DVA	Domestic Violence Act		
EG4C	E-Government for Citizens		
FCS	Family Violence Child Protection and Sexual Offences Unit		
GBH	Assault with Intent to Cause Grievous Bodily Harm		
GG	Government Garage		
HOD	Head of Department		
ICT	Information Communication and Technology		
IO	Investigation Officer (SAPS or WCPO)		
IOI	International Ombudsman Institute		
IPID	Independent Police Investigative Directorate		
ISS	Institute for Security Studies		
JCPS	Justice, Crime Prevention and Security		
LCRC	Local Criminal Record Centre		
MEC	Member of the Executive Committee		
MoU	Memorandum of Understanding		
NGOs	Non-governmental Organisations		
NPM	National Preventative Mechanism		
PFMA	Public Finance Management Act		



Senior Investigator Abigail Lewis, with Legal Intern Yanga Xatisa at the Eluxolweni Community meeting.

2.1 Our Mission

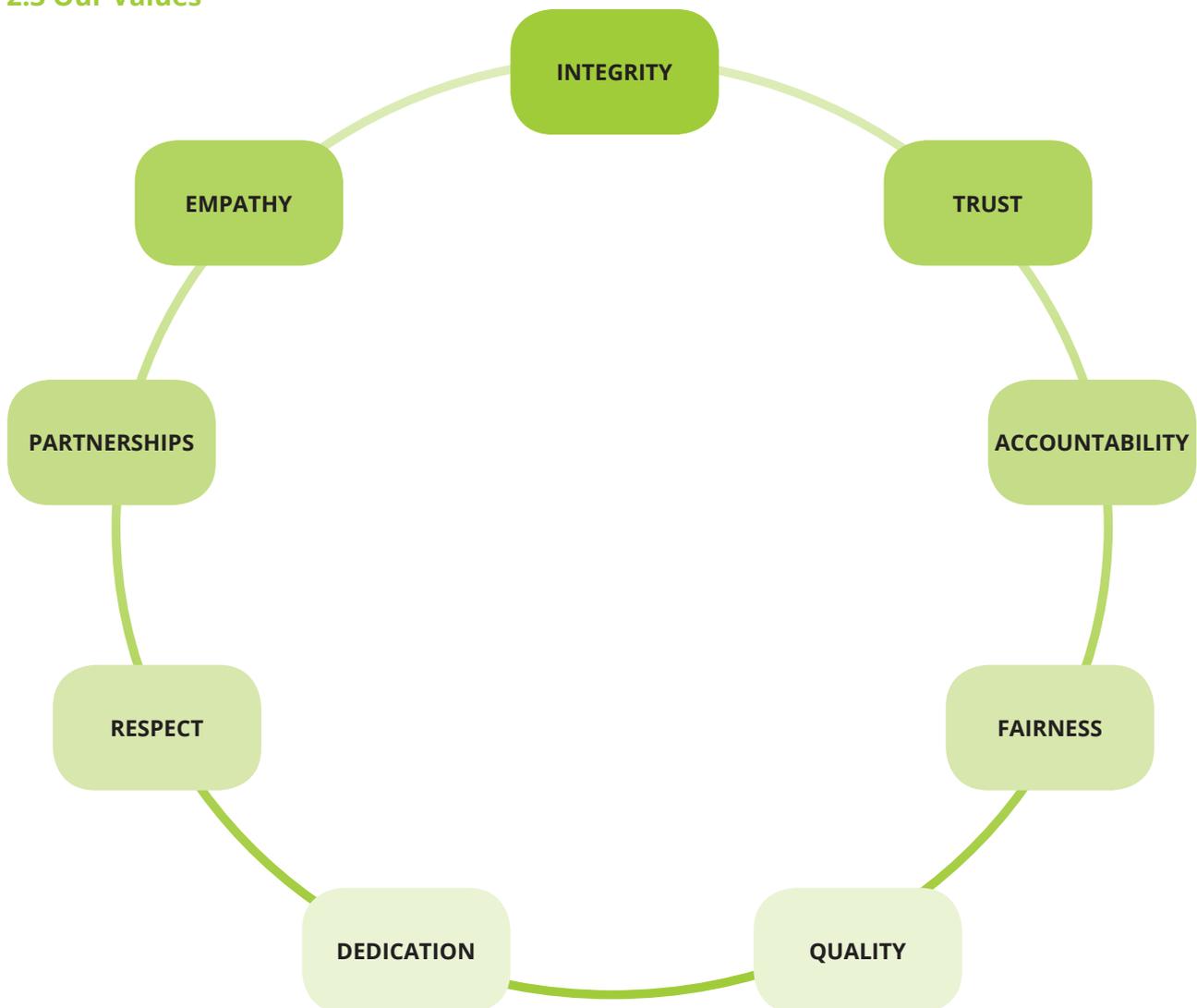
We seek to enhance the efficiency of police services and improve relations between the police and communities by:

1. investigating complaints of police inefficiency, and/or
2. investigating any breakdown of relations between the police and communities.

2.2 Our Vision

A society where there is mutual respect and trust between citizens and the police.

2.3 Our Values



3, Constitutional Mandates

3.1 Section 206 of the Constitution of South Africa Act (Act 108 of 1996)

Subsection (1) states: "A member of the Cabinet must be responsible for policing and must determine national policy after consulting the provincial governments and taking into account the policing needs and priorities of the provinces as determined by the provincial executives".

Subsection (3) provides as follows:

"Each province is entitled:

- to monitor police conduct
- to oversee the effectiveness and efficiency of the police service, including receiving reports on police activities
- 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."

Subsection (5) provides as follows: "In order to perform the functions set out in subsection (3) a province:

- may investigate, or appoint a commission of inquiry into, any complaints of police inefficiency or breakdown in relations between the police and any community and
- must make recommendations to the Cabinet member responsible for policing."

3.2 Constitution of the Western Cape (Act 1 of 1998, Section 66, Policing functions of the Western Cape Government 66) (1)

The WCG is entitled to:

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

3.3 Western Cape Community Safety Act (Act 3 of 2013)

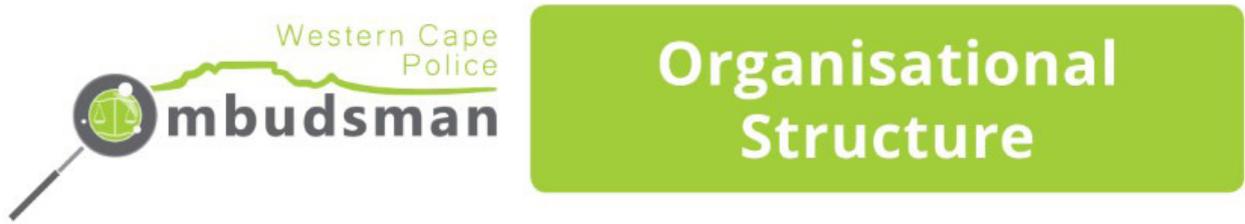
On 5 April 2013 the Premier of the Province of the Western Cape assented to the Community Safety Act, which was published in Provincial Gazette No. 7116 dated 5 April 2013.

The Western Cape Community Safety Act provides for the carrying out and the regulation of the functions of the Province and the Department of Community Safety under Chapter 11 of the Constitution of the Republic of South Africa, 1996, and Chapter 8 of the Constitution of the Western Cape, 1997. Provision is hereby made for the support of and cooperation with the Civilian Secretariat and the Provincial Secretariat establishment in terms of the Police Act.

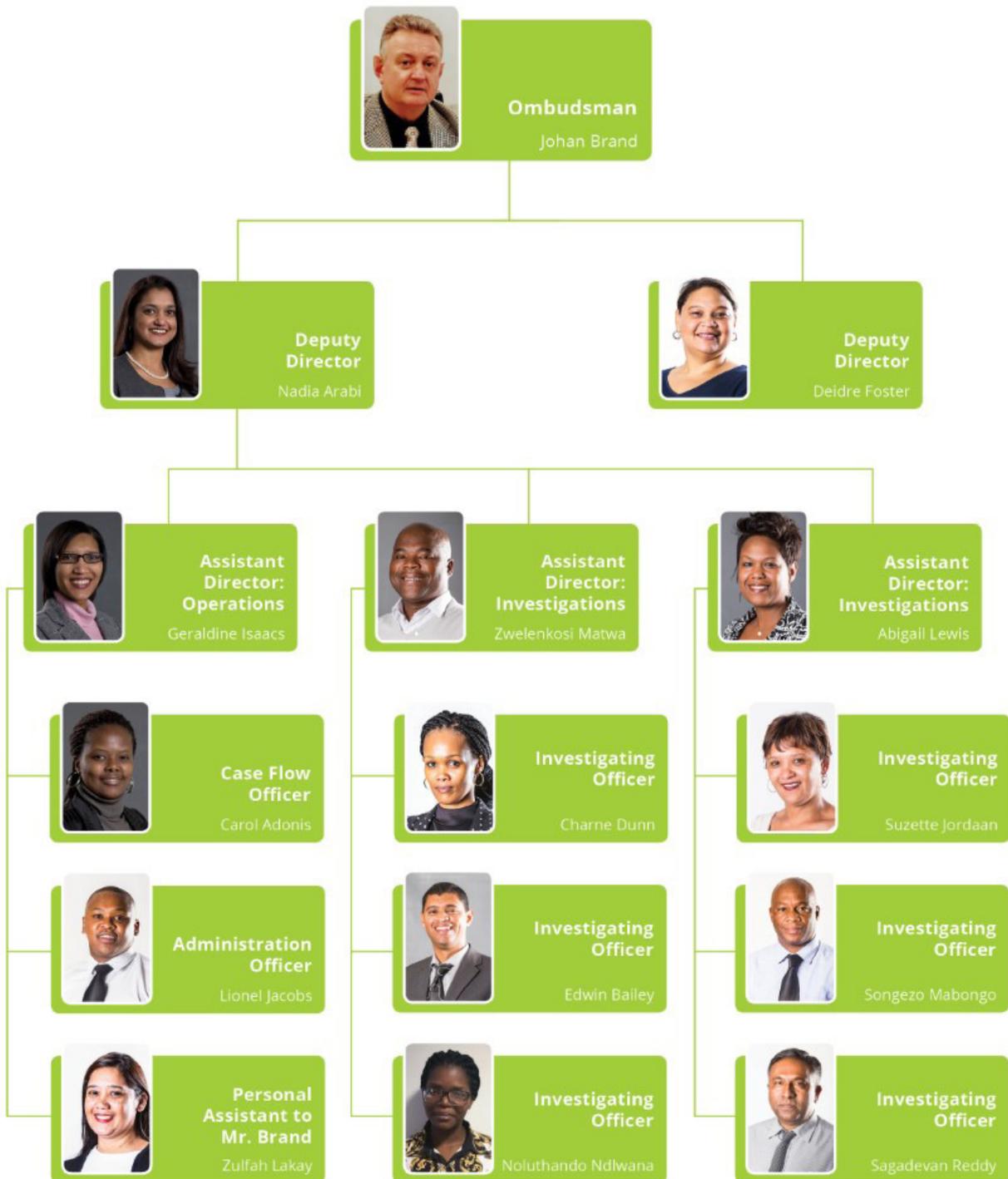
The Regulations were promulgated on 22 October 2015.

The WCPO has the authority to investigate complaints of inefficiencies against members of the Police Service.

The organogram below illustrates the current organisational structure:



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Organisational Environment

During the previous financial year, the WCPO succeeded in obtaining approval for the appointment of two Level 8 investigating officers on contract in order to address the backlog. The additional Level 9 post, which was recommended by Organisational Development (OD) in 2017/1018 to address staffing needs of the WCPO, could be filled as the Department of Community Safety (DOCS) identified a vacant unfunded post, which was seconded to the WCPO. These posts have been filled during the 2019 - 2020 financial year.

As can be seen from the above organogram, we are proud to share that we appointed one of our very own investigators, Mrs. Abigail Lewis, to the above-mentioned post of Assistant Director, which she assumed on 1 June 2019.

The WCPO appointed two new permanent Level 8 investigators, namely Mr. Songezo Mabongo and Ms. Suzette Jordaan. Both staff members served at the Independent Police Investigative Directorate (IPID) before and are seasoned investigators.

We appointed two new contract appointees on Salary Level 8, namely Mr. Sagadevan Reddy and Ms. Noluthando Ndlwana. Mr. Reddy is a retired colonel from SAPS and Ms. Ndlwana holds a degree in law and has extensive experience in complaints management.

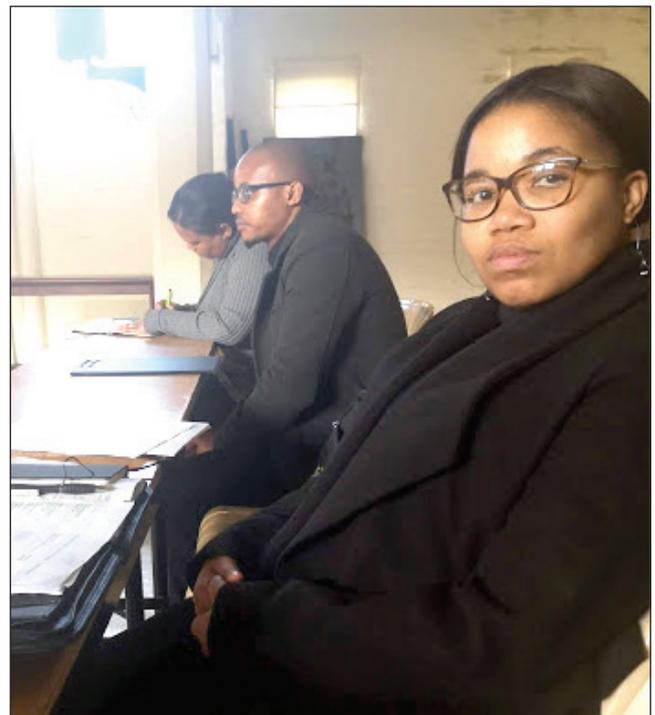
During this review period the post of administration officer was filled by Mr. Lionel Jacobs.

The office also bade farewell to Mr. Yanga Xatisa and in turn welcomed Ms. Viola Dudley as the new legal intern. We also bade farewell to Mr. Geradoh Swartz, who joined our office on contract as a Level 5 administration clerk and shortly thereafter received a permanent position at another department.

In the previous year the WCPO reported on the modernisation process, which forms part of the larger over-arching Modernization process taking place at the

Department of Community Safety. At the time of the 2018/19 report, we shared that we had discussed the High-Level Macro Structure and that two senior members of staff had received job evaluation training. The modernizations process is out of our hands and therefore we can only note that there has been no further progress made in respect of this process.

We once more note that whilst outreach and marketing are Annual Performance Plan deliverables and are reported on as an output in this report, there are currently no staff members in the establishment to support this function. Also, as previously noted, the current organogram does not offer a career path for the development of staff members and it is thus difficult to retain staff. This was previously reflected in our risk register.



Legal Intern Nompumelelo Sibeko at the Gansbaai Community Meeting.

Performance Environment

The next section deals with our Annual Performance Plan deliverables which are set out as follows:

- 5.1 number of reports on SAPS service delivery complaints received and their status
- 5.2 number of outreach initiatives conducted
- 5.3 number of Annual Reports on activities of the Ombudsman.

The only output which was exceeded was under the outreach deliverables. We note that this was due to the Overstrand Investigation as well as additional requests and invitations received. Please see the grid below, for a breakdown of the various performance targets.

Programme Performance Indicator	Target for 2019/2020 as per Annual Performance Plan (APP)	1st Quarter Planned output as per APP	1st Quarter actual output	2nd Quarter planned output as per APP	2nd Quarter actual output	3rd Quarter planned output as per APP	3rd Quarter actual output	4th Quarter planned output as per APP	4th Quarter output (verification process still pending)	Actual output for 2018/19	Variance from planned target to actual achievement for 2018/19
Number of reports on SAPS and Metro Police service delivery complaints received and the status thereof (3.2.1)	4	1	1	1	1	1	1	1	1	4	0
Number of outreach initiatives conducted (3.2.2)	16	4	13	4	7	4	5	4	5 (still awaiting verification)	30	14 ¹
Number of Annual Reports on activities of the Ombudsman (3.2.3)	1	1	1	0	0	0	0	0	0	1	0

1. The WCPO overachieved on indicator 3.2.2, as the target was 16 outreach activities for the financial year, and the WCPO over-performed by 14. The bulk of this overachievement relates to outreach activities which had to be undertaken in respect of the Overstrand investigation.

5.1 Complaints and Statistics:

This section will include a brief analysis of the complaints handled at the office of the Western Cape Police Ombudsman.

5.1.1. Complaints received

During the period under review, the office received a total of 734 complaints, bringing the total number of complaints received to 2619 since the inception of the Office. This is reflected in Table 1.

Table 1: Complaints received per financial year and their status on 31 March 2020

Financial Year	Total complaints received	Status		
		Investigation completed	Awaiting classification ²	Still under Investigation
2014/15	83	83		
2015/16	316	316		
2016/17	540	540		
2017/18	513	513		
2018/19	433	433		
2019/20	734 ³	582	5	145
Grand Total	2 619	2 467	5	145



The increase in complaints received is depicted in Figure 1.

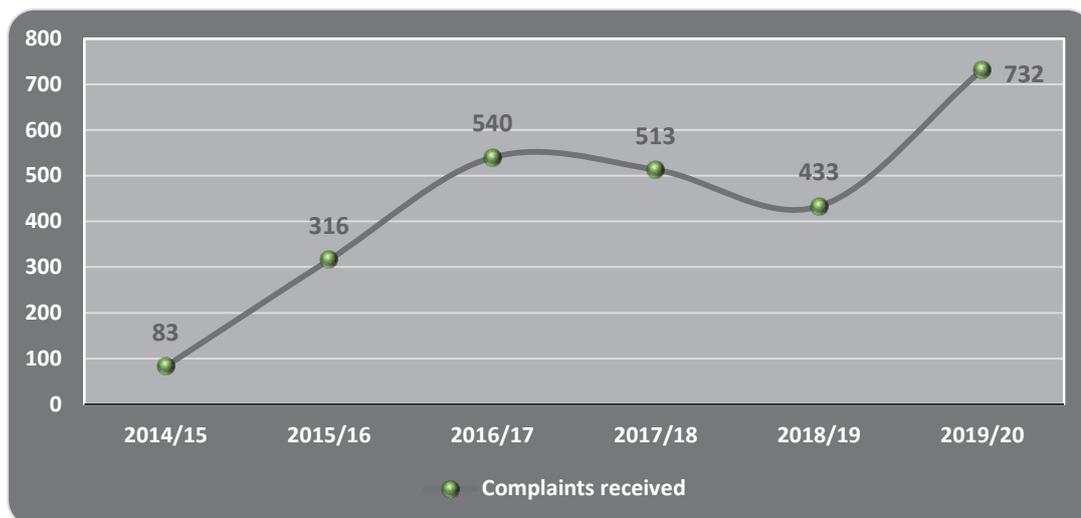


Figure 1: Number of complaints received per financial year

2. Complaints that need to be confirmed to be in the mandate of the WCPO and that must be categorised.
3. Two complaints were received concerning police inefficiencies in other Provinces which were referred to the National Commissioner of SAPS and not included with the statistics in table 3.

Performance Environment

The preferred method of lodging complaints is indicated in Table 2.

Table 2: Preferred method of lodging complaints

Method Finalised	Nature of Complaints								Total
	Enquiry ⁴	General ⁵	Lack of Communication	Poor Communication	Poor Investigation	Poor Response	Unacceptable Behaviour	Awaiting classification ⁶	
E-mail	67	6	12	92	64	59	41	4	345
Fax	2					1			3
Office	25		8	115	62	37	42		289
Post				2					2
Telephone	4		1	5	4	5	1		20
Website	17	1	3	19	17	14	3	1	75
TOTAL	115	7	24	233	147	116	87	5	734

The preferred method of lodging complaints is depicted in Figure 2.

4. *Enquiry: Complaints received that are not within the mandate of the WCPO, or complaints that are immediately resolved, or complaints that are being reported prematurely.*
5. *General: Any other complaint which does not fall within any of the specified categories.*
6. *Complaints that need to be confirmed as falling under the mandate of the WCPO and that need to be categorised.*

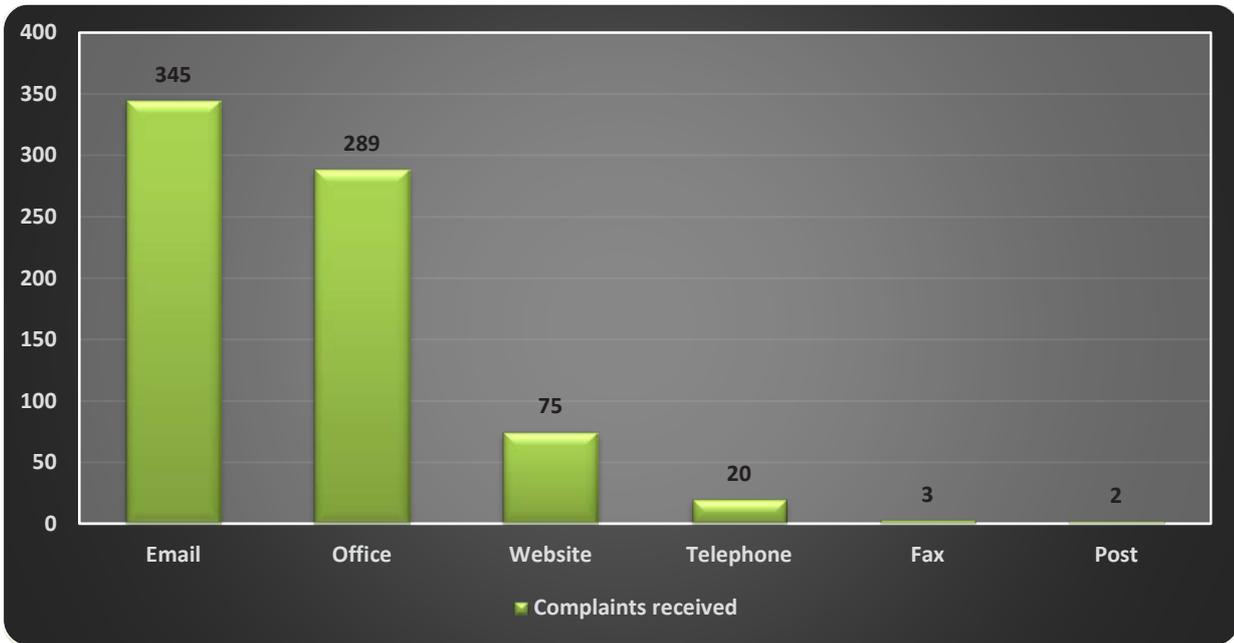


Figure 2: Preferred method of lodging complaints

Figure 3 depicts the different categories of complaints received.



Figure 3: Different categories of complaints received

Performance Environment

Complaints received per SAPS Clusters and Cape Town Metro Police Department (CTMPD) for 2019/20

Table 3: Complaints received per SAPS Cluster and CTMPD for 2019/2020

Cluster or office	Nature of Complaints								Total
	Enquiry ⁷	General ⁸	Lack of Communication	Poor Communication	Poor Investigation	Poor Response	Unacceptable Behaviour	Awaiting classification ⁹	
Beaufort West					3				3
Blue Downs	8		3	25	12	13	10		71
Cape Town Cluster	13			17	11	12	10	2	65
Cape Town Metro Police	1					1			2
Da Gamaskop	2			1	2				5
Eden	8		1	3	5	2	1		20
Khayelitsha	13		3	31	16	6	11	1	81
Milnerton	7		1	22	12	12	7		61
Mitchells Plain	8	1	4	34	24	17	13		101
Nyanga	9	1	1	30	16	12	9		79
Overberg	12	1	3	10	9	7	2		44
SAPS Provincial Office	1	2	2	11	1	6	6		29
Tygerberg	11	1	4	22	17	11	7		73
Vredenburg	2			8	4	3	1	1	19
Vredendal	1				2	1	3		7
Winelands	5			9	4	4			22
Worcester	5		1	2	4	2	4	1	19
Wynberg	7	1	1	8	5	7	3		31
Total	113	7	24	233	147	116	87	5	732 ¹⁰

7. Enquiry: complaints received that are not within the mandate of the WCPO, or complaints that are immediately resolved, or complaints that are being reported prematurely.
8. General: Any other complaint which does not fall within any of the specified categories.
9. Complaints that need to be confirmed as falling under the mandate of the WCPO and that must be categorised.
10. Table 3 indicates two less complaints as Table 1 as two complaints were received concerning police inefficiencies in other provinces which were referred to the National Commissioner of SAPS.

Figure 4 depicts the complaints per top five SAPS Clusters

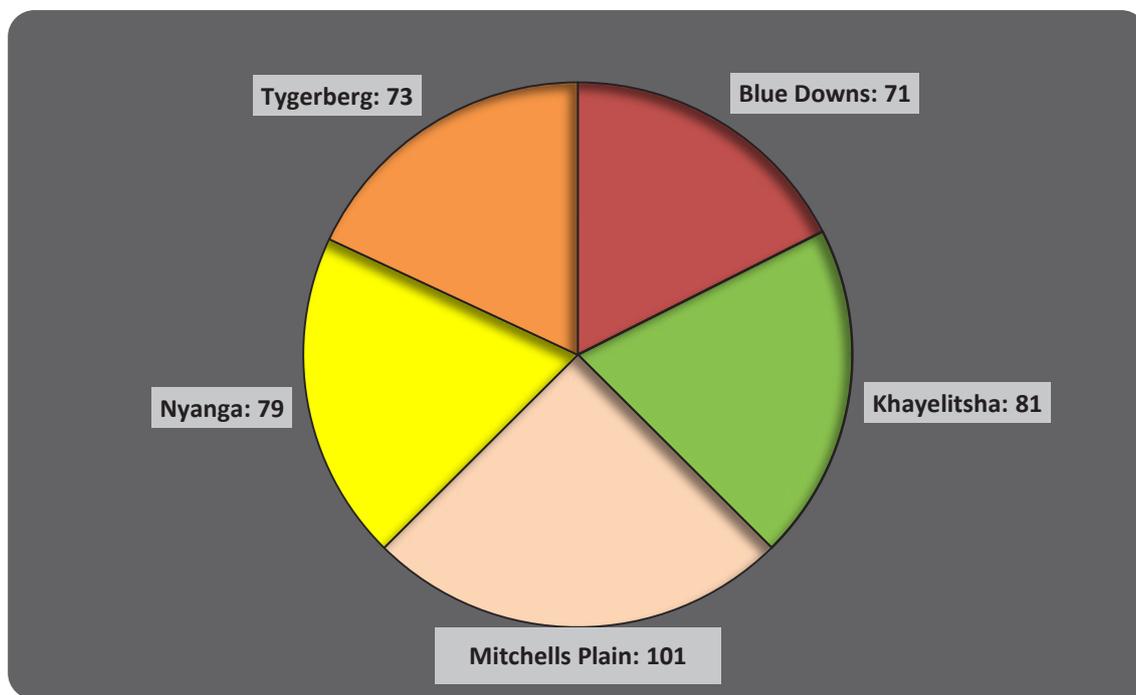


Figure 4: Complaints received per top five SAPS Clusters for 2019/2020



WCPO Staff at the SAPS Festive Season Launch

Performance Environment

The Western Cape Province consists of a total of 151 police stations. The following 13 police stations all had more than 15 complaints.

Table 4: Complaints received per top 13 police stations for 2019/2020

Cluster or office	Nature of Complaints								Total
	Enquiry ¹¹	General ¹²	Lack of Communication	Poor Communication	Poor Investigation	Poor Response	Unacceptable Behaviour	Awaiting classification ¹³	
Philippi	4		1	10	4	1	1		21
Bishop Lavis	1	1		7	3	6	2		20
Kraaifontein	5	1	2	4	4	3	1		20
Khayelitsha	2			8	2	2	5		19
Mitchells Plain	2			7	4	4	2		19
Parow	1		1	4	6	3	4		19
Delft	1			6	5	4	2		18
Lingeletu-West	6			7	3		1	1	18
Cape Town Central	4			6	3	2	1	1	17
Kleinvlei	4		1	7		1	4		17
Mfuleni			1	8	2	5	1		17
Milnerton	2			6	4	2	3		17
Steenberg	1		2	5	4	4	1		17
Total	33	2	8	85	44	37	28	2	239

11. Enquiry: complaints received that are not within the mandate of the WCPO, or complaints that are immediately resolved, or complaints that are being reported prematurely.

12. General: Any other complaint which does not fall within any of the specified categories.

13. Complaints that need to be confirmed as falling under the mandate of the WCPO and that must be categorised.

Performance Environment

Figure 5 illustrates the number of complaints at the 13 police stations that received the highest number of complaints.

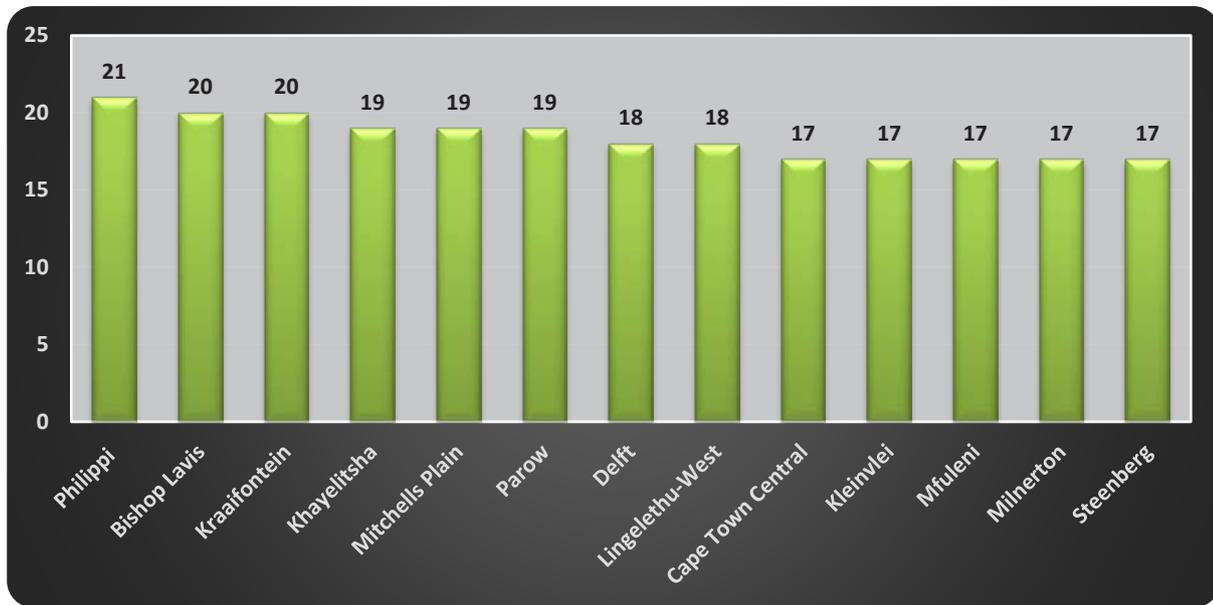


Figure 5: Complaints received per police station

Table 5 reflects the ranking of the 13 police stations where the number of complaints is calculated in relation to their population figures.

Table 5: Complaints in relation to population

Station	Complaints received	Population figure ¹⁴	Ratio of complaints to population	Complaints per 1000 people
Cape Town Central ¹⁵	17	41 085	1:2 417	0.41
Philippi	21	62 197	1:2 962	0.34
Parow	19	70 424	1:3 712	0.27
Lingelethu-West	18	75 711	1:4 206	0.24
Steenberg	17	73 503	1:4 324	0.23
Bishop Lavis	20	126 056	1:6 303	0.16
Milnerton	17	104 106	1:6 124	0.16
Kleinvlei	17	113 894	1:6 700	0.15
Mfuleni	17	137 618	1:8 095	0.12
Khayelitsha	19	181 238	1:9 539	0.11
Delft	18	179 851	1:9 992	0.10
Kraaifontein	20	193 070	1:9 654	0.10
Mitchells Plain	19	230 595	1:12 136	0.08

5

The ratio of complaints to population shows us that one complaint for every 2417 people residing in the Cape Town Central Station precinct is made. This ratio grows exponentially larger further down the table and, of course, the higher the population figure is.

It is difficult to extrapolate from our available information what the reasons for people not wanting to lodge complaints are, however, experience has taught us that

over and above the ongoing outreach efforts, other factors which prohibit people from complaining would be fear of ridicule and retribution. We also believe that in time to come, when the office of the WCPO is permitted to lodge its own complaints, it may take on more highly publicised complaints which will in turn lead to an incremental increase in complaints, as the office becomes more well-known.

14. Department of Social Development, Provincial Population Unit (PPU), 2020. Estimated Population per SAPS Precincts 2009-2018: based on StatsSA MYPE 2019 Nov/Dec and Census 2011 SAL proportional spatial alignment. Western Cape Government: Cape Town. [SAPSDSD All-in-One CrimesIncidentRate_ML20200213.xls]

15. It must be noted that although Cape Town Central SAPS precinct consist of a relatively small population in terms of residents, a vast number of residents from other areas in the Metropole work in Cape Town and tourists from all over the world are also flocking to the City of Cape Town continuously. These aspects have a major influence on Cape Town Central's population figures.

5.1.2. Complaints finalised

A complaint is concluded by the Ombudsman under the following circumstances:

- before or after conclusion of an investigation where the complaint is rejected due to the fact that it does not fall within the ambit of the Act or if it is frivolous or vexatious;
- if the complaint is resolved by means of agreement, negotiation or conciliation;
- after conclusion of an investigation where it is found that
 - there is police inefficiency or a breakdown in relations, but it could not be resolved. In such a case the Ombudsman must submit a recommendation relating to the investigation and his findings to the Provincial Minister and inform the complainant that he has done so;
 - there was police inefficiency or a breakdown in relations and if said police inefficiency or a breakdown in relations was remedied; or
 - there was police inefficiency or a breakdown in relations and said police inefficiency or breakdown in relations has been reported to the Provincial Commissioner of SAPS or the Executive Head of the Municipal Police Service concerned to further deal with the matter;
- if a complaint is withdrawn by the complainant and the Ombudsman is satisfied that there are no compelling reasons to proceed with the investigation; or
- if a complainant, despite being requested to do so, does not provide further information that is within their knowledge and which is required to finalise the investigation of the complaint.

Citizens are encouraged to lodge complaints by fax or by sending an email, via the website, telephone and in person at our offices.

If the Ombudsman decides not to initiate an investigation, the Ombudsman must inform the complainant of his decision and the reasons thereof.

If the investigation has been completed and the matter could not be resolved, the Ombudsman must submit a recommendation and his findings to the Provincial

Minister for Community Safety and inform the complainant that this has been done.

Thereafter, the Provincial Minister must make a recommendation to the Minister of SAPS regarding the unresolved complaint and must inform the complainant of doing so.

In order to avoid duplication, the Ombudsman must coordinate his functions and activities with other authorities that have jurisdiction in respect of the investigation of complaints against the police.

In terms of the Act the WCPO must report annually, in writing within 30 days of the end of each financial year to the Provincial Minister of Community Safety on the activities of the Ombudsman during the previous financial year. This will include:

- the number of complaints investigated
- the number of complaints determined to be manifestly frivolous or vexatious under Section 17(1)
- the outcome of investigations into the complaints and
- the recommendations regarding the investigated complaints.

The Ombudsman must report to the Provincial Minister on his or her activities in terms of this Act as and when requested to do so by the Provincial Minister.

The Provincial Minister must table the report to the Provincial Parliament within 30 days of receiving the report.

We categorise the concept of service delivery complaints as follows:

Poor communication

- Supply of incorrect information
- Lack of telephone etiquette
- Failure to provide feedback
- Language barriers

Poor investigation

- Failure to obtain statements
- Failure to attend to a crime scene
- Poor crime scene management
- Failure to arrest suspects

- Failure to follow-up on information
- Failure to circulate stolen property/suspects
- Failure to submit dockets to court
- Failure to subpoena witness(es)/summon suspect(s) for court
- Failure to compile identikit
- Failure to send exhibits for analysis
- Failure to use investigation aids/experts
- Failure to properly register a missing criminal case docket

Poor response

- Failure to follow-up on/or respond to information
- Unnecessary delays in assisting clients at the Community Service Centre (CSC)
- Failure to answer the telephone
- Failure to attend to a complaint
- Lack of police visibility
- Unnecessary delays in attending to victims/complainants

Abuse of power

- Manner in which an arrest has been carried out
- Threatening or intimidating a member of the public
- Manner in which a search and seizure is conducted

Unacceptable behavior

Refers to complaints of misconduct in terms of the Discipline Regulations of the South African Police Service:

- Failing to comply with, or contravenes an Act, regulation or legal obligation
- Endangering the lives of others by disregarding safety rules or regulations.
- Misusing his/ her position in the Service
- Failure to carry out a lawful instruction or routine instruction without just or reasonable cause
- Sleeping on duty without authorisation
- Whilst on duty, is under the influence of an intoxicating, illegal, unauthorised, habit-forming drug, including alcohol
- Whilst on duty, conducting herself/himself in an improper, disgraceful and unacceptable manner
- Contravening any prescribed Code of Conduct for the Service or The Public Service, whichever may be applicable to him/her whilst on duty
- Inciting other employees to conduct themselves in a manner which is in conflict with accepted procedure.

The Act has conferred the following powers to the WCPO:

General:

- The WCPO may institute an investigation into alleged police inefficiency and/or a breakdown in relations between the police and any community, if the complaint is not manifestly frivolous or vexatious.
- The WCPO must conduct an investigation relating to a complaint lodged by a member of the Provincial Parliament into alleged police inefficiency and/or a breakdown in relations between the police and any community, which is not manifestly frivolous or vexatious.
- The WCPO may request written representations from any person regarding investigations being conducted via a Notice placed in the Provincial Gazette.
- Refer a complaint to another competent authority, if the complaint can be more appropriately dealt with by that authority.
- If the WCPO is of the opinion that a complaint is of a serious nature or that it may more appropriately be dealt with by a Commission of Inquiry, the Ombudsman may recommend to the Premier that a Commission of Inquiry should be held into the complaint.

Investigative powers of the Ombudsman and the designated investigating officers:

- Gaining reasonable access to any building, premises, vehicle, property, information or document under the control of the Organ of State concerned;
- Directing any person to submit an affidavit, or affirmed declaration or to appear before him, or to give evidence, or to produce any documentation that is in a person's possession or under his control, and may question that person;
- Requesting an explanation from any person whom he or she reasonably suspects of having information which has a bearing on the matter being investigated or to be investigated.

It is an offence for any person who:

- without just cause, refuses or fails to comply with a direction or request by the Ombudsman, or refuses to answer any question put to him or her, or gives to

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- such question an answer which to his/ her knowledge is false; or
- hinders or obstructs the Ombudsman or an investigating officer in the exercise or performance of his or her powers or functions in terms of the Act
- such person is guilty of an offence in terms of the Act and liable on conviction to pay a fine or imprisonment not exceeding three years or both.

During this review period, a total of 584 complaints were finalised. Table 6 reflects the manner in which the complaints were finalised:

Table 6: Manner in which the complaints were finalised

Method Finalised	Categories of Complaints							Total
	Enquiry	General	Lack of Communication	Poor Communication	Poor Investigation	Poor Response	Unacceptable Behaviour	
Duplicate ¹⁶	12				1	1	3	17
Lack of co-operation from complainant	2						1	3
Lack of information from complainant	3	1		6	3	6	2	21
Not within our mandate ¹⁷	82		2	2				86
Premature ¹⁸	3							3
Substantiated ¹⁹		1	4	94	51	37	19	206
Unsubstantiated ²⁰			10	68	65	33	33	209
Withdrawn ²¹	13		1	8	4	7	6	39
Total	115	2	17	178	124	84	64	584

No complaints that could be considered to be frivolous or vexatious in terms of Section 17(1) of the of the Western Cape Community Safety Act, No. 3 of 2013 were received during the review period.

- Complaint found to be a duplicate complaint that was already investigated by the WCPO, SAPS or CTMPD in terms of Section 17(10) of the Act.
- Complaint does not refer to police inefficiency or a breakdown in relations or does not involve the SAPS or CTMPD as prescribed in Section 15(a) of the Act.
- Complaint was lodged with the WCPO too early and did not allow SAPS or the CTMPD sufficient time to act on the incident referenced in the complaint.
- Evidence was found in support of the complaint; e.g. Vehicle not circulated on ENATIS, DNA sample not dispatched.
- Insufficient evidence was found in support of the complaint; e.g. CCTV cameras at police station not working, feedback on investigation sent via sms, etc.
- Complainant did not want to pursue with the complaint and decided to withdraw the complaint.

Figure 6 depicts the manner in which complaints were finalised.

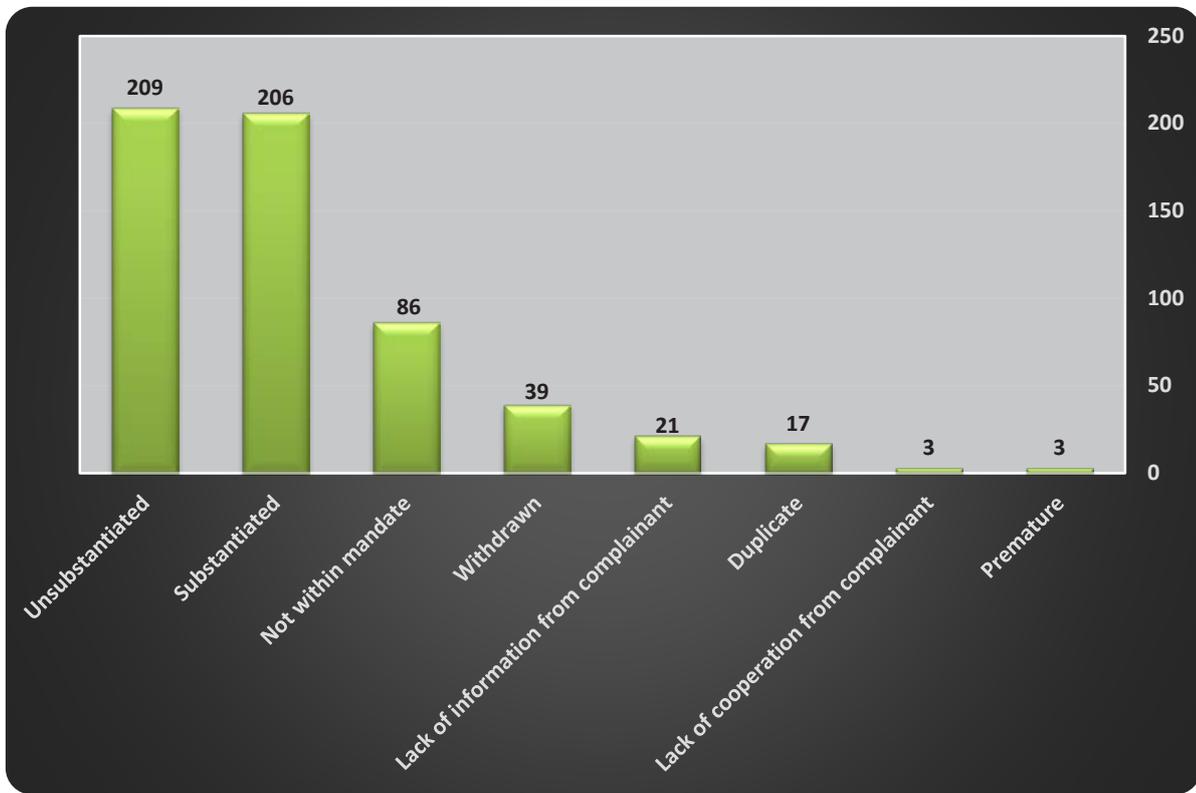


Figure 6: Manner of finalising complaints.

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Figure 7 illustrates the complaints finalised as substantiated versus unsubstantiated in the four top categories of complaints.

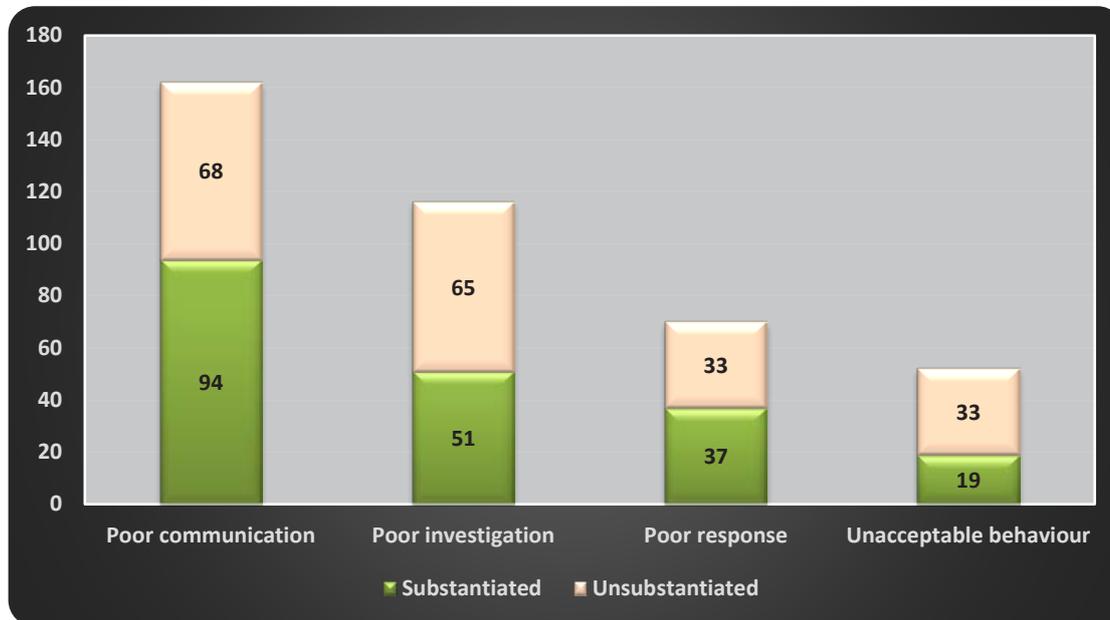


Figure 7: Complaints finalised as substantiated versus unsubstantiated

As indicated in Table 2, a total of 206 complaints were finalised as substantiated. These complaints are broken down as follows:

Table 7: Categorization of substantiated complaints

Substantiated Complaints	
Substantiated with recommendations ²²	163
Substantiated and resolved ²³	40
Substantiated, not resolved and referred in terms of the Act ²⁴	3
Total	206

22. Evidence was found in support of the complaint and recommendations were made to take appropriate action by SAPS or CTMPD.

23. Evidence was found in support of the complaint and it was found that appropriate action was taken by SAPS or the CTMPD before the complaint was concluded.

24. Evidence was found in support of the complaint, but as it could not be resolved, it was referred to the Provincial Minister of Community Safety for escalation to the National Minister of Police in terms of Section 17(8) of the Western Cape Community Safety Act, No. 3 of 2013.

5.2 Significant investigations

Broader and complex investigations

Some of the more complex investigations conducted by our office during the 2019/2020 financial year, included the following:

COM 0504 2019_1

A complaint in the form of an allegation was made that the South African Police Service (SAPS) in the Overstrand area (Gansbaai, Hermanus, Kleinmond and Stanford SAPS stations) are unable to perform their mandate in terms of section 205(3) of the Constitution of South Africa (Act 108 of 1996), as SAPS in the Overstrand area does not have the manpower to function effectively.

The investigation revealed that a shortage of both human and physical SAPS resources existed in the Overstrand area. It was also found that the unavailability of sufficient resources had a negative impact on the efficiency of the SAPS in the Overstrand area to perform their Constitutional mandate. The complaint was thus concluded as substantiated.

As the complaint could not be resolved, it was referred to the Provincial Minister of Community Safety for escalation to the National Minister of Police in terms of Section 17(8) of the Western Cape Community Safety Act, No. 3 of 2013, hereafter referred to as the Act.

Some of the recommendations made were as follows:

Recommendations for possible escalation to the National Minister of Police in terms of Section 17(9) of the Act.

- An urgent review should be conducted of the human and physical resources allocated to the Overstrand stations and the Specialized Units performing duties in the area.
- The following accommodation needs must urgently be addressed in the Overstrand area:
 - the re-establishment of the Dog unit in the Overberg cluster
 - the reconstruction of the Zwelihle satellite station
 - the need for additional satellite police stations to be established in Pearly Beach/Eluxolweni,

- Hawston/Onrus/Sandbaai and Betty`s Bay/Hangklip/Pringle Bay.
- A satellite office should be established for the Local Criminal Record Centre in the Overberg Cluster would enhance SAPS efficiency concerning crime scene management.
- The possibility to have a Public Order Police Unit established in the Overberg Cluster should be investigated.
- The levels of compliance in terms of the policy on Sector Policing be evaluated at the stations in the Overstrand area and corrective measures be implemented.
- The concerns of communities, specifically concerning police corruption and the lack of the ability of SAPS to enforce the law, must be addressed.
- An investigation should be launched into the reasons for the inability of SAPS to investigate crime, and the deteriorating performance of the Detective Service in the Overstrand area.
- The Annual Operational Plans (AOP) for the Overberg Cluster and the four stations be urgently reviewed to ensure that they address the needs of the communities. It is also proposed that measures be implemented to ensure that AOP's are compiled before a financial year commences.
- Urgent attention should be given to the vigorous recruitment of reservists in the Overstrand area as a force multiplier.
- The investigation of the cases concerning the loss of abalone due to various criminal activities should be reviewed and prioritised.
- Abalone related crimes should be categorised as a serious crime by SAPS, as is the case with rhino poaching.
- The possibility to establish a crime prevention water wing to police small harbours should be investigated.
- Organised projects in relation to abalone poaching should be initiated and investigated by the Organised Crime Unit of SAPS. After several interviews and research was conducted on abalone poaching, it became clear that it can be classified as organised crime in terms of Section 16 of the South African Police Service Act, Act 68 of 1995.
- The possible establishment of an Environmental Court should be considered in consultation with

the National Minister of Justice and Constitutional Development.

Recommendations for referral to the Standing Committee for Community Safety, Cultural Affairs and Sport at Provincial Parliament

- The status of the implementation of the recommendations made by the Western Cape Police Ombudsman, submitted to the Standing Committee for Community Safety on the 9th of November 2018, following an investigation in terms of the decline in the appointment of active police reservists by SAPS in the Western Cape.

Recommendations directed to Western Cape Government Departments

- The Provincial Minister of Environmental Affairs address the backlog concerning the disposal of abalone at the storage facilities with the National Minister of Environmental Affairs and Fisheries.
- The Department of Community Safety ensure an urgent improvement in the recruitment of accredited NHW structures in the Overstrand area.
- The Department of Community Safety review the public needs and priority process to ensure SAPS act to the needs identified during the consultation processes.
- The Department of Community Safety, in conjunction with other Provincial Government Departments, consider the establishment of Community Safety Forums in all the municipal areas. The legal opinion, provided by the Corporate Service Centre for Legal Services at the Western Cape Government, must however be carefully considered during this process.

COM 1911 2019_1

The complaint originated from a Member of the Provincial Parliament (MPP), who indicated that complainants alleged that SAPS vehicles are driven recklessly and negligently when transporting inmates to and from The Pollsmoor Correctional Facility. It was deemed necessary to publish a notice in the Provincial Gazette, in terms of Section 17 (3) of the Western Cape Community Safety Act, Act 3 of 2013, to make this investigation known, and to invite

comments from the public regarding the investigation. An overwhelming response was received from the public, human rights organisations and especially the residents from the Tokai area. The investigation revealed that various instructions and directives, issued by the South African Police Service, were not complied with. As a result, the complaint was found to be substantiated and some of the recommendations made to the Provincial Commissioner of the SAPS in the Western Cape to address the inefficiency, included the following:

- Court proceedings for remand detainees are conducted in terms of an audio-visual remand link established in terms of Section 159 A of the Criminal Procedure Act, Act 51 of 1977. This will not only alleviate the pressure on the logistical arrangements in terms of the appearance of remand detainees in Court, but will also be a more cost-effective way of remanding cases against inmates.
- SAPS members transporting inmates to and from Pollsmoor Correctional facility work flexi hours in order to avoid the congested traffic during peak travelling hours.
- The Provincial Commissioner compile a Provincial Instruction with regard to the transportation of inmates to and from correctional facilities with regard to state vehicles. This should be in line with current legislation and specifically highlight the conditions under which SAPS members are authorised to use blue lights and sirens. Strict compliance has to be ensured with the proposed provincial instruction, other SAPS instructions and directives, and that decisive consequential management must be taken in future.
- The Tokai Residents Association indicated that they were prepared to attend any meeting to reach a satisfactory solution with regard to this matter. This office offered to facilitate such a meeting with SAPS and the said Association.
- The irregularities identified in the investigative report be redressed in terms of the current SAPS instructions and procedures as indicated. Appropriate action should also be taken for non-compliance with instructions.

Our investigators have each shared their most memorable investigations this year as follows:

Charne Dunn:

COM16102019_1

This particular matter dealt with the alleged poor response by members of Goodwood SAPS in attending to a complaint of kidnapping and rape. The matter was circulated extensively in the media due to the lack of empathy displayed by SAPS officials involved.

Our investigation revealed that in accordance with National Instruction 3 of 2011, when a crime or alleged crime is reported at a police station or to a member on patrol attending to complaints, irrespective of whether the crime was committed in the station area of that police station or the station area of another police station, the member receiving the report must interview the complainant and open a case docket.

Our investigation found that it was thus irregular to refer complainants to another station. On conclusion of our investigation, it was confirmed that the members concerned were subjected to a disciplinary inquiry in terms of the SAPS Disciplinary Codes.

COM22012020_1 and COM23012020_4

This investigation concerned a member of the public who was involved in a motor vehicle accident in June 2019 and had submitted several requests to the police station, in whose jurisdiction the accident had occurred, for documentation relating to the incident. Between 29 June 2019 and 19 October 2019 all requests submitted by the complainant were blatantly ignored by the police station and out of sheer frustration, the complainant approached our office in January 2020 and sought our intervention.

On conclusion of our report it was confirmed that the requisite police station failed to acknowledge receipt of the request of the complainant from June 2019. The Station Commander of the particular station acknowledged their error and submitted the requested documents without delay. A formal apology was also conveyed to the complainant by SAPS for their error.

COM06062019_1 and COM25062019_1

The complainant in this matter was arrested by members of the South African Police Service on suspicion of being part of a car theft syndicate. The complainant provided the arresting officers with plausible reasons for her being in the area, however this fell on deaf ears. The complainant was then arrested and spent the night in police custody. The complainant approached our office and sought our intervention.

The matter was found to be substantiated and on conclusion of our investigation it was confirmed that the arresting officers concerned were both subjected to a disciplinary inquiry in terms of the SAPS Disciplinary Codes.

Sagadevan Reddy

COM08082019_3

The complainant alleged that he was assaulted in Paarl East on 2 March 2019, and that he received no feedback after the case was reported.

On 6 March 2019 SAPS attended to the complaint. The SAPS member registered an enquiry for the said crime. No case docket was registered. In terms of National Instruction 3 of 2011, "Registration of Case Dockets on the Crime Administration System", Paragraph 2(1), "When a crime or alleged crime is reported at a police station or to a member on patrol attending to complaints, irrespective of whether the crime was committed in the station area of that police station or the station area of another police station, the member receiving the report must interview the complainant (reporter) and, by using the Definitions of Crime Manual as a guideline, ensure that what is alleged to have happened does indeed constitute a crime and if so, take down an affidavit depicting all the elements of the crime and describe in detail what happened by utilizing the "what", "when", "who", "where", "why", and "how" principles; open a case docket (SAPS 3M) and complete it; and hand over the completed case docket (SAPS 3M) to the Community Service Centre Commander for perusal and registration on CAS."

The complainant was under the impression that a case docket had been registered by SAPS and that the case was receiving the necessary attention. However, only

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after the intervention by the WCPO, a case docket of assault with intent to inflict grievous bodily harm, was registered. On 24 October 2019, the suspect was arrested and charged by SAPS.

The complaint of poor communication was substantiated. It was recommended that SAPS take appropriate steps to address the inefficiency.

COM11072019_1

The complainant alleged that his son was murdered and that the case was not properly investigated by SAPS. On 8 June 2018 SAPS attended to the murder scene.

The pathologist concluded in his post mortem examination that the cause of death was unnatural. The witnesses' statements were obtained, and a suspect was identified.

Our investigation revealed the following shortcomings: the crime scene photos and the fingerprint report were outstanding from SAPS Local Criminal Record Centre (LCRC) for more than a year. The investigation diary revealed that no attempts were made by the SAPS investigating officer to obtain the said reports from LCRC. The witness indicated that he knew the suspect and that he had seen the suspect at two addresses in the vicinity. No attempts were made by the SAPS Investigating Officer to follow up on the said information which was provided by the witness. There was no indication that informers had been utilized by the SAPS Investigating Officer in tracing the suspect. There were four cases which were registered against the suspect at a neighbouring SAPS station. All four cases had been withdrawn at court. The Investigating Officer had failed to liaise with the Detective Commander of the neighbouring SAPS to assist with tracing the suspect. The case docket was not inspected by a designated officer nor guidance provided to the SAPS Investigating Officer. National Instruction 13 of 2017, 'Case Docket Management', Paragraph 17.6 states that, "The Section Commander: Detective Service at station level must ensure that all case dockets for investigation at the unit are inspected at least once a month and that clear and constructive guidance or instructions are recorded in the Investigation Diary".

The complaint of poor investigation was found to be substantiated. It was recommended that SAPS take appropriate steps to address the inefficiency.

Edwin Bailey

COM 2910 2019_2

The complainant alleged that he opened an assault case at 25 May 2019, however, the Investigating Officer did not provide him with feedback on the case. According to the complainant he raised his concerns with the Section Commander but this yielded no results. The complainant then approached the WCPO and a complaint of Poor Communication was registered.

Our investigation revealed that there was no proof that feedback was provided to the complainant between May 2019 and September 2019. Therefore, our investigation resulted in the complaint being substantiated with a recommendation sent to the Provincial Commissioner of SAPS to address the inefficiency.

COM 1311 2019_5

The complainant alleged that members of SAPS confiscated his legally obtained firearm without providing him with reasons. He further alleged that he had made numerous enquiries with regards to his firearm without receiving any information about when his firearm would be returned.

Our preliminary investigation revealed that the complainant was in fact informed of the outcome of the hearing in terms of Section 102 of the Firearms Control Act, Act 60 of 2000. It furthermore revealed that the complainant was provided with reasons for the seizure of his firearm prior to lodging a complaint with the WCPO. The matter was thus closed as unsubstantiated.

The above case shows that the WCPO will always consider both sides of the complaint, by going on a fact-finding mission to establish the truth at all times.

COM 2711 2019_6

When approaching our office, the complainant alleged that he had opened a case of housebreaking. He further noted that the suspects were known in his area.

According to the complainant he did not receive feedback from the SAPS and was unaware of the current status of his case.

Our office then registered a complaint of Poor Communication. Upon our investigation, the case docket was perused and it was found that the complainant submitted a withdrawal statement in his criminal case prior to approaching the WCPO. The matter was closed as unsubstantiated.

Suzette Jordaan

COM 02102019_10

The complainant alleged that SAPS was contacted on the Sector cellular phone, as the lives of her family were in danger on 30 September 2019. According to the complainant, the Officer who answered the phone, cut the call and at her second call the complainant was informed that SAPS cannot attend to the complaint and that the complainant should go to the police station to report the incident.

Our investigation revealed which official was on duty at the time of the incident. The official confirmed that he received the call from the complainant on the mentioned date. He alleged that he informed the complainant that he was on his way to a crime scene, but that he would have attended to her complaint as soon as he is done at the crime scene. He further alleged that he later visited the address of the complainant but upon his arrival he was informed that the situation was under control, and he left. The Automatic Vehicle Location (AVL) report for the vehicle revealed that the said vehicle was never in the vicinity of the complainant's address during the alleged time.

National Instruction 3 of 2013 Section 8(1) states: "A relief Commander must, in cooperation with the Commander, Visible Policing, post operational members in the demarcated sectors to render policing services to the community, including police patrols, crime prevention activities and responding to complaints.

The preliminary investigation was finalised and the complaint of poor response was found to be substantiated. It was recommended that appropriate steps be taken in order to address the inefficiency.

COM 18112019_5

The complainant approached SAPS on 14 March 2019, to report a criminal case of sexual assault, relating to her minor daughter. She alleged that the female officer who assisted her transferred her call to the Family Violence Child Protection and Sexual Offences Unit (FCS), where she reported the incident to the officer telephonically to an official from said unit. She further alleged that the officer of the FCS Unit responded by saying "your daughter seduced the man and it is not sexual assault". She also alleged that the FCS Commander made several appointments with her (4, 5 and 6 November 2019), which he never complied with.

The criminal docket confirmed that the complainant visited SAPS on 14 March 2019 and that the docket was registered on the same date.

The telephone account confirms that the standby phone number of the FCS Unit was called on 14 March 2019 at 21:12. The standby duty list for the FCS Unit identified the member on standby on the mentioned date, 14 March 2019. The member disputed the fact that he was on standby on the mentioned date indicated and that he could not recall speaking to a lady on that particular date. The Unit Commander confirmed that the member on standby was in possession of the standby phone. He further stated that he arranged one appointment with the complainant which he could not honour, but that he called her and rescheduled for another day.

National Instruction 2 of 2019 Section 1 states: " The role of the Family Violence, Child Protection and Sexual Offences Investigation Unit (FCS) is to ensure the effective prevention, investigation of FCS- related crimes; and to ensure excellence in service delivery to victims of family violence, crimes against children and sexual offences."

National Instruction 6 of 2017 Section 8 (1) states: "A complainant must be treated with care, fairness, respect, dignity and courtesy, taking into account the fundamental human rights of every person as enshrined in the Constitution of the Republic of South Africa, 1996." The preliminary investigation was finalised and the complaint of Unacceptable Behaviour was found to be substantiated.

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It was recommended to the Provincial Commissioner that appropriate steps be taken in order to address the inefficiency.

COM 19122019_5

The complainant alleged that poor investigation was done into the assault with intent to cause grievous bodily harm case he opened, due to the fact that the investigating officer was related to the suspect. He further alleged that he was never subpoenaed to court and, as a result, the case was withdrawn at court.

The Station Commander confirmed that the investigating officer was indeed related to the suspect in the criminal case.

Our investigation revealed, however, that the suspect in the criminal matter was arrested and charged on 9 September 2019 and the case was placed on the court roll for 1st appearance on the same date. The victim was served with a subpoena to appear before court on 8 October 2019.

Furthermore, the accused in the criminal case was found guilty of the charge on 15 October 2019. He was sentenced to two (2) years imprisonment wholly suspended for three (3) years, on condition that he is not found guilty of a similar offence and one thousand five hundred Rand (R1500, 00) compensation to be paid to the complainant on or before 2019-12-15.

The Department of Justice issued the complainant with a Notice of Compensation, informing her of the sentence and requested her to apply for the suspended sentence to be put into operation if the accused should fail to make payment.

The accused requested a SAPS official to hand over one thousand five hundred rand (R1500, 00) to the complainant, because it was part of his sentence which he had to comply with. The complainant refused to take the money.

The preliminary investigation was finalised and the complaint of poor investigation was found to be unsubstantiated, due to the fact that there was no wrongdoing on the side of the SAPS and the suspect in

the criminal matter was found guilty and sentenced by the Magistrate Court.

Songezo Mabongo

COM 17092019-4

The complainant alleged that on 06 September 2019 she called her 3-year-old daughter who had been playing with her friend outside.

The child told her that she has pain in her private parts and her mother took her to see what was wrong. The complainant realised that her child had been raped and immediately took her child to Khayelitsha Hospital where she was referred to Thuthuzela Centre, where the child was examined. The sister on duty contacted the Family Violence Child Protection and Sexual Offence Unit (FCS) using the standby number which is on speed dial.

The victim's mother alleged that an unknown Captain answered the call and informed her that FCS no longer goes out at night because of their safety. He informed her that they will attend to the incident the following day. Mr. S from Thuthuzela Centre took the complainant home. On Saturday, 07 September 2019, the complainant went to the police station to open a case.

The shift commander referred the complainant to another police station for assistance. He informed her that they don't take cases of this nature. On her arrival at the next police station, she was assisted by a member who referred her back to the previous police station because the incident happened within that jurisdiction. The complainant explained that she had already been to the previous police station. The member contacted the fcs unit to attend to the complainant. The complainant was informed that the investigating officer was not on duty and they did not know when the investigating officer would be back to attend to the complaint.

The member took the complainant's contact number, because the complainant was not sure about her address. The complainant indicated that she would send her residential address to the member via cellphone to provide it to the Investigating Officer. On Sunday, 08 September 2019, at about 12:00, SAPS arrived at the complainant's house with the suspect. SAPS told her that the suspect wanted to open a case against her because

she was spreading rumours about him. On Monday, 09 September 2019, the complainant went back to the police station because they had not contacted or visited her yet. She was referred to FCS where she spoke to a captain. He informed her that she must leave her contact details as FCS investigators were not available, especially someone who would be able to understand the language of the complainant (the complainant was not fluent in English). On Monday, 09 September 2019, the complainant waited for the investigating officer who never arrived. Representatives from an NGO came to her house after they read about it on social media. They contacted the Station Commander and informed him about the incident. They went to the police station and SAPS obtained a statement from the complainant on the instruction of the Station Commander.

The investigation revealed that SAPS failed to adhere to the guidelines provided in the National Instructions and in doing so delivered poor service to the victim of a serious crime.

In light of the spate of heinous crimes against women and children, this was completely unacceptable. The preliminary investigation was finalised and the complaint was found to be substantiated. It was recommended that appropriate steps be taken in order to address the inefficiency. It must be noted that SAPS had already started implementing measures to redress the inefficiency due to the intervention of the Station Commander.

COM 04122019_5

The complainant alleged that he approached SAPS with the intention to open a case of housebreaking and theft on Saturday, 12 October 2019. The complainant alleged that the SAPS member at the Community Service Centre (CSC) informed him that he must leave his details and that she would dispatch a SAPS vehicle to attend to the incident. The complainant further alleged that the police never attended to his complaint.

The report from SAPS reveals that the member captured the complaint's particulars incorrectly on the Crime Administration System (CAS). When the member realised the mistake, a false outcome was created for the complaint. The complaint was updated as attended to and "negative", indicating that no case docket was registered for the incident. Due to the member's dishonest action the complaint was never attended to.

The member was sanctioned with a verbal warning for giving a false statement. After the intervention of this office, a case docket was registered for housebreaking. The matter was found to be substantiated by SAPS and this office concurs with the findings.

The preliminary investigation was finalised. The complaint of poor response was found to be substantiated, but resolved by SAPS, who have taken appropriate steps to address the inefficiency.

COM 03102019-4

The complainant alleged that he opened a case of fraud. The complainant further alleged that he had provided the Investigating Officer with all the information and the addresses of the possible suspects who defrauded him; however the information was not followed up on and the case was withdrawn based on poor investigation.

Our investigation revealed that on Tuesday, 21 March 2017, two suspects were arrested and brought before court. The investigation diary showed that the Senior Public Prosecutor (SPP) issued instructions to the Investigating Officer on Wednesday, 2017/03/22. The SPP instructed the SAPS Investigating Officer to obtain a Section 205²⁵ authorisation in order to obtain the banking details of the business involved.

The Section 205 subpoena was authorized on Tuesday, 29 October 2019, more than two years after the instruction was first issued.

25. Section 205 of the Criminal Procedure Act allows a magistrate to summons anyone who is likely to have information relevant to a criminal case to testify in court.

A Section 205 subpoena is obtained from court by the SAPS Investigating Officer in order to compel companies (banks, service providers, etc.) to give specific information (bank statements, details of account holders, RICA information for a cell number). That company must then also testify when summonsed to court.

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Paragraph 17(6) of National Instruction 13 of 2017 of SAPS requires that the Detective Commander at station level must ensure that all case dockets for investigation at the unit are inspected at least once a month and that clear and constructive guidance or instructions are recorded in the investigation diary. Paragraph 21(4) of National Instruction of SAPS also requires that these inspections must be of such nature and be so thorough that it will enable the Cluster Detective Co-ordinator to determine whether investigations are being done properly.

Our investigation revealed that the SAPS Investigating Officer caused undue delay in the investigation, and that the complaint of poor investigation was found to be substantiated. It was recommended to the Provincial Commissioner of SAPS that appropriate steps be initiated against the concerned member(s).

Abigail Lewis

COM 12122019_8

The complainant opened a case of Intimidation. She alleged that the case was poorly investigated by SAPS due to the fact that the suspect's father was a police official. The complainant was particularly unhappy with the fact that her cellular phone was never sent for analysis.

The investigation revealed that the Investigating Officer obtained a warning statement from the suspect and that the suspect's cellular phone was seized. The matter was discussed with the Senior Public Prosecutor (SPP), who advised that the suspect's cellular phone should be sent for forensic analysis. After a Section 205 application was authorised, the exhibit was sent for downloading of the information. The result of the forensic analysis revealed that no link could be found between the suspect and the messages that were sent to the complainant.

The docket was submitted to the Senior Public Prosecutor for a prosecutorial decision. The Senior Public Prosecutor declined to prosecute due to the fact that there was no prospect of successful prosecution.

Our investigation revealed that the complainant was kept abreast of the status of the investigation throughout the process. She was informed of the decision of the Senior Public Prosecutor. The complainant subsequently went

to the Senior Public Prosecutor and was advised of the reasons for their decision.

Our investigation further revealed that the Investigating Officer complied with the stipulations of National Instruction 13 of 2017. Furthermore, the Investigating Officer followed the instructions of the Senior Public Prosecutor in conducting his investigation.

The allegation of poor investigation was found to be unsubstantiated.

COM 11112019_2

On 2 April 2019, the complainant was involved in a motor vehicle accident which left him paralysed. The complaint was received at this office on 11 November 2019 and the complainant alleged that despite the fact that more than six months had passed, no progress had been made in the investigation of the matter.

Our investigation revealed that there was a shortage of investigating officers at the police station in question.

During April 2019, the member was also the Acting Branch Commander. There was only one member at the Detective Branch and the matter was allocated to him for further investigation on 30 April 2019. During May 2019, the Investigating Officer booked off sick. He did not return to work and subsequently resigned from SAPS.

Thereafter he was the only member at the Detective Unit and he indicated that he had more than 500 dockets to manage. He focused mainly on ensuring that court dockets were on time for court.

The member attempted to contact the driver of the second vehicle, in order to obtain his statement. He was unsuccessful in his attempts. He further failed to record his attempts in the investigation diary.

He further stated that he reported the shortage of investigating officers verbally to the Station Commander as well as the Cluster Co-ordinators: Detectives. From May 2019 until November 2019, no other members were made available to assist him.

The Station Commander failed to adhere to National Instruction 13 of 2016.

Our preliminary investigation was finalised and the complaint of Poor Investigation was found to be substantiated.

It was recommended that appropriate action be taken against SAPS Management on station, as well cluster level in order to address the inefficiencies which were identified.

5

Zwelenkosi Matwa:

COM 27062019_3

The complainant relates to the arrest of a mentally ill brother of a complainant who under circumstances which are unclear, escaped police custody and disappeared. It emerged later that he was killed in a car accident. This angered the community and the complainant. The complainant alleges that prior to his brother's death, the SAPS assaulted and detained him and later released him, even though they indicated that they were aware he was mentally ill. He then alleged unacceptable behavior and poor communication on the part of the SAPS. The investigation revealed that the complaint was substantiated in respect of unacceptable behavior, but was resolved, as appropriate steps were taken against the implicated members.

The complaint was however found to be unsubstantiated in relation to poor communication, as the investigation revealed that there was constant communication between the SAPS and the complainant. It should further be noted that our investigation revealed that the SAPS did not comply with the provisions of the Criminal Procedure Act (CPA), more in particular sections 40 and 41 which sets out the grounds for the execution of an arrest without a warrant. In terms of section 40(1) (a) a peace officer may without warrant, arrest any person- (a) who commits or attempts to commit any offence in his presence. There is no suggestion whatsoever that such a scenario was present in this case.

COM 28112019_1

The complainant indicated that he was assaulted by a SAPS member and was then taken into police custody, while the said SAPS member was acting in his private capacity.

SAPS confirmed that at that stage the docket was not yet registered or booked to an investigating officer. Accordingly, it was submitted that the arrest was without justification and that it was not in compliance with the requirements for the execution of an arrest. Notably, the SAPS did not dispute that the arrest was prompted by a dispute/fight that the complainant had with the daughter of the member.

Accordingly, our investigation revealed that the execution of this arrest was grossly unethical and characterised by blatant conflict of interest on the part of the SAPS member. It should be noted that the SAPS has not provided reasons as to why the arrest was executed without a warrant.

National Instruction 11 of 2019: "Arrest, treatment and transportation of an arrested person in clause 8 (1)" stipulates that for an arrest to be lawful and for a lawful continued detention after arrest, the arrest (with or without a warrant) must have been properly authorised. There must be a statutory provision authorising the arrest. In this case there is no indication that authorisation for the arrest of the complainant was obtained.

Our recommendation to SAPS was that they take the appropriate action to address the inefficiency.

5.3 Outreach, Marketing and Stakeholder Relations

During the period under review, the office amended the information brochure to include updated information and a fresher approach to the design. The brochures were printed and distributed at the various community meetings which were held in June 2019 as part of the Overberg Investigations.

Other advertising included the prisoner transport, Victim Empowerment Programme (VEP), Passenger Rail Agency of South Africa (PRASA) and Overberg systemic investigations. The aim of these advertising activities was to share the information contained within the Government Gazette, and to showcase the call to action, whereby all citizens who wanted to share their experiences with SAPS relating to said investigations were able to do so.

As per the Annual Performance Plan, the target for outreach is four per quarter, however, as previously noted, these targets were exceeded by 14 overall, which is mainly due to our systemic investigations.

The table below shows community meetings and outreach programmes conducted over the last 12 months:

Table 8: Outreach interventions for the 2019 / 2020 financial year

Community and Stakeholder Interaction:		
14 May 2019	Law Enforcement Stakeholder meeting	Stakeholder Engagement
18 May 2019	Klapmuts CPF Training	Outreach
28 May 2019	Hermanus Magistrates Court	Outreach
28 May 2019	Hermanus CPF Meeting	Outreach
6 June 2019	Breede River Municipality	Outreach
10 June 2019	Gansbaai	Overstrand Investigation / Outreach
10 June 2019	Pearly Beach	Overstrand Investigation / Outreach
11 June 2019	Eluxolweni	Overstrand Investigation / Outreach
12 June 2019	Stanford	Overstrand Investigation / Outreach
20 June 2019	Proteadorp	Overstrand Investigation / Outreach
21 June 2019	Mount Pleasant	Overstrand Investigation / Outreach
25 June 2019	Hawston	Overstrand Investigation / Outreach
27 June 2019	Hermanus CBD	Overstrand Investigation / Outreach
27 June 2019	Zwehילה	Overstrand Investigation / Outreach
27 June 2019	Cloetesville CPF Training Session	Outreach
1 July 2019	Betty's Bay	Overstrand Investigation / Outreach

Performance Environment

5

15 July 2019	IPID Meet and Greet	Stakeholder Engagement
18 July 2019	Mandela Day outreach	Outreach
1 August 2019	Mitchells Plain Community Meeting	Outreach
15 August 2019	AKH meeting	Outreach
21 August 2019	Avian Park	Outreach
7 September 2019	Scottsdene Sports Day Outreach	Outreach
3 October 2019	Mfuleni CPF Engagement	Outreach
15 November 2019	SAPS Festive Season Launch	Outreach
20 November 2019	Radio Weskus Outreach	Outreach
20 November 2019	Vredenburg Thusong Centre	Outreach
27 November 2019	Naspers Labs Info Session	Outreach
4 March 2020	Muizenburg Outreach	Outreach
16 March 2020	Beaufort West Thusong Centre	Outreach
16 March 2020	Beaufort West SAPS visit	Outreach
16 March 2020	Beaufort West NHW Certification Ceremony	Outreach
17 March 2020	Beaufort West Municipal Manager Meeting	Outreach

Performance Environment

As per the previous financial year, digital banner adverts were used to drive traffic directly to the WCPO website by targeting specific areas. The images herein below show the ad which pops up digitally, in targeted areas, as well as the SMS notification.



5



Performance Environment

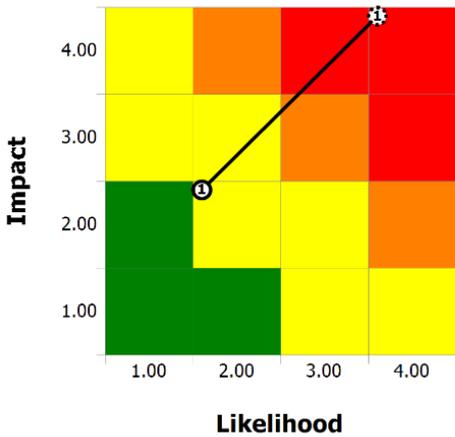
The table 9 herein below shows the communication interventions which have been launched to create awareness of the WCPO among Western Cape citizens. During this review period, we focussed on smaller radio stations in more remote areas.

Table 9: Outreach interventions for the 2019 / 2020 financial year

Method	Medium	Information
Advertising Campaign	Radio	Bush Radio CCFM Eden Gateway Gamkaland Heart FM Heartbeat Overberg Overberg FM Paarl FM PERRON FM Radio Namakwaland Radio Pulpit Tygerberg FM Umhlobo Wenene Valley FM Zibonele FM
	Digital (Banner Ads)	Various sites to generate traffic to the website.
	SMS	Various areas in the Western Cape.
Facebook	Social Media	The site is regularly updated.
Brochures, posters and other promotional items	Information brochures updated for distribution at public engagements.	Stock is regularly replenished.

The next section of the report deals with the 2019/2020 risk assessment.

Q1 2019.20 Western Cape Police Ombudsman Risk Profile



Comments for Q1 2019.20FY

The following action plans were completed:

- Appointment of two legal interns to assist. This action plan resulted in a control.
- Investigation conducted into staff incapacity by HR and ICAS. This was a once off action.

The completion of the above two action plans did not justify a reduction in the residual rating.

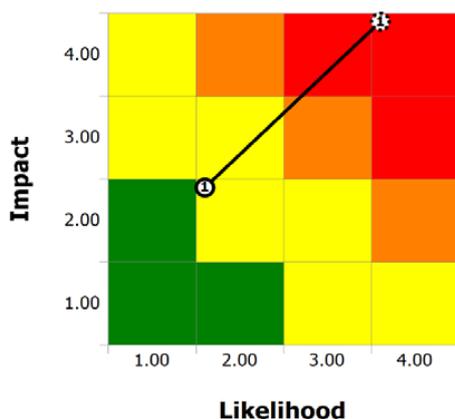
The following action plan's progress due date was extended to 1 August 2019 and progress was increased to 80%. Interviews were conducted and the programme is awaiting the memo for appointment:

Appointment of two level 8 contract Investigating Officer posts and a level 9 Senior Investigating Officer post.

Number	Title	IR	RR	Tolerance
1	The Ombudsman may not have the required resources to enable the full implementation of the mandate	16	4	7 Service Delivery



Q2 2019.20 Western Cape Police Ombudsman Risk Profile



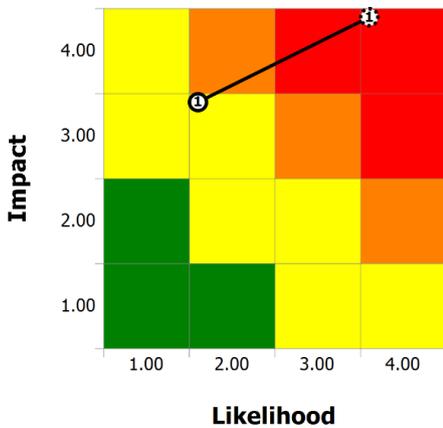
Comments for Q2 2019.20FY

Progress made with vacancies:

- Appointments of one level 8 contract Investigating Officer post and a level 9 Senior Investigating Officer post.
- Approval was received for the re-advertisement of one level 8 contract post.

Number	Title	IR	RR	Tolerance
1	The Ombudsman may not have the required resources to enable the full implementation of the mandate	16	4	7 Service Delivery

Q3 2019.20 Western Cape Police Ombudsman Risk Profile



Comments for Q3 2019.20FY

The risk statement was rearticulated and the following two contributing factors were identified:

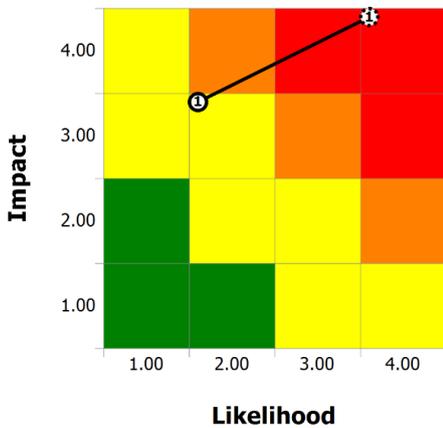
- Problems currently experienced with the Complaints Management System.
- Limited mandate of the Western Cape Police Ombudsman in terms of the WCCSA (inability to initiate complaints).

Progress made with vacancies:

- The vetting was completed for the additional level 8 post and it is envisaged that the person will commence duty on 1 December 2019.
- The residual impact rating was increased from 2 (moderate) to 3 (high) because of the rearticulating of the risk statement.

Number	Title	IR	RR	Tolerance
1	The Western Cape Police Ombudsman may not have the required resources and powers to provide an effective and efficient service to the citizens	16	6	7 Service Delivery

Q4 2019.20 Western Cape Police Ombudsman Risk Profile



Comments for Q4 2019.20FY

Progress made with vacancies:

- One Level 8 contract post was appointed additional to the establishment. The request for an additional Level 8 post was approved and the request for advertising is pending.

The migration of the Complaints Management System to Microsoft Azure Cloud was completed.

Number	Title	IR	RR	Tolerance
1	The Western Cape Police Ombudsman may not have the required resources and powers to provide an effective and efficient service to the citizens	16	6	7 Service Delivery



The team at the SAPS Festive Season Launch.

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Tabo Leholo (left) and Mario September (right) from IPID, at a stakeholder engagement held at their office.

Expenditure: 2019 / 2020

	Original budget for 2017/18	Adjustments	Budget after the Adjustment Shifts	Total Expenditure as at 31 March 2019	Overspend/ Underspend	% Spent on the Budget	Reasons for the over/ underspending
COMPENSATION OF EMPLOYEES	7,741	655	8,396	7,851	545	93.5%	Additional funds received in the adjustment budget were for the appointment of 10 x contract Investigating Officers to support the roll-out of the WCG Safety Plan. However, this could not materialise as the role of these envisaged investigating officers did not fall within the mandate of the WCPO.
GOODS AND SERVICES	2,930		2,930	2,712	218	92.6%	The underspending is due to a cancellation of an order for the printing of the WCPO information booklets, which was as a result of the supplier defaulting on the terms of the order. An important aspect to note is that the publication of notices of investigations being conducted by the WCPO in the Government Gazette and print media cannot be predicted and specifically budgeted for, as the decision to have notices published will be determined on a case-by-case basis and on the complexity and facts of each complaint.
HOUSEHOLDS/ TRANSFERS		27	27	28	-1	104.6%	Additional funds required for leave payouts, which cannot be predicted. Furthermore, funds were required for the donation given to SAPS in support of the SAPS Service Excellence Awards.
MACHINERY AND EQUIPMENT	452	-27	425	480	-55	113.0%	Additional funds required for computer equipment & GG daily tariff: The appointment of 2 x contract Investigating Officers (Level 8) brought on the need to procure additional computer equipment; The 3 x major investigations into complaints of alleged systemic service delivery issues within SAPS led to the increased usage of the GG's by the Investigating Officers, which is an operational essential and thus unavoidable.
GRAND TOTAL	11,123	655	11,778	11,071	707	94.0%	

It is important to note that the biggest contributor to the underspending is the additional COE allocation made during the adjustment budget, which was not within our control.

Conclusion

The WCPO has worked to mitigate and resolve the challenges faced during the year under review and every experience has been counted as a learning opportunity.

The WCPO will continue to conduct inquiries and investigations in an impartial manner in order to enhance the efficiency of police services and strive to improve relations between the police and communities in the Western Cape. The ultimate goal is to create professional policing in the Province.

During the year under review the majority of the complaints reported to us were finalised within a period of three months, which officially will become the standard for the Office during the 2020/2021 financial year.

We trust that the changes in legislation as well as our continued efforts in creating partnerships and formalising agreements with other institutions will enhance the functionality of our office. WCPO office envisages ongoing engagements with communities, the South African Police Service and the Cape Town Metro Police Department to ensure that all stakeholders understand the mandate and the work done by the WCPO. These engagements will take place against the backdrop of the symbiotic relationship between the WCPO and all its stakeholders within the prescripts of our legislative mandate.

The WCPO office intends continuing with its outreach activities in order to create awareness about the existence of the Western Cape Police Ombudsman and the way in which we can serve the people of the Western Cape. We acknowledge that a lot still needs to be done in this regard.

Once more, the WCPO notes with appreciation the commitment and cooperation of the South African Police Service, the Cape Town Metro Police Department and the Department of Community Safety thus far and thanks them for their continuous support and the role they have played in the resolution of some of the complaints received during the reporting period.

The WCPO team will continue to raise the bar in the next financial year and will ensure that we make a change in the lives of more people the Western Cape in line with the standards and principles of ombudsman institutions.



Residents at the AKH informal settlement sharing their concerns at a community meeting.

Conclusion



WCPO Staff, handing over sanitary towels and promotional items to the Director of St Anne's home, for Mandela Day.



The team at the Vredenburg Thusong Centre

To obtain additional copies of this document please contact:

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The English version of this Annual Report is regarded as the official text.
The Department cannot be held liable for any misinterpretations that may have occurred during the translation process.

VRYWARING

Die Engelse gedeeltes van hierdie Jaarverslag word geag as die amptelike weergawe te wees.
Die Departement aanvaar geen verantwoordelikheid vir moontlike wanvertolkings gedurende die vertalingsproses nie.

INKCAZO

Inguqulelo yesiNgesi yale ngxelo yonyaka itathwa njengeyona esebenza ngokusesikweni.
Isebe alinakubekwa tyala, ngazo naziphi na iziphoso ezengathi zibe khona ngxesha lenguqulelo yezinye iilwimi.

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