**CRIMINALS IN BLUE? AN ANALYSIS OF THE 2013/2014 IPID (INDEPENDENT POLICE INVESTIGATIVE DIRECTORATE) ANNUAL REPORT.**

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| **ABSTRACT:** When statistics of police members involvement in crime is not explained and contextualized it can eventually lead to a situation where: 1) reporting levels of crime may decrease, 2)Crime Intelligence may receive less information from the public, 3)the public may develop a generalized believe that the criminals and the police is so in cahoots that the only alternative is to take the law in to their own hands—vigilante action, 4) the international rating companies rate SA lower on their rating indicators, 5) police officers become so demotivated that they avoid potential shootouts and dangerous arrest situations, as well as patrolling dangerous areas, which then may become no-go areas, 6) police officers are too afraid and slow to react on a threat and defend their own life which increase the chances that they can be killed. Constant negative remarks about the police will in all probability lead to polarization between the police and the community, which is the antitheses of community based policing.  All the police crimes handled by the IPID during 2013/2014 with the exception of torture and systemic corruption decreased between 2012/2013 and 2013/2014. Torture increased with 28 cases from 50 to 78 while systemic corruption increased from 6 to12 cases. Assault (3 916 cases) decreased with 5, 2%, deaths as a result of police action (390 cases) decreased with 9, 5%, rape by police officer (121 cases) decreased by 17, 1% and other criminal matters which is mostly attempted murder ( 374 cases) decreased by 46, 8%.  Of all the police assaults reported in 2013/2014, 79, 2% were common assault and 19, 7% were assault GBH and if it is expressed as ratios and compared to the ratios of the population it is clear that when it comes to assault GBH it is just above that of the population and the common assault ratio is five times higher than that of the population. If the definition of common assault is analysed it is very clear that even the most experienced and well trained police officer who have executed hundreds of arrests can commit common assault as part of an arrest—in the line of duty. The fact that in the same year only 22 convictions for assault could be obtained by the NPA and that most of them only got a fine and that SAPS only obtained 68 disciplinary convictions with written warnings support the explanation that by far the most of the assaults committed by the police are actually in the line of duty (like grabbing somebody’s arm turning it and push him/her forward.)  The ratio per 100 000 for deaths as a result of police action was 209.7 for 2013/2014 while the combined murder and culpable homicide ratio for South Africa for the same year was 53.5. So the police killing rate is nearly four times that of the population, but not because the police are a killing machine, but it is unfortunately in the line of duty as in all countries of the world. IPID investigated 593 cases of death as a result of police action in 2013/2014. In the end only 19 convictions for murder could be obtained of which 11 got more than ten years and 6 got less than that. This fact that only 3, 2% of all police killings end up in a conviction is clearly an indication that it was in the line of duty.  The level of rape committed by police officers is less than that of the population. This also support the deductions made on the basis of the analysis of assault, attempted murder and deaths as a result of police action. It is in the line of duty of police officers to sometimes use violence which will then result that they will be charged with murder, attempted murder and assault, but not found guilty. Rape is clearly not in the line of duty and that is then the reason why the police level is lower than that of the population. It should also be remembered that police members is not born on a different planet than the people of SA and that they are subjected to the same conditions and forces that underlie rape.    Three hundred and four cases of attempted murder allegedly committed by police officers were reported to IPID in 2013/2014. This is a police attempted murder ratio which is nearly five times as high as that of the population, but as in the case of deaths as a result of police action, the fact that only 5 criminal convictions (which is 1, 6%) and 11 disciplinary convictions (which is 4, 9%) could be obtained again strongly indicate that most of these attempted murders was in all probability in the line of duty. |

1) INTRODUCTION AND ORIENTATION.

On the 12th of November 2014 Radio 702 placed quite a bit of focus on IPID (Independent Police Investigative Directorate) statistics which was presented and discussed at the Portfolio Committee on police in Parliament earlier that day. The percentage increases in rape, assault and murder which was presented on the radio was so shocking that it triggered this analyst which did some statistical analysis of police criminality on various occasions during his 18 years as head of CIAC (Crime Information Analysis Centre) at SAPS (South African Police) to at least look at the 2013/2014 Annual Report of IPID to establish if the situation had deteriorated so dramatically since he retired from the police in 2013. Then on the 13th of November 2014 Xolani Gwala again started the discussion on his three to six afternoon show and promised an interview with the chair of the Portfolio Committee mr Francois Beukman who was also the previous head of IPID. The “unruly events in Parliament “unfortunately pushed this interview from the agenda of mr.Gwala of 702. Only on the afternoon of the 14th the interview materialise. About an hour before this interview the author of this document was phoned by Monique Vrey of the Rapport who interviewed him on the effect that this publicity can have on the public’s confidence in the SAPS. During this interview he informed her that although he does not have any of the information presented to the committee it sound very suspicious, differ from what he found during analysis before 2013 and that it can have a very serious impact on public perceptions of and behaviour towards the SAPS which is already severely tainted by the “scandals” and failures that one find in the media daily. An article by Monique Vrey with the title “Verkrag deur polisie: ‘Syfers mislei.’”(Freely translated in English as “Raped by Police: Figures misinform.”) was published in the Rapport of 16 November 2014 and this analyst felt that at least he contributed in a very small way, to at least partly contextualize police crime amongst those who read the Rapport. Then, within the next hour he read in one of the English Sunday papers (The Sunday Independent, 16 November 2014, under the title “Top police officer in sex scandal. Junior fears for her life.”) of a new/fresh scandal involving a very senior police officer in police headquarters. He also remembered that mr Beukman indicated that the Portfolio Committee called the IPID, SAPS, and the Civilian Secretariat of Police to the Portfolio Committee during the week of 17-23 November 2014 to come and explain the differences in their information and why the SAPS ignore the IPID recommendations.

During the week of 17-23 November Radio 702 on various occasions referred to the shocking police crime figures (especially rape and murder) and they published a cartoon on their website which was very insulting of the SAPS. This cartoon depicts two wolves dressed in SAPS uniforms leaning/laying on a SAPS Community Service Centre counter looking at little red riding hood standing in front of the counter. The two wolves/SAPS members, while saliva is dripping out of their mouths, are saying too little red riding hood: wolf a)”So you want to report a rape? “Then the other one b) say, “But it hasn’t even happened yet.”

Against this backdrop of the previous two weeks this analyst decided to contextualize police criminality since this constant uncontextualised negative reporting can create a general public perception of the police as a bunch of criminals who are part of South Africa’s crime problem and this can have dire consequences for the people of this country.

While this report was written another report were just partly revealed on the front page of The Sunday Independent of 30 November 2014. According to the article titled “Report slams ‘weak’ police management and criminal cops” written by Caryn Dolley the South African Institute of Race Relations (SAIRR) risk analysis unit are busy with a follow up report of their 2011 research paper with the title “Broken Blue Line”. The following quotes according to Dolley, out of this report, which will only be published in February 2015, is especially worrying:

“After identifying the first 100 cases –which took about a week we stopped looking for further cases …the fact that we could so easily identify 100 incidents over such a short period would suggest that South Africa continues to confront a massive problem of police criminality.”

“It is unlikely to expect a significant turn-around in violent crime levels when the people charged with fighting crime are too often the perpetrators or closely associated with perpetrators.”

Just a few days before this report was completed(2 December) Ms Dianna Kohler Barnard of the DA (Democratic Alliance), according to the website politicsweb, requested that the Public Protector, Adv.Thuli Madonsela should investigate the National Commissioner Riah Phiyega’s “…undue delay and failure to dismiss the 1 448 criminal police officers from the South African Police Service(SAPS).”

When this analyst started this website ( [www.crimefactssouthafrica.co.za](http://www.crimefactssouthafrica.co.za)) one of his main aims was to contextualize crime in SA through analysis. Crime statistics, also those of police crime, which is not analysed and thus contextualized can cause South Africa as well as the SAPS lasting damage which will hamper policing and crime fighting and so directly service delivery to the people of South Africa. It is still shocking that the crime statistics of 2013/2014 which is today, the 8th of December 2014, nearly three months old, was released without any analytical report on the police website and can cause this country major damage.

The public/media debate on police criminality which was again ignited by the session in the Portfolio Committee on Police on the 12th of November 2014 is actually again very confusing and non-contextualized. Confusing because different figures for unspecified and incomparable time periods are thrown around and percentage increases and decreases are calculated on very low N-values. The official debate between the Portfolio Committee, SAPS, and IPID so far was more on the issue of the correctness of the statistics and why the SAPS does not take the IPID recommendations seriously and less( this analyst would argue none) about the extent, nature, dynamics and seriousness of police crimes. Now it again in the last few years have become fashion to blame the media for perceptions that they create usually with some or other hidden or foreign agenda. The view here is that if crime, which includes crimes committed by police members, is not properly analysed and contextualize and people in positions of authority make irresponsible, unscientific statements what do they expect the media to report?

2) THE POSSIBLE IMPLICATIONS OF THE NON-CONTECTUALIZATION OF POLICE CRIME.

If it is said in the highest public forum (like at the Portfolio Committee on police of Parliament) by a senior person in an organization, which should guard over police behaviour (like IPID), that murder, assault and especially rape had increased dramatically during the first 6 months of the current year, it will portray the police or at least a proportion of the police as criminals and the service as an ill-disciplined one where there is a lack of control and leadership. A police service which is out of control. This so-called scientific facts (statistics) will feed into an already negative perception of SAPS based on all the anecdotes of corruption and other inappropriate behaviour which occurred over the past few years at the top management level of SAPS (e.g. the events around the two previous National Commissioners, the Richard Mduli saga, the National Commissioner-Provincial Commissioner of the Western Cape case, the Major-General Booysens debacle in KZN, and the reporting of a sex scandal at police headquarters).

A generalized perception of the SAPS as corrupt, crime ridden and ill-disciplined will in all probability lead to the following:

* A distrust of the police which may cause victims not to report crime to the police (“Parliament itself said that the police are criminal so why report crime to them!”). This can especially happen with crimes which is already difficult to report under normal circumstances (e.g. sexual offences like rape). Clearly women will be hesitant to go and report rape to a police station where they have heard that a police officer/s had rape a women or even worst a victim of rape( as depicted in the 702 cartoon) were raped by the very people who is supposed to protect the victim. This can become so bad that the public don’t even want the police on their crime scenes/premises because “…they may provide intelligence to the criminals.” In a sense the success of anonymous crime lines to which the public can report crime is an indication of the lack of trust in the police.
* Members of the public who would in the past be keen to provide crime information/intelligence to the police may start to fear for their safety and that can hamper Crime Intelligence severely.
* The distrust in the police may reach a point where the community forms a generalized believe that the police and the criminals are one and the same people and that vigilante action is actually the only alternative.
* Many international economic and political stability rating/monitoring agencies usually have a corruption of government and specifically policing department’s indicator. If the organs of Government itself say that the SAPS are corrupt and there is high levels of crime committed by police officers it will influence the indicators and affect SA negatively.
* Police officers can become very demotivated under constant unfair criticism. If they hear from senior people in parliament that they are violent people, murderers and rapist they may just start to:

a) Avoid any potential shoot-out and arrest situations and a police officer who start to do that is not a police officer.

b) Start to avoid dangerous areas which then become no-go, gang infested areas. This was already visible in the report of the Khayelitsha Commission of Inquiry into allegations of police inefficiency and a breakdown in relations between SAPS and the community of Khayelitsha (see Justice C. O’ Regan and Advocate V. Pikoli.2014.Towards a Safer Khayelitsha.

c) React too late to defend themselves in critical situations and in the proses get killed or maimed. On various occasions during the past 20 years in discussions with policing experts it became very clear that a police officer who draw his/her firearm a fraction of a second after the criminal is usually a dead police officer.

d) An increase in us (the police) and them (community) feelings which is the anti-theses of community based policing and can generate police brutality.

3) FINDINGS OF THE ANALYSIS OF THE STATISTICAL REPORT IN THE IPID ANNUAL REPORT OF 2013/2014.

In table I the number of cases of police crime reported to IPID during 2013/2014 are compared to those reported in 2012/2013. The increases/decreases in cases between the two years are also provided as well as a percentage distribution for 2013/2014 which indicate the size of each category of crime.

TABLE 1 POLICE CRIMES FOR 2013/2014 COMPARED TO 2012/2013.

|  |  |  |  |
| --- | --- | --- | --- |
| CRIME | COMPARISON | INCREASE/  DECREASE | PROPORTION |
|  | 2012/2013 2013/2014 |  | 2013/2014 |
| Assault. | 4 131 3 916 | -5, 2% | 68, 2% |
| Complaint of the discharge of official firearm/s. | 670 429 | -36, 0% | 7, 5% |
| Deaths as a result of police action. | 431 390 | -9, 5% | 6, 8% |
| Other criminal matters. | 703 374 | -46, 8% | 6, 5% |
| Deaths in police custody. | 275 234 | -14, 9% | 4, 1% |
| Rape by police officer. | 146 121 | -17, 1% | 2, 1% |
| Corruption. | 120 84 | (-36)-30, 0% | 1, 5% |
| Torture. | 50 78 | ( 28) 56, 0% | 1, 4% |
| Non-compliance with section 29 of IPID Act. | 127 65 | (-62)-48, 8% | 1, 1% |
| Misconduct. | 47 23 | (-24)-51, 1% | 0, 4% |
| Rape in police custody. | 22 19 | (- 3) -13, 6% | 0, 3% |
| Systemic corruption | 6 12 | ( 6) 100, 0% | 0, 2% |

For the analysis in this report this analyst prefer the audited full financial year report, 2013/2014, which is an annual report which was audited and edited and submitted to parliament (see IPID. 2014. Independent Police Investigative Directorate. Annual Report 2013/2014). The 2013/2014 IPID Annual Report logically has much higher N-values, than the provisional semester report (first six months of the current year) which according to media reports was presented to the Portfolio committee on the 12th of November 2014.

IPID investigate cases referred to it by both the SAPS and the Metropolitan Police Services. Of the 5 745 cases reported to it in 2013/2014, 5 661(98, 5%) involved SAPS and 84(1, 5%) involved the Metropolitan Police Services. The contribution of the metropolitan police services was so small that for the purposes of this analysis the combined figure of 5 745 will be used.

From table 1 it can be deducted that of the 12 categories reflected in the table only torture (which forms only 1, 4% of all the cases in 2013/2014) and systemic corruption (which forms 0, 2% of the 2013/2014 cases) increased with respectively 28 cases (56.0%) and 6 cases. The other 10 categories all decreased with between -5, 2 % for assault and -51, 1 %( 24 cases) for Section 28(1) (h) misconduct. With this, this analyst does not want to diminish the seriousness of torture and systemic corruption. Strictly speaking no case of torture should ever be allowed to occur in the police services and agencies of a democratic country and especially SA with one of the most democratic constitutions in the world. Not only should IPID investigate those cases, but the SAPS management should ask serious questions on how it could ever occur and how it can be prevented in future.

In the rest of this document the focus will be on assault, deaths as a result of police action, rape by police officer and other criminal matters which forms 83, 6% of all cases reported to IPID.

***3.1 Assault.***

In 2013/2014, 3 916 cases of assault were reported to IPID. Nearly 7 out of every 10 cases reported to IPID (68, 2%) was assault which decreased with -5, 2%. On page 39 of the IPID report the assault cases are analysed according to the specific type of assault which is as follows:

|  |  |  |
| --- | --- | --- |
|  | Incidents | Percentages |
| Common assault | 3 101 | 79,2% |
| Assault GBH | 772 | 19.7% |
| Assault: dog attack | 29 | 0,7% |
| Sexual and indecent assault | 12 | 0,3% |
| Assault during crowd management | 2 | 0,1% |

The ratios for assault GBH and common assault was respectively 345.7 and 315.5 for the general population in 2013/2014, while for the South African Police Service it was approximately 395.9 for assault GBH and 1 590.3 for common assault based on the above IPID figures. To put it differently the chances in SA during 2013/2014 that a police officer would assault a person seriously (GBH) was only slightly higher than that of the general population. But when it came to common assault the chances that a police officer would assault a person was at least five times higher. The fact that 79, 2% of all assault cases reported to IPID is common assault and 19, 7% is assault GBH and that the common assault ratio of the police is five times higher than that of the population in itself explain a lot about police assault.

Now if one does not understand police work it will really seems as if the SAPS are a very violent gang of people. But one should see this very disproportional number of assault cases within the context of the work of the police which includes on a daily basis the arrest of suspects and crowd/riot control. Even the police officer who got specific training to arrest suspects will have to use some minimum force in the process. In the SAPS document which should be used to register crimes at police stations, “Crime Definitions to be utilized by police officials for the purposes of opening of Case dockets and the registration thereof on the Crime Administration System.” p.150 common assault is defined as: “Assault is the unlawful and intentional direct or indirect application of force to the body of another person , or threat of application of immediate personal violence to another, in circumstances in which the threatened person is prevailed upon to believe that the person who is threatening him has the intention and power to carry out his threat( see: SAPS.2012. Crime Definitions to be utilized by police officials for purposes of the opening of Cases Dockets and the registration thereof on the Crime Administration System. Issued by Consolidation Notice 2/2012 V.001) The author of the document then also *inter alia* explain the definition further: “The act may consist in the direct or indirect application of force or threats of force.” and “The violence need not be of a serious nature. Even the application of very little force to someone may constitute assault, provided the force applied is not trivial in nature.” Provided this background it is actually remarkable that a police service which carry out 1 392 856 arrests in 2013/2014(according to the SAPS Annual Report for 2013/14 financial year. p.107) only had 3 916 complaints of assault against it-this is only 1 complaint per 356 arrests if it is assumed that all the assaults are arrest related. It is further remarkable that according to the IPID there were only 2 crowd management related assaults, if it is taken into account that during the 2013/2014 financial year there were 1 691 cases of public violence according to [www.saps.gov.za](http://www.saps.gov.za).

It should also be remembered that SA have exceptionally violent criminals who in all probability will resist arrest and even the best trained officer will sometimes be forced to step outside the boundaries of the correct arrest procedure. Where a single well trained police officer will be in a position to arrest a very violent suspect with a minimum of force it may take quite a few officers to arrest one suspect if they are not well-trained and experienced and it is no secret that SAPS lack on both scores. It is especially where a suspect is arrested by a few police officers where: a) the suspect will in all probability experience it as an assault and b) the “pack” mentality of the group of officers may be activated.

Globally police services consists of people appointed from the population according to less or more strict screening, testing and vetting processes. Police officers are not from another planet. They are born in their communities, grew up and are socialized in these communities and it would be unrealistic to expect them to behave differently from that communities. Even if they are vetted and tested and are found to be psychological sound and balanced and with no traces of criminality and unnecessary aggression their experience as police officers and their journey through life will impact on this and can change the person to a very aggressive alcohol and drug abuser with no respect for the rights of others and especially women and children. To work with violence on a daily basis brutalize police officers and can result in post-traumatic stress which again may stimulate aggressive and brutal behaviour of this very same officers especially against violent criminals during arrest. In many countries the investigating officer in cases of extreme violence are not allowed on his /her own to do the arrest or interview/interrogate the suspect/s because of the fear that such an officer may overstep the law.

During 2013/2014 IPID had a workload of 5 959 assault cases (3916 cases reported to IPID during 2013/2014 and 2 043 cases carried over from previous years). IPID completed 3 322(55, 7%) of these cases during 2013/2014- so they investigated it and made recommendations to the SAPS and NPA. IPID made 1 200 criminal recommendations to the NPA and 610 disciplinary recommendations to SAPS during 2013/2014. The reader should be aware that some of these 1 200 and 610 cases may be the same. In the same year only 22 convictions for assault (by the NPA) and 68 disciplinary convictions by SAPS were obtained. Most of those convicted by the NPA for assault got a fine while those disciplined by SAPS got a written or verbal warning.

In only respectively 0, 4% and 1, 1% of the 5 959 assault cases forming the workload of IPID during 2013/2014, criminal convictions by the NPA and disciplinary action by the SAPS were obtained- some of these cases may actually be the same. Clearly this must be an indication that either the IPID, NPA and or the SAPS failed to properly investigate police assault and to ensure that appropriate action is taken against violent police officers or by far the majority of the assaults were the minimum force that the police had to use to do their work and or are figments of the imagination of those on the receiving end of the “violence”.

3.2***) Deaths as a result of police action.*** The IPID correctly refer to these cases as deaths as a result of police action, since these will include:

1*) Real intentional murders.* Some of them intentional, but necessary to either protect the police officers and/or members of the public. So it is literally murders in the line of duty. Police officers, will as other members of the public, from time to time murder somebody intentionally, but not to protect themselves and or members of the public. So for example they also get involved in family conflict and lovers tiffs and as a result of that assault, attempted murder and murder will occur.

2*) Accidental deaths* with no intention to kill/murder, but which may have been through negligence, which strictly speaking will be culpable homicide. Most of these will be as a result of motor vehicle accidents which involved a police vehicle, shooting accidents and cross-fire during shoot outs between the police and criminals. All deaths resulted from these kind of situations will in all probability be registered as culpable homicides.

3) *Suicide and other deaths.* From time to time it happens that the suspects when confronted by the police, especially when they realise that there is no way out, commit suicide. Suspects can also make fatal accidents while been chased by the police. For these cases an inquest docket will in all probability be opened.

So when somebody dies as a result of police action a murder or culpable homicide docket is opened and in some cases it can result in an inquest docket. Only after investigation and especially if arrests are made and the cases then go to court it will become clear if it was a real murder (with intention), a culpable homicide, suicide and or just an accident.

In 2013/2014, 390 incidents/cases with 409 deaths as a result of police action were reported to IPID. Compared to the previous year (2012/2013) it decreased with 9, 5% from 431 incidents/cases in 2012/2013 to 390 in 2013/2014. The ratio of deaths as a result of police action was 209.7 per 100 000 for 2013/2014, while the murder ratio for South Africa was 32.2 and the culpable homicide ratio 21.3- which together is 53.5 per 100 000. So the police killing rate is nearly four times that of the public, but this is not because the police is a killing machine which went out of control. In all probability this elevated police killing rate relative to that of the public will be found in most countries of the world.

On pages 34 to 36 of the 2013/2014 IPID annual report the following circumstances for deaths as a result of police action are provided:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| CIRCUMSTANCES OF DEATH | INCIDENTS | | DEATHS | |
| N | % | N | % |
| “Suspect died during the course of arrest.” | 150 | 38,5 | 158 | 38,6 |
| “Suspect died during the course of a crime.” | 81 | 20,8 | 84 | 20,5 |
| “Negligent handling of an official vehicle…” | 32 | 8,2 | 32 | 7,8 |
| “Domestic Violence related deaths”. | 32 | 8,2 | 39 | 9,5 |
| “Private capacity related death”. | 26 | 6,7 | 26 | 6,4 |
| “Suspect died during the course of an investigation.” | 23 | 5,9 | 23 | 5,7 |
| “Negligent handling of a firearm …” | 18 | 4,6 | 19 | 4,6 |
| “Innocent bystander died during commission of a crime.” | 12 | 3,1 | 12 | 2,9 |
| “Crowd Management related incidents.” | 11 | 2,8 | 11 | 2,7 |
| “Suspect died during the course of an escape.” | 5 | 1,3 | 5 | 1,2 |
| TOTAL | 390 | 100,0 | 409 | 100,0 |

If the above information is scrutinized it clearly indicates that by far the majority of deaths as a result of police action occurred in the line of duty:

--Just more than two thirds (71, 6%) of deaths occurred during arrest situations, where the police confront suspects committing a crime and a shootout and/or chase ensue, during investigation and crowd management situations – that is in 72,4% of all the incidents.

--At least 88, 4% of these deaths were caused by the use of a service firearm.

--Respectively 67, 0%, 15, 9% and 14, 1% of the deaths as a result of police action (390) and deaths in police custody (234) occurred at the crime scene, hospital/clinic and police cells. It seems that most of the 67, 0 % deaths (which is 418 cases) which occurred at the crime scenes are as a result of police action.

--IPID (see p.44 of Annual Report 2013/2014) investigated 593 cases of deaths as a result of police action—that was the 390 plus 203 which were carried over from 2012/2013. Of the 593 cases of death as a result of police action the IPID completed 379 cases which is 63, 9% during 2013/2014( so it in all probability carried over 214 cases to the current 2014/2015 financial year). To IPID (Annual Report, 2013/2014, p.45) completed indicate that it:”…has done everything within its ability to obtain evidence in order to make recommendations (criminal and disciplinary) on the case.” The 2013/2014 Annual Report of IPID indicate on page 51 and 52 that 72(12, 1%) of the 593 cases of death as a result of police action were referred to the NPA with criminal recommendations and 63(10, 6%) of the 593 cases were referred to SAPS with disciplinary recommendations. The reader should be reminded that the 72 referred to the NPA and the 63 referred to SAPS can be the same cases or at least some can be the same cases.

On page 60 of the annual report of IPID it is state that 27 criminal convictions for deaths as a result of police action was obtained during 2013/2014. This is 4, 6% of the 593 cases of death as a result of police action investigated by IPID during 2013/23014. A scrutiny of the detail of the cases revealed that there were 19 convictions for murder and 12 for culpable homicide. In the case of 11 of the 19 convictions for murder imprisonment of more than ten years were obtained while in 6 imprisonment of less than ten years were obtained.

***3.3) Rape by police officer/s***

During 2013/2014 there were 121 rape by police officer cases reported to IPID according to their 2013/2014 Annual Report (p.37-38). A rough ratio calculation indicate that there were 62 rapes per 100 000 police officers compared to the 118.2 sexual offences per 100 000 of the SA population. Unfortunately the SAPS so far for 2013/2014 did not provide separate rape figures on their website but for the years in the past where they did provide separate figures it was always approximately 75% of the sexual offences. If this is still the case for 2013/2014 the population ratio for reported rape will be 88.7 per 100 000 of the population which is also higher than the ratio for the police which was 62 per 100 000. Now it should be emphasized to the reader that when it comes to sexual offences and specifically rape, high and fluctuating underreporting always make analysis and interpretation difficult to say the least. It can be that the underreporting of sexual offences by police officers is higher than for the general population since victims fear the possible consequences more. But then on the other hand it is also a known fact internationally that in some arrest situations of especially female suspects’ allegations of police sexual harassment, including rape, are quick to fly. Many discussions with local and international police officers over the years indicate that one area of policing which is always very problematic is sex work/prostitution and many police officers will turn a blind eye to this phenomena since they don’t want to run the risk of been identified as a rape suspect. Of the 121 cases reported to IPID during 2013/2014, 28, 9% (35 cases) were on duty, while 71, 1% (86 cases) were of duty when the alleged rape occurred. It is probable that in the case of the 35 on duty cases, some of them at least occurred in arrest situations where allegations were made by the suspect which should always be investigated as a matter of utmost urgency so that either the officer should be found guilty and be banned from any police service forever and be criminally prosecuted or cleared and to be called back from suspension. The IPID 2013/2014 Annual Report (p.38) makes the slightly naïve statement: “It is evident that most incidents of rape occurred while police officer(s) were off duty (71%). This state of affairs depicts a picture that raises issues of discipline which is still lacking when members are off duty. This is an area which SAPS management need to address.” This statement is slightly naïve since as already stated in this document the police members are from the community and they live, work and socialize in this community. So they experience the very same societal conditions and forces that often underlie phenomena like rape. If IPID would have analysed the 121 cases reported to them in 2013/2014 they would in all probability made the same findings as was made by the Crime Information Analysis Centre (CIAC) of SAPS with docket analysis amongst the general population. This docket analysis clearly indicate that by far the majority of rapes occur between people knowing each other (e.g. friends, acquaintances, family, colleagues) and that factors like alcohol, drugs, patriarchal culture and a macho-man adaptation to a bad self-image underpins rape and other sexual offences. It will be difficult for any commander in SAPS on a Saturday evening to through sheer discipline prevent an intoxicated member of his/her unit/station spending the night with his girlfriend and believing in his cultural/religious right to have sex with her even if she does not consent at that point.

It was already indicated that when it comes to disciplinary and criminal recommendations of IPID in a specific year, like 2013/2014, they actually work and report on all the cases reported to them in that year plus what was carried over from the previous year. So in 2013/2014 they worked on 163 rape by police officer cases of which 121 was reported in 2013/2014 and 42 cases was carried over from previous years. They investigated 128 of these cases, which was 79% of their workload and in the process made 34 criminal recommendations to the NPA and 28 disciplinary recommendations to SAPS which resulted in 5 criminal convictions by the NPA and 8 disciplinary convictions by SAPS. Two of the five rape convictions got ten year sentences while one got a 15 years and another 18 years. The fifth one got 5 life terms and 284 years for rape, robbery and kidnapping. Of the 8 disciplinary convictions 5 were dismissed from the SAPS and two got suspended dismissals and one a final written warning. The reader should be aware that the 5 criminal and 8 disciplinary convictions can be the same cases or at least overlap.

The fact that respectively only 20, 9% and 17, 2% of the rape by police officer cases investigated by the IPID during 2013/2014 were referred to the NPA as criminal recommendations and to the SAPS as disciplinary recommendations should already raise eyebrows since in the case of rape, different from assault, murder and attempted murder, it can never be in the line of duty and different from rape cases amongst the broad community/public the identity of the suspects is known otherwise the cases would not have been referred to IPID in the first place. So the question already arises were the cases not referred to the NPA and SAPS innocent victims of false allegations or was IPID just not in a position to find enough evidence to make recommendations?

Of the 163 cases of rape by police officer which the IPID investigated during 2013/2014(121 cases reported during that year and 42 carried over from previous years) only 5 (3, 1%) criminal convictions and 8 (4, 9%) disciplinary convictions could be obtained- and at least some of them may be the same cases. Again it has to be stated that either the quality of the IPID recommendations to the NPA and SAPS were highly questionable or the NPA and or the SAPS tend to protect their own or that many of the cases are based on false allegations. Docket analysis or more detailed case analysis is urgently needed to determine the reason for these very low levels of convictions.

The IPID Annual Report( p.38) also refers to 19 cases of rape in police custody but then also indicate in table 10(a) that only 6(31, 6%) of those were allegedly by police officers. More scrutiny of the IPID report reveals that one disciplinary recommendation was made to SAPS and that there were no criminal or disciplinary convictions. Although, according to the report 13 of the 19 cases of rape in police custody were not committed by police officers SAPS still stay responsible for it.

***3.4) Other criminal matters.***

Three hundred and seventy four (374) other criminal cases/ matters were reported to IPID during 2013/2014. The following crimes/criminal matters were included:

INCIDENTS PERCENTAGES Attempted murder. 304 81, 3%

Defeating the ends of justice. 21 5, 6%

Fraud. 17 4, 5%

Malicious damage to property. 7 1, 9%

Pointing of firearm. 7 1, 9%

Theft. 6 1, 6%

Arson. 4 1, 1%

Harassment. 3 0, 8%

Intimidation. 3 0, 8%

Robbery. 1 0, 3%

Perjury 1 0, 3%

TOTAL 374 100, 0%

From the above table it is clear that attempted murder is by far the largest proportion (81, 3%) of other criminal matters. A rough ratio calculation for attempted murder committed by SAPS found it to be 155.9 per 100 000 of its members for 2013/2014, while the attempted murder ratio for the population for the same year was 32.3. So the police attempted murder ratio was nearly five times as high as that of the South African population. As in the case of death as a result of police action and assault, this very high police attempted murder ratio is again as a result of the nature of police work, especially in a violent society. When the police member/s or innocent member/s of the public’s life is under threat the police will shoot to prevent the perpetrator from killing and they must make sure that the perpetrator after that is at least temporary out of action. Strictly speaking the police usually don’t have the intention to kill, but because they have to use firearms to counter firearms the action is registered as an attempted murder. With the registration of attempted murder the question will be asked is there any evidence that the perpetrator, in this case the police member, had the intention to kill the victim. The use of a firearm is actually a very strong indication that the intention was there to kill. The SAPS document: “Crime Definitions to be utilized by police officials for purposes of the opening of Case Dockets and the registration thereof on the Crime Administration System.” (Crime Definitions, 2012, Issued by Consolidation Notice 2/2012 V.001) states (p.154): “If there is evidence to suggest that the suspect wanted to kill the victim but the victim did not die, the charge should be attempted murder. This would normally be the case where a shot with a firearm was fired at the victim (especially where more than one shot was fired or shots were fired at more than one person).” Now as already indicated in the section on death as a result of police action the police often has to use their firearms in situations where they confront armed suspects.

During the 2013/2014 financial year there were only 5 criminal convictions for attempted murder by police officials. Four of these got imprisonment ranging from 5 to18 years. It should be emphasized that these 5 convictions were not necessarily only for the 304 attempted murder cases of the 2013/2014 financial year, but could also be for cases brought forward from previous years. But the fact stays that 1, 6% of convictions for attempted murder where the police perpetrator are known is very small and this is in all probability the clearest indication that most attempted murders that police officers are involved in are in fact in the line of duty. Further support for this is the fact that only in the case of 15 disciplinary recommendations of IPID to SAPS on attempted murder some disciplinary action were taken. That is in 4, 9% of the attempted murder cases. In only two of the 15 cases in which disciplinary action were taken members were dismissed from the service. That is in the case of 0, 7% of attempted murder cases.

Against the background of nearly daily but at least weekly reports of people in police uniform- which may be real or bogus police officers- which are involved in robberies, it is strange that in 2013/2014 only one case of robbery was reported to IPID. Now this can only indicate one or a combination of the following a) the people who are observed in police uniform are mostly bogus police officers b) the real officers who participate are too smart to be arrested c) the real officers have some protection inside the police and d) cases of police officers arrested for robbery are not handed over to IPID to either protect them or because the police feel that they are clearly criminals which should be handled by themselves.