

22 January 2026

The Executive Director (Acting)
Independent Police Investigative Directorate
473B Stanza Bopape Street
Benstra Building, Arcadia
PRETORIA

E-MAIL: [REDACTED]

Dear Dr. H Bila,

**RE: PROGRESS REPORT REGARDING THE ALLEGED MURDER OF EMMANUEL
MBENSE BY MEMBERS OF SAPS, EMPD AND GUARDIAN SECURITY:
BRAKPAN CAS 429/04/2022: OUR REFERENCE: BR13/11/2025**

1. This letter refers to the aforementioned matter and your response on 15 December 2025 to our letter dated 9 December 2025.
2. We reiterate that AfriForum's Private Prosecution Unit has been briefed to act on behalf of the family of Mr Emmanuel Mbense, the deceased, in the Brakpan SAPS case referred to *supra*. We consulted with the family on 18 November 2025 and respecting their wishes, we remain legally briefed as their point of contact for all correspondence and communication.
3. In this letter, we address not only IPID's failure to "*execute its mandate impartially, independently and free of prejudice*" but also your failure to respond to the reasonable request from the family for a substantive update. In summary, your office repeated the

June 2024

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Member Affairs – Email: ledesake@afriforum.co.za • **Directors:** Ms A. Bailey, Mr P.J.W. Buys, Dr H.K. Coetzee, Mr P.L. Dekker, Mr F.J.D. de Klerk, Mr G.R. de Vries,
Dr D.J. Hermann, Mr W.G. Human, Mr C.M. Kriel and Dr R. Pretorius. • **Company Secretary:** Mr W.A. Vogel.
Registration number: 2005/042861/08 • **NGO number:** 054 - 590

uninspiring response that the investigation is at “*an advanced stage*” in your response and the meeting with our clients on 12 December 2025.

4. We acknowledge IPID’s approach to our clients and subsequent meeting with them on 12 December 2025, despite our letter indicating that we hold a brief to deal with IPID on behalf of the family. The inference is apt that this was merely an attempt to assuage their justified distrust of the organisation tasked with investigating Mbense’s murder. We have been informed that the information your investigator, Nomsa Masuku, revealed at the meeting strengthens our suspicion that this investigation was not finalised or prosecuted for an ulterior reason.
5. We are privy to the existence of a video recording that seemingly depicts Mr. Marius van der Merwe, so-called Witness D at the Madlanga Commission, preparing to torture a woman. We will address this aspect later, but we must accept that your investigators are aware of this incident and that the female victim is also known to IPID.
6. Our request to IPID in December was for a transparent and meaningful update on the investigation’s status. Regrettably, your response uses many words but tells us nothing our clients haven’t heard before, and it does nothing to allay their understandable concern that the case hasn’t received attention and may be subject to interference. This pattern was repeated at the 12 December meeting.
7. IPID and SAPS have been telling our clients for over three years that “*arrests are imminent.*” They have been strung along while being given hope that they will receive justice for their loved one’s horrific torture and murder. Accepting that the s204 witness (see para 11.1 *infra*) gave a comprehensive statement corroborated by the discovery of a body found in a dam, it is reasonable to expect arrests and a prosecution. The failure to

act, however, is the aspect that needs clarification, as the ineluctable inference lingers that IPID was unwilling or unable to act.

8. The inability of IPID to deal with matters of this complexity is becoming glaringly evident.
9. We are concerned about the impact Mr Van der Merwe's tragic and brutal assassination now has on the possibility of a successful prosecution for the Mbense murder. We know that IPID was aware of the evidence he was about to present to the Madlanga commission but seemingly took no positive investigative action to address the identified suspects.
10. Regarding this aspect and our ever-growing concern about the suspicious, evident lack of transparency by IPID, it may sway our endeavours to have our concerns subject to an investigation into the historical and ongoing failure by IPID to act against the suspects.
11. We are not privy to the contents of the docket; however, we must record the following evidence, which has been publicly attested to under oath at the Madlanga Commission, which we believe provided sufficient grounds to enrol the case and secure the suspects not only for their own safety but also to prevent them from interfering with ongoing investigations:
 - 11.1. Marius van der Merwe, also known as Witness D, was identified as being involved in the killing of Mbense and a potential witness in terms of s204 of the Criminal Procedure Act 51 of 1977 as far back as early 2023. This, however, was always conditional on the NPA accepting Van der Merwe as a s204 witness.
 - 11.2. Van der Merwe identified at least seven people by name, placed them at the scene of Mbense's murder, and described their respective roles that evening and in the alleged murder. Among those identified was the late Mr. Jaco Hanekom, who Van

der Merwe described as “a SAPS informer of ill repute”. (The relevance of identifying Hanekom will be discussed *infra*.)

- 11.3. Van der Merwe gave a detailed account of the events, including admitting to his involvement in torturing Mbense by holding his legs down with the broken leg of a table, and after discussing how to conceal the crime with the other parties involved, he disposed of Mbense’s body in a dam.
- 11.4. According to Van der Merwe, he gave his first affidavit to a Hawks official in July 2022, three months after the murder, and was then invited to meetings with IPID investigators.
- 11.5. Van der Merwe testified that as far back as July 2022, he was warned that the people he had implicated in the crimes were “*very dangerous*,” and that police officers were afraid to investigate the matter “*because of safety reasons*.” IPID’s unwillingness to act against the suspects not only failed our clients but also their s204 witness, because the people society trusts to protect it are afraid to act against suspects.
- 11.6. Van der Merwe testified that his last contact with IPID officials was in early 2023, when he accompanied them and members of the SAPS to the crime scenes at Mbense’s house and the dam. Van der Merwe says he had no further contact with IPID. This in itself is an indictment of IPID’s ability or willingness to investigate serious crimes, support witnesses, and be victim-focused.
- 11.7. Mr. Revo Spies, a retired deputy chief of the EMPD, testified that Jaco Hanekom was murdered in March 2023. Although the police claimed it was a botched hijacking, Spies suspected Hanekom had been assassinated.

- 11.8. Spies testified that during a March 2023 meeting, IPID investigators informed him and other senior EMPD officials that they had received death threats as a result of the investigation into Mbense's murder and other cases involving a group of SAPS, EMPD and private security officials. We do not know if IPID or the SAPS investigated the threats, but we can reasonably infer that they caused IPID to halt decisive investigative steps.
12. If the evidence presented above is correct, IPID was faced with a possible s204 witness fearing for his life, IPID investigators receiving death threats, and one of the murder suspects himself being murdered. Still, they failed to act decisively against the known suspects.
13. After nearly three years of knowing this, no suspects have been arrested, and another suspect, possibly a s204 witness, has been murdered.
14. Your indignation at our office after we suggested that the delay in finalising this case could be attributed to the overall collapse of the criminal justice system, as well as IPID's possible attempts to shield certain suspects from investigation and prosecution, carries little weight in light of what has been discussed *supra*. We expected introspection and attempts to address the unfortunate delay, but the inability persists, as the case docket was not presented to the NPA for decision and possible prosecution before the 12 December 2025 meeting. The inference is apt that IPID has yet to present the docket to the NPA.
15. Turning to the meeting of 12 December, our clients reported that they were told the following:

- 15.1. Masuku said when Van der Merwe was identified as a possible s204 witness, IPID was prepared to make arrests, but the NPA gave instructions to gather more evidence. As we have previously experienced, role players in the criminal justice system shift the blame when confronted with their failure.

Depending on your response, we will follow up on this version and focus on the engagement timeline between the SAPS and the NPA. To that end, we respectfully request that you notify us of the individual at the DPP's office with whom your office has engaged.

- 15.2. Among the reasons for the three-year delay in finalising the case was that a threat analysis was conducted, and because of safety concerns, the investigators were unable to work and required security teams to protect them. They were told that *"IPID spent a lot of money on security"*. Must we accept that IPID is incapable of investigating and arresting "dangerous" criminals and that, despite requests, the SAPS refused to assist IPID?
- 15.3. Another reason for the delay in the case is that the suspects are linked to several other offences, and IPID needed to build a case against them. This version, if true, will become public as soon as any of the suspects are arrested and appear in court.
- 15.4. Accepting docket has still not been sent to the NPA for a decision, we reiterate that the docket for a murder committed by law enforcement officers on 15 April 2022, in which a s204 witness has been identified, has yet to reach the NPA three years and ten months later.

16. The details surrounding the inexplicable delay in arresting the suspects and enrolling this case will not be kept hidden. Given the circumstances described above, we have not ruled out pursuing charges of defeating the ends of justice against anyone whose actions have shielded parties from prosecution at the cost of human life and created a delay that has allowed dangerous criminals to undermine the pursuit of justice.
17. IPID's failure to act on this case may have exposed other people to torture and assault. Your office's knowledge of the existence of the video and its contents, as referred to *supra* (see para5), which we reiterate seemingly depicts Van der Merwe with a folded plastic packet in his hands while standing behind a woman whom we understand was shortly thereafter subjected to the use of the folded plastic to suffocate her as a form of torture known as "tubing" to elicit information.
18. We hope IPID addressed these allegations, as this would indicate a pattern of criminal conduct by the suspects and support opposing bail to protect the deserving victims.
19. What remains is that Mbense's family, our clients, have no idea if or when anyone will be held accountable for their loved one's brutal torture and murder. We reiterate our request for an update on the case's status and remind you that the Mbense family is legally represented, and all communications should be directed to our office.
20. We deem it appropriate to conclude with the maxim, *quis custodiet ipsos custodes*? Our interest in this matter will not wane, and our office will do what is necessary to ensure justice for the Mbense family.

Yours faithfully,



ADV. GERRIE C NEL

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