queries@ispa.org.za
010 500 1200
www.ispa.org.za
PO Box 518, Noordwyk, 1687

Title	**Reporting cybercrimes**
Last updated	October 2022
Applies to	All members
Source	Criminal law, especially the Cybercrimes Act 19 of 2020
Note	This advisory is intended to provide guidance on lodging criminal complaints with SAPS and attempting to ensure that these are properly taken up and investigated. ISPA obviously cannot vouch for SAPS' acts and failures to act.

Introduction

ISPA often receives queries from members and the public on the correct process to follow when reporting a cybercrime. This Advisory is intended to provide simple advice on lodging a criminal complaint where you or your client is the victim of a cybercrime.

Chapter 2 of the Cybercrimes Act defines what constitutes cybercrimes in South Africa. Crimes of this nature are often encountered by ISPA members, both directly and indirectly through their clients. Members providing voice services and their subscribers are also frequently the target of various kinds of fraud.

Suggested process

There is no set process: the advice below is based on ISPA's consultation with senior SAPS personnel.

1. Draft as short and as simple an affidavit as possible which sets out why you believe a criminal act has taken place (you may want to obtain legal assistance to do this). The affidavit should:
   1.1. Set out the identity and contact details of the complainant;
   1.2. If available, set out the identity and contact details of the alleged perpetrator;
   1.3. Set out the facts which led to the complaint being lodged and refer to or incorporate any available evidence such as IP addresses and log files;
   1.4. Set out the sections of the criminal law which have been breached.
   1.5. Make a clear statement that you wish the matter to be investigated further and to be kept informed of process.
2. Lodge this affidavit with your local police station. Be patient and polite at all times. Due to their workload and priorities the desk officer may not want to receive your complaint - be firmly insistent and ask to escalate the matter internally.

Internet Service Providers' Association NPC **Reg Nr.** 2016 167416 / 08
Board: André van der Walt (Acting Chairperson), Cheryl Dinkelmann (Acting Deputy), Prenesh Padayachee
Sasha Beharilal, Jenna Biggs-White, Dave Gale, Gideon le Grange, Jerry Maleka, Nhlanhla Mkhwanazi, Aurora Vani

3. Ensure that you obtain a reference or CAS number. This is critical in allowing you to follow the matter up.
4. According to internal SAPS procedure, your complaint should be referred to a duty detective within 24 hours. If possible, obtain the name and contact details of this detective, either when lodging the complaint or when following up at a later time.
5. Request that the complaint be escalated to the SAPS cybercrime division as soon as possible. Typically, the duty detective should recognise that the he or she is not able to investigate the matter and refer it to the cybercrime division.
6. You will need to accept that it is up to you to follow-up and create pressure for the matter to be handled professionally – it is not going to be sufficient to go through the motions of lodging a complaint without actively pursuing the matter.
7. If, despite your best efforts, you are not able to obtain the kind of progress you are looking for, you may choose to consult with a lawyer or send mail to regulatory@ispa.org.za and we will see if we can help with escalation.

Conclusion

ISPA is aware that this process can be difficult given the differing priorities of SAPS and the lack of specific training on cybercrime issues. Nevertheless, the more complaints that are lodged and pursued, the easier the process should become.

Over the past few years there have been an increasing number of convictions in South African courts for cybercrimes and that there are some extremely competent SAPS personnel involved in detecting and prosecuting cybercrimes.

Members are encouraged to provide feedback to regulatory@ispa.org.za on their experiences in reporting cybercrimes so that this advice can be improved over time. ISPA will also engage further with SAPS to try and streamline the process.

Version history

Date	Document Version	Revisions
2013-08	1.0	Original
2022-19	1.1	Amendments to reflect commencement of Cybercrimes Act and repeal of criminalising provision in the Electronic Communications and Transactions Act 2002