



**cooperative governance**

Department:  
Cooperative Governance  
**REPUBLIC OF SOUTH AFRICA**

# **The Legal and Constitutional framework of incident command in South Africa**

**Presenter: Mr J J Dysssel**

**Western Cape Incident Command Summit  
20 June 2013**

# Outline of presentation

- 1. Purpose**
- 2. Introduction**
- 3. Legal overview**
- 4. NATJOC**
- 5. Closing**

# 1. Purpose

**Provide an overview of the legal and  
Constitutional framework that underlines ICS in  
South Africa**

## 2. Introduction

The introduction of National Incident Management Systems is not a new concept, as they have been introduced in many countries around the world since their inception in Southern California in the 1970s (Ruff, 1999:1; Cardwell & Cooney, 2000:1).

## 2. Introduction

Unlike other major countries in the world such as the United States of America, British Columbia, Australia and the United Kingdom, that have adopted a national incident management system, **no national standard system currently exists**, outright in law, in South Africa for the integrated and coordinated management of multi agency response operations.



## 2. Introduction



The need for adopting a standardised approach to response management in South Africa was highlighted by various events,

- Various large scale sporting, political and protest actions;
- the veld fires which took place in the Western Cape during the period 15–25 January 2000;
  - World summit on sustainable development...

## 2. Introduction

The **primary problem** which causes general resistance amongst agencies involved in initial emergency response which require the services of allied response agencies, is **the fear** that the application of **incident command** methodology will allow **one agency to exercise command over another agency** or impinge on their authority.

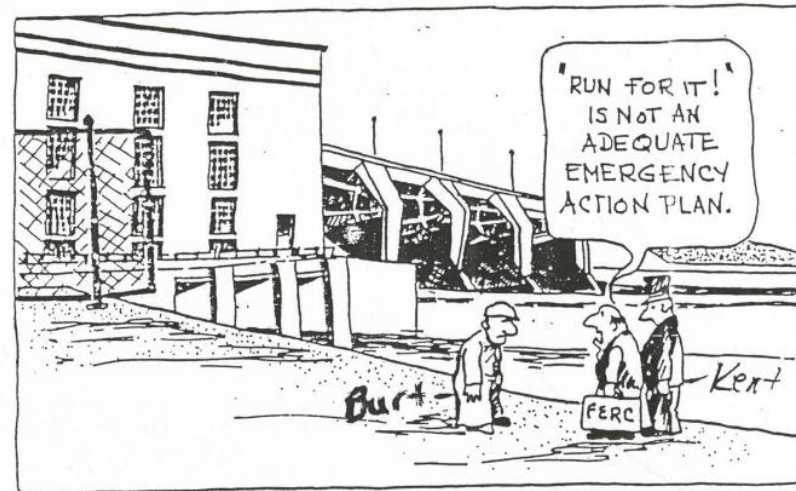
## 2. Introduction

Consequently there is absence of overall management of the *situation*; disjointed operations; lack of co-ordination and interagency communication; disagreement on the plan of action and no central reporting mechanisms.



© Original Artist / Search ID: sb1n144

Rights Available from CartoonStock.com





## 3. Legal overview

It is evident that the scope of practice and the execution of the powers and duties vested in the various response agencies are governed by statutory authority and the competencies of the various spheres of government in which they resort

# 3. Legal overview

## Constitution of South Africa

- Supreme law;
- Chapter 3 (Section 40 and 41)
  - Three spheres that are distinctive, interdependent and interrelated;
  - All spheres must, secure the well-being of the people; respect the powers and functions of the spheres of government; don't assume a power or exercise their powers in a way that encroach on the powers of another sphere; cooperate with one another; coordinate their actions and adhere to agreed procedures.

# 3. Legal overview

## Various line functionary laws,

- Defence Force.
- Disaster Management.
- Emergency Medical Services.
- Fire Services.
- Police Services and Municipal Police Services.
- Road Traffic Services.

# 3. Legal overview

## The Disaster Management Act, 57 of 2002

- provides for “an integrated and co-ordinated disaster management policy which focuses on preventing or reducing the risk of disasters, mitigating the severity of disasters, emergency preparedness, rapid and effective response to disasters and post disaster recovery”. Section, 7(2)(c)(iii) explicitly requires the NDMF to facilitate the establishment of joint standards of practice.

# 3. Legal overview

## The NDMF

- Provides clear policy guidelines for the establishment of integrated institutional arrangements for the purposes of disaster response and recovery planning and operations. Sections 1.1.3, 1.1.3.3 and 1.2.3) prescribes that the heads of centres must: identify all relevant sectors and disciplines involved in contingencies and operational activities associated with disaster response; establish multi-sectoral project teams comprising the relevant sectors identified for each specific threat identified in the disaster risk assessment for the jurisdiction; identify and task a specific sector with primary responsibility to facilitate the development by the project team and the implementation of integrated contingency plans; and identify and task those sectors with support responsibilities

# 3. Legal overview

## The Public Service Regulations

An employee-

- is faithful to the Republic and honours the Constitution and abides thereby in the execution of her or his daily tasks;
- puts the public interest first in the execution of her or his duties;
- loyally executes the policies of the Government of the day in the performance of her or his official duties as contained in all statutory and other prescripts;
- strives to be familiar with and abides by all statutory and other instructions applicable to her or his conduct and duties; and
- co-operates with public institutions established under legislation and the Constitution in promoting the public interest.

# 3. Legal overview

## Other guidelines

- SANS 10264-1 (old SABS 0264-1: 2002 (Edition 1), Disaster management – Part 1: Terminology and implementation:
- SANS 10264-2 (old SABS 0264-2: 2002 (Edition 1), Disaster management – Part 2: All-risk emergency operation planning
- SANS 10264-3 (old SABS 0264-3: 2002 (Edition 1), Disaster management – Part 3: Hazard-specific response planning.
- SANS 10090 Community protection against Fire.
- ARP 22399:2008 (ed1), Societal security - Guideline for incident preparedness and operational continuity management

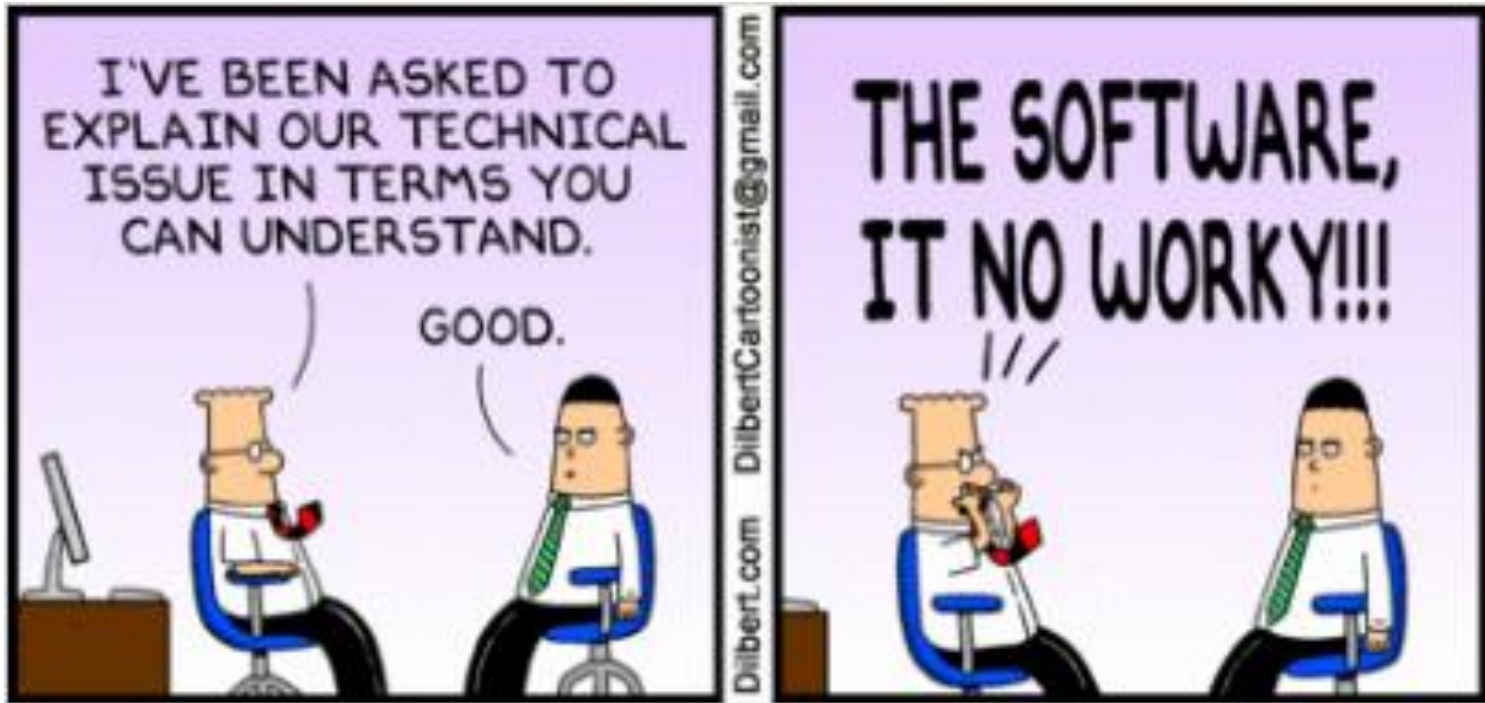
# 4. NATJOC and JOINTS

## **Cabinet decision in 1997**

- Has grown in use and scope of application;
- Is the established joint operations system of government;
- Has been used with great success during various national operations.



## 4. Closing Remark



It is time to acknowledge that our current approach requires revision to the extent that we need to formally conclude guiding standard procedures within the NATJOC as required by the statutes and policies of gov



## cooperative governance

---

Department:  
Cooperative Governance  
**REPUBLIC OF SOUTH AFRICA**

**THANK YOU!**