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QUICK FINDER FOR KEY TOPICS

KWAZULU-NATAL COMMUNITY POLICING POCKET GUIDE

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PURPOSE AND ROLE-PLAYERS IN THE CRIMINAL JUSTICE SYSTEM
1 Purpose

Section 12 of the Constitution of the Republic of South Africa of 1996, enshrines the right of freedom and security of the person and in this regard provides that this includes the right—

(a) not to be deprived of freedom arbitrarily or without just cause;
(b) not to be detained without trial;
(c) to be free from all forms of violence from either public or private sources;
(d) not to be tortured in any way; and
(e) not to be treated or punished in a cruel, inhuman or degrading way.

Section 198 of Chapter 11 of the Constitution further requires national security to reflect the resolve of South Africans, as individuals and as a nation, to live as equals, to live in peace and harmony, to be free from fear and want and to seek a better life and that national security must be pursued in compliance with the law.

The pursuance of national security and the right to freedom and security of the person is a pursuit of the government as well as every person in South Africa. This publication is an information resource to assist community police participants in the Province of KwaZulu-Natal in understanding their role and scope in community policing in the pursuit of national security and the freedom and security of the person.

To this end, it provides an overview of the context within which the Community Police Forums and Boards operate in the Province of KwaZulu-Natal, both from a legal and a practical
2 Purpose and Role-Players in the Criminal Justice System

In this regard, it was firstly important to briefly deal with the roles of the main participants in the criminal justice system. Secondly, the provincial framework for community engagement is explained and thereafter a synopsis of the recent developments in community policing and community crime prevention in KwaZulu-Natal is given. Lastly, the publication contains the relevant legislation, policies and other legal documents pertaining to the establishment and functioning of Community Police Forums and Boards in KwaZulu-Natal.

2 Role-players in the Criminal Justice System

The Criminal Justice System in South Africa is made up of a number of role players and each plays a specific role in the administration of justice in South Africa. Some of the most important role players are the following:

(a) Police—the role of the police is to prevent, combat and investigate crime, to maintain public order, to protect and secure the inhabitants of the Republic and their property, and to uphold and enforce the law;

(b) National Prosecuting Authority (NPA)—the NPA is responsible for prosecuting accused persons in court;

(c) Courts—The judicial authority of the Republic is vested in the courts. The courts are vested with the duty to interpret the law and to decide on the guilt or innocence of an accused person in an independent and impartial manner, without fear, favour or prejudice. The courts are subject only to the Constitution and the law. Chapter 8 of the Constitution gives recognition to the following courts in South Africa:

(i) the Constitutional Court;
(ii) the Supreme Court of Appeal;
(iii) the High Courts;
(iv) the Magistrates Courts; and
(v) various other Courts which are established or recognised in terms of an Act of Parliament such as:—
the Small Claims Courts which deal with civil matters where the claim is less than R12 000;

the Electoral Court which deals with electoral issues, for example when there is a dispute among political parties concerning the elections;

the Labour Court which deals with issues pertaining to labour relations;

the Land Claims Courts which deal with matters of land redistribution;

Equality Courts which deal with complaints that are about unfair discrimination, hate speech or harassment;

Children’s Courts which have been established to deal with matters related to the well-being and interests of children; and

Courts for Chiefs and Headmen which have jurisdiction to hear certain matters on the level of magistrate’s courts. They are designed to deal with customary issues in terms of customary law.

In criminal matters, the Courts decide on whether the suspected criminal must be granted bail pending trial, whether suspected criminal is guilty beyond reasonable doubt and to sentence a guilty person to a fine or imprisonment;

(d) Correctional Services—after a person has been sentenced to imprisonment, the Department of Correctional Services takes the person into custody for the period specified by the courts and during that period attempts to correct the behaviour of the person. This department also administers the release of prisoners on parole;

(e) Department of Community Safety and Liaison—provides civilian oversight over the police by monitoring the police, investigating complaints of poor service, building good relations between the police and the
community, building community safety partnerships, developing safety structures, determining policing needs and priorities and providing direction on community police forums and boards;

(f) **Community Police Forums (CPF)s**—are forums or meeting places created by legislation for purposes of liaison between the Police Service and all components of society to improve police service delivery by joint problem identification and solving;

(g) **Community Crime Prevention Associations**—are voluntary associations, such as neighbourhood watches. They engage in crime prevention activities within the boundaries of the law, including street, village and hot-spot patrols, receiving reports from their constituents and other community members on suspected criminal and criminal incidents, managing criminal or suspected criminal incidents encountered whilst on street, village and hot-spot patrols in accordance with set guidelines, sharing information with the Police Service and CPFs and report suspected criminal and criminal incidents to the Police Service;

(h) **Community Safety Forums (CSFs)**—are multi-agency structures established at a district level to ensure the coordination of all community safety efforts, such as safety through environmental design, restorative justice, diversion, rehabilitation and re-integration of offenders and the like, by government and civil society to address the specific needs of each district municipality.
PROVINCIAL FRAMEWORK FOR
COMMUNITY ENGAGEMENT ON
CRIME PREVENTION
AND POLICING
3 Provincial Framework for Community Engagement on Crime Prevention and Policing

The Civilian Secretariat for Police Service Act, enacted in 2011, requires provinces to develop community safety partnerships, thereby giving legislative life to the ‘Building A United Front Against Crime’ programme, initiated by the KwaZulu-Natal Department of Community Safety and Liaison in 2009. This programme entails the mobilisation of all sectors of society in a concerted and sustained campaign to significantly reduce crime levels in the Province.

In order to formalise the implementation of this programme, the Executive Council of the Province of KwaZulu-Natal approved a holistic framework for community engagement on 4 December 2012, through which the government can reach partners, develop partnerships, develop safety models and drive safety initiatives. The framework was designed to accommodate liaison with communities and stakeholders from a provincial level down to a voting district level and, at the same time, promote synergy between the role-players and structures operating within the criminal justice system.

3.1 KwaZulu-Natal Council Against Crime

On a provincial level, there was no existing permanent platform which could be used as a structured engagement vehicle between the Provincial Government, Civil Society and the national structures in pursuance of all the mandates of the department and to improve the scope and effectiveness of its programmes.
A permanent advisory and consultative platform in the form of the KwaZulu-Natal Council Against Crime has been established. The Council comprises of representatives of the Premier, Members of the Executive Council, the Justice Crime Prevention and Security Cluster, the House of Traditional Leaders, Religious Leaders, Business, Youth, Organised Labour, the Provincial Community Police Board, the KZN Community Crime Prevention Association and the Private Security Industry.

The key elements of the terms of reference of the council are:

(a) to provide strategic advice and guidance on, and assist in the development of safety and crime prevention strategies for the Province of KwaZulu-Natal;

(b) to facilitate, guide and contribute to safety and crime prevention research and project activities;

(c) to facilitate support to key government and non-government organisations in the pursuance of their safety and crime prevention strategies;

(d) initiating and facilitating such working groups as may be necessary to assist in the development, encouragement and promotion of safety and crime prevention programmes and activities; and

(e) facilitating, encouraging and promoting broad societal education programmes for people of all ages in KwaZulu-Natal on the prevention of crime in the community, with our initial focus on those who are involved in crime fighting structures.

3.2 District Community Safety Forums

On a district level, the role of the Council is fulfilled by District Community Safety Forums (CSFs), which are structures founded on the principles of the National Crime Prevention Strategy and entrenched in the Policy on the Establishment of CSFs, approved by the Justice, Crime Prevention and Security Cluster in June 2012. CSFs are multi-agency structures established at a district level to ensure the coordination of community safety efforts by government and civil society to address the specific needs of each district.
The composition and terms of reference of the Council are replicated in respect of District CSFs to ensure that they perform the role of coordination centres of district community safety networks and the function of driving the production and implementation of the safety components of Integrated Development Plans (IDPs).

3.3 Local Safety Teams and Ward Safety Committees

On a local level, the department uses Community Police Forums (CPFs) to liaise with communities. However, these platforms have the following challenges:

(a) the effectiveness of some of these structures have been less than optimal due to the lack of a holistic community liaison framework;
(b) some of the representatives do not represent all the constituents in all communities;
(c) all constituents of communities are therefore not reached through these structures;
(d) there is no direct link between these structures and constituents at a ward and voting district level; and
(e) planning at local as well as ward level cannot therefore be done accurately through these structures.

The framework therefore provides for a liaison mechanism which is directly linked to ward and voting district levels to remedy these challenges. In terms of the framework residents in each voting district shall form a safety team of approximately 10 members and elect from among themselves a coordinator. The terms of reference of the Safety Team are to—

(a) identify community safety needs in the voting district, including needs relating to infrastructure and environmental design to improve safety;
(b) identify policing priorities in the voting district;
(c) identify crime trends in the voting district;
(d) monitor visible policing on the voting district;
(e) forming street committees/community crime prevention associations in the voting district to undertake—

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street, village and hot-spot patrols;
✓ receiving reports from residents on suspected criminal and criminal incidents; and
✓ managing criminal or suspected criminal incidents encountered whilst on street, village and hot-spot patrols;

(f) keeping the Police Service and CPF informed of scheduled street, village and hot-spot patrols;

(g) ensuring that reports from residents on suspected criminal and criminal incidents are brought to the attention of the Police Service and the CPF;

(h) ensuring that criminal or suspected criminal incidents are managed in accordance with the guidelines attached hereto;

(i) for the abovementioned purposes, make available a list of contact details of its members, members of street committees and their areas of operation to the SAPS, CPF and department; and

(j) report on its activities to the ward safety committee through the coordinator.

The coordinators of all the safety teams in each ward would constitute a ward safety committee. The safety coordinator designated by the ward committee would coordinate the ward safety committee. The ward safety coordinator would attend the ward war room and ensure that the safety issues raised by the safety teams are tabled at the war room.

The ward safety committee coordinators would form part of the CPF within which boundary they fall and provide input in the decision making processes of the CPF and the development of the Community Safety Plan of the CPF. There are 185 CPFs in the Province.

All the ward safety committee coordinators in a local municipal area would constitute the local municipal safety committee of which the coordinator would be the safety representative of the...
Exco of the Municipal Council. The local municipal safety committee must contribute to the IDP in respect of community safety matters.

All the local safety committee coordinators would form part of the Cluster Community Police Boards within which area they fall. There are 25 SAPS Clusters in the Province.

In turn, all the safety representatives in a district municipality would constitute a district safety committee. The district safety committee would form part of the district Community Safety Forum where other stakeholders in the criminal justice system are represented.

Similarly all district safety committee coordinators would constitute a provincial safety committee, which would be represented at the KZNACAC.
RECENT DEVELOPMENTS IN COMMUNITY POLICING
4 Recent Developments in Community Policing

4.1 Lack of clarity on the role of CPFs
The KwaZulu-Natal Provincial Community Policing Board has experienced many challenges over the past few years and to a great extent, there was a lack of understanding of the role and functioning of CPFs in relation to the police. The lack of understanding has on occasion led to CPF members performing functions falling outside the ambit of their objectives and trespassed on the domain of the police. This in turn has resulted in tensions and a lack of mutual trust and cooperation necessary for a proper working relationship between the CPFs and the Police.

4.2 Lack of Legitimacy
On the other hand, the CPFs are perceived by some community members as lacking legitimacy and considered to be not inclusive of the all the stakeholders in the community. There are also perceptions in the community that the CPFs are a stepping stone for political ambitions and this estranges those in the community willing to volunteer their time and efforts.

4.3 Lack of Funding
Funding is also an issue that has also consistently hampered the proper functioning of CPFs with the result that most often CPFs are challenged in initiating or sustaining programmes. The Province is funding the CPFs as part of the duty placed on it by the Constitution to promote good relations between the community and the police.
4.4 Proper Legal Framework

CPF’s are governed by a legislative framework which, as a result of not being interpreted properly, resulted in the CPF’s lacking legal legitimacy. The legislative framework directs how they are to be formed and their functions. This framework further requires the CPF’s to have a Constitution that meets certain criteria such as specifying the executive composition as well as their individual and collective roles. The framework also requires the Constitution to provide the name of the particular forum, sub-forum or board and indicate the aims and objectives of the board, a code of conduct for members, the composition and the powers and functions of the executive committee.

4.5 Re-establishment of the Provincial Community Police Board

The previous Board was not sufficiently inclusive, lacked the support of the community and did not have a proper constitution that complied with the legislative framework for the establishment and proper functioning of CPF’s. For this reason, the Provincial Commissioner dissolved the Board in 2011 and appointed a steering committee to oversee the re-establishment of the Board under a new constitution.

The Province in its Department of Community Safety and Liaison assisted the steering committee to revise the constitution to be in line with the legislative requirements that are set out in the South African Constitution, South African Police Service Act, 1995 and the South African Police Service Interim Regulations for Community Police Forums and Boards, 2001.

The new constitution was adopted and signed by the Provincial Commissioner and the newly elected chairperson in October 2012.

Elections in terms thereof took place on 20 October 2012. The constitution and the election process have set new national benchmarks. For the first time representation of the Youth Desk on the Provincial Board is provided for in the constitution to ensure a direct link to the youth.

In addition to the constitution, the Province has a memorandum
of understanding which binds the Province to render logistical support to the Board which includes facilitating training of members of the Board and meetings and workshops of the Board. The Province will also assist the Board to source funding and provide guidance to the Board in respect of their operation and functions.

The next phase of the revitalisation of the community police structures in the Province entailed replicating the abovementioned process in all 25 police clusters under the leadership of the newly elected Executive Committee and re-established Board and thereafter doing so in respect of all the Community Police Forums. In order to ensure that the Board remains stable throughout this process, it was imperative that a systematic, piecemeal and thoroughly consulted approach be followed. This process includes re-establishing Youth Desks under each CPF under a sub-forum constitution.
RECENT DEVELOPMENTS IN
COMMUNITY CRIME PREVENTION
5 Recent Developments in Community Crime Prevention

When mentioning specific community crime prevention associations, the most notable being isikobhe, mostly negative responses are received, both within and outside government. These responses invariably include statements such as 'many people are against them, they must be shut down'. Whilst one has appreciation for the underlying reasons for such statements, it has to be said that they are rather unfair, unrealistic and unconstitutional statements. Unfair because there are many crime prevention associations in almost all parts of the province, which have taken many shapes and forms. Some are called neighbourhood watches, others street committees and yet others go nameless. If we 'shut them down' we would be committing an unforgivable disservice to crime prevention and our people. The statements are unrealistic because the immense frustration with crime would counteract any attempts to disband such organisations. And such statements are unconstitutional because the Constitution provides that everyone has the right to freedom of association and everyone has the right to protect themselves and their communities.

In reality, the emergence of these associations presented both a challenge and an opportunity to government. The government was faced with groupings of people who are largely unregulated and operating outside CPF structures and, at times, even outside the boundaries of the law. It was also faced with many residents who have taken it upon themselves to protect themselves and others without any reward other than safety itself.
The government therefore had to recognise the constitutional right of these organisations to exist as long as they operate within the confines of the law. Government also had to recognise that CPFs are not the only structures in existence which are concerned with policing and crime prevention and that in fact Chapter 7 of the South African Police Service Act of 1995 provides specifically that the South African Police Service may liaise with the community by means other than through community police forums and boards.

Section 206 of the Constitution requires provincial governments to promote good relations between the police and communities. Building a bridge between the police and these other structures is therefore a legal obligation for our government. The implementation thereof has become critical for effective policing and preventing people from taking the law into their own hands, to their own detriment and that of their communities.

Moreover, Section 3 of the Nonprofit Organisations Act of 1997, requires every organ of state, within the limits prescribed by law, to determine and coordinate the implementation of its policies and measures in a manner designed to promote, support and enhance the capacity of nonprofit organisations to perform their functions.

The provincial government has therefore embarked on a programme to educate and capacitate voluntary crime prevention organisations to better understand the laws of our country and to organise themselves into legally recognised associations. The education and capacitation programme included the facilitation of the formation of an umbrella body called the KwaZulu-Natal Community Crime Prevention Association (hereafter “the KZNCCPA”). The KZNCCPA adopted its constitution on 12 November 2012 and the salient aims and objectives of the Association are to—

(i) encourage social networking in the fight against crime within the confines of the law;
(ii) promote broad public participation in government initiatives to fight crime, including taking part in CPF activities;

(iii) foster partnerships with the Police Service, civil society organisations and business to fight crime; and

(iv) lead the campaign against police killings and police brutality.

The constitution includes a Code of Conduct, which regulates the conduct of these organisations. Any contravention of which by a member of the KZNCCPA or its representative shall constitute misconduct and the disciplinary procedure prescribed in the constitution must be followed.

The Honourable Premier of KwaZulu-Natal publicly launched the KZNCCPA on 12 November 2012 to 13 November 2012, whereat the first election of the Executive Committee was held. The department subsequently concluded a Memorandum of Understanding with the Association, which clarified the role of the KZNCCPA.

The formation of the KZNCCPA has been met with a measure of wariness on the part of some CPF members. In order to address this challenge, a Memorandum of Understanding was developed to clarify the role of the KZNCCPA as well as the role of the CPFs and to regulate their interaction.
LEGAL DOCUMENTS
THE SOUTH AFRICAN CONSTITUTION:
CHAPTER 2—BILL OF RIGHTS
(ss 7–39)

7 Rights
(1) This Bill of Rights is a cornerstone of democracy in South Africa. It enshrines the rights of all people in our country and affirms the democratic values of human dignity, equality and freedom.
(2) The state must respect, protect, promote and fulfill the rights in the Bill of Rights.
(3) The rights in the Bill of Rights are subject to the limitations contained or referred to in section 36, or elsewhere in the Bill.

8 Application
(1) The Bill of Rights applies to all law, and binds the legislature, the executive, the judiciary and all organs of state.
(2) A provision of the Bill of Rights binds a natural or a juristic person if, and to the extent that, it is applicable, taking into account the nature of the right and the nature of any duty imposed by the right.
(3) When applying a provision of the Bill of Rights to a natural or juristic person in terms of subsection (2), a court—
   (a) in order to give effect to a right in the Bill, must apply, or if necessary develop, the common law to the extent that legislation does not give effect to that right; and
   (b) may develop rules of the common law to limit the right, provided that the limitation is in accordance with section 36 (1).
(4) A juristic person is entitled to the rights in the Bill of Rights to the extent required by the nature of the rights and the nature of that juristic person.
9 Equality

(1) Everyone is equal before the law and has the right to equal protection and benefit of the law.

(2) Equality includes the full and equal enjoyment of all rights and freedoms. To promote the achievement of equality, legislative and other measures designed to protect or advance persons, or categories of persons, disadvantaged by unfair discrimination may be taken.

(3) The state may not unfairly discriminate directly or indirectly against anyone on one or more grounds, including race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth.

(4) No person may unfairly discriminate directly or indirectly against anyone on one or more grounds in terms of subsection (3). National legislation must be enacted to prevent or prohibit unfair discrimination.

(5) Discrimination on one or more of the grounds listed in subsection (3) is unfair unless it is established that the discrimination is fair.

10 Human dignity

Everyone has inherent dignity and the right to have their dignity respected and protected.

11 Life

Everyone has the right to life.

12 Freedom and security of the person

(1) Everyone has the right to freedom and security of the person, which includes the right—

(a) not to be deprived of freedom arbitrarily or without just cause;

(b) not to be detained without trial;
to be free from all forms of violence from either public or private sources;
(d) not to be tortured in any way; and
(e) not to be treated or punished in a cruel, inhuman or degrading way.

(2) Everyone has the right to bodily and psychological integrity, which includes the right—
(a) to make decisions concerning reproduction;
(b) to security in and control over their body; and
(c) not to be subjected to medical or scientific experiments without their informed consent.

13 Slavery, servitude and forced labour
No one may be subjected to slavery, servitude or forced labour.

14 Privacy
Everyone has the right to privacy, which includes the right not to have—
(a) their person or home searched;
(b) their property searched;
(c) their possessions seized; or
(d) the privacy of their communications infringed.

15 Freedom of religion, belief and opinion
(1) Everyone has the right to freedom of conscience, religion, thought, belief and opinion.
(2) Religious observances may be conducted at state or state-aided institutions, provided that—
(a) those observances follow rules made by the appropriate public authorities;
(b) they are conducted on an equitable basis; and
(c) attendance at them is free and voluntary.

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(3) (a) This section does not prevent legislation recognising—
   (i) marriages concluded under any tradition, or a system of religious, personal or family law; or
   (ii) systems of personal and family law under any tradition, or adhered to by persons professing a particular religion.

(b) Recognition in terms of paragraph (a) must be consistent with this section and the other provisions of the Constitution.

16 Freedom of expression
(1) Everyone has the right to freedom of expression, which includes—
   (a) freedom of the press and other media;
   (b) freedom to receive or impart information or ideas;
   (c) freedom of artistic creativity; and
   (d) academic freedom and freedom of scientific research.
(2) The right in subsection (1) does not extend to—
   (a) propaganda for war;
   (b) incitement of imminent violence; or
   (c) advocacy of hatred that is based on race, ethnicity, gender or religion, and that constitutes incitement to cause harm.

17 Assembly, demonstration, picket and petition
Everyone has the right, peacefully and unarmed, to assemble, to demonstrate, to picket and to present petitions.

18 Freedom of association
Everyone has the right to freedom of association.

19 Political rights
(1) Every citizen is free to make political choices, which includes the right—
(a) to form a political party;
(b) to participate in the activities of, or recruit members for, a political party; and
(c) to campaign for a political party or cause.

(2) Every citizen has the right to free, fair and regular elections for any legislative body established in terms of the Constitution.

(3) Every adult citizen has the right—
(a) to vote in elections for any legislative body established in terms of the Constitution, and to do so in secret; and
(b) to stand for public office and, if elected, to hold office.

20 Citizenship
No citizen may be deprived of citizenship.

21 Freedom of movement and residence
(1) Everyone has the right to freedom of movement.
(2) Everyone has the right to leave the Republic.
(3) Every citizen has the right to enter, to remain in and to reside anywhere in, the Republic.
(4) Every citizen has the right to a passport.

22 Freedom of trade, occupation and profession
Every citizen has the right to choose their trade, occupation or profession freely. The practice of a trade, occupation or profession may be regulated by law.

23 Labour relations
(1) Everyone has the right to fair labour practices.
(2) Every worker has the right—
(a) to form and join a trade union;
(b) to participate in the activities and programmes of a trade union; and
to strike.

(3) Every employer has the right—
(a) to form and join an employers’ organisation; and
(b) to participate in the activities and programmes of an employers’ organisation.

(4) Every trade union and every employers’ organisation has the right—
(a) to determine its own administration, programmes and activities;
(b) to organise; and
(c) to form and join a federation.

(5) Every trade union, employers’ organisation and employer has the right to engage in collective bargaining. National legislation may be enacted to regulate collective bargaining. To the extent that the legislation may limit a right in this Chapter, the limitation must comply with section 36 (1).

(6) National legislation may recognise union security arrangements contained in collective agreements. To the extent that the legislation may limit a right in this Chapter the limitation must comply with section 36 (1).

24 Environment

Everyone has the right—
(a) to an environment that is not harmful to their health or well-being; and
(b) to have the environment protected, for the benefit of present and future generations, through reasonable legislative and other measures that—
(i) prevent pollution and ecological degradation;
(ii) promote conservation; and
(iii) secure ecologically sustainable development and use of natural resources while promoting justifiable economic and social development.
25 Property

(1) No one may be deprived of property except in terms of law of general application, and no law may permit arbitrary deprivation of property.

(2) Property may be expropriated only in terms of law of general application—
   (a) for a public purpose or in the public interest; and
   (b) subject to compensation, the amount of which and the time and manner of payment of which have either been agreed to by those affected or decided or approved by a court.

(3) The amount of the compensation and the time and manner of payment must be just and equitable, reflecting an equitable balance between the public interest and the interests of those affected, having regard to all relevant circumstances, including—
   (a) the current use of the property;
   (b) the history of the acquisition and use of the property;
   (c) the market value of the property;
   (d) the extent of direct state investment and subsidy in the acquisition and beneficial capital improvement of the property; and
   (e) the purpose of the expropriation.

(4) For the purposes of this section—
   (a) the public interest includes the nation’s commitment to land reform, and to reforms to bring about equitable access to all South Africa’s natural resources; and
   (b) property is not limited to land.

(5) The state must take reasonable legislative and other measures, within its available resources, to foster conditions which enable citizens to gain access to land on an equitable basis.

(6) A person or community whose tenure of land is legally insecure as a result of past racially discriminatory laws or
practices is entitled, to the extent provided by an Act of Parliament, either to tenure which is legally secure or to comparable redress.

(7) A person or community dispossessed of property after 19 June 1913 as a result of past racially discriminatory laws or practices is entitled, to the extent provided by an Act of Parliament, either to restitution of that property or to equitable redress.

(8) No provision of this section may impede the state from taking legislative and other measures to achieve land, water and related reform, in order to redress the results of past racial discrimination, provided that any departure from the provisions of this section is in accordance with the provisions of section 36 (1).

(9) Parliament must enact the legislation referred to in subsection (6).

26 Housing

(1) Everyone has the right to have access to adequate housing.

(2) The state must take reasonable legislative and other measures, within its available resources, to achieve the progressive realisation of this right.

(3) No one may be evicted from their home, or have their home demolished, without an order of court made after considering all the relevant circumstances. No legislation may permit arbitrary evictions.

27 Health care, food, water and social security

(1) Everyone has the right to have access to—

(a) health care services, including reproductive health care;

(b) sufficient food and water; and

(c) social security, including, if they are unable to support themselves and their dependants, appropriate social assistance.

(2) The state must take reasonable legislative and other measures, within its available resources, to achieve the progressive realisation of each of these rights.
(3) No one may be refused emergency medical treatment.

28 Children

(1) Every child has the right—

(a) to a name and a nationality from birth;
(b) to family care or parental care, or to appropriate alternative care when removed from the family environment;
(c) to basic nutrition, shelter, basic health care services and social services;
(d) to be protected from maltreatment, neglect, abuse or degradation;
(e) to be protected from exploitative labour practices;
(f) not to be required or permitted to perform work or provide services that—
   (i) are inappropriate for a person of that child’s age; or
   (ii) place at risk the child’s well-being, education, physical or mental health or spiritual, moral or social development;
(g) not to be detained except as a measure of last resort, in which case, in addition to the rights a child enjoys under sections 12 and 35, the child may be detained only for the shortest appropriate period of time, and has the right to be—
   (i) kept separately from detained persons over the age of 18 years; and
   (ii) treated in a manner, and kept in conditions, that take account of the child’s age;
(h) to have a legal practitioner assigned to the child by the state, and at state expense, in civil proceedings affecting the child, if substantial injustice would otherwise result; and
(i) not to be used directly in armed conflict, and to be protected in times of armed conflict.
(2) A child’s best interests are of paramount importance in every matter concerning the child.

(3) In this section ‘child’ means a person under the age of 18 years.

### 29 Education

1. Everyone has the right—
   - (a) to a basic education, including adult basic education; and
   - (b) to further education, which the state, through reasonable measures, must make progressively available and accessible.

2. Everyone has the right to receive education in the official language or languages of their choice in public educational institutions where that education is reasonably practicable. In order to ensure the effective access to, and implementation of, this right, the state must consider all reasonable educational alternatives, including single medium institutions, taking into account—
   - (a) equity;
   - (b) practicability; and
   - (c) the need to redress the results of past racially discriminatory laws and practices.

3. Everyone has the right to establish and maintain, at their own expense, independent educational institutions that—
   - (a) do not discriminate on the basis of race;
   - (b) are registered with the state; and
   - (c) maintain standards that are not inferior to standards at comparable public educational institutions.

4. Subsection (3) does not preclude state subsidies for independent educational institutions.
30 Language and culture
Everyone has the right to use the language and to participate in the cultural life of their choice, but no one exercising these rights may do so in a manner inconsistent with any provision of the Bill of Rights.

31 Cultural, religious and linguistic communities
(1) Persons belonging to a cultural, religious or linguistic community may not be denied the right, with other members of that community—
   (a) to enjoy their culture, practise their religion and use their language; and
   (b) to form, join and maintain cultural, religious and linguistic associations and other organs of civil society.
(2) The rights in subsection (1) may not be exercised in a manner inconsistent with any provision of the Bill of Rights.

32 Access to information
(1) Everyone has the right of access to—
   (a) any information held by the state; and
   (b) any information that is held by another person and that is required for the exercise or protection of any rights.
(2) National legislation must be enacted to give effect to this right, and may provide for reasonable measures to alleviate the administrative and financial burden on the state.

33 Just administrative action
(1) Everyone has the right to administrative action that is lawful, reasonable and procedurally fair.
(2) Everyone whose rights have been adversely affected by administrative action has the right to be given written reasons.
(3) National legislation must be enacted to give effect to these rights, and must—
34 Access to courts

Everyone has the right to have any dispute that can be resolved by the application of law decided in a fair public hearing before a court or, where appropriate, another independent and impartial tribunal or forum.

35 Arrested, detained and accused persons

(1) Everyone who is arrested for allegedly committing an offence has the right—

(a) to remain silent;

(b) to be informed promptly—

(i) of the right to remain silent; and

(ii) of the consequences of not remaining silent;

(c) not to be compelled to make any confession or admission that could be used in evidence against that person;

(d) to be brought before a court as soon as reasonably possible, but not later than—

(i) 48 hours after the arrest; or

(ii) the end of the first court day after the expiry of the 48 hours, if the 48 hours expire outside ordinary court hours or on a day which is not an ordinary court day;

(e) at the first court appearance after being arrested, to be charged or to be informed of the reason for the detention to continue, or to be released; and

(f) to be released from detention if the interests of justice permit, subject to reasonable conditions.
(2) Everyone who is detained, including every sentenced prisoner, has the right—
   (a) to be informed promptly of the reason for being detained;
   (b) to choose, and to consult with, a legal practitioner, and to be informed of this right promptly;
   (c) to have a legal practitioner assigned to the detained person by the state and at state expense, if substantial injustice would otherwise result, and to be informed of this right promptly;
   (d) to challenge the lawfulness of the detention in person before a court and, if the detention is unlawful, to be released;
   (e) to conditions of detention that are consistent with human dignity, including at least exercise and the provision, at state expense, of adequate accommodation, nutrition, reading material and medical treatment; and
   (f) to communicate with, and be visited by, that person’s—
      (i) spouse or partner;
      (ii) next of kin;
      (iii) chosen religious counsellor; and
      (iv) chosen medical practitioner.

(3) Every accused person has a right to a fair trial, which includes the right—
   (a) to be informed of the charge with sufficient detail to answer it;
   (b) to have adequate time and facilities to prepare a defence;
   (c) to a public trial before an ordinary court;
   (d) to have their trial begin and conclude without unreasonable delay;
   (e) to be present when being tried;
   (f) to choose, and be represented by, a legal practitioner, and to be informed of this right promptly;
(g) to have a legal practitioner assigned to the accused person by the state and at state expense, if substantial injustice would otherwise result, and to be informed of this right promptly;

(h) to be presumed innocent, to remain silent, and not to testify during the proceedings;

(i) to adduce and challenge evidence;

(j) not to be compelled to give self-incriminating evidence;

(k) to be tried in a language that the accused person understands or, if that is not practicable, to have the proceedings interpreted in that language;

(l) not to be convicted for an act or omission that was not an offence under either national or international law at the time it was committed or omitted;

(m) not to be tried for an offence in respect of an act or omission for which that person has previously been either acquitted or convicted;

(n) to the benefit of the least severe of the prescribed punishments if the prescribed punishment for the offence has been changed between the time that the offence was committed and the time of sentencing; and

(o) of appeal to, or review by, a higher court.

(4) Whenever this section requires information to be given to a person, that information must be given in a language that the person understands.

(5) Evidence obtained in a manner that violates any right in the Bill of Rights must be excluded if the admission of that evidence would render the trial unfair or otherwise be detrimental to the administration of justice.

36 Limitation of rights

(1) The rights in the Bill of Rights may be limited only in terms of law of general application to the extent that the limitation is reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom, taking into account all relevant factors, including—
(a) the nature of the right;
(b) the importance of the purpose of the limitation;
(c) the nature and extent of the limitation;
(d) the relation between the limitation and its purpose; and
(e) less restrictive means to achieve the purpose.

(2) Except as provided in subsection (1) or in any other provision of the Constitution, no law may limit any right entrenched in the Bill of Rights.

37 States of emergency

(1) A state of emergency may be declared only in terms of an Act of Parliament, and only when—

(a) the life of the nation is threatened by war, invasion, general insurrection, disorder, natural disaster or other public emergency; and

(b) the declaration is necessary to restore peace and order.

(2) A declaration of a state of emergency, and any legislation enacted or other action taken in consequence of that declaration, may be effective only—

(a) prospectively; and

(b) for no more than 21 days from the date of the declaration, unless the National Assembly resolves to extend the declaration. The Assembly may extend a declaration of a state of emergency for no more than three months at a time. The first extension of the state of emergency must be by a resolution adopted with a supporting vote of a majority of the members of the Assembly. Any subsequent extension must be by a resolution adopted with a supporting vote of at least 60 per cent of the members of the Assembly. A resolution in terms of this paragraph may be adopted only following a public debate in the Assembly.

(3) Any competent court may decide on the validity of—

(a) a declaration of a state of emergency:
42. The SA Constitution: Chapter 2—Bill of Rights (s 37)

(b) any extension of a declaration of a state of emergency;
or
(c) any legislation enacted, or other action taken, in consequence of a declaration of a state of emergency.

(4) Any legislation enacted in consequence of a declaration of a state of emergency may derogate from the Bill of Rights only to the extent that—

(a) the derogation is strictly required by the emergency; and

(b) the legislation—

(i) is consistent with the Republic’s obligations under international law applicable to states of emergency;
(ii) conforms to subsection (5); and
(iii) is published in the national Government Gazette as soon as reasonably possible after being enacted.

(5) No Act of Parliament that authorises a declaration of a state of emergency, and no legislation enacted or other action taken in consequence of a declaration, may permit or authorise—

(a) indemnifying the state, or any person, in respect of any unlawful act;
(b) any derogation from this section; or
(c) any derogation from a section mentioned in column 1 of the Table of Non-Derogable Rights, to the extent indicated opposite that section in column 3 of the Table.

Table of Non-Derogable Rights

<table>
<thead>
<tr>
<th>1 Section number</th>
<th>2 Section title</th>
<th>3 Extent to which the right is non-derogable</th>
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<td>Equality</td>
<td>With respect to unfair discrimination solely on the grounds of race, colour, ethnic or social origin, sex, religion or language</td>
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<tr>
<td>10</td>
<td>Human dignity</td>
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<table>
<thead>
<tr>
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<th>Section title</th>
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<td>12</td>
<td>Freedom and security of the person</td>
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<td>— the rights in subparagraphs (i) and (ii) of subsection (1) (g); and</td>
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<td>— subsections (1) (a), (b) and (c) and (2) (d);</td>
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<td>— the rights in paragraphs (a) to (c) of subsection (3); excluding paragraph (d);</td>
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<td>— subsection (4); and</td>
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<td>— subsection (5) with respect to the exclusion of evidence if the admission of that evidence would render the trial unfair.</td>
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</tbody>
</table>

(6) Whenever anyone is detained without trial in consequence of a derogation of rights resulting from a declaration of a state of emergency, the following conditions must be observed:

(a) An adult family member or friend of the detainee must be contacted as soon as reasonably possible, and informed that the person has been detained.

(b) A notice must be published in the national Government Gazette within five days of the person being detained, stating the detainee’s name and place of detention and referring to the emergency measure in terms of which that person has been detained.

(c) The detainee must be allowed to choose, and be visited at any reasonable time by, a medical practitioner.
(d) The detainee must be allowed to choose, and be visited at any reasonable time by, a legal representative.

(e) A court must review the detention as soon as reasonably possible, but no later than 10 days after the date the person was detained, and the court must release the detainee unless it is necessary to continue the detention to restore peace and order.

(f) A detainee who is not released in terms of a review under paragraph (e), or who is not released in terms of a review under this paragraph, may apply to a court for a further review of the detention at any time after 10 days have passed since the previous review, and the court must release the detainee unless it is still necessary to continue the detention to restore peace and order.

(g) The detainee must be allowed to appear in person before any court considering the detention, to be represented by a legal practitioner at those hearings, and to make representations against continued detention.

(h) The state must present written reasons to the court to justify the continued detention of the detainee, and must give a copy of those reasons to the detainee at least two days before the court reviews the detention.

(7) If a court releases a detainee, that person may not be detained again on the same grounds unless the state first shows a court good cause for re-detaining that person.

(8) Subsections (6) and (7) do not apply to persons who are not South African citizens and who are detained in consequence of an international armed conflict. Instead, the state must comply with the standards binding on the Republic under international humanitarian law in respect of the detention of such persons.

38 Enforcement of rights
Anyone listed in this section has the right to approach a competent court, alleging that a right in the Bill of Rights has
been infringed or threatened, and the court may grant appropriate relief, including a declaration of rights. The persons who may approach a court are—

(a) anyone acting in their own interest;
(b) anyone acting on behalf of another person who cannot act in their own name;
(c) anyone acting as a member of, or in the interest of, a group or class of persons;
(d) anyone acting in the public interest; and
(e) an association acting in the interest of its members.

39 Interpretation of Bill of Rights

(1) When interpreting the Bill of Rights, a court, tribunal or forum—

(a) must promote the values that underlie an open and democratic society based on human dignity, equality and freedom;
(b) must consider international law; and
(c) may consider foreign law.

(2) When interpreting any legislation, and when developing the common law or customary law, every court, tribunal or forum must promote the spirit, purport and objects of the Bill of Rights.
(3) The Bill of Rights does not deny the existence of any other rights or freedoms that are recognised or conferred by common law, customary law or legislation, to the extent that they are consistent with the Bill.
THE SOUTH AFRICAN CONSTITUTION:
CHAPTER 11—SECURITY SERVICES
(ss 198–210)

198 Governing principles
The following principles govern national security in the Republic:

(a) National security must reflect the resolve of South Africans, as individuals and as a nation, to live as equals, to live in peace and harmony, to be free from fear and want and to seek a better life.

(b) The resolve to live in peace and harmony precludes any South African citizen from participating in armed conflict, nationally or internationally, except as provided for in terms of the Constitution or national legislation.

(c) National security must be pursued in compliance with the law, including international law.

(d) National security is subject to the authority of Parliament and the national executive.

199 Establishment, structuring and conduct of security services

(1) The security services of the Republic consist of a single defence force, a single police service and any intelligence services established in terms of the Constitution.

(2) The defence force is the only lawful military force in the Republic.

(3) Other than the security services established in terms of the Constitution, armed organisations or services may be established only in terms of national legislation.

(4) The security services must be structured and regulated by national legislation.
(5) The security services must act, and must teach and require their members to act, in accordance with the Constitution and the law, including customary international law and international agreements binding on the Republic.

(6) No member of any security service may obey a manifestly illegal order.

(7) Neither the security services, nor any of their members, may, in the performance of their functions—

(a) prejudice a political party interest that is legitimate in terms of the Constitution; or

(b) further, in a partisan manner, any interest of a political party.

(8) To give effect to the principles of transparency and accountability, multi-party parliamentary committees must have oversight of all security services in a manner determined by national legislation or the rules and orders of Parliament.

**Defence (ss 200–204)**

200 Defence force

(1) The defence force must be structured and managed as a disciplined military force.

(2) The primary object of the defence force is to defend and protect the Republic, its territorial integrity and its people in accordance with the Constitution and the principles of international law regulating the use of force.

201 Political responsibility

(1) A member of the Cabinet must be responsible for defence.

(2) Only the President, as head of the national executive, may authorise the employment of the defence force—

(a) in co-operation with the police service;

(b) in defence of the Republic; or

(c) in fulfilment of an international obligation.
(3) When the defence force is employed for any purpose mentioned in subsection (2), the President must inform Parliament, promptly and in appropriate detail, of—
   (a) the reasons for the employment of the defence force;
   (b) any place where the force is being employed;
   (c) the number of people involved; and
   (d) the period for which the force is expected to be employed.

(4) If Parliament does not sit during the first seven days after the defence force is employed as envisaged in subsection (2), the President must provide the information required in subsection (3) to the appropriate oversight committee.

202 Command of defence force

(1) The President as head of the national executive is Commander-in-Chief of the defence force, and must appoint the Military Command of the defence force.

(2) Command of the defence force must be exercised in accordance with the directions of the Cabinet member responsible for defence, under the authority of the President.

203 State of national defence

(1) The President as head of the national executive may declare a state of national defence, and must inform Parliament promptly and in appropriate detail of—
   (a) the reasons for the declaration;
   (b) any place where the defence force is being employed; and
   (c) the number of people involved.

(2) If Parliament is not sitting when a state of national defence is declared, the President must summon Parliament to an extraordinary sitting within seven days of the declaration.

(3) A declaration of a state of national defence lapses unless it is approved by Parliament within seven days of the declaration.
204 Defence civilian secretariat
A civilian secretariat for defence must be established by national legislation to function under the direction of the Cabinet member responsible for defence.

205 Police service
(1) The national police service must be structured to function in the national, provincial and, where appropriate, local spheres of government.
(2) National legislation must establish the powers and functions of the police service and must enable the police service to discharge its responsibilities effectively, taking into account the requirements of the provinces.
(3) The objects of the police service are to prevent, combat and investigate crime, to maintain public order, to protect and secure the inhabitants of the Republic and their property, and to uphold and enforce the law.

206 Political responsibility
(1) A member of the Cabinet must be responsible for policing and must determine national policing policy after consulting the provincial governments and taking into account the policing needs and priorities of the provinces as determined by the provincial executives.
(2) The national policing policy may make provision for different policies in respect of different provinces after taking into account the policing needs and priorities of these provinces.
(3) Each province is entitled—
   (a) to monitor police conduct;
   (b) to oversee the effectiveness and efficiency of the police service, including receiving reports on the police service;
   (c) to promote good relations between the police and the community;
(d) to assess the effectiveness of visible policing; and
(e) to liaise with the Cabinet member responsible for policing with respect to crime and policing in the province.

(4) A provincial executive is responsible for policing functions—
(a) vested in it by this Chapter;
(b) assigned to it in terms of national legislation; and
(c) allocated to it in the national policing policy.

(5) In order to perform the functions set out in subsection (3), a province—
(a) may investigate, or appoint a commission of inquiry into, any complaints of police inefficiency or a breakdown in relations between the police and any community; and
(b) must make recommendations to the Cabinet member responsible for policing.

(6) On receipt of a complaint lodged by a provincial executive, an independent police complaints body established by national legislation must investigate any alleged misconduct of, or offence committed by, a member of the police service in the province.

(7) National legislation must provide a framework for the establishment, powers, functions and control of municipal police services.

(8) A committee composed of the Cabinet member and the members of the Executive Councils responsible for policing must be established to ensure effective co-ordination of the police service and effective co-operation among the spheres of government.

(9) A provincial legislature may require the provincial commissioner of the province to appear before it or any of its committees to answer questions.

207 Control of police service
(1) The President as head of the national executive must appoint a woman or a man as the National Commissioner of the police service, to control and manage the police service.
(2) The National Commissioner must exercise control over and manage the police service in accordance with the national policing policy and the directions of the Cabinet member responsible for policing.

(3) The National Commissioner, with the concurrence of the provincial executive, must appoint a woman or a man as the provincial commissioner for that province, but if the National Commissioner and the provincial executive are unable to agree on the appointment, the Cabinet member responsible for policing must mediate between the parties.

(4) The provincial commissioners are responsible for policing in their respective provinces—

(a) as prescribed by national legislation; and

(b) subject to the power of the National Commissioner to exercise control over and manage the police service in terms of subsection (2).

(5) The provincial commissioner must report to the provincial legislature annually on policing in the province, and must send a copy of the report to the National Commissioner.

(6) If the provincial commissioner has lost the confidence of the provincial executive, that executive may institute appropriate proceedings for the removal or transfer of, or disciplinary action against, that commissioner, in accordance with national legislation.

208 Police civilian secretariat

A civilian secretariat for the police service must be established by national legislation to function under the direction of the Cabinet member responsible for policing.
52 The SA Constitution: Chapter 11—Security Services (ss 209–210)

Intelligence (ss 209–210)

209 Establishment and control of intelligence services

(1) Any intelligence service, other than any intelligence division of the defence force or police service, may be established only by the President, as head of the national executive, and only in terms of national legislation.

(2) The President as head of the national executive must appoint a woman or a man as head of each intelligence service established in terms of subsection (1), and must either assume political responsibility for the control and direction of any of those services, or designate a member of the Cabinet to assume that responsibility.

210 Powers, functions and monitoring

National legislation must regulate the objects, powers and functions of the intelligence services, including any intelligence division of the defence force or police service, and must provide for—

(a) the co-ordination of all intelligence services; and

(b) civilian monitoring of the activities of those services by an inspector appointed by the President, as head of the national executive, and approved by a resolution adopted by the National Assembly with a supporting vote of at least two thirds of its members.
CIVILIAN SECRETARIAT FOR POLICE
SERVICE ACT 2 OF 2011

[ASSENTED TO 12 MAY 2011]
[DATE OF COMMENCEMENT: 1 DECEMBER 2011]
(Unless otherwise indicated)

(English text signed by the State President)

ACT

To provide for the establishment of a Civilian Secretariat for the Police Service in the Republic; to define the objects, functions and powers of the Civilian Secretariat, and for this purpose to align the operations of the Civilian Secretariat in the national and provincial spheres of government and reorganise the Civilian Secretariat into an effective and efficient organ of state; to regulate the appointment, duties and functions, powers and removal from office of the Secretary for the Police Service and heads of provincial secretariats; to provide for the establishment of a senior management forum and a Ministerial Executive Committee; to provide for co-operation between the Civilian Secretariat and the Independent Police Investigative Directorate; to provide for the establishment of a senior management forum and a Ministerial Executive Committee; to provide for co-operation between the Civilian Secretariat and the South African Police Service; to provide for intervention into the affairs of provincial secretariats by the Civilian Secretariat; and to provide for matters connected therewith.

Preamble

WHEREAS every person has the right to life and the right to security of the person, which includes, among other things, the right to be free from all forms of violence from either public or private sources;
AND WHEREAS the Constitution places a duty on the State to respect, protect, promote and fulfil the fundamental rights in the Bill of Rights;

AND WHEREAS the adequate protection, promotion and fulfilment of such rights are fundamental to the well-being and social and economic development of every person;

AND WHEREAS the Constitution provides for the police service to combat and investigate crime, to maintain public order, to protect and secure the inhabitants and their property, and to uphold and enforce the law throughout the territory of the Republic;

AND WHEREAS there is a need to promote democratic accountability, transparency and openness within the police service and to ensure co-operation between the police service and the communities it serves;

AND HAVING REGARD to section 208 of the Constitution, which stipulates that a civilian secretariat for the police service must be established by national legislation to function under the direction of the Cabinet member responsible for policing,

BE IT THEREFORE ENACTED by the Parliament of the Republic of South Africa, as follows:—

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CHAPTER 6
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SCHEDULE
CHAPTER 1
INTERPRETATION, APPLICATION AND OBJECTS OF
ACT (ss 1–3)

1 Definitions
In this Act, unless the context indicates otherwise—
‘Civilian Secretariat’ means the national Civilian Secretariat for
the Police Service established in terms of section 4 (1) of this Act;
‘Committee’ means the Ministerial Executive Committee estab-
lished under section 27 (1);
‘Constitution’ means the Constitution of the Republic of South
Africa, 1996;
‘Department’ means the national Department of Police;
‘Directorate’ means the Independent Police Investigative Direc-
torate established in terms of section 3 of the Independent Police
Investigative Directorate Act, 2010;
‘Executive Director’ means the Executive Director appointed in
terms of section 6 (1) of the Independent Police Investigative
Directorate Act, 2010;
‘forum’ means the senior management forum established under
section 24;
‘head of a provincial department’ means the head of a
department responsible for safety and security in a province;
‘head of a provincial secretariat’ means the head of a
provincial secretariat appointed in terms of section 18 (1);
‘member’ means a member as defined in section 1 of the South
African Police Service Act;
‘MEC’ means the Member of the Executive Council of a province
responsible for policing in the province;
‘Minister’ means the member of the Cabinet responsible for
policing;
‘organ of state’ means an organ of state concerned with matters
relating to the police service;
‘police official’ means the police official as defined in section 1
of the South African Police Service Act;
‘police service’ means the South African Police Service established in terms of section 5 (1) of the South African Police Service Act;
‘prescribe’ means prescribe by regulation;
‘provincial department’ means the department responsible for safety and security services in a province falling under the relevant MEC;
‘provincial secretariat’ means a provincial secretariat established in terms of section 16;
‘regulation’ means a regulation made under this Act;
‘Secretariat’ means the Civilian Secretariat for the Police Service established in terms of section 4 (1);
‘Secretary’ means the Secretary for the Police Service appointed in terms of section 7 (1);
‘South African Police Service Act’ means the South African Police Service Act, 1995 (Act 68 of 1995); and
‘this Act’ includes the Schedule, regulations and any rules, directives or instructions made under it.

2 Application of Act
All organs of state must accord such assistance as may be reasonably required to ensure the effective functioning of the Civilian Secretariat in terms of this Act.

3 Objects of Act
The objects of this Act are to—
(a) give effect to section 208 of the Constitution by establishing the Civilian Secretariat to function under the direction of the Minister;
(b) provide for civilian oversight of the police service;
(c) provide for the functions and powers of the Civilian Secretariat;
(d) provide for the establishment, composition and functions of the ministerial executive committee as required by section 206 (8) of the Constitution;
provide for the establishment, composition and functions of the senior management forum;

(f) provide for co-operation with the Independent Police Investigative Directorate and the South African Police Service; and

(g) provide for intervention by the Civilian Secretariat into the affairs of a provincial secretariat.

CHAPTER 2
CIVILIAN SECRETARIAT FOR POLICE SERVICE
(ss 4–6)

4 Establishment of Civilian Secretariat

(1) The Civilian Secretariat for the Police Service contemplated in section 208 of the Constitution is hereby established.

(2) The Civilian Secretariat is hereby established as a designated department at the national level.

[Date of commencement of sub-s. (2): to be proclaimed.]

(3) The Secretary is the accounting officer of the Civilian Secretariat and must comply with the provisions of the Public Finance Management Act, 1999 (Act 1 of 1999).

[Date of commencement of sub-s. (3): to be proclaimed.]

(4) The Civilian Secretariat established in terms of subsection (1) must exercise its powers and perform its functions without fear, favour or prejudice in the interest of maintaining effective and efficient policing and a high standard of professional ethics in the police service.

(5) Provincial secretariats contemplated in sections 16 and 17 must assist the Civilian Secretariat to achieve its objects, and perform functions and exercise powers of the Civilian Secretariat in the provincial sphere of government in accordance with the principles of co-operative government and intergovernmental relations contained in Chapter 3 of the Constitution.

(6) The Civilian Secretariat is financed from monies appropriated by Parliament.

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5 Objects of Civilian Secretariat

The objects of the Civilian Secretariat are to—

(a) exercise civilian oversight over the police service;
(b) give strategic advice to the Minister in respect of developing and implementing policies;
(c) provide administrative support services to the Minister to ensure South Africa’s engagement with relevant international obligations;
(d) liaise and communicate with stakeholders;
(e) implement a partnership strategy to mobilise roleplayers and stakeholders to strengthen service delivery by the police service to ensure the safety and security of communities;
(f) implement, promote and align the operations of the Civilian Secretariat in the national and provincial spheres of government;
(g) co-ordinate the functions and powers of the Civilian Secretariat in the national and provincial spheres of government;
(h) promote co-operation between the Civilian Secretariat, the police service and the Directorate; and
(i) provide guidance to community police fora and associated structures and facilitate their proper functioning.

6 Functions of Civilian Secretariat

(1) The Civilian Secretariat must, in order to achieve its objects—

(a) monitor the performance of the police service and regularly assess the extent to which the police service has adequate policies and effective systems and to recommend corrective measures;
(b) monitor the utilisation of the budget of the police service to ensure compliance with any policy directives or instructions of the Minister;
(c) monitor and evaluate compliance with the Domestic Violence Act, 1998 (Act 116 of 1998);
(d) make recommendations to the police service on disciplinary procedures and measures with regard to non-compliance with the Domestic Violence Act, 1998;

(e) consider such recommendations, suggestions and requests concerning police and policing matters as it may receive from any source;

(f) conduct or cause to be conducted any research as it may deem necessary;

(g) enter into either memoranda of understanding or agreements or both, in consultation with the Minister, with civilian oversight groups and other parties and engage such groups and parties to strengthen co-operation between the various roleplayers;

(h) advise and support the Minister in the exercise of his or her powers and the performance of his or her functions;

(i) provide the Minister with regular reports with regard to—

(i) the performance of the police service; and

(ii) implementation of and compliance by the police service with policy directives issued or instructions made by the Minister; and

(j) assess and monitor the police service’s ability to receive and deal with complaints against its members.

(2) The Civilian Secretariat must, for the purpose of subsection (1), establish competencies and capabilities in its operations in order to—

(a) (i) conduct research into any policing matter and report to the Secretary thereon;

(ii) provide policy advice to the Minister through the Secretary;

(iii) make available recent, relevant and evidence-based research to the Minister and to Parliament;

(iv) create a resource information centre; and

(v) develop at least one civil society reference group;
(b) (i) conduct quality assessment of the police service and monitor and evaluate its performance;
(ii) identify problem areas for early interventions;
(iii) review police practices and develop best practice models;
(iv) recommend steps for improved service delivery and police effectiveness;
(v) develop frameworks and strategies to ensure improved police accountability; and

(c) (i) facilitate and implement intergovernmental co-operation on safety;
(ii) conduct ongoing interaction with citizens in the manner contemplated by this Act;
(iii) enhance the quality and accessibility of safety programmes through improved participation by the community;
(iv) encourage national dialogue on safety and crime prevention;
(v) facilitate pro-active and interventionist models in communities;
(vi) co-ordinate efforts to deal with challenges faced by the police service as requested by the Minister;
(vii) develop frameworks and strategies to ensure uniformity, accountability and enhancement of community police fora and associated structures; and
(viii) maximise capacity and expertise in the Civilian Secretariat.

CHAPTER 3
SECRETARY FOR POLICE SERVICE (ss 7–15)

7 Appointment of Secretary

(1) The Minister must, subject to the laws governing the public service, appoint a person as Secretary for the Police Service.
(2) The Secretary is appointed for a term of five years, which is renewable for one additional term only, subject to terms and conditions of service under the laws governing the public service.

(3) The Secretary must be a citizen of the Republic and be a fit and proper person with appropriate knowledge, experience or qualifications.

(4) The Secretary must not be a member or former member of the police service of the Republic contemplated in section 199 (1) of the Constitution.

8 Duties and functions

(1) The Secretary—

(a) is responsible for the performance of the functions of the Civilian Secretariat and, for this purpose, is the—

(i) head and accounting officer of the Civilian Secretariat; and

(ii) adviser to the Minister on police and policing policy matters;

(b) takes all decisions relating to the functions of the Civilian Secretariat referred to in section 6;

(c) performs any function assigned to the Civilian Secretariat in terms of this Act or any other Act or memoranda of understanding or agreement referred to in section 6 (1) (g);

(d) monitors and evaluates the activities and performance of the Civilian Secretariat; and

(e) ensure the effectiveness and efficiency of the Civilian Secretariat.

(2) As head and accounting officer of the Civilian Secretariat, the Secretary is responsible for the—

(a) administration and management of the budget of the Civilian Secretariat;

(b) proper and diligent implementation of the Public Finance Management Act, 1999 (Act 1 of 1999);
(c) development and organisation of an efficient administration within the Civilian Secretariat;

(d) establishment of the staff component in accordance with the laws governing the public service; and

(e) appointment of such staff as may be necessary to enable the Civilian Secretariat to perform its functions in terms of this Act.

(3) As adviser to the Minister, the Secretary must—

(a) oversee, and advise the Minister on, the implementation of policy directives or instructions issued or made by the Minister;

(b) provide the Minister with the necessary support service to ensure compliance with relevant international obligations;

(c) monitor utilisation of the budget of the police service to ensure compliance with any policy directives or instructions of the Minister;

(d) present legislation in Parliament as determined by the Minister;

(e) perform such functions as the Minister may consider necessary or expedient to ensure police civilian oversight; and

(f) any other function assigned to the Secretary as may be determined by the Minister.

(4) The Secretary must, in consultation with the Minister and subject to the laws governing the public service, appoint employees, either full-time or part-time, to the Civilian Secretariat to assist the Secretary to perform the functions or exercise the powers of the Civilian Secretariat, or both, as may be necessary.

(5) The provisions of this section, in so far as it relates to the Secretary as accounting officer of the Civilian Secretariat, will only come into operation when the Civilian Secretariat becomes a designated department.
9 Powers
The Secretary may do all that is reasonably necessary or expedient to perform the functions of the Civilian Secretariat properly, including—
(a) entering any building or premises under the control of the police service;
(b) requesting and obtaining information and documents relating to any matter under the control of the police service;
(c) requesting, and be entitled to, all reasonable assistance by a member;
(d) obtaining the assistance of any state department, functionary or institution, to perform any specific act or function within the competency of the Civilian Secretariat;
(e) performing any specific act or function within its competence on behalf of any other person, including any state department, functionary or institution; and
(f) performing legal acts, or instituting or defending any legal action in the name of the Civilian Secretariat.

10 Delegation of powers and assignment of duties
(1) Subject to subsection (2), the Secretary may—
(a) delegate to any person in the employ of the Civilian Secretariat any power conferred upon the Secretary by or under this Act, excluding the power referred to in this subsection or in section 9 (f); and
(b) authorise any person in the employ of the Civilian Secretariat to perform any duty assigned to the Secretary by or under this Act, on such terms and conditions as the Secretary may determine.

(2) A delegation or authorisation in terms of subsection (1)—
(a) must be in writing; and
(b) may at any time be amended or revoked by the Secretary.
11 Removal from office
The Minister may remove the Secretary from office on account of—
(a) misconduct;
(b) ill health; or
(c) inability to perform the duties of that office effectively.

12 Vacancy
(1) When the Secretary is unable to perform the functions of office, or during a vacancy in the office of Secretary, the Minister may designate another person to act as Secretary until the Secretary returns to perform the functions of office or the vacancy is filled.
(2) The provisions of section 7 (1), (3) and (4) apply to the designation or filling of a vacancy in terms of subsection (1).
(3) In the case of a vacancy, the Minister must fill the vacancy within a reasonable period of time, which period must not exceed one year.

13 Reporting
The Secretary must submit quarterly reports to the Minister and the parliamentary committees responsible for police on the activities of the Civilian Secretariat.

14 Finances and accountability
(1) The Secretary—
(a) must, subject to the Public Finance Management Act, 1999 (Act 1 of 1999)—
(i) be charged with the responsibility of accounting for money received or paid out for or on account of the office of the Civilian Secretariat;
(ii) cause the necessary accounting and other related records to be kept; and

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(b) may exercise such powers and perform such duties as may from time to time be conferred upon or assigned to him or her, and in respect thereof be accountable to the Minister.

(2) The records referred to in subsection (1) (a) must be audited by the Auditor-General.

[Date of commencement of s. 14: to be proclaimed.]

15 Annual report

(1) The Secretary must prepare and submit to the Minister an annual report in a form prescribed by the Minister within five months after the end of the financial year.

(2) The annual report referred to in subsection (1) must include the following documents:

(a) The audited financial statements prepared in terms of this Act;

(b) the Auditor-General’s report; and

(c) a detailed report on the activities of the Civilian Secretariat undertaken during the year to which the audit relates.

(3) The Minister must table in Parliament a copy of the annual report, financial statements and the audit report on those statements within one month after receipt thereof if Parliament is then in session, or if Parliament is not then in session, within one month after the commencement of its next ensuing session.

(4) The Secretary must publish the annual report, financial statements and the audit report on those statements.

CHAPTER 4
PROVINCIAL SECRETARIATS (ss 16–22)

16 Constitution of provincial secretariats

Subject to section 17, each MEC must constitute a provincial secretariat for that province, within 18 months after the
commencement of this Act, to support and align the mandate of that provincial secretariat with the mandate of the Civilian Secretariat: Provided that the date on which a provincial secretariat comes into operation, will be determined by the MEC in consultation with the Minister.

17 Functions of provincial secretariats

(1) In order to support the objects of the Civilian Secretariat referred to in section 5 and subject to the principles of co-operative governance and intergovernmental relations contained in Chapter 3 of the Constitution, each provincial secretariat must—

(a) align its plans and operations at the provincial sphere of government with the plans, policies and operations of the Civilian Secretariat; and

(b) integrate its strategies and systems at the provincial sphere of government with the strategies and systems of the Civilian Secretariat.

(2) The provincial secretariat must, for purposes of subsection (1), establish competencies and capabilities in its operations, to—

(a) (i) monitor and evaluate the implementation of policing policy in the province;
(ii) evaluate and monitor police conduct in the province;
(iii) develop and evaluate safety models and monitoring tools to ensure alignment with the functions of the Civilian Secretariat;
(iv) assist the Civilian Secretariat with any monitoring and evaluation projects; and

(b) (i) promote community police relations;
(ii) establish and promote partnerships; and
(iii) manage the enhancement of community safety structures with the province.
18 Appointment of heads of provincial secretariats

(1) The MEC must, in consultation with the Minister and subject to the laws governing the public service, appoint the head of a provincial secretariat in the province.

(2) The head of a provincial secretariat is appointed for a five-year term which is renewable for one additional term only, subject to terms and conditions of service under the laws governing the public service.

(3) The head of a provincial secretariat must be a citizen of the Republic and be a fit and proper person, with appropriate knowledge, experience or qualifications.

(4) The head of a provincial secretariat must not be a member or former member of the police service of the Republic contemplated in section 199 (1) of the Constitution.

19 Duties and functions

The head of a provincial secretariat—

(a) is responsible for the performance of the functions of a provincial secretariat as contemplated in section 17 or such duties and functions assigned to the head of a provincial secretariat by the Secretary in terms of section 10;

(b) is responsible for the resources and the employees of a provincial secretariat in the province;

(c) must take all decisions necessary or expedient for performance of the functions of a provincial secretariat referred to in section 17 or otherwise assigned to him or her by the Secretary in terms of section 10 or by the MEC of the province concerned;

(d) must monitor that national policing policies and directives issued or made by the Minister are implemented by the police service in the province and reports thereon are submitted to the head of a provincial department, the MEC and the Secretary;

(e) must evaluate and review practices, methodologies and performance of the police service in the province,
submit reports thereon to the head of a provincial department and the MEC and submit copies thereof to the Secretary; and

(f) must perform such functions as the head of a provincial department or the MEC may consider necessary or expedient to ensure civilian oversight over police in the province.

20 Removal from office
The MEC may, after consultation with the Minister, remove the head of the provincial secretariat from office on account of—

(a) misconduct;
(b) ill health; or
(c) inability to perform the duties of that office effectively.

21 Vacancies
(1) When the head of a provincial secretariat is unable to perform the functions of office, or during a vacancy in the office of the head of a provincial secretariat, the MEC may, after consultation with the Minister, designate another person to act as head of the provincial secretariat until the head of a provincial secretariat returns to perform the functions of office or the vacancy is filled.

(2) The provisions of section 18 (1), (3) and (4) apply to the designation or filling of a vacancy in terms of subsection (1).

(3) In the case of a vacancy, the MEC must fill the vacancy within a reasonable period of time, which period must not exceed six months.

22 Reporting and referrals
(1) The head of a provincial secretariat in each province must, through the head of a provincial department, submit to the MEC and the Secretary quarterly reports on the activities of a provincial secretariat in the province, and on any matter as or when required by the Secretary.
(2) The head of a provincial department must submit regular reports to the MEC and the relevant committee in the provincial legislature.

(3) The head of a provincial department in each province must—
   (a) through the MEC, table an annual report in the provincial legislature on the activities of a provincial secretariat in the province; and
   (b) submit a copy of the annual report tabled in terms of paragraph (a) to the Secretary.

CHAPTER 5
CO-OPERATIVE FRAMEWORK (ss 23–32)

Part 1
Secretary and heads of provincial departments (s 23)

23 Secretary and heads of provincial departments

(1) The Secretary and heads of provincial departments must meet at least on a quarterly basis to—
   (a) ensure alignment between the provincial secretariats and the Civilian Secretariat of their respective—
      (i) annual strategic and performance plans; and
      (ii) priorities, objectives and strategies;
   (b) identify any other matter of strategic importance within each province;
   (c) discuss performance of the police service in the province in order to identify best practices, to detect failures and to recommend preventative or corrective action when necessary;
   (d) ensure regular reporting on matters specific to the performance of the police service in the province; and
   (e) prepare for meetings of the Ministerial Executive Committee, the relevant Cabinet cluster committee or any other forum.

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(2) The Secretary convenes, determines the agenda for and presides at the meetings referred to in subsection (1), and his or her office is responsible for providing administrative and other support services to the meetings.

(3) The Secretary may invite any person as he or she may consider necessary to attend the meetings referred to in subsection (1).

Part 2
Senior management forum (ss 24–25)

24 Establishment of forum
There is hereby established a forum to be known as the senior management forum.

25 Composition and functions of forum
(1) The forum established in terms of section 24 consists of—
   (a) the Secretary, who is the chairperson of the forum;
   (b) the heads of provincial secretariats;
   (c) senior management staff from the Civilian Secretariat; and
   (d) senior management staff from each provincial secretariat.
(2) The forum meets at least bi-monthly to—
   (a) report on the activities of a provincial secretariat in each province; and
   (b) facilitate interaction and co-operation amongst the provincial secretariats.
(3) The Secretary convenes, determines the agenda for and presides at the meetings referred to in subsection (2), and his or her office is responsible for providing administrative and other support services to the meetings.
(4) The Secretary may invite any person as he or she may consider necessary to attend meetings referred to in subsection (2).
Part 3

Intervention by Civilian Secretariat (s 26)

26 Intervention by Civilian Secretariat
(1) Notwithstanding the provisions of this Chapter, the Minister may, after consultation with the relevant MEC, instruct the Civilian Secretariat to intervene in the affairs of a provincial secretariat in accordance with section 100 of the Constitution—
   (a) when that provincial secretariat is unable to perform its functions effectively; or
   (b) when that provincial secretariat cannot fulfil its obligations in terms of this Act,
and take appropriate steps to ensure proper fulfilment of its functions in terms of this Act.
(2) Nothing in this Part precludes the Minister from instructing the Civilian Secretariat to perform such functions contemplated by this Act in a province.

Part 4

Ministerial Executive Committee (ss 27–30)

27 Establishment of Ministerial Executive Committee
There is hereby established a Committee to be known as the Ministerial Executive Committee, as contemplated in section 206 (8) of the Constitution.

28 Composition of Committee
The Committee consists of—
   (a) the Minister, who is the chairperson of the Committee;
   (b) the MEC from each province; and
   (c) any other member the Minister may consider necessary.

29 Functions of Committee
(1) The functions of the Committee are to—
(a) facilitate close co-operation between the national and provincial spheres of government;
(b) discuss matters of common interest or those emanating from reports of the Civilian Secretariat; and
(c) discuss any other policing matter relevant to the functions of the MEC from each province.

(2) The Secretary or his or her office is responsible for—
   (a) providing administrative and other support services to the Committee; and
   (b) liaising and consulting with heads of provincial departments to ensure provincial issues are part of the agenda of the Committee.

30 Meetings
(1) The Minister convenes and determines the agenda for meetings of the Committee.
(2) Suggestions for inclusion in the agenda for a meeting may be submitted to the Minister in terms of a framework determined by the Minister.

Part 5

Co-operation with Independent Police Investigative Directorate
(s 31)

31 Co-operation with Independent Police Investigative Directorate
(1) The Civilian Secretariat must consider reports received from the Executive Director in terms section 9 of the Independent Police Investigative Directorate Act, 2010.
(2) The Civilian Secretariat must monitor the implementation by the police service of the recommendations made by the Directorate and provide the Minister with regular reports on steps taken by it to ensure compliance, and a copy thereof must be sent to the Executive Director.
Civilian Secretariat for Police Service Act 2 of 2011 (ss 31–33)

(3) The Secretary and the Executive Director must ensure the necessary co-operation for the proper functioning of the Consultative Forum contemplated in Chapter 4 of the Independent Police Investigative Directorate Act, 2010.

Part 6

Co-operation with South African Police Service (s 32)

32 Co-operation with South African Police Service

The members must provide their full co-operation to the Civilian Secretariat and where so required to a provincial secretariat, including but not limited to—

(a) assisting the Civilian Secretariat with the necessary information and records in the manner prescribed to perform its monitoring function in relation to oversight of the police service in terms of this Act;

(b) assisting the Civilian Secretariat to monitor and evaluate compliance with the Domestic Violence Act, 1998 (Act 116 of 1998); and

(c) any other information or documentation as may be required by the Civilian Secretariat in order to fulfil its functions in terms of this Act.

CHAPTER 6

REGULATIONS, TRANSITIONAL PROVISIONS, AMENDMENT AND REPEAL OF LAWS, SHORT TITLE AND COMMENCEMENT (ss 33–36)

33 Regulations

(1) The Minister may, after consultation with the Secretary, make regulations regarding—

(a) any matter which in terms of this Act may or must be prescribed;

(b) any action in order to promote compliance with this Act; and

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76 Civilian Secretariat for Police Service Act 2 of 2011 (ss 33–34)

(c) any ancillary or incidental matter that it is necessary to prescribe for the proper implementation or administration of this Act.

(2) Regulations with regard to the implementation of this Act must be submitted to the Minister by the Secretary within three months of the commencement of this Act.

(3) The regulations referred to in subsection (1) must be submitted to Parliament for notification purposes before promulgation.

34 Transitional provisions

(1) A Civilian Secretariat for the police service in existence immediately before the commencement of this Act continues as the Civilian Secretariat for the police service contemplated in section 4 (1).

(2) Any provincial secretariat structure in existence at the provincial sphere of government immediately before the commencement of this Act continues subject to section 16.

(3) Any person who immediately before the commencement of this Act served in the post of Secretary or head of a provincial secretariat, as the case may be—

(a) must be regarded as having been appointed in terms of section 7 (1) or section 18 (1); and

(b) continues to serve in that capacity under the terms and conditions of service of his or her existing appointment for the remainder of the period of service in terms of such appointment.

(4) Subject to subsection (1), any personnel who immediately before the commencement of this Act served in any post in the Civilian Secretariat—

(a) must be regarded as having been appointed in terms of sections 8 (2) (e) and 8 (4); and

(b) continue to serve in that capacity under the terms and conditions of service of his or her appointment for the remainder of the period of service in terms of such appointment.
(5) Any assessment, evaluation or project instituted by the Civilian Secretariat in terms of the South African Police Service Act which was pending, continues as if this Act had not been passed.

(6) Decisions of the Civilian Secretariat in force immediately before the commencement of this Act remain in force until amended, replaced or rescinded by the Civilian Secretariat.

(7) The reports of the Secretary in terms of section 13 must include progress made in respect of the establishment of provincial secretariats until such time as provincial secretariats are established and functioning in the provinces.

35 Amendment and repeal of laws

The laws mentioned in the Schedule are hereby amended and repealed to the extent set out in third column of that Schedule.

36 Short title and commencement

(1) This Act is called the Civilian Secretariat for Police Service Act, 2011, and takes effect on a date determined by the President by proclamation in the Gazette.

(2) The provisions of sections 4 (2) and (3), and 14 shall come into operation on a date determined by the President by proclamation in the Gazette.

(3) Different dates may be determined under subsection (2) in respect of different provisions of this Act.
# SCHEDULE

**LAWS AMENDED AND REPEALED**

(Section 35)

<table>
<thead>
<tr>
<th>Number and year of law</th>
<th>Short title</th>
<th>Extent of repeal or amendment</th>
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1. Section 1 of the South African Police Service Act is hereby amended—
   a. by the substitution for the definition of ‘secretariat’ of the following definition: ‘secretariat’ means the Civilian Secretariat for the Police Service established in terms of section 4 (1) of the Civilian Secretariat for Police Service Act, 2010 [sic];
   b. by the substitution for the definition of ‘Secretary’ of the following definition: ‘Secretary’ means the Secretary for the Police Service appointed in terms of section 7 (1) of the Civilian Secretariat for Police Service Act, 2010 [sic].
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<tbody>
<tr>
<td></td>
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<td>Repeal of section 2 of Act 68 of 1995</td>
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<td>2 Section 2 of the Act is hereby repealed</td>
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<td>3 The substitution for the words 'Secretary for Safety of Security', wherever they occur in the Act, of the words 'Secretary for the Police Service'.</td>
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<td>1 Section 1 of the Firearms Control Act, 2000, is hereby amended by the substitution for the definition of:</td>
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<td>'Secretary for Safety of Security' of the following definition:</td>
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<td>'Secretary for the Police Service' means the Secretary for the Police Service appointed in terms of section 7 (1) of the Civilian Secretariat for Police Service Act, 2010 (sic);</td>
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<td>2 The substitution for the words 'Secretary for Safety of Security', wherever they occur in the Act, of the words 'Secretary for the Police Service'.</td>
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SOUTH AFRICAN POLICE SERVICE ACT
68 OF 1995

[ASSENTED TO 28 SEPTEMBER 1995]
[DATE OF COMMENCEMENT: 15 OCTOBER 1995]

(Afrikaans text signed by the President)

as amended by

South African Police Service Amendment Act 41 of 1997
Public Service Laws Amendment Act 47 of 1997
South African Police Service Amendment Act 83 of 1998
Institution of Legal Proceedings against certain Organs of State
Act 40 of 2002
South African Police Service Amendment Act 57 of 2008
Criminal Law (Forensic Procedures) Amendment Act 6 of 2010
Independent Police Investigative Directorate Act 1 of 2011
Civilian Secretariat for Police Service Act 2 of 2011
South African Police Service Amendment Act 10 of 2012

[NB: The Act was amended by the substitution for the words
‘Secretary for Safety of [sic] Security’, wherever they occurred in
the Act, of the words ‘Secretary for the Police Service’ by s. 35 of
the Civilian Secretariat for Police Service Act 2 of 2011.]

ACT

To provide for the establishment, organisation, regulation
and control of the South African Police Service; and to
provide for matters in connection therewith.
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Preamble
WHEREAS the Constitution of the Republic of South Africa, 1996, requires national legislation to provide for the establishment, powers and functions of the South African Police Service to function in accordance with national policing policy and the directions of the Cabinet member responsible for policing;
WHEREAS there is a need to provide a police service throughout the national territory to—
(a) ensure the safety and security of all persons and property in the national territory;
(b) uphold and safeguard the fundamental rights of every person as guaranteed by Chapter 3 of the Constitution;
(c) ensure co-operation between the Service and the communities it serves in the combating of crime;
(d) reflect respect for victims of crime and an understanding of their needs; and
(e) ensure effective civilian supervision over the Service;
AND WHEREAS there is a need to provide for a Directorate in the Service that is dedicated to the prevention, investigation and combating of national priority offences, in particular serious organised and transnational crime, serious commercial crime and serious corruption, and that enjoys adequate independence to enable it to perform its functions.

[Preamble amended by s. 20 of Act 10 of 2012.]

BE IT THEREFORE ENACTED by the Parliament of the Republic of South Africa, as follows:

CHAPTER 1
INTERPRETATION (s 1)

1 Definitions
In this Act, unless the context otherwise indicates—
‘board’ means the Board of Commissioners established by section 10 (1);
‘certificate of appointment’ means the document referred to in section 30;
‘commissioned officer’ means a commissioned officer appointed under section 33 (1);
‘directorate’ means the Independent Complaints Directorate established by section 50 (1);
‘employee organisation’ means an organisation consisting inter alia of members or employees of the Service formally associated together and organised in a staff association, trade association or trade union, for the purpose of regulating relations between themselves and the Service;
‘equipment’ includes any article supplied by the Service for use by a member in the performance of his or her duties;
‘executive co-ordinating committee’ means the executive co-ordinating committee established by section 4 (1);
‘Executive Director’ means the Executive Director appointed in terms of section 51;
‘fixed establishment’ means the posts which have been created for the normal and regular requirements of the Service;
‘member’ means any member of the Service referred to in section 5 (2), and including—
   (a) except for the purposes of any provision of this Act in respect of which the National Commissioner may otherwise prescribe, any member of the Reserve while such member is on duty in the Service;
   (b) any temporary member while employed in the Service;
   (c) any person appointed in terms of any other law to serve in the Service and in respect of whom the Minister has prescribed that he or she be deemed to be a member of the Service for the purposes of this Act; and
   (d) any person designated under section 29 as a member;

‘member of the Executive Council’ means the member of the Executive Council referred to in section 217 (1) of the Constitution;

‘metropolitan police service’ . . .
[Definition of ‘metropolitan police service’ deleted by s. 1 (a) of Act 83 of 1998.]

‘Minister’ means the Minister for Safety and Security;

‘municipal police service’ means a municipal police service established under section 64A;
[Definition of ‘municipal police service’ substituted by s. 1 (b) of Act 83 of 1998.]

‘National Commissioner’ means the National Commissioner referred to in section 6 (1);

‘National Orders and Instructions’ means National Orders and Instructions issued under section 25 (1) or which continue to apply in terms of section 72 (4) (a);

‘national public order policing unit’ means the national public order policing unit established in terms of section 17 (1);

‘national standards’ means national standards determined under section 64L (1);
[Definition of ‘national standards’ inserted by s. 1 (c) of Act 83 of 1998.]
‘Parliamentary Committees’ means the Standing Committees of the National Assembly and the Senate responsible for safety and security affairs;

‘prescribe’ means prescribe by regulation;

‘Provincial Commissioner’ means the Provincial Commissioner of a province referred to in section 6 (2);


‘regulation’ means a regulation made under this Act or which continues to apply in terms of section 72 (4) (a);

‘Reserve’ means the Reserve Police Service referred to in section 48;

‘secretariat’ means the Secretariat for Police established under section 2 (1);

‘Secretary’ means the Secretary of Police appointed under section 2 (2);

‘Service’ means the South African Police Service established by section 5 (1);

‘stores’ means any movable property of the State which is kept in stock for distribution in the Service;

‘strike’ means a strike within the meaning of the Labour Relations Act, 1995 (Act 66 of 1995);

‘this Act’ includes the regulations;

‘uniform’ means a uniform as prescribed.
CHAPTER 2
MINISTERIAL SERVICES (ss 2–4)

2 . .

(1) (a) The Minister shall establish a secretariat to be called the Secretariat for Police.

(b) A provincial government may establish a provincial secretariat to be called the Provincial Secretariat for Police: Provided that the date on which a provincial secretariat will come into operation shall be determined by a provincial government in consultation with the Minister.

[Sub-s. (1) substituted by s. 36 (1) of Act 1 of 2011.]

[S. 2 repealed by s. 35 of Act 2 of 2011.]

3 Functions of secretariat

(1) The secretariat shall—

(a) advise the Minister in the exercise of his or her powers and the performance of his or her duties and functions;

(b) perform such functions as the Minister may consider necessary or expedient to ensure civilian oversight of the Service;

(c) promote democratic accountability and transparency in the Service;

(d) promote and facilitate participation by the Service in the Reconstruction and Development Programme;

(e) provide the Minister with legal services and advice on constitutional matters;

(f) provide the Minister with communication, support and administrative services;

(g) monitor the implementation of policy and directions issued by the Minister and report to the Minister thereon;

(h) conduct research into any policing matter in accordance with the instructions of the Minister and report to the Minister thereon;
(i) perform such functions as may from time to time be assigned to the secretariat by the Minister; and

(ii) evaluate the functioning of the Service and report to the Minister thereon.

(2) To the extent that it is reasonably necessary for the performance of the functions of the secretariat, any member of its personnel—

(a) may request and obtain information and documents under the control of the Service;

(b) may enter any building or premises under the control of the Service; and

(c) shall be entitled to all reasonable assistance by a member.

(3) The Minister may make regulations regarding the establishing and proper functioning of secretariats: Provided that regulations with regard to provincial secretariats shall be made in consultation with the executive co-ordinating committee.

(4) A document in the prescribed form, certifying that a person is a member of the personnel of the secretariat, shall serve as prima facie proof that such person is such a member.

(5) Subsections (1), (2) and (4) shall apply mutatis mutandis to a Provincial Secretariat for Safety and Security.

4 Executive co-ordinating committee

(1) The executive co-ordinating committee contemplated in section 220 (1) of the Constitution is hereby established.

(2) The Minister shall convene the first meeting of the executive co-ordinating committee.

(3) The Minister or his or her nominee shall preside at meetings of the executive co-ordinating committee and the executive co-ordinating committee shall determine its own procedure.
CHAPTER 3
ESTABLISHMENT AND COMPOSITION OF SERVICE
(s 5)

5 Establishment and composition of Service
(1) The South African Police Service contemplated in section 214 (1) of the Constitution is hereby established.
(2) The Service shall consist of—
   (a) all persons who immediately before the commencement of this Act were members—
      (i) of a force which, by virtue of section 236 (7) (a) of the Constitution, is deemed to constitute part of the Service;
      (ii) appointed under the Rationalisation Proclamation;
      (iii) of the Reserve by virtue of section 12 (2) (k) of the Rationalisation Proclamation;
   (b) members appointed in terms of section 28 (2) of this Act;
   [Para. (b) substituted by s. 1 (a) of Act 57 of 2008.]
   (c) persons who become members of the Reserve under section 48 (2) of this Act; and
   [Para. (c) substituted by s. 1 (a) of Act 57 of 2008.]
   (d) members appointed to the Directorate for Priority Crime Investigation established by section 17C.
   [Para. (d) added by s. 1 (b) of Act 57 of 2008.]

CHAPTER 4
COMMISSIONERS (ss 6–10)

6 Appointment of National and Provincial Commissioners
(1) There shall be a National Commissioner of the Service who shall be appointed in accordance with section 207 (1) of the Constitution of the Republic of South Africa, 1996.
   [Sub-s. (1) substituted by s. 1 of Act 10 of 2012.]
(2) There shall be a Provincial Commissioner of the Service for each province who shall be appointed by the National Commissioner subject to section 207(3) of the Constitution of the Republic of South Africa, 1996.

[Sub-s. (2) substituted by s. 1 of Act 10 of 2012.]

7 Terms of office of National and Provincial Commissioners

(1) Subject to this Act, the person who is appointed as National or Provincial Commissioner shall occupy that office for a period of five years from the date of his or her appointment or such shorter period as may be determined at the time of his or her appointment by—

(a) the President, in relation to the National Commissioner;

or

(b) the National Commissioner in consultation with the member of the Executive Council, in relation to a Provincial Commissioner.

(2) The term of office referred to in subsection (1) may be extended at the expiry thereof for a period or successive periods not exceeding five years at a time, as may, subject to subsection (3), be determined by—

(a) the President, in relation to the National Commissioner;

or

(b) the National Commissioner in consultation with the member of the Executive Council concerned, in relation to the Provincial Commissioner.

(3) The President or the National Commissioner, as the case may be, shall notify the Commissioner concerned in writing at least two calendar months before the expiry of the period contemplated in subsection (1), or any subsequent extended period contemplated in subsection (2), whether he or she intends extending his or her term of office or not and, if so, for what period.

(4) When the National or Provincial Commissioner receives notice of the extension of his or her term of office in accordance
with subsection (3), he or she shall notify the President or the National Commissioner, as the case may be, in writing within one calendar month from the date of receipt of such notice of his or her acceptance or not of such extended term of office.

(5) If the National or Provincial Commissioner notifies the President or the National Commissioner, as the case may be, in accordance with subsection (4) of his or her acceptance of such extended term of office, his or her term of office shall be extended accordingly.

8 Loss of confidence in National or Provincial Commissioner

(1) If the National Commissioner has lost the confidence of the Cabinet, the President may establish a board of inquiry consisting of a judge of the Supreme Court as chairperson, and two other suitable persons, to—

(a) inquire into the circumstances that led to the loss of confidence;

(b) compile a report; and

(c) make recommendations.

(2) (a) If a Provincial Commissioner has lost the confidence of the Executive Council, the member of the Executive Council may notify the Minister of such occurrence and the reasons therefor.

(b) The Minister shall, if he or she deems it necessary and appropriate, refer the notice contemplated in paragraph (a) to the National Commissioner.

(c) The National Commissioner shall, upon receipt of the notice, establish a board of inquiry consisting of not more than three persons, of which the chairperson shall, subject to paragraph (d), be a person who, for at least 10 years after having qualified as an advocate or an attorney, practised as such, to—

(i) inquire into the circumstances that led to the loss of confidence;

(ii) compile a report; and

(iii) make recommendations.
(d) The National Commissioner may appoint any other person suitably qualified in law as chairperson of the board of inquiry.

(3) (a) The President or National Commissioner, as the case may be, may, after hearing the Commissioner concerned, pending the outcome of the inquiry referred to in subsection (1) or (2) (c), suspend him or her from office.

(b) A Commissioner who is suspended from office under paragraph (a), shall, during the period of such suspension, be entitled to any salary, allowance, privilege or benefit to which he or she is otherwise entitled as a member, unless the President or the National Commissioner, as the case may be, determines otherwise.

(4) If a board of inquiry is established under subsection (1) or (2) (c), the Commissioner concerned shall be notified thereof in writing, and thereupon he or she may—

(a) be assisted or represented by another person or legal representative;

(b) make written representations to the board;

(c) be present at the inquiry;

(d) give evidence thereat;

(e) cross-examine witnesses not called by him or her;

(f) be heard;

(g) call witnesses; and

(h) have access to documents relevant to the inquiry.

(5) The board of inquiry shall determine its own procedure.

(6) (a) At the conclusion of the inquiry, the board shall submit its report to—

(i) (aa) the President, in the event of an inquiry under subsection (1); or

(bb) the National Commissioner, the member of the Executive Council and the standing committee of the provincial legislature responsible for safety and security affairs, in the event of an inquiry under subsection (2);
(ii) the Commissioner concerned; and
(iii) the Parliamentary Committees.

(b) The report referred to in paragraph (a) may recommend that—

(i) no action be taken in the matter;
(ii) the Commissioner concerned be transferred to another
post or be employed additional to the fixed establish-
ment;
(iii) his or her salary or rank or both his or her salary and
rank be reduced;
(iv) action be taken against him or her in accordance with
subparagraphs (ii) and (iii);
(v) he or she be removed from office; or
(vi) any other appropriate steps (including the postpone-
ment of any decision by the President or the National
Commissioner, as the case may be, for a period not
exceeding 12 calendar months) be taken.

(7) The President or the National Commissioner, as the case
may be, may, upon receipt of a recommendation contemplated in
subsection (6), remove the Commissioner concerned from office,
or take any other appropriate action: Provided that, if the
President or the National Commissioner, as the case may be,
postpones his or her decision for a period, he or she shall, at the
end of such period, request the same board of inquiry, or a similar
board established for that purpose, to compile a new report and
to make a new recommendation after having considered the
conduct of the Commissioner concerned during such period.

(8) If a Provincial Commissioner has lost the confidence of the
National Commissioner, the provisions of subsections (2) (c) and
(d), (3), (4), (5), (6) and (7) shall apply mutatis mutandis.

(9) In the event of a Commissioner being removed from office
following on an inquiry in accordance with a finding of a loss of
confidence in such a Commissioner, or in accordance with a
finding of a loss of confidence referred to in section 9 (3), his or
her term of office shall be deemed to have expired on the date immediately preceding the date on which such removal from office takes effect.

9 Misconduct by or Incapacity of National or Provincial Commissioner

(1) Subject to this section, subsections (1) to (8) of section 8 shall apply mutatis mutandis to any inquiry into allegations of misconduct by the National or Provincial Commissioner, or into his or her fitness for office or capacity for executing his or her official duties efficiently.

(2) The board of inquiry established by virtue of subsection (1) shall make a finding in respect of the alleged misconduct or alleged unfitness for office or incapacity of executing official duties efficiently, as the case may be, and make recommendations as contemplated in section 8 (6) (b).

(3) If the National Commissioner has lost the confidence of the Cabinet or a Provincial Commissioner has lost the confidence of the Executive Council or the National Commissioner, as the case may be, following on an inquiry in terms of this section, the provisions of section 8 (7) shall apply mutatis mutandis.

10 Board of Commissioners

(1) The Board of Commissioners consisting of the National and Provincial Commissioners is hereby established.

(2) The functions of the board shall be to promote co-operation and co-ordination in the Service.

(3) The board shall be presided over by the National Commissioner or his or her nominee and the board shall determine its own procedure.
CHAPTER 5
POWERS, DUTIES AND FUNCTIONS (ss 11–15)

11 National Commissioner

(1) The National Commissioner shall exercise control over and manage the police service in accordance with section 207 (2) of the Constitution of the Republic of South Africa, 1996.

[Sub-s. (1) substituted by s. 2 (a) of Act 10 of 2012.]

(2) Without derogating from the generality of subsection (1), the National Commissioner shall—

(a) develop a plan before the end of each financial year, setting out the priorities and objectives of policing for the following financial year;

(b) determine the fixed establishment of the Service and the number and grading of posts;

(c) determine the distribution of the numerical strength of the Service after consultation with the board;

(d) organise or reorganise the Service at national level into various components, units or groups;

(e) establish and maintain training institutions or centres for the training of students and other members;

(f) establish and maintain bureaus, depots, quarters, workshops or any other institution of any nature whatsoever, which may be expedient for the general management, control and maintenance of the Service; and

(g) perform any legal act or act in any legal capacity on behalf of the Service.

[Sub-s. (2) amended by s. 2 (b) of Act 10 of 2012.]

12 Provincial Commissioners

(1) Subject to this Act, a Provincial Commissioner shall have command of and control over the Service under his or her jurisdiction in the province and may exercise the powers and shall perform the duties and functions necessary to give effect to section 219 of the Constitution.
(2) A Provincial Commissioner may—
   (a) subject to a determination under section 11(2)(b),
     delimit any area in the province and determine the
     boundaries thereof until the province has been divided
     into as many areas as may be necessary for the
     purposes of the organisation of the Service under his or
     her jurisdiction; and
     [Para. (a) substituted by s. 2 of Act 41 of 1997.]
   (b) establish and maintain police stations and units in the
     province and determine the boundaries of station or unit
     areas.

(3) A Provincial Commissioner shall determine the distribution of
     the strength of the Service under his or her jurisdiction in the
     province among the different areas, station areas, offices and
     units.

13 Members

(1) Subject to the Constitution and with due regard to the
fundamental rights of every person, a member may exercise
such powers and shall perform such duties and functions as are
by law conferred on or assigned to a police official.

(2) Where a member becomes aware that a prescribed offence
has been committed, he or she shall inform his or her
commanding officer thereof as soon as possible.

(3) (a) A member who is obliged to perform an official duty, shall,
     with due regard to his or her powers, duties and functions,
     perform such duty in a manner that is reasonable in the
     circumstances.

     (b) Where a member who performs an official duty is authorised
         by law to use force, he or she may use only the minimum force
         which is reasonable in the circumstances.

(4) Every member shall be competent to serve or execute any
summons, warrant or other process whether directed to him or
her or to any other member.

(5) Any member may in general or in any particular instance be
required to act as prosecutor, or in any other respect to appear on
behalf of the State in any criminal matter before any magistrate’s court, any magistrate holding a preparatory examination, a court of a special justice of the peace or any other lower court in the Republic.

(6) Any member may, where it is reasonably necessary for the purposes of control over the illegal movement of people or goods across the borders of the Republic, without warrant search any person, premises, other place, vehicle, vessel or aircraft, or any receptacle of whatever nature, at any place in the Republic within 10 kilometres or any reasonable distance from any border between the Republic and any foreign state, or in the territorial waters of the Republic, or inside the Republic within 10 kilometres or any reasonable distance from such territorial waters, or at any airport as defined in section 1 of the Aviation Act, 1962 (Act 74 of 1962), or within any reasonable distance from such airport and seize anything found in the possession of such person or upon or at or in such premises, other place, vehicle, vessel, aircraft or receptacle and which may lawfully be seized.

[Sub-s. (6) substituted by s. 3 (a) of Act 41 of 1997.]

(7) (a) The National or Provincial Commissioner may, where it is reasonable in the circumstances in order to restore public order or to ensure the safety of the public in a particular area, in writing authorise that the particular area or any part thereof be cordoned off.

(b) The written authorisation referred to in paragraph (a) shall specify the period, which shall not exceed 24 hours, during which the said area may be cordoned off, the area or part thereof to be cordoned off and the object of the proposed action.

(c) Upon receipt of the written authorisation referred to in paragraph (a), any member may cordon off the area concerned or part thereof, and may, where it is reasonably necessary in order to achieve the object specified in the written authorisation, without warrant, search any person, premises or vehicle, or any receptacle or object of whatever nature, in that area or part thereof and seize any article referred to in section 20 of the

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Criminal Procedure Act, 1977 (Act 51 of 1977), found by him or her in the possession of such person or in that area or part thereof: Provided that a member executing a search under this paragraph shall, upon demand of any person whose rights are or have been affected by the search or seizure, exhibit to him or her a copy of the written authorisation.

(8) (a) The National or Provincial Commissioner may, where it is reasonable in the circumstances in order to exercise a power or perform a function referred to in section 215 of the Constitution, in writing authorise a member under his or her command, to set up a roadblock or roadblocks on any public road in a particular area or to set up a checkpoint or checkpoints at any public place in a particular area.

(b) The written authorisation referred to in paragraph (a) shall specify the date, approximate duration, place and object of the proposed action.

(c) Any member authorised under paragraph (a) may set up a roadblock or roadblocks or cause a roadblock or roadblocks to be set up on any public road in the area so specified or set up a checkpoint or checkpoints or cause a checkpoint or checkpoints to be set up at any public place in the area so specified.

(d) Notwithstanding the provisions of paragraph (a), any member who has reasonable grounds to suspect that—

(i) an offence mentioned in Schedule 1 to the Criminal Procedure Act, 1977, has been committed and that a person who has been involved in the commission thereof is, or is about to be, travelling in a motor vehicle in a particular area;

(ii) a person who is a witness to such an offence is absconding and is, or is about to be, travelling in a motor vehicle in a particular area and that a warrant for his or her arrest has been issued under section 184 of the Criminal Procedure Act, 1977, or that such a warrant will be issued if the information at the disposal of the member is brought to the attention of the magistrate, regional magistrate or judge referred to in that section,

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but that the delay in obtaining such warrant will defeat the object of the roadblock;

(iii) a person who is reasonably suspected of intending to commit an offence referred to in subparagraph (i) and who may be prevented from committing such an offence by the setting up of a roadblock is, or is about to be, travelling in a motor vehicle in a particular area;

(iv) a person who is a fugitive after having escaped from lawful custody is, or is about to be, travelling in a motor vehicle in a particular area; or

(v) any object which—

(aa) is concerned in;

(bb) may afford evidence of; or

(cc) is intended to be used in,

the commission of an offence referred to in subparagraph (i), whether within the Republic or elsewhere, and which is, or is about to be, transported in a motor vehicle in a particular area and that a search warrant will be issued to him or her under section 21 (1) (a) of the Criminal Procedure Act, 1977, if he or she had reason to believe that the object will be transported in a specific vehicle and he or she had applied for such warrant,

and that the delay that will be caused by first obtaining an authorisation referred to in paragraph (a), will defeat the object of the roadblock, may set up a roadblock on any public road or roads in that area for the purpose of establishing whether a motor vehicle is carrying such a person or object.

[Para. (d) amended by s. 3 (b) of Act 41 of 1997.]

(e) For the purposes of exercising the powers conferred by paragraph (c) or (d), a member shall display, set up or erect on or next to the road or at the public place such sign, barrier or object as is reasonable in the circumstances to bring the order to stop to the attention of the driver of a vehicle approaching the roadblock so as to ensure that the vehicle will come to a stop or to the attention of a person approaching the checkpoint.
(f) Any driver of a vehicle who approaches a roadblock or any person who approaches a checkpoint and who refuses or fails to stop in accordance with an order to stop displayed as contemplated in paragraph (e), shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding six months.

(g) Any member may, without warrant—

(i) in the event of a roadblock or checkpoint that is set up in accordance with paragraph (c), search any person or vehicle stopped at such roadblock or checkpoint and any receptacle or object of whatever nature in the possession of such person or in, on or attached to such vehicle and seize any article referred to in section 20 of the Criminal Procedure Act, 1977, found by him or her in the possession of such person or in, on or attached to such receptacle or vehicle: Provided that a member executing a search under this subparagraph shall, upon demand of any person whose rights are or have been affected by the search or seizure, exhibit to him or her a copy of the written authorisation by the Commissioner concerned; and

(ii) in the event of a roadblock that is set up in accordance with paragraph (d), search any person or vehicle stopped at such roadblock and any receptacle or object of whatever nature in, on or attached to such vehicle and seize any article referred to in section 20 of the Criminal Procedure Act, 1977, found by him or her in, on or attached to such receptacle or vehicle: Provided that a member executing a search under this subparagraph shall, upon demand of any person whose rights are or have been affected by the search or seizure, inform him or her of the reason for the setting up of the roadblock.

(h) For the purposes of this subsection 'checkpoint' includes any barrier set up under an authorisation referred to in paragraph (a) in order to control the movement of persons.
(9) The provisions of sections 29 to 36 of the Criminal Procedure Act, 1977, shall apply mutatis mutandis in respect of a search conducted under subsections (6), (7) and (8) and any object seized during such a search.

(10) The National or Provincial Commissioner may, in the exercise of any power or the performance of any function referred to in section 215 of the Constitution, publish or cause to be published, or in any other manner display or cause to be displayed any information, photograph or sketch of any person.

(11) (a) A member may, for the purposes of investigating any offence or alleged offence, cordon off the scene of such offence or alleged offence and any adjacent area which is reasonable in the circumstances to cordon off in order to conduct an effective investigation at the scene of the offence or alleged offence.

(b) A member may, where it is reasonable in the circumstances in order to conduct such investigation, prevent any person from entering or leaving an area so cordoned off.

(12) (a) If the National Commissioner deems it necessary for the purposes of performing the functions of the Service, he or she may, with the approval of the Minister, direct any member to perform service at any place outside the Republic.

(b) A member in respect of whom a direction has been issued under paragraph (a), shall perform service in accordance with such direction and shall, while so performing service, remain, unless the Minister in a particular case otherwise directs, subject to the provisions of this Act as if performing service within the Republic.

(13) Subject to the Constitution—

(a) this section shall not be construed as derogating from any power conferred upon a member by or under this Act or any other law, including the common law; and

(b) the powers conferred upon a member by this section shall not be limited by any other law, including the common law.
14 Employment of Service in preservation of life, health or property

The National or Provincial Commissioner may employ members for service in the preservation of life, health or property.

15 Delegation

(1) (a) Subject to section 15 of the Exchequer Act, 1975 (Act 66 of 1975), any power conferred on the National or Provincial Commissioner by this Act or any other law, excluding the power contemplated in section 13 (7) (a), may be delegated in writing by any such Commissioner to any member or other person in the employment of the Service, or a board or body established by or under this Act or a law referred to in section 217 (3) of the Constitution, who or which shall exercise such power subject to the directions of the Commissioner concerned.

(b) Paragraph (a) shall apply mutatis mutandis in respect of any power delegated by the National Commissioner to a Provincial Commissioner under that paragraph.

(2) The delegation of any power by the National or Provincial Commissioner under subsection (1) may be withdrawn by such a Commissioner and any decision taken by anyone under such delegated power may be withdrawn or amended by such Commissioner, and shall, until it is so withdrawn or amended, be deemed to have been taken by the National or Provincial Commissioner concerned: Provided that any such withdrawal or amendment shall not affect any right, privilege, obligation or liability acquired, accrued or incurred as a result of such decision.
CHAPTER 5A
STORAGE AND USE OF FINGERPRINTS,
BODY-PRINTS AND PHOTOGRAPHIC IMAGES OF
PERSONS (ss 15A-15D)
[Chapter 5A inserted by s. 6 of Act 6 of 2010.]

15A Storage and use of fingerprints, body-prints and photographic images

(1) The National Commissioner must ensure that fingerprints, body-prints or photographic images taken under—
   (a) section 36B (1), section 36C (1) or section 37 of the Criminal Procedure Act, 1977 (Act 51 of 1977);
   (b) section 113 of the Firearms Control Act, 2000 (Act 60 of 2000);
   (c) section 9 of the Explosives Act, 2003 (Act 15 of 2003); or
   (d) any Order of the Department of Correctional Services,

   are stored, maintained, administered, and readily available, whether in computerised or other form, and shall be located within the Division of the Service responsible for criminal records.

(2) The National Commissioner must ensure that the fingerprints and photographic images of persons whose names must be included in the National Register for Sex Offenders, as determined under section 50 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act 32 of 2007), are taken and dealt with in accordance with subsection (1).

(3) The provisions of this Chapter apply mutatis mutandis to the fingerprints, body-prints or photographic images stored, maintained and administered by the Division of the Service responsible for criminal records prior to the coming into operation of this Act and nothing in this Chapter shall affect the use of such prints and photographic images for the purposes set out in subsections (4) and (5).

(4) Subject to subsection (5), the fingerprints, body-prints or photographic images referred to in subsections (1), (2) and (3)
shall only be used for purposes related to the detection of crime, the investigation of an offence, the identification of missing persons, the identification of unidentified human remains or the conducting of a prosecution.

(5) Subsection (4) does not prohibit the use by the police officer commanding the Division of the Service responsible for criminal records or his or her delegate, of any fingerprints stored in terms of this section, for the purpose of establishing if a person has been convicted of an offence.

(6) Any person who, with regard to any fingerprints, body-prints or photographic images referred to in this Chapter—

(a) uses or who allows the use of those fingerprints, body-prints or photographic images for any purpose that is not related to the detection of crime, the investigation of an offence, the identification of missing persons, the identification of unidentified human remains or the conducting of a prosecution; or

(b) tampers with or manipulates the process or the fingerprints, bodyprints or images in question; or

(c) falsely claims such fingerprints, body-prints or images to have been taken from a specific person whilst knowing them to have been taken from another person or source,

is guilty of an offence and liable on conviction to imprisonment for a period not exceeding 15 years.

[S. 15A inserted by s. 6 of Act 6 of 2010.]

15B Comparative search against other databases

(1) Any fingerprints or photographic images stored in terms of this Chapter, may for purposes related to the detection of crime, the investigation of an offence, the identification of missing persons, the identification of unidentified human remains or the conducting of a prosecution, be checked against the databases of the Department of Home Affairs, the Department of Transport or any department of state in the national sphere of government, irrespective of whether the photographic images or prints stored
on these respective databases were collected before or after the coming into operation of this section.

(2) Any person who conducts a comparative search, as contemplated in subsection (1), for any purpose that is not related to the circumstances set out in that subsection, is guilty of an offence and liable on conviction to imprisonment for a period not exceeding 15 years.

(3) Any person who in respect of the taking of fingerprints, body-prints or photographic images—
   (a) tampers with or manipulates the process;
   (b) falsely claims it to have been taken from a specific person whilst knowing it to have been taken from another person or source,

is guilty of an offence and liable on conviction to imprisonment for a period not exceeding 15 years.

[S. 15B inserted by s. 6 of Act 6 of 2010.]

15C National instructions relating to collection, storage, maintenance, administration and use of fingerprints, body-prints and photographic images

(1) The National Commissioner must in consultation with the Minister, within six months of the commencement of this section issue national instructions regarding all matters which are reasonably necessary or expedient to be provided for in relation to this Chapter and which must be followed by all police officials, including the following:
   (a) The collection of fingerprints, body-prints and the taking of photographic images;
   (b) the storage, maintenance and administration of the fingerprints, body-prints and photographic images collected in terms of this Chapter;
   (c) the use of the information made available in terms of this Chapter; and
   (d) the manner in which statistics must be kept by the Division of the Service responsible for criminal records.
15D Security measures on integrity of information on database

(1) The National Commissioner must secure the integrity of information on the database provided for in this Chapter by taking appropriate, reasonable technical and organisational measures to prevent—
   (a) loss of, damage to or unauthorised destruction of information on the database; and
   (b) unlawful access to or processing of information on the database.

(2) In order to give effect to subsection (1), the National Commissioner must take reasonable measures to—
   (a) identify all reasonable foreseeable internal and external risks to information on the database under his or her control;
   (b) establish and maintain appropriate safeguards against the risks identified;
   (c) regularly verify that the safeguards are effectively implemented; and
   (d) ensure that the safeguards are continually updated in response to new risks or deficiencies in previously implemented safeguards.

(3) The National Commissioner must have due regard to generally accepted information security practices and procedures which may apply to the Service generally or be required in

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terms of specific laws and regulations relating to security of information applicable to the Service.

(4) The National Commissioner and the Directors-General of the Departments of Transport, Home Affairs and Correctional Services must, under the chairpersonship of the National Commissioner, within six months of the commencement of this section develop standard operating procedures regarding—

(a) access to the databases; and

(b) the implementation of safety measures to protect the integrity of information contained on the relevant databases.

(5) Other databases may only be accessed in terms of standard operating procedures referred to in subsection (4).

[S. 15D inserted by s. 6 of Act 6 of 2010.]

CHAPTER 6
ORGANISED CRIME AND PUBLIC ORDER POLICING UNIT (ss 16–17)

16 National prevention and investigation of crime

(1) Circumstances amounting to criminal conduct or an endeavour thereto, as set out in subsection (2), shall be regarded as organised crime, crime which requires national prevention or investigation, or crime which requires specialised skills in the prevention and investigation thereof.

(2) Circumstances contemplated in subsection (1) comprise criminal conduct or endeavour thereto—

(a) by a person, group of persons or syndicate acting in—

(i) an organised fashion; or

(ii) a manner which could result in substantial financial gain for the person, group of persons or syndicate involved.

[Para. (a) substituted by s. 2 (a) of Act 57 of 2008.]

(b) by a person or persons in positions of trust and making use of specialised or exclusive knowledge;
(ii) in respect of the revenue or expenditure of the national government; or

(iii) in respect of the national economy or the integrity of currencies;

(c) which takes on such proportions or is of such a nature that the prevention or investigation thereof at national level would be in the national interest;

(d) in respect of unwrought precious metals or unpolished diamonds;

(e) in respect of the hunting, importation, exportation, possession, buying and selling of endangered species or any products thereof as may be prescribed;

(f) in more than one province or outside the borders of the Republic by the same perpetrator or perpetrators, and in respect of which the prevention or investigation at national level would be in the national interest;

(g) in respect of which the prevention or investigation requires the application of specialised skills and where expediency requires that it be prevented or investigated at national level;

(h) which a Provincial Commissioner requests the National Head of the Directorate for Priority Crime Investigation, referred to in section 17C (2), to prevent or investigate by employing expertise and making resources available at national level and to which request the National Head of the Directorate for Priority Crime Investigation accedes in accordance with the approved policy guidelines:

Para. (h) substituted by s. 3 (a) of Act 10 of 2012.

(i) in respect of which the investigation in the Republic by the Service is requested by an international police agency or the police of a foreign country;

(iA) in respect of the commission of any alleged offence mentioned in the Schedule; or

Para. (iA) inserted by s. 2 (c) of Act 57 of 2008.
(j) in respect of which the prevention or investigation by members under the command of a Provincial Commissioner will detrimentally affect or hamper the prevention or investigation of circumstances referred to in paragraphs (a) to (iA).

[Para. (j) substituted by s. 2 (d) of Act 57 of 2008.]

(2A) For the purpose of subparagraph (a) (i), ‘organised fashion’ includes the planned, ongoing, continuous or repeated participation, involvement or engagement in at least two incidents of criminal or unlawful conduct that has the same or similar intents, results, accomplices, victims or methods of commission, or otherwise are related by distinguishing characteristics.

[Sub-s. (2A) inserted by s. 2 (e) of Act 57 of 2008.]

(3) In the event of a dispute between the National Head of the Directorate for Priority Crime Investigation and the National Commissioner or the National Head for Priority Crime Investigation and a Provincial Commissioner regarding the question whether criminal conduct or endeavour thereto falls within the mandate of the Directorate, the determination by the National Head of the Directorate for Priority Crime Investigation in accordance with the approved policy guidelines, shall prevail.

[Sub-s. (3) substituted by s. 3 (b) of Act 10 of 2012.]

(4) (a) Notwithstanding the provisions of subsections (1), (2) and (3), the Provincial Commissioner shall be responsible for the prevention and investigation of all crimes or alleged crimes committed in the province concerned.

(b) Where an investigation of a crime or alleged crime reveals that the circumstances referred to in subsection (2) are present, the Provincial Commissioner shall report the matter to the National Head of the Directorate for Priority Crime Investigation as soon as possible.

[Para. (b) substituted by s. 3 (c) of Act 10 of 2012.]

(c) The National Head of the Directorate for Priority Crime Investigation may, after consultation with the Provincial Commissioner concerned, notwithstanding the presence of the circum-
stances referred to in subsection (2), direct that the investigation or any part thereof, be conducted by the Provincial Commissioner.

[Para. (c) substituted by s. 3 (c) of Act 10 of 2012.]

(5) All members of the Service shall cooperate with one another in accordance with the principles provided for in Chapter 3 of the Constitution of the Republic of South Africa, 1996.

[Sub-s. (5) added by s. 3 (d) of Act 10 of 2012.]

17 National public order policing unit

(1) The National Commissioner shall, subject to section 218 (1) (k) of the Constitution, establish and maintain a national public order policing unit.

(2) The National Commissioner may deploy the national public order policing unit, or any part thereof, at the request and in support of a Provincial Commissioner, taking into account—

(a) the reason for the request;
(b) the personnel and equipment available to the unit; and
(c) any other circumstances anywhere in the national territory which may have an influence on the maintenance of public order and which may require the deployment of the unit or any part thereof elsewhere.

(3) Where the national public order policing unit or any part thereof is deployed under subsection (2), the unit shall perform its functions subject to the directions of the Provincial Commissioner concerned: Provided that the mere fact of such deployment does not preclude the President from exercising his or her powers under subsection (5) in relation to the area where the unit is so deployed.

(4) The National Commissioner may withdraw the national public order policing unit or any part thereof deployed under subsection (2), taking into account—

(a) the prevailing circumstances where the unit or part thereof is so deployed;
(b) the personnel and equipment available to the unit; and

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any other circumstances anywhere in the national
territory which may have an influence on the mainte-
nance of public order and which may require the
deployment of the unit or any part thereof elsewhere:
Provided that the National Commissioner shall, at the request of
the Provincial Commissioner, withdraw the unit or any part
thereof so deployed.
(5) The President may, in consultation with the Cabinet, direct the
National Commissioner to deploy the national public order
policing unit in circumstances where a Provincial Commissioner
is unable to maintain public order and the deployment of the unit
is necessary to restore public order.
(6) The National Commissioner shall, upon receiving a direction
under subsection (5), deploy the national public order policing
unit or such part thereof as may be necessary to restore public
order to the area concerned, and may from time to time if he or
she deems it necessary, deploy additional members of the unit in
the area concerned or, subject to subsection (7), withdraw
members of the unit from the area concerned if their continued
presence is no longer required to restore or maintain public order
in the area concerned or in any part thereof.
(7) Where the national public order policing unit or any part
thereof is deployed under subsection (5) and public order has
been restored in the area concerned, the unit or part thereof shall
continue to maintain public order in such area until the President,
in consultation with the Cabinet, directs the National Commis-
sioner to withdraw the unit.

CHAPTER 6A
DIRECTORATE FOR PRIORITY CRIME
INVESTIGATION (ss 17A-17L)
[Chapter 6A inserted by s. 3 of Act 57 of 2008.]

17A Definitions
In this Chapter, unless the context otherwise indicates—
‘Directorate’ means the Directorate for Priority Crime Investi-
gation, established by section 17C;
‘Ministerial Committee’ means the Committee referred to in section 17I (1); ‘national priority offence’ means organised crime, crime that requires national prevention or investigation, or crime which requires specialised skills in the prevention and investigation thereof, as referred to in section 16 (1); and ‘Operational Committee’ means the Operational Committee established by section 17J.

[S. 17A inserted by s. 3 of Act 57 of 2008.]

17AA Applicability of this Chapter

The provisions of Chapter 6A in respect of the mandate of the Directorate apply to the exclusion of any section within this Act.

[S. 17AA inserted by s. 4 of Act 10 of 2012.]

17B Application of Chapter

In the application of this Chapter the following should be recognised and taken into account:

(a) The need to establish a Directorate in the Service to prevent, combat and investigate national priority offences, in particular serious organised crime, serious commercial crime and serious corruption.

[Para. (a) substituted by s. 5 of Act 10 of 2012.]

(b) The need to ensure that the Directorate—

(i) implements, where appropriate, a multi-disciplinary approach and an integrated methodology involving the co-operation of all relevant Government departments and institutions;

(ii) has the necessary independence to perform its functions;

(iii) is equipped with the appropriate human and financial resources to perform its functions;

(iv) is staffed through the transfer, appointment, or secondment of personnel whose integrity is beyond reproach.

[S. 17B inserted by s. 3 of Act 57 of 2008.]
17C Establishment and composition of Directorate for Priority Crime Investigation

(1) The Directorate for Priority Crime Investigation is hereby established as a Directorate in the Service.

(1A) The Directorate comprises—

(a) the Office of the National Head of the Directorate at national level; and

(b) the Office of the Provincial Directorate in each province.

(2) The Directorate consists of—

(a) the National Head of the Directorate at national level, who shall manage and direct the Directorate and who shall be appointed by the Minister in concurrence with Cabinet;

(aA) the Deputy National Head of the Directorate at national level;

(aB) the Provincial Heads of the Directorate;

(b) other persons appointed by the National Head of the Directorate at national and provincial level on the basis of the required level of experience, training, skills, competence and knowledge;

(c) an adequate number of legal officers appointed to the Directorate;

(d) officials from any Government department or institution, seconded to the Directorate in terms of laws governing the public service; and

(e) administrative staff appointed to the Directorate.

(3) The National Head of the Directorate shall manage and control all members of the Directorate in accordance with the provisions of the Constitution of the Republic of South Africa, 1996, Chapter 6A of this Act and any other applicable legislation.

[S. 17C inserted by s. 3 of Act 57 of 2008 and substituted by s. 6 of Act 10 of 2012.]
17CA Appointment, remuneration and conditions of service

(1) The Minister, with the concurrence of Cabinet, shall appoint a person who is—
   (a) a South African citizen; and
   (b) a fit and proper person,
with due regard to his or her experience, conscientiousness and integrity, to be entrusted with the responsibilities of the office concerned, as the National Head of the Directorate for a non-renewable fixed term of not shorter than seven years and not exceeding 10 years.

(2) The period referred to in subsection (1) is to be determined at the time of appointment.

(3) The Minister shall report to Parliament on the appointment of the National Head of the Directorate within 14 days of the appointment if Parliament is then in session or, if Parliament is not then in session, within 14 days after the commencement of its next ensuing session.

(4) The Minister in consultation with the National Head of the Directorate and with the concurrence of Cabinet, shall appoint a person who is—
   (a) a South African citizen; and
   (b) a fit and proper person,
with due regard to his or her experience, conscientiousness and integrity, to be entrusted with the responsibilities of the office concerned, as a Deputy National Head of the Directorate for a non-renewable fixed term of not shorter than seven years and not exceeding 10 years.

(5) The period referred to in subsection (4) is to be determined at the time of appointment.

(6) The Minister in consultation with the National Head of the Directorate and with the concurrence of Cabinet, shall appoint a person who is—
   (a) a South African citizen; and
   (b) a fit and proper person,
with due regard to his or her experience, conscientiousness and integrity, to be entrusted with the responsibilities of the office concerned, as a Provincial Head of the Directorate for a non-renewable fixed term of not shorter than seven years and not exceeding 10 years.

(7) The period referred to in subsection (6) is to be determined at the time of appointment.

(8) (a) The remuneration, allowances and other terms and conditions of service and service benefits of the National Head of the Directorate shall be determined by the Minister with the concurrence of the Minister of Finance, by notice in the Gazette.

(b) The remuneration, allowances and other terms and conditions of service and service benefits of the Deputy National Head and Provincial Heads of the Directorate shall be determined by the Minister after consultation with the National Head of the Directorate and with the concurrence of the Minister of Finance: Provided that—

(i) the salary of the National Head of the Directorate shall not be less than the salary level of the highest paid Deputy National Commissioner of the Service;

(ii) the salary of the Deputy National Head of the Directorate shall not be less than the salary level of the highest paid Divisional Commissioner; and

(iii) the salary of a Provincial Head of the Directorate shall not be less than the salary level of the highest paid Deputy Provincial Commissioner.

(9) The Minister shall submit the remuneration scale payable to the National Head, Deputy National Head and Provincial Heads of the Directorate to Parliament for approval, and such remuneration scale may not be reduced except with the concurrence of Parliament.

(10) The Deputy National Head of the Directorate shall exercise such powers and perform such functions as the National Head of the Directorate may in terms of this Act or any other law assign to him or her.

(11) A Provincial Head of the Directorate shall exercise such
powers or perform such functions as the National Head of the Directorate may, in terms of this Act, or any other law assign to him or her.

(12) (a) Whenever the National Head of the Directorate is absent or unable to perform his or her functions, the Minister shall appoint the Deputy National Head of the Directorate as the acting National Head of the Directorate.

(b) Whenever the office of the National Head of the Directorate is vacant, or the National Head of the Directorate is for any reason unable to take up the appointment contemplated in subsection (1), the Minister shall appoint the Deputy National Head of the Directorate as the acting National Head of the Directorate.

(c) If both the National Head of the Directorate and the Deputy National Head of the Directorate are absent, the Minister shall appoint a suitably qualified and experienced person as the acting National Head of the Directorate.

(d) Whenever the Deputy National Head of the Directorate is absent or unable to perform his or her functions, the National Head of the Directorate shall appoint a suitably qualified and experienced person as the acting Deputy National Head of the Directorate.

(e) Whenever the office of the Deputy National Head of the Directorate is vacant the Head of the Directorate shall appoint a suitably qualified person as the Acting Deputy National Head of the Directorate.

(13) In the event of a vacancy in the office of the National Head of the Directorate, the Deputy National Head of the Directorate or a Provincial Head of the Directorate, such vacancy shall be filled in terms of this section within six months from the date when such vacancy arose.

(14) If the National Head or Deputy National Head of the Directorate, as may be applicable, attains the age of 60 years after the first day of any month, he or she shall be deemed to have attained that age on the first day of the next succeeding month.

(15) The Minister shall with the consent of the National Head or
Deputy National Head of the Directorate, retain the National Head, or the Deputy National Head of the Directorate, as may be applicable, in his or her office beyond the age of 60 years for such period which shall not—
   (a) exceed the period determined in section 17CA; and
   (b) exceed two years, except with the approval of Parliament granted by resolution.

(16) The National Head or Deputy National Head of the Directorate may only be retained as contemplated in subsection (15) if—
   (a) he or she wishes to continue to serve in such office; and
   (b) the mental and physical health of the person concerned enables him or her so to continue.

(17) The Minister shall make regulations under section 24 of this Act and if such regulations or any amendment thereto affect the Directorate, the regulations shall be submitted to Parliament for approval—
   (a) at least one month before promulgation, if Parliament is in session; or
   (b) if Parliament is not in session, within one month after the next ensuing session.

(18) The regulations referred to in section 17G of this Act shall be submitted to Parliament for approval.

(19) Any disciplinary action against a Deputy National Head, Provincial Head, member or employee in the service of the Directorate, as may be applicable, shall be considered and finalised within the Directorate’s structures subject to the relevant prescripts.

(20) No Deputy National Head of the Directorate, Provincial Head of the Directorate, member or administrative staff of the Directorate may be—
   (a) transferred; or
   (b) dismissed,
from the Directorate, except after approval by the National Head of the Directorate.
(21) The National Commissioner may only in consultation with the National Head of the Directorate involve members of the Directorate in national joint operations and in circumstances that would be of assistance to the Directorate in the execution of its mandate and functions in terms of this Act.

(22) The National Head of the Directorate shall not be involved in management functions of the Service, except as required in terms of Chapter 6A of this Act and shall be accountable to the Minister.

[S. 17CA inserted by s. 7 of Act 10 of 2012.]

17D Functions of Directorate

(1) The functions of the Directorate are to prevent, combat and investigate—

(a) national priority offences, which in the opinion of the National Head of the Directorate need to be addressed by the Directorate, subject to any policy guidelines issued by the Minister and approved by Parliament;

[Para. (a) substituted by s. 8 (a) of Act 10 of 2012.]

(aA) selected offences not limited to offences referred to in Chapter 2 and section 34 of the Prevention and Combating of Corrupt Activities Act, 2004 (Act 12 of 2004); and

[Para. (aA) inserted by s. 8 (b) of Act 10 of 2012.]

(b) any other offence or category of offences referred to in this Act from time to time by the National Commissioner, subject to any policy guidelines issued by the Minister and approved by Parliament.

[Para. (b) substituted by s. 8 (c) of Act 10 of 2012.]

(1A) The National Head of the Directorate shall ensure that the Directorate observe the policy guidelines referred to in subsection (1).

[Sub-s. (1A) inserted by s. 8 (d) of Act 10 of 2012.]

(2) If, during the course of an investigation by the Directorate, evidence of any other crime is detected and the Head of the
Directorate considers it in the interests of justice, or in the public interest, he or she may extend the investigation so as to include any offence which he or she suspects to be connected with the subject of the investigation.

(3) The National Head of the Directorate may, if he or she has reason to suspect that a national priority offence has or is being committed, request the National Director of Public Prosecutions to designate a Director of Public Prosecutions to exercise the powers of section 28 of the National Prosecuting Authority Act, 1998 (Act 32 of 1998).

(Sub-s. (3) substituted by s. 8 (e) of Act 10 of 2012.)

[S. 17D inserted by s. 3 of Act 57 of 2008.]

17DA Removal from office of National Head of Directorate

(1) The National Head of the Directorate shall not be suspended or removed from office except in accordance with the provisions of subsections (2), (3) and (4).

(2) (a) The Minister may provisionally suspend the National Head of the Directorate from his or her office, pending an inquiry into his or her fitness to hold such office as the Minister deems fit and, subject to the provisions of this subsection, may thereupon remove him or her from office—

(i) for misconduct;

(ii) on account of continued ill-health;

(iii) on account of incapacity to carry out his or her duties of office efficiently; or

(iv) on account thereof that he or she is no longer a fit and proper person to hold the office concerned.

(b) The removal of the National Head of the Directorate, the reason therefor and the representations of the National Head of the Directorate, if any, shall be communicated in writing to Parliament within 14 days after such removal if Parliament is then in session or, if Parliament is not then in session, within 14 days after the commencement of its next ensuing session.
(c) The National Head of the Directorate provisionally suspended from office shall during the period of such suspension be entitled to such salary, allowance, privilege or benefit to which he or she is otherwise entitled, unless the Minister determines otherwise.

(d) An inquiry referred to in this subsection—

(i) shall perform its functions subject to the provisions of the Promotion of Administrative Justice Act, 2000 (Act 3 of 2000), in particular to ensure procedurally fair administrative action; and

(ii) shall be led by a judge or retired judge: Provided that the Minister shall make the appointment after consultation with the Minister of Justice and Constitutional Development and the Chief Justice.

(e) The National Head of the Directorate shall be informed of any allegations against him or her and shall be granted an opportunity to make submissions to the inquiry upon being informed of such allegations.

(3) (a) The National Head of the Directorate may be removed from office on the ground of misconduct, incapacity or incompetence on a finding to that effect by a Committee of the National Assembly.

(b) The adoption by the National Assembly of a resolution calling for that person’s removal from office.

(4) A resolution of the National Assembly concerning the removal from office of the National Head of the Directorate shall be adopted with a supporting vote of at least two thirds of the members of the National Assembly.

(5) The Minister—

(a) may suspend the National Head of the Directorate from office at any time after the start of the proceedings of a Committee of the National Assembly for the removal of that person; and

(b) shall remove the National Head of the Directorate from office upon adoption by the National Assembly of the resolution calling for the National Head of the Directorate’s removal.
(6) The Minister may allow the National Head of the Directorate, at his or her request, to vacate his or her office—
   (a) on account of continued ill-health; or
   (b) for any other reason which the Minister deems sufficient.

(7) The request in terms of subsection (6) shall be addressed to the Minister at least six calendar months prior to the date on which the National Head of the Directorate wishes to vacate his or her office, unless the Minister grants a shorter period in a specific case.

[S. 17DA inserted by s. 9 of Act 10 of 2012.]

17DB Staff of Directorate

The National Head of the Directorate shall—
   (a) determine the fixed establishment of the Directorate and the number and grading of posts, in consultation with the Minister and the Minister for the Public Service and Administration; and
   (b) appoint the staff of the Directorate: Provided that where a member of the Service is appointed to the Directorate, the National Head of the Directorate shall do so after consultation with the National Commissioner.

[S. 17DB inserted by s. 9 of Act 10 of 2012.]

17E Security screening and integrity measures

(1) Any person who is considered for appointment in, or secondment to, the Directorate, shall be subject to a security screening investigation in terms of and in accordance with section 2A of the National Strategic Intelligence Act, 1994 (Act 39 of 1994).

(2) No person may be appointed to the Directorate unless—
   (a) a security clearance has been issued to that person in terms of section 2A (6) of the National Strategic Intelligence Act, 1994 (Act 39 of 1994), by any
Intelligence Structure referred to in that Act as may from time to time be determined by the Minister:

[Para. (a) substituted by s. 10 (a) of Act 10 of 2012.]

(b) a security clearance on the required level and which is still valid has been issued to the person in question in terms of section 2A (6) of the National Strategic Intelligence Act, 1994; or

(c) a temporary security clearance has been issued by any Intelligence Structure referred to in the National Strategic Intelligence Act, 1994, determined by the Minister after the person had submitted an application to such Intelligence Structure to have a security screening investigation conducted.

[Para. (c) substituted by s. 10 (a) of Act 10 of 2012.]

(3) Any appointment on the basis of a temporary security clearance shall be subject to the finalisation of the security screening investigation and the issuing of a security clearance in terms of section 2A (6) of the National Strategic Intelligence Act, 1994.

(4) Whenever the head of the Intelligence Structure referred to in subsection (2) (a) and (c) acting in terms of section 2A (6) of the National Strategic Intelligence Act, 1994, upon reasonable grounds, degrades, withdraws or refuses a security clearance, of a member of the Directorate, the National Commissioner may on request of the National Head of the Directorate transfer such person from the Directorate, or if such person cannot be redeployed elsewhere in the Service, discharge him or her, subject to the provisions of section 34.

[Sub-s. (4) substituted by s. 10 (b) of Act 10 of 2012.]

(5) A member of the Directorate may from time to time, or at such regular intervals as the Head of the Directorate may determine, be subjected to a further security screening investigation.

(6) If, upon information at the disposal of the Head of the Directorate, he or she reasonably believes that the person concerned poses a security risk, he or she may require the member to undergo a further security screening investigation.
(7) (a) Any member of the Directorate must, in the prescribed manner and at the prescribed intervals, disclose his or her prescribed financial and other interests and those of his or her immediate family members.

(b) For the purpose of paragraph (a), ‘immediate family member’ refers to the spouse, civil partner or permanent life partner of that member, and includes dependent children of, and dependent family members living in the same household with that member.

(8) (a) The Minister may prescribe measures for integrity testing of members of the Directorate, which may include random entrapment, testing for the abuse of alcohol or drugs, or the use of the polygraph or similar instrument to ascertain, confirm or examine in a scientific manner the truthfulness of a statement made by a person.

(b) The necessary samples required for any test referred to in paragraph (a), may be taken, but any sample taken from the body of a member may only be taken by a registered medical practitioner or a registered nurse.

(c) The Minister shall prescribe measures to ensure the confidentiality of information obtained through integrity testing, if such measures are prescribed in terms of paragraph (a).

(9) (a) A member of the Directorate shall serve impartially and exercise his or her powers or perform his or her functions in good faith.

(b) Subject to the Constitution of the Republic of South Africa, 1996, and this Act, no organ of state and no member or employee of an organ of state nor any other person shall improperly interfere with, hinder or obstruct a member of the Directorate, in the exercise, carrying out or performance of his or her powers, duties and functions.

[Sub-s. (9) added by s. 10 (c) of Act 10 of 2012.]

(10) The National Head of the Directorate, the Deputy National Head of the Directorate and any person seconded to or employed in the Directorate, shall before commencing with their functions in terms of this Act, take an oath or make an affirmation, which shall be subscribed by them, in the form set out below:
I ...................................................................................................  

(full name)  
do hereby swear/solemnly affirm that I will in my capacity as  
National Head of the Directorate/Deputy National Head of the  
Directorate/member of the Directorate/employee at the  
Directorate/being seconded to the Directorate uphold and protect  
the Constitution and the fundamental rights entrenched therein  
and enforce the Law of the Republic without fear, favour or  
prejudice and, as the circumstances of any particular case may  
require, in accordance with the Constitution and the Law. (In the  
case of an oath: So help me God.).’

[Sub-s. (10) added by s. 10 (c) of Act 10 of 2012.]  

(11) Without derogating from the provisions of section 67 of this  
Act, any person, including any member of the Service, who  
resists or wilfully hinders or obstructs or unduly influences the  
National Head, Deputy National Head, Provincial Head or any  
member of the Directorate in the exercising of his or her functions  
shall be guilty of an offence and liable on conviction to a fine or  
to imprisonment for a period not exceeding two years.  

[Sub-s. (11) added by s. 10 (c) of Act 10 of 2012.]  

[S. 17E inserted by s. 3 of Act 57 of 2008.]

17F Multi-disciplinary approach  

(1) Government departments or institutions shall, when required  
to do so, take reasonable steps to assist the Directorate in the  
achievement of its objectives.  

(2) The National Head of the Directorate may request the  
secondment of personnel from any other Government depart-  
ment or institution, whenever he or she deems it necessary for  
the effective performance of the functions of the Directorate.  

[Sub-s. (2) substituted by s. 11 (a) of Act 10 of 2012.]  

(3) The Directorate shall be assisted in the performance of its  
functions by personnel seconded by relevant Government  
departments or institutions, which may include personnel from  
the South African Revenue Service, the Financial Intelligence  
Centre and the Department of Home Affairs.
(4) The National Director of Public Prosecutions must ensure that a dedicated component of prosecutors is available to assist and co-operate with members of the Directorate in conducting its investigations.

(5) The Director-General of the Government department or Head of the relevant Government institution, referred to in subsection (2), shall upon request by the National Head of the Directorate, identify suitable personnel to be seconded to the Directorate upon such terms and conditions as may be agreed upon between the National Head of the Directorate and the Director-General of the department or Head of the Government institution concerned.

[Sub-s. (5) substituted by s. 11 (b) of Act 10 of 2012.]

(6) Without derogating from the functions of the Service in respect of crime intelligence, as provided for in the National Strategic Intelligence Act, 1994 (Act 39 of 1994), the Directorate shall be supported by the Crime Intelligence Division of the Service to gather, correlate, evaluate, co-ordinate and use crime intelligence in the performance of its functions.

(6A) The Head of the Crime Intelligence Division of the Service shall upon a request of the National Head of the Directorate make available crime intelligence capacity to assist the Directorate in a specific investigation.

[Sub-s. (6A) inserted by s. 11 (c) of Act 10 of 2012.]

(7) (a) If the National Head of the Directorate so requests, any person seconded in terms of subsection (3) shall retain the powers, duties and functions endowed by any law governing the powers, duties and functions of that department or institution, and that person may exercise such powers, duties and functions under the command of the National Head of the Directorate or his or her delegate, but subject to such conditions as may be determined by the Head of the seconding Government department or institution.

(b) A person seconded under paragraph (a) shall in the performance of his or her functions act in terms of the laws applicable to the Government department or institution from which he or she is seconded, subject to such conditions as may

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be agreed upon by the National Head of the Directorate and the Director-General of the Government Department or Head of the Government institution.

[Sub-s. (7) substituted by s. 11 (d) of Act 10 of 2012.]
[S. 17F inserted by s. 3 of Act 57 of 2008.]

17G Conditions of service
The remuneration, allowances and other conditions of service of members of the Directorate shall be regulated in terms of section 24.

[S. 17G inserted by s. 3 of Act 57 of 2008.]

17H Finances and financial accountability
(1) The expenses incurred in connection with—
    (a) the exercise of the powers, the carrying out of the duties and the performance of the functions of the Directorate; and
    (b) the remuneration and other conditions of service of members of the Directorate,
shall be defrayed from monies appropriated by Parliament for this purpose to the departmental vote in terms of the Public Finance Management Act, 1999 (Act 1 of 1999).

(2) In order to give effect to subsection (5), the National Head of the Directorate shall prepare and provide the National Commissioner with the necessary estimate of revenue and expenditure of the Directorate for incorporation on the estimate and expenditure of the Service.

(3) Whenever the National Commissioner and the National Head of the Directorate are unable to agree on estimate of revenue and expenditure of the Directorate, the Minister shall mediate between the parties.

(4) The National Commissioner, as the accounting officer of the Service, shall, subject to the Public Finance Management Act, 1999 (Act 1 of 1999), and subsection (2)—

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be charged with the responsibility of accounting for State monies received or paid out for or on account of the Directorate;

(b) involve the National Head of the Directorate in all consultations relating to the estimate of revenue and expenditure of the Directorate including any consultations with the National Treasury relating to the revenue and expenditure of the Directorate;

(c) cause the necessary accounting and other records to be kept; and

(d) ensure that the annual report on the performance of the Directorate is included as a distinct programme in the annual report of the Service.

(5) Monies appropriated by Parliament for the purpose envisaged in subsection (1)—

(a) shall be regarded as specifically and exclusively appropriated for that purpose; and

(b) may only be utilised for that purpose.

(6) The National Head of the Directorate shall have control over the monies appropriated by Parliament envisaged in subsection (1) in respect of the expenses of the Directorate.

[S. 17H inserted by s. 3 of Act 57 of 2008 and substituted by s. 12 of Act 10 of 2012.]

17I Coordination by Cabinet

(1) The President shall for purposes of subsections (2) and (3) designate a Ministerial Committee which shall include—

(a) at least the Ministers of—

(i) Police;

(ii) Finance;

(iii) Home Affairs;

(iv) State Security; and

(v) Justice and Constitutional Development;
(b) any other Minister designated from time to time by the
President.
[Sub-s. (1) substituted by s. 13 of Act 10 of 2012.]

(2) The Ministerial Committee may determine procedures to
coordinate the activities of the Directorate and other relevant
Government departments or institutions.
[Sub-s. (2) substituted by s. 13 of Act 10 of 2012.]

(3) (a) The Ministerial Committee shall meet as regularly as
necessary and shall report to Parliament on its activities as part
of the annual report of the Directorate.

(aA) The Ministerial Committee shall at any time, upon being
requested to do so, report to Parliament.
[Sub-s. (3) substituted by s. 13 of Act 10 of 2012.]
[S. 17I inserted by s. 3 of Act 57 of 2008.]

17J Operational Committee

(1) (a) There is hereby established a committee, to be known as
the Operational Committee, which comprises—

(i) the National Head of the Directorate, as chairperson;
[Sub-para. (i) substituted by s. 14 (a) of Act 10 of 2012.]

(ii) the Deputy National Head of the Directorate, as deputy
chairperson;
[Sub-para. (ii) substituted by s. 14 (a) of Act 10 of 2012.]

(iiA) a Deputy National Commissioner of the South African
Police Service designated by the National Commis-
sioner;
[Sub-para. (iiA) inserted by s. 14 (b) of Act 10 of 2012.]

(iiB) the Head of the Crime Intelligence Division of the South
African Police Service;
[Sub-para. (iiB) inserted by s. 14 (b) of Act 10 of 2012.]

(iii) the National Director of Public Prosecutions;
(iv) the Directors-General of Finance, Justice and Constitu-
tional Development, the National Intelligence Agency
and Home Affairs;

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(v) the Commissioner of the South African Revenue Service;
(vi) the Head of the Financial Intelligence Centre; and
(vii) such other persons as the Operational Committee may require from time to time, for the duration determined by the Operational Committee.

(b) An official at the level of at least a Chief Director may be designated on a permanent basis to represent any official mentioned above if he or she is not available; Provided that the official listed in paragraph (a) may also attend.

[Para. (b) substituted by s. 14 (c) of Act 10 of 2012.]

(2) The Operational Committee shall—
(a) review, monitor and facilitate the support and assistance of the respective Government departments or institutions to the Directorate as well as secondments to the Directorate, and address problems which arise regarding such support and assistance; and
[Para. (a) substituted by s. 14 (d) of Act 10 of 2012.]
(b) and
(c) ... [Paras. (b) and (c) deleted by s. 14 (e) of Act 10 of 2012.]
(d) meet as regularly as required to fulfil its functions, but not less than four times annually.
[S. 17J inserted by s. 3 of Act 57 of 2008.]

17K Parliamentary oversight
(1) Parliament shall effectively oversee the functioning of the Directorate and the committees established in terms of this Chapter.
(2) The National Commissioner shall include in the annual report to Parliament in terms of section 40 (d) of the Public Finance Management Act, 1999 (Act 1 of 1999), a report in respect of the performance of the Directorate compiled by the National Head of the Directorate as a separate programme.
[Sub-s. (2) substituted by s. 15 (a) of Act 10 of 2012.]
(2A) The budget report to Parliament shall include a full breakdown of the specific and exclusive budget of the Directorate.
   [Sub-s. (2A) inserted by s. 15 (b) of Act 10 of 2012.]
(2B) The National Head of the Directorate shall make a presentation to Parliament on the budget of the Directorate.
   [Sub-s. (2B) inserted by s. 15 (b) of Act 10 of 2012.]
(3) . . .
   [Sub-s. (3) deleted by s. 15 (c) of Act 10 of 2012.]
(4) The Minister shall—
   (a) determine, with the concurrence of Parliament—
      (i) policy guidelines for the selection of national priority offences by the National Head of the Directorate referred to in section 17D (1) (a);
      (ii) policy guidelines for the referral to the Directorate by the National Commissioner of any offence or category of offences for investigation by the Directorate referred to in section 17D (1) (b);
   (b) submit to Parliament any policy guidelines referred to in this section for concurrence.
   [Sub-s. (4) substituted by s. 15 (d) of Act 10 of 2012.]
(5) and (6) . . .
   [Sub-s. (5) and (6) deleted by s. 15 (e) of Act 10 of 2012.]
(7) The first policy guidelines issued under this Act shall be tabled in Parliament not later than six months after the commencement of the South African Police Service Amendment Act, 2012.
   [Sub-s. (7) added by s. 15 (f) of Act 10 of 2012.]
(8) Any changes to the policy guidelines referred to in subsection (4) shall be submitted to Parliament for consideration and approval for implementation.
   [Sub-s. (8) added by s. 15 (f) of Act 10 of 2012.]
(9) The Minister shall report to Parliament on the appointment of the National Head of the Directorate.
   [Sub-s. (9) added by s. 15 (f) of Act 10 of 2012.]
   [S. 17K inserted by s. 3 of Act 57 of 2008.]

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17L Complaints mechanism

(1) (a) The Minister shall, after consultation with the Minister of Justice and the Chief Justice, appoint a retired judge in order to investigate complaints referred to in subsection (4).

(b) For purposes of paragraph (a) ‘retired judge’ shall mean a judge discharged from active service as referred to in the Judges’ Remuneration and Conditions of Employment Act, 2001 (Act 47 of 2001).

(2) The performance of the functions provided for in respect of the retired judge does not derogate from the powers of the Independent Complaints Directorate referred to in section 50 to investigate complaints in respect of any member, including members in the Directorate for Priority Crime Investigation.

(3) The retired judge shall not investigate complaints about intelligence matters falling under the jurisdiction of the Inspector-General of Intelligence.

(4) The retired judge may receive complaints in the prescribed form and manner from—

   (a) any member of the public who can provide evidence of a serious and unlawful infringement of his or her rights caused by an investigation by the Directorate; or

   (b) any member of the Directorate who can provide evidence of any improper influence or interference, whether of a political or any other nature, exerted upon him or her regarding the conducting of an investigation.

(5) The retired judge may upon receipt of a complaint investigate such complaint or refer it to be dealt with by, amongst others, the Secretariat, the Independent Complaints Directorate, the National Commissioner, the Head of the Directorate, the relevant Provincial Commissioner, the National Director of Public Prosecutions, the Inspector-General of Intelligence, or any institution mentioned in chapter 9 of the Constitution of the Republic of South Africa, 1996.

(6) The retired judge shall report the outcome of any investigation undertaken by him or her or any referral to the Minister.

(7) The retired judge may request and obtain information from
the National Director of Public Prosecutions in so far as it may be necessary for the judge to conduct an investigation.

[Sub-s. (7) substituted by s. 16 (a) of Act 10 of 2012.]

(7A) The retired judge may request information from any member of the Service for purposes of any investigation by that judge and the refusal to comply with such a request shall be a criminal offence for which a person, upon conviction, may be sentenced to a fine or imprisonment or to both a fine and imprisonment of two years.

[Sub-s. (7A) inserted by s. 16 (b) of Act 10 of 2012.]

(8) To the extent that it is reasonably necessary for the performance of the functions of the retired judge, he or she—

(a) may obtain information and documents under the control of the Service;
(b) may enter any building or premises under the control of the Service in order to obtain such information and documents; and
(c) shall be entitled to all reasonable assistance by a member.

(9) The judge shall annually report to Parliament on the performance of his or her functions.

(10) The Head of the Directorate may request the retired judge to investigate complaints or allegations relating to investigations by the Directorate or alleged interference with such investigations.

(11) Any person who makes a complaint in terms of this section shall not be entitled to use this section to establish whether there is an investigation against him or her, nor be entitled to any delay, interference or termination of such investigation on the basis that such complaint has been made.

(12) The Minister shall ensure that the retired judge has sufficient personnel and resources to fulfil his or her functions.

(13) An annual operational budget shall be prepared by the Secretary in consultation with the retired judge and provided for
under the budget for the Secretariat for the specific and exclusive use of the official duties of the retired judge and may not be used for any other purpose.

[Sub-s. (13) added by s. 16 (c) of Act 10 of 2012.]

(14) Subsection (11) shall not be construed to inhibit the retired judge to investigate any matter which relates to an ongoing investigation.

[Sub-s. (14) added by s. 16 (c) of Act 10 of 2012.]

(15) The Secretary, in consultation with the retired judge, shall develop and implement a plan to promote awareness amongst the public and members of the Directorate on the functions and role of the complaints mechanism.

[Sub-s. (15) added by s. 16 (c) of Act 10 of 2012.]

(16) Any interference with the retired judge in the performance of his or her functions and duties shall be a criminal offence for which a person upon conviction may be sentenced to a fine or imprisonment of two years or to both such fine or imprisonment.

[Sub-s. (16) added by s. 16 (c) of Act 10 of 2012.]

[S. 17L inserted by s. 3 of Act 57 of 2008.]

CHAPTER 7
COMMUNITY POLICE FORUMS AND BOARDS
(ss 18–23)

18 Objects of community police forums and boards

(1) The Service shall, in order to achieve the objects contemplated in section 215 of the Constitution, liaise with the community through community police forums and area and provincial community police boards, in accordance with sections 19, 20 and 21, with a view to—

(a) establishing and maintaining a partnership between the community and the Service;

(b) promoting communication between the Service and the community;
(c) promoting co-operation between the Service and the community in fulfilling the needs of the community regarding policing;

(d) improving the rendering of police services to the community at national, provincial, area and local levels;

(e) improving transparency in the Service and accountability of the Service to the community; and

(f) promoting joint problem identification and problem-solving by the Service and the community.

(2) This Chapter shall not preclude liaison by the Service with the community by means other than through community police forums and boards.

19 Establishment of community police forums

(1) A Provincial Commissioner shall, subject to the directions of the member of the Executive Council, be responsible for establishing community police forums at police stations in the province which shall, subject to subsection (3), be broadly representative of the local community.

(2) A community police forum may establish community police sub-forums.

(3) Subject to section 23 (1) (b), the station commissioner and the members designated by him or her from time to time for that purpose, shall be members of the community police forum and sub-forums established at the police station concerned.

20 Establishment of area community police boards

(1) A Provincial Commissioner shall, subject to the directions of the member of the Executive Council, be responsible for establishing area community police boards in all areas within the province.

(2) An area community police board shall, subject to subsection (3), consist of representatives of community police forums in the area concerned designated for that purpose by such community police forums.
(3) Subject to section 23 (1) (b), the area commissioner and the members designated by him or her from time to time for that purpose, shall be members of the area community police board concerned.

21 Establishment of provincial community police boards

(1) A Provincial Commissioner shall, subject to the directions of the member of the Executive Council, be responsible for establishing a provincial community police board.

(2) A provincial community police board shall, subject to subsection (3), consist of representatives of area community police boards designated for that purpose by the area community police boards in the province concerned.

(3) Subject to section 23 (1) (b), the Provincial Commissioner and the members designated by him or her from time to time for that purpose, shall be members of the provincial community police board concerned.

22 Functions of community police forums and boards

(1) A provincial or area community police board or a community police forum or subforum shall perform the functions it deems necessary and appropriate to achieve the objects contemplated in section 18, which may include the functions contemplated in section 221 (2) of the Constitution.

(2) The Minister shall, in consultation with the executive coordinating committee, make regulations to ensure the proper functioning of community police forums and sub-forums and community police boards.

23 Procedural matters

(1) Every provincial or area community police board and community police forum or sub-forum shall—

   (a) elect one of its members as chairperson and another one as vice-chairperson;
(b) determine the number of members to be designated by the provincial, area or station commissioner concerned to serve as members of the board, forum or subforum concerned: Provided that that number shall not be less than one in addition to the provincial, area or station commissioner concerned;

(c) determine its own procedure and cause minutes to be kept of its proceedings; and

(d) whenever it deems it necessary, co-opt other members or experts or community leaders to the board or forum in an advisory capacity.

(2) Members of community police forums or boards shall render their services on a voluntary basis and shall have no claim to compensation solely for services rendered to such forums and boards.

(3) The majority of the members of the board, forum or sub-forum concerned shall constitute a quorum at a meeting thereof.

(4) If the chairperson of a board or forum referred to in this section is absent from a meeting, the vice-chairperson shall act as chairperson, and if both the chairperson and vice-chairperson are so absent, the members present shall elect one of their number to preside at that meeting.

CHAPTER 8
REGULATIONS (ss 24–26)

24 Regulations

(1) The Minister may make regulations regarding—

(a) the exercising of policing powers and the performance by members of their duties and functions;

(b) the recruitment, appointment, promotion and transfer of members;

(c) the training, conduct and conditions of service of members;

(d) the general management, control and maintenance of the Service;
(e) returns, registers, records, documents, forms and correspondence in the Service;

(f) labour relations, including matters regarding suspension, dismissal and grievances;

(g) (i) the institution and conduct of disciplinary proceedings or inquiries;

(ii) conduct by members that will constitute misconduct;

(iii) the provisions, if any, of the Criminal Procedure Act, 1977 (Act 51 of 1977), that shall apply mutatis mutandis to disciplinary proceedings or inquiries under this Act;

(iv) the attendance by a member or any witness, of such disciplinary proceedings or inquiries;

(v) the circumstances under which such disciplinary proceedings or inquiries may be conducted or proceeded with in the absence of the member accused of misconduct or affected by such an inquiry;

(vi) the hearing and submission of evidence at such disciplinary proceedings or inquiries;

(vii) competent findings and sanctions in respect of such disciplinary proceedings or inquiries;

(viii) review and appeal in respect of such disciplinary proceedings or inquiries;

(h) the issue of a code of conduct for the Service and the upholding thereof;

(i) the establishment of different categories of personnel, components, ranks, designations and appointments in the Service;

(ii) the standards of physical and mental fitness required, and the medical examination, of members;

(iii) the medical, dental and hospital treatment of members and their families;
(k) the establishment, management and control of a scheme to provide for the medical, dental and hospital treatment, the provision of medicines and other medical requirements and the transportation during their indisposition of—

(aa) members and members of their families;

(bb) members who have retired or who retire on pension, and members of their families; and

(cc) the families of deceased members;

(ii) the categories of members, or other persons who shall or may become members of such a scheme;

(iii) the portion of the costs of such treatment, medicines, medical requirements and transportation which shall be payable under such a scheme by any member or category of members of such a scheme;

(iv) the termination of membership of such a scheme;

(v) the rights, privileges and obligations of members of such a scheme;

(vi) the vesting in such a scheme of assets, rights, liabilities or obligations or the disposal in any way of the assets of such a scheme; and

(vii) generally, all matters reasonably necessary for the regulation and operation of such a scheme;

(l) the resignation or reduction in rank of members;

(m) the grading of posts and the remuneration structure, including allowances or benefits of members;

(n) the establishment and maintenance of training institutions or centres for members and the instruction, training, discipline and control of members at such institutions or centres;

(o) the management of and access to laboratories established for the purposes of the analysis of forensic evidence as well as fees payable for services rendered in that regard;
the attendance by members of instructional or training courses at institutions or centres other than those established and maintained in terms of this Act;

(q) the establishment and control of funds of clubs referred to in section 62 (3);

(r) the deductions to be made from the salaries, wages or allowances of members;

(s) the provisioning of the Service, including the provision of stores and equipment required for the Service, and the care, safe custody and maintenance thereof;

(t) the design, award, use, care, loss, forfeiture and restoration of any decoration or medal instituted, constituted or created under this Act, and its bar, clasp or ribbon;

(u) the design of an official flag and coat of arms for the Service;

(v) the dress and clothing of members, and the control over or disposal of a uniform or part thereof;

(w) the utilisation by the Service of property—
(i) forfeited to the State;
(ii) abandoned, lost or taken charge of by a member;

or

(iii) unclaimed and found or taken charge of by a member;

(x) the retention of rank on retirement from the Service and the award of honorary ranks;

(y) the occupation by members of quarters, whether owned or rented by the State or placed at its disposal;

(2) the participation in sport and recreational activities by members;

(aa) the fair distribution of and access to police services and resources in respect of all communities;

(bb) the command, control, powers, duties and functions of persons, other than members, employed by the Service;
(cc) the proper functioning of the directorate, including the referral to the directorate of complaints received by the police;

(dd) any board or body established or constituted by or under this Act, including—

(i) the procedure thereof; and

(ii) the attendance by witnesses of the proceedings thereof;

(ee) the development of the plan contemplated in section 11 (2) (a) and the monitoring of the implementation thereof;

(eea) the following issues which are related to the Directorate for Priority Crime Investigation established in terms of section 17C:

(i) The manner and intervals for disclosure of financial and other interests as required in terms of section 17E (7) (a);

(ii) the measures for integrity testing of members of the Directorate for Priority Crime Investigation as contemplated in section 17E (8) (a);

(iii) the measures to ensure the confidentiality of information obtained as contemplated in section 17E (8) (c);

(iv) the form and manner in which complaints referred to in section 17L (4) must be made to the retired judge;

[Para. (eeA) inserted by s. 4 of Act 57 of 2008.]

(ff) all matters which may or shall be prescribed in accordance with this Act; and

(gg) all matters generally which are necessary or expedient for the achievement of the objects of this Act.

(2) Different regulations may be made regarding different categories of members or personnel.

(3) Any regulation under subsection (1) (cc) shall be made in consultation with the Executive Director.
(4) Any regulation which affects State revenue or expenditure shall be made with the concurrence of the Minister of Finance.

(5) Any regulation made under subsection (1) may prescribe penalties for any contravention thereof or failure to comply therewith, of a fine, or imprisonment for a period not exceeding 12 months or both such fine and such imprisonment.

[Sub-s. (5) added by s. 4 of Act 41 of 1997.]

25 National orders and instructions

(1) The National Commissioner may issue national orders and instructions regarding all matters which—

(a) fall within his or her responsibility in terms of the Constitution or this Act;

(b) are necessary or expedient to ensure the maintenance of an impartial, accountable, transparent and efficient police service; or

(c) are necessary or expedient to provide for the establishment and maintenance of uniform standards of policing at all levels required by law.

(2) National orders and instructions issued under subsection (1) shall be known and issued as National Orders and Instructions and shall be applicable to all members.

(3) The National Commissioner may issue different National Orders and Instructions in respect of different categories of members.

26 Provincial orders and instructions

(1) Provincial Commissioners may issue orders and instructions which are not inconsistent with this Act or the National Orders and Instructions.

(2) Orders and instructions issued under subsection (1) shall be known and issued as the Provincial Orders and Instructions of the province concerned and shall be applicable to members under the command of the Provincial Commissioner concerned only.
(3) If any Provincial Order or Instruction is inconsistent with a National Order or Instruction, the National Order or Instruction shall prevail.

CHAPTER 9
APPOINTMENTS, TERMS AND CONDITIONS OF SERVICE AND TERMINATION OF SERVICE (ss 27–49)

27 Filling of posts
(1) Subject to Chapter 6A and subsection (2), the filling of any post in the Service, whether by appointment, promotion or transfer, shall be done in accordance with this Act.

[Sub-s. (1) substituted by s. 17 of Act 10 of 2012.]

(2) Subsection (1) shall not preclude compliance with measures designed to achieve the objects contemplated in sections 8 (3) (a) and 212 (2) of the Constitution.

28 Recruitment and appointment
(1) The National Commissioner shall determine a uniform recruitment procedure for the Service and the National Head of the Directorate shall determine a uniform recruitment procedure for the Directorate for Priority Crime Investigation.

[Sub-s. (1) substituted by s. 18 of Act 10 of 2012.]

(2) Subject to section 27, the National Commissioner may appoint a person to a post in the fixed establishment of the Service.

(3) Any commissioned officer, magistrate, additional magistrate or assistant magistrate may, if sufficient permanent members are not available at a particular locality to perform a specific police duty, appoint such fit and proper persons as may be necessary as temporary members to perform such duty on such terms and conditions as may be prescribed.
29 Designation as member
(1) The Minister may by notice in the Gazette designate categories of personnel employed on a permanent basis in the Service and who are not members, as members.
(2) Personnel designated as members under subsection (1), shall be deemed to be members appointed to posts in the fixed establishment of the Service under section 28 (2) with effect from a date determined by the Minister in the notice concerned: Provided that a person who is a member of a category of personnel so designated who does not, within one month of such designation, consent thereto and, if applicable, consent as required by section 212 (7) (b) of the Constitution, to having the retirement age applicable to him or her on 1 October 1993 changed as a result of such designation, shall not be affected by such notice.

30 Proof of appointment
A document in the prescribed form certifying that a person has been appointed as a member, shall be prima facie proof of such appointment.

31 Salary and benefits
(1) A member shall have the right to the salary and benefits determined in his or her case by or under this Act or any other law.
(2) The salary or salary scale of a member shall not be reduced without his or her consent, except in accordance with section 8 (7) or following on disciplinary proceedings under section 40 or an inquiry under section 34 (1) (b).

32 Training
The National Commissioner shall determine the training that members shall undergo.

33 Commissioned officers
(1) The President may from time to time by commission appoint officers or temporary officers of the Service.
(2) A Deed of Commission, bearing the signatures of the President and the Minister, or replicas thereof, shall be proof of appointment as commissioned officer.

(3) The commission of a commissioned officer shall terminate and be deemed to be cancelled upon—

(a) the discharge of such officer following on disciplinary proceedings under section 40 or an inquiry under section 34 (1) (b), (c) or (d);

(b) the reduction in rank of such officer to a rank of non-commissioned officer following on disciplinary proceedings under section 40 or an inquiry under section 34 (1) (b);

(c) a direction by the Minister in terms of subsection (5); or

(d) the transfer of such officer to another department under section 14 or 15 of the Public Service Act, 1994 (Proclamation R103 of 1994).

(4) Subject to section 49, a commissioned officer may at any time in writing and, with or without prior notice, resign from the Service.

(5) Any commissioned officer who leaves the Service because of his or her discharge, retirement or resignation, shall retain the commission and rank he or she held immediately prior to his or her discharge, retirement or resignation, unless the Minister, on the recommendation of the National Commissioner, otherwise directs.

34 Inquiries

(1) The National Commissioner may designate a member, a category of members or any other person or category of persons who may, in general or in a specific case, inquire into—

(a) the fitness of a member to remain in the Service on account of indisposition, ill-health, disease or injury;

(b) the fitness or ability of a member to perform his or her duties or to carry them out efficiently:
(c) the fitness of a member to remain in the Service if his or her continued employment constitutes a security risk for the State;

(d) the fitness of a member to remain in the Service in the light of a misrepresentation made by such member regarding a matter in relation to his or her appointment;

(e) the absence of a member from duty without leave for more than one calendar month;

(f) an injury alleged to have been sustained by a member or other employee of the Service in an accident arising out of or in the course of his or her duty, or a disease or indisposition alleged to have been contracted in the course of his or her duty, or any subsequent incapacitation alleged to be due to the same injury, disease or indisposition, or an indisposition alleged to have resulted from vaccination in accordance with this Act;

(g) the death of a member or other employee of the Service alleged to have been caused as a result of circumstances referred to in paragraph (f);

(h) the absence from duty of a member or other employee of the Service owing to illness, indisposition or injury alleged to have resulted from misconduct or serious and deliberate failure on his or her part to take reasonable precautions;

(i) the suitability, value and purchase of any property or equipment required for use in the Service or the suitability for further service of any part of property or equipment already in use in the Service;

(j) any deficiency in or damage to or loss of State property or any property in possession of or under the control of the State or a club referred to in section 62(3) or for which the State is responsible, or any property of a member or other employee of the Service which is alleged to have occurred in connection with the performance of his or her duties or functions in the
Service, as well as the liability of any person and the desirability to hold any person liable for such deficiency, damage or loss;

(k) any deficiency, loss, damage or expense occasioned to the State or a club referred to in section 62(3) as a result of the conduct of a member or other employee of the Service and any money or unpaid debts due by such member or employee to the State or such club as well as the liability of any person and the desirability to hold any person liable for such deficiency, loss, damage or expense; or

(l) any other matter which the National Commissioner considers to be in the interest of the Service.

(2) The National Commissioner may designate a member, a category of members or any other person or category of persons who may, in general or in a specific case, obtain and lead evidence for the purposes of an inquiry contemplated in subsection (1).

[Sub-s. (2) substituted by s. 5 of Act 41 of 1997.]

(3) The Minister may prescribe—

(a) the procedure applicable to an inquiry contemplated in subsection (1); and

(b) the circumstances under which such an inquiry may be converted or deemed to have been converted into disciplinary proceedings.

35 Discharge of members on account of redundancy, interest of Service or appointment to public office

The National Commissioner may, subject to the provisions of the Government Service Pension Act, 1973 (Act 57 of 1973), discharge a member—

(a) because of the abolition of his or her post, or the reduction in the numerical strength, the reorganisation or the readjustment of the Service;
36 Discharge on account of sentence imposed

(1) A member who is convicted of an offence and is sentenced to a term of imprisonment without the option of a fine, shall be deemed to have been discharged from the Service with effect from the date following the date of such sentence: Provided that, if such term of imprisonment is wholly suspended, the member concerned shall not be deemed to have been so discharged.

(2) A person referred to in subsection (1), whose—

(a) conviction is set aside following an appeal or review and is not replaced by a conviction for another offence;

(b) conviction is set aside on appeal or review, but is replaced by a conviction for another offence, whether by the court of appeal or review or the court of first instance, and a sentence to a term of imprisonment without the option of a fine is not imposed upon him or her following on the conviction for such other offence; or

(c) sentence to a term of imprisonment without the option of a fine is set aside following an appeal or review and is replaced with a sentence other than a sentence to a term of imprisonment without the option of a fine, may, within a period of 30 days after his or her conviction has been set aside or his or her sentence has been replaced by a sentence other than a sentence to a term of imprisonment without the option of a fine, apply to the National Commissioner to be reinstated as a member.
(3) In the event of an application by a person whose conviction has been set aside as contemplated in subsection (2) (a), the National Commissioner shall reinstate such person as a member with effect from the date upon which he or she is deemed to have been so discharged.

(4) In the event of any application by a person whose conviction has been set aside or whose sentence has been replaced as contemplated in subsection (2) (b) and (c), the National Commissioner may—

(a) reinstate such person as a member with effect from the date upon which he or she is deemed to have been so discharged; or

(b) cause an inquiry to be instituted in accordance with section 34 into the suitability of reinstating such person as a member.

(5) For the purposes of this section, a sentence to imprisonment until the rising of the court shall not be deemed to be a sentence to imprisonment without the option of a fine.

(6) This section shall not be construed as precluding any administrative action, investigation or inquiry in terms of any other provision of this Act with respect to the member concerned, and any lawful decision or action taken in consequence thereof.

37 Discharge of members failing to complete basic training

Notwithstanding the provisions of this Act, but subject to the Constitution, the National Commissioner may, in the absence of an inquiry, discharge from the Service a member who fails to complete his or her basic training successfully within a period of 24 months after his or her appointment in the Service.

38 Missing members and employees

(1) If a member or other employee of the Service is reported missing, such member or employee shall for all purposes be deemed to be still employed by the Service until—
(a) the National or Provincial Commissioner otherwise determines;
(b) he or she again reports for duty; or
(c) a competent court issues an order whereby the death of such member or employee is presumed.

(2) The salary or wages and allowances accruing to a member or employee during his or her absence contemplated in subsection (1) shall, subject to subsection (4), be paid—
   (a) to his or her spouse; or
   (b) if he or she has no spouse, to his or her dependants; or
   (c) to any other person who, in the opinion of the Commissioner concerned, is competent to receive and administer such salary or wages and allowances on behalf of the member or employee or his or her spouse or such other dependants.

(3) Payment of any salary or wages and allowances in terms of subsection (2) shall for all purposes be deemed to be payment thereof to the member or employee concerned.

(4) Notwithstanding subsection (2), the National or Provincial Commissioner may from time to time direct that only a portion of the salary or wages and allowances of a member or employee be paid in terms of the said subsection or that no portion thereof be so paid.

39 Secondment of members

(1) The services of a member may be placed at the disposal of any other department of State or any authority established by or under any law.

(2) If a member is seconded under subsection (1), such member shall be deemed to be serving in the Service and shall retain all powers and privileges as a member, subject to such conditions as may be agreed upon by the National Commissioner and the department of State or authority concerned.

(3) A member seconded under subsection (1) shall, in the performance of his or her functions, act in terms of the laws
applicable to the department of State or authority to which he or she is seconded, subject to such conditions as may be agreed upon by the National Commissioner and the department of State or authority concerned.

(4) The National Commissioner shall determine uniform standards and procedures regarding the secondment of members.

40 Disciplinary proceedings

Disciplinary proceedings may be instituted in the prescribed manner against a member on account of misconduct, whether such misconduct was committed within or outside the borders of the Republic.

41 Strikes

(1) No member shall strike, induce any other member to strike or conspire with another person to strike.

(2) If the National or Provincial Commissioner has reason to believe that a member is striking or conspiring with another person to strike, the Commissioner concerned may, in a manner which is reasonable in the circumstances, issue an ultimatum to the member concerned to terminate or desist from carrying out such conduct within the period specified in such ultimatum.

(3) In the event that the member refuses or fails to comply with the ultimatum referred to in subsection (2), or if the National or Provincial Commissioner could not reasonably be expected to issue such an ultimatum to a member personally, the Commissioner concerned may, without a hearing, summarily discharge such member from the Service: Provided that—

(a) such member shall as soon as practicable after the date of such discharge, be notified in writing of such discharge and the reasons therefor;

(b) such member may, within 30 days after the date of receipt of such notice, make written representations to the Minister regarding the revocation of the discharge; and

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(c) the Minister may, after having considered any representations, reinstate such member from the date of such discharge.

(4) A discharge from the Service under subsection (3) shall not be invalid solely by reason of such member not receiving notice of the ultimatum referred to in subsection 20 (2).

42 Conduct sheets

(1) The National or Provincial Commissioner shall cause a conduct sheet to be maintained in respect of every member under his or her command.

(2) The National Commissioner shall determine the manner and form in which conduct sheets shall be maintained and when entries recorded thereon may be deleted.

43 Suspension while in detention or imprisoned

(1) Subject to section 36, a member who is in detention or is serving a term of imprisonment shall be deemed to be suspended from the Service for the period during which he or she is so detained or is serving such term of imprisonment.

(2) A member referred to in subsection (1) shall, unless the National or Provincial Commissioner otherwise directs, not be entitled for the applicable period to any salary, wages, allowances, privileges or benefits to which he or she would otherwise be entitled as a member.

(3) Where a member—

(a) is detained pending the outcome of criminal proceedings against him or her and such member is subsequently found not guilty on all charges or is convicted but such conviction is subsequently set aside; or
(b) serves a term of imprisonment which is subsequently set aside,

such member may make representations to the National or Provincial Commissioner that any salary, wages, allowances, privileges or benefits forfeited by him or her under subsection (2), be restored to him or her.
44 Rewards and recognitions

(1) The National or Provincial Commissioner may, after consultation with the Minister or member of the Executive Council, make an appropriate award to any member or other person for meritorious service in the interest of the Service.

(2) The President may institute, constitute and create decorations and medals, as well as bars, clasps and ribbons in respect of such decorations and medals, which may be awarded by the President, the Minister or the member of the Executive Council, subject to such conditions as the President may determine, to any member or other person who has rendered exceptional service to the Service.

45 Retirement

(1) (a) Subject to subsection (7), a member may retire from the Service, and shall be so retired on the date when he or she attains the age of 60 years.

(b) If a member attains the age of 60 years after the first day of the month, he or she shall be deemed to have attained it on the first day of the following month.

(2) A member who is at least 50 years of age may, at any time before attaining the age of 60 years, give written notification to the Minister of his or her wish to retire from the Service, and shall be allowed so to retire if a sufficient reason therefor exists and the retirement will be to the advantage of the Service.

(3) (a) Subject to paragraph (b), a member who in terms of section 212(7)(b) of the Constitution or any other law has the right to retire at an earlier age than that contemplated in subsection (1) (a), shall give written notification to the National Commissioner of his or her wish to be so retired and he or she shall—

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(i) if that notification is given to the National Commissioner at least three calendar months prior to the date on which he or she attains the retirement age applicable to him or her, be so retired on the date on which he or she attains that age or, if he or she attains it after the first day of the month, on the first day of the following month; or

(ii) if that notification is not given to the National Commissioner at least three calendar months prior to the date on which he or she attains the said age, be so retired on the first day of the fourth month after the month in which the notification is received.

(b) (i) Subject to subsection (4), the National or Provincial Commissioner shall give written notification of his or her wish to be retired from the Service at least six calendar months prior to the date on which he or she attains the retirement age applicable to him or her, and if he or she has so given notification, paragraph (a) (i) shall apply mutatis mutandis.

(ii) If the National or Provincial Commissioner has not given written notification at least six calendar months prior to the date on which he or she attains the said age, he or she shall be so retired on the first day of the seventh month following the month in which that notification is received.

(4) Notwithstanding the provisions of this section, the National or Provincial Commissioner may retire from the Service and he or she shall be so retired at the expiry of the term contemplated in section 7, or any extended term contemplated in that section, as the case may be, and he or she shall be deemed to have been so retired in terms of section 35 (a).

(5) Subject to subsections (1) and (3) (b)—

(a) the President may at the request of the National Commissioner allow him or her to retire from the Service before the expiry of the term contemplated in section 7 or any extended term contemplated in that section if a reason exists which the President deems sufficient; and
(b) the National Commissioner may at the request of the Provincial Commissioner allow him or her to retire from the Service before the expiry of the term contemplated in section 7 or any extended term contemplated in that section if a reason exists which the National Commissioner deems sufficient.

(6) If the National or Provincial Commissioner is allowed to retire under subsection (5), he or she shall be deemed to have been retired in terms of subsection (2), and shall be entitled to such pension as he or she would have been entitled to if he or she had retired from the Service under the latter subsection.

(7) (a) Notwithstanding the provisions of subsection (1) (a), a member may be retained, with his or her consent, in his or her post beyond the age of 60 years with the approval of the Minister or member of the Executive Council for further periods which shall not, except with the approval by resolution of Parliament, exceed the aggregate of five years.

(b) A member shall only be retained under paragraph (a) if it is—

(i) reasonable; and

(ii) in the interest of the Service; or

(iii) generally in the public interest.

(8) Pension benefits shall be paid to a retired member by the institution responsible for the administration of the pension fund to which that member was a contributor, subject to any law regulating the payment of such benefits.

(9) A benefit payable by the Service in terms of any law shall be paid to the person entitled to such benefit within a period of 90 days after the date on which the National Commissioner received the written notification of such member’s termination of service, for any reason, in such a form and with such documents as the National Commissioner may determine for the purposes of this section or, if he or she receives such notification and documents 90 days before the date on which a benefit is payable to the person concerned in terms of such law, on the date on which such benefit is so payable.
46 Political activities of members

(1) No member shall—

(a) publicly display or express support for or associate himself or herself with a political party, organisation, movement or body;
(b) hold any post or office in a political party, organisation, movement or body;
(c) wear any insignia or identification mark in respect of any political party, organisation, movement or body; or
(d) in any other manner further or prejudice party-political interests.

(2) Subsection (1) shall not be construed as prohibiting a member from—

(a) joining a political party, organisation, movement or body of his or her choice;
(b) attending a meeting of a political party, organisation, movement or body: Provided that no member shall attend such a meeting in uniform; or
(c) exercising his or her right to vote.

47 Obedience

(1) Subject to subsection (2), a member shall obey any order or instruction given to him or her by a superior or a person who is competent to do so: Provided that a member shall not obey a patently unlawful order or instruction.

(2) Where it is reasonable in the circumstances, a member may demand that an order or instruction referred to in subsection (1) be recorded in writing before obeying it.

(3) A member may, after having obeyed an order or instruction referred to in subsection (1), demand that such an order or instruction be recorded in writing.
48 Reserve Police Service

(1) The National Commissioner may determine the requirements for recruitment, resignation, training, ranks, promotion, duties and nature of service, discipline, uniform, equipment and conditions of service of members of the Reserve Police Service and any other matter which he or she deems necessary in order to establish and maintain different categories of members of the Reserve Police Service.

(2) The National Commissioner may appoint a person as a member of the Reserve in the prescribed manner.

(3) The National or Provincial Commissioner may in the prescribed manner order any member of the Reserve to report for service, and any such member who refuses or fails to comply with such order shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding six months: Provided that the Minister may by regulation exclude categories of members of the Reserve from the application of this subsection.

(4) The National or Provincial Commissioner may, subject to the Constitution, at any time discharge a member of the Reserve from the Service.

(5) During a period contemplated in section 49, the National or Provincial Commissioner may refuse to accept the resignation of a member of the Reserve, unless he or she produces evidence that he or she has enlisted for military service in a recognised unit of the South African National Defence Force.

(6) A member of the Reserve shall be deemed to be in the employ of the Service while on duty, notwithstanding the fact that such member may not be remunerated by the Service.

49 Limitation on right to resign

(1) No member may, during a period in which a state of national defence, declared under section 82 (4) (b) (i) of the Constitution, or a state of emergency, proclaimed in accordance with
section 34 (1) of the Constitution, is in force, resign from the Service without the written permission of the National Commissioner.

(2) The National Commissioner may, in circumstances other than those mentioned in subsection (1), where the maintenance of public order in the Republic or any part thereof so requires, order that no member may resign from the Service without his or her written permission during a period of time specified in the order, which period may not exceed 30 days.

CHAPTER 10

50 to 54 inclusive . . .

[Chapter 10 amended by s. 35 (1) of Act 47 of 1997 and repealed by s. 36 (2) of Act 1 of 2011.]

CHAPTER 11

GENERAL PROVISIONS (ss 55–63)

55 Non-liability for acts under irregular warrant

(1) Any member who acts under a warrant or process which is bad in law on account of a defect in the substance or form thereof shall, if he or she has no knowledge that such warrant or process is bad in law and whether or not such defect is apparent on the face of the warrant or process, be exempt from liability in respect of such act as if the warrant or process were valid in law.

(2) (a) Any member who is authorised to arrest a person under a warrant of arrest and who, in the reasonable belief that he or she is arresting such person arrests another, shall be exempt from liability in respect of such wrongful arrest.

(b) Any member who is called upon to assist in making an arrest as contemplated in paragraph (a) or who is required to detain a person so arrested, and who reasonably believes that the said person is the person whose arrest has been authorised by the warrant of arrest, shall likewise be exempt from liability in respect of such assistance or detention.
56 Limitation of liability of State and members
Whenever any person is conveyed in or makes use of any vehicle, aircraft or vessel, being the property or under the control of the State in the Service, the State or any member shall not be liable to such person or his or her spouse, parent, child or other dependant for any loss or damage resulting from any bodily injury, loss of life or loss of or damage to property caused by or arising out of or in any way connected with the conveyance in or the use of such vehicle, aircraft or vessel, unless such person is so conveyed or makes use thereof in or in the interest of the performance of the functions of the State: Provided that the provisions of this section shall not affect the liability of a member who wilfully causes the said loss or damage.

57 ... [S. 57 repealed by s. 2 (1) of Act 40 of 2002.]

58 Salary or allowance not to be assigned or attached
No member shall, without the approval of the National or Provincial Commissioner, assign the whole or any part of any salary, wages or allowance payable to him or her under this Act, nor shall the whole or any part of any such salary, wages or allowance be capable of being seized or attached under or in consequence of any judgment or order of any court of law, other than a garnishee order.

59 Prohibition on certain dealings
(1) No member shall, without the permission of the person under whose command he or she serves, lend any means of transport or equipment which he or she is required to keep and possess, or sell, pledge or otherwise dispose of any such property, irrespective of whether it is the property of the State or his or her own property.
(2) Every sale, pledge, loan or other disposition of any property contrary to subsection (1), shall be null and void.
Property of Service not liable to seizure or attachment

Property which in terms of this Act may not be sold, pledged, lent or otherwise disposed of, shall not be capable of being seized or attached, under or in consequence of any judgment or order of any court of law.

Exemption from tolls, fees and fees of office

(1) Subject to subsection (3), any member who, in the exercise of his or her powers or the performance of his or her duties or functions finds it necessary to enter, pass through or go over any wharf, landing place, ferry, bridge, toll-bar, gate or door at or in respect of which any toll, fee or fee of office may be lawfully demanded, shall be exempted from the payment of such toll, fee or fee of office in respect of himself or herself, every person under his or her arrest and any animal, means of transport or property which he or she may require in the exercise of such powers or the performance of such duties or functions: Provided that if such member is not in uniform, he or she shall, upon a request by any person who may demand such toll, fee or fee of office, disclose his or her identity by exhibiting to such person his or her certificate of appointment.

(2) Any person who may demand any such toll, fee or fee of office, and who subjects any such member, person, animal, means of transport or property to unreasonable delay or detention in respect of the entry to, passage through or going over any such wharf, landing place, ferry, bridge, toll-bar, gate or door, shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 12 months.

(3) The National or Provincial Commissioner may, if he or she deems it necessary, with regard to the nature of the powers, duties or functions of a member, order that subsection (1) is not applicable to such member, in which event any toll, fee or fee of office contemplated in subsection (1), shall be payable.
62 Police clubs exempt from licence duties and other fees

(1) No licence money, tax, duty or fee (other than customs, excise or value-added tax) shall be payable by any person under any law or by-law in respect of a certified club of the Service or in respect of any article on sale at such a club.

(2) The production of an official document bearing the signature of the Minister or member of the Executive Council or any person authorised by the Minister or member of the Executive Council to sign such document, and indicating that he or she has certified the club as a club of the Service, shall, for the purposes of this section, be conclusive proof that it is such a club.

(3) For the purposes of this section 'club' includes any mess or institution of the Service or any premises temporarily or permanently used for providing recreation, refreshment or articles of necessity mainly for members or retired members or other persons employed by the Service or for the families of such members, retired members or employees or such other persons employed in any work in or in connection with any such mess, institution or premises.

63 Payment by public for police services

(1) The National Commissioner shall, with due regard to sections 215, 218 and 219 of the Constitution, determine whether a particular function, duty or service falls within the scope of the normal and generally accepted responsibilities of the Service and, if such function, duty or service does not fall within such scope, it shall, subject to subsection (2), be performed only on such conditions as may be prescribed in consultation with the Treasury.

(2) Notwithstanding the provisions of subsection (1), the National Commissioner may authorise that any function, duty or service
be performed free of charge on behalf of any deserving charity or in any case considered to be of general, cultural or educational interest.

CHAPTER 12
MUNICIPAL AND METROPOLITAN POLICE SERVICES (ss 64–64Q)

64 Interpretation
This Chapter shall not be interpreted so as to derogate from the powers of the Minister of Transport or the member of the Executive Council responsible for transport and traffic matters, nor shall it be interpreted as conferring any power on any functionary to interfere with the exercise of their powers by the Minister of Transport or the member of the Executive Council responsible for transport and traffic matters.

[S. 64 substituted by s. 2 of Act 83 of 1998.]

64A Establishment of municipal police service
(1) Any municipality may in the prescribed manner apply to the member of the Executive Council for the establishment of a municipal police service for its area of jurisdiction.

(2) The member of the Executive Council may, subject to subsection (3) and such conditions as he or she may determine, approve an application for the establishment of a municipal police service if—

(a) the application complies with the prescribed requirements;
(b) the municipality has the resources at its disposal to provide for a municipal police service which complies with national standards on a 24-hour basis;
(c) traffic policing services by the municipality will not be prejudicially affected by the establishment of a municipal police service;
(d) proper provision has been made by the municipality to ensure civilian supervision of the municipal police service; and
(e) the establishment of the municipal police service will improve effective policing in that part of the province.

(3) The member of the Executive Council may approve the application only—

(a) after consultation with the National Commissioner;

(b) after consultation with the metropolitan council if the municipality falls in the area of jurisdiction of a metropolitan council; and

(c) with the approval of the member or members of the Executive Council responsible for local government, finance, transport and traffic matters, or where no such member or members have been appointed, the Premier or the member or members of the Executive Council to whom those responsibilities have been assigned by the Premier.

(4) If the application for the establishment of a municipal police service is approved by the member of the Executive Council, the member shall establish the municipal police service by notice in the Gazette.

(5) The establishment of a municipal police service shall not derogate from the functions of the Service or the powers and duties of a member in terms of any law.

(6) All expenditure incurred by or in connection with the establishment, maintenance and functioning of a municipal police service shall be for the account of the municipality in question.

[S. 64A inserted by s. 3 of Act 83 of 1998.]

64B Chief Executive Officer of municipality

The chief executive officer of a municipality shall be responsible to the municipal council for the functioning of the municipal police service.

[S. 64B inserted by s. 3 of Act 83 of 1998.]
64C Executive head of municipal police service

(1) Subject to section 64D, a municipal council shall appoint a member of the municipal police service as the executive head thereof.

(2) The executive head shall, subject to this Act, national standards and the directives of the chief executive officer of the municipality, exercise control over the municipal police service, and shall—

(a) be responsible for maintaining an impartial, accountable, transparent and efficient municipal police service;

(b) subject to the applicable laws, be responsible for the recruitment, appointment, promotion and transfer of members of the municipal police service;

(c) ensure that traffic policing services by the municipality are not prejudicially affected by the establishment of the municipal police service;

(d) be responsible for the discipline of the municipal police service;

(e) either personally or through a member or members of the municipal police service designated by him or her for that purpose, represent the municipal police service on every local policing co-ordinating committee established in terms of section 64K within the area of jurisdiction of the municipality;

(f) either personally or through a member or members of the municipal police service designated by him or her for that purpose, represent the municipal police service on every community police forum or subforum established in terms of section 19 within the area of jurisdiction of the municipality;

(g) before the end of each financial year, develop a plan which sets out the priorities and objectives of the municipal police service for the following financial year: Provided that such plan in so far as it relates to the prevention of crime, shall be developed in co-operation with the Service; and
(h) perform such duties as may from time to time be imposed upon him or her by the chief executive officer of the municipality.

[S. 64C inserted by s. 3 of Act 83 of 1998.]

64D First executive head of municipal police service

When a municipal police service is established under section 64A, the municipal council in question shall appoint a fit and proper person as first executive head of the municipal police service.

[S. 64D inserted by s. 3 of Act 83 of 1998.]

64E Functions of municipal police service

The functions of a municipal police service are—

(a) traffic policing, subject to any legislation relating to road traffic;

(b) the policing of municipal by-laws and regulations which are the responsibility of the municipality in question; and

(c) the prevention of crime.

[S. 64E inserted by s. 3 of Act 83 of 1998.]

64F Powers of member of municipal police service

(1) Subject to the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996), and with due regard to the fundamental rights of every person, a member of a municipal police service may exercise such powers and shall perform such duties as are by law conferred upon or assigned to a member of a municipal police service.

(2) The Minister may from time to time prescribe that any power conferred upon a member of the Service by this Act or any other law, may be exercised by a member of a municipal police service: Provided that where the power includes the power to seize an article, the member of the municipal police service shall forthwith deliver the article to a member.
(3) Every member of a municipal police service is a peace officer and may exercise the powers conferred upon a peace officer by law within the area of jurisdiction of the municipality in question: Provided that a member may exercise such powers outside the area of jurisdiction if it is done—

(a) in pursuit of a person whom the member reasonably suspects of having committed an offence, and if the pursuit commenced within the area of jurisdiction of the municipality; or

(b) in terms of an agreement between the municipal council and another municipal council in terms of section 10C (7) of the Local Government Transition Act, 1993 (Act 209 of 1993).

[S. 64F inserted by s. 3 of Act 83 of 1998.]

64G Proof of appointment
A document in the prescribed form certifying that a person has been appointed as a member of the municipal police service, shall be prima facie proof of such appointment.

[S. 64G inserted by s. 3 of Act 83 of 1998.]

64H Procedure after arrest by member of municipal police service
A person arrested with or without warrant by a member of a municipal police service shall as soon as possible be brought to a police station under the control of the Service or, in the case of an arrest by warrant, to any other place which is expressly mentioned in the warrant, to be dealt with in terms of section 50 of the Criminal Procedure Act, 1977 (Act 51 of 1977).

[S. 64H inserted by s. 3 of Act 83 of 1998.]

64I Legal proceedings against municipal police service
(1) Any legal proceedings against a municipal police service or member of a municipal police service for the recovery of a debt
as defined in the Institution of Legal Proceedings against certain Organs of State Act, 2002, shall be instituted against the municipal council in question.

[Sub-s. (1) substituted by s. 2 (1) of Act 40 of 2002.]

(2) ... [Sub-s. (2) deleted by s. 2 (1) of Act 40 of 2002.]

[S. 64I inserted by s. 3 of Act 83 of 1998.]

64J Civilian oversight of municipal police services

(1) A municipal council shall appoint a committee consisting of members of the council and such other persons as may be determined by the municipal council to ensure civilian oversight of the municipal police service.

(2) The committee contemplated in subsection (1) shall—

(a) at the request of the municipal council in question, advise the council on matters relating to the municipal police service;

(b) advise the chief executive officer with regard to the performance of his or her functions in respect of the municipal police service;

(c) perform such functions as the member of the Executive Council, the municipal council or the chief executive officer may consider necessary or expedient to ensure civilian oversight of the municipal police service;

(d) promote accountability and transparency in the municipal police service;

(e) monitor the implementation of policy and directives issued by the chief executive officer and report to the municipal council or chief executive officer thereon;

(f) perform such functions as may from time to time be assigned to the committee by the municipal council or the chief executive officer; and

(g) evaluate the functioning of the municipal police service and report to the municipal council or chief executive officer thereon.

[S. 64J inserted by s. 3 of Act 83 of 1998.]
64K Policing co-ordinating committees
(1) In order to co-ordinate policing in the province, the Provincial Commissioner shall, after consultation with the member of the Executive Council, establish at least one of the following committees:
   (a) local policing co-ordinating committees;
   (b) area policing co-ordinating committees;
   (c) provincial policing co-ordinating committees.
(2) The Provincial Commissioner, or a person designated by him or her for that purpose, shall act as chairperson at a meeting of a policing co-ordinating committee.
(3) Every policing co-ordinating committee shall determine its own procedure and cause minutes to be kept of its proceedings.
(4) The Minister may, with the concurrence of the Minister of Transport, make regulations to ensure the proper functioning of policing co-ordinating committees.

64L Powers and duties of National Commissioner in respect of municipal police service
(1) The National Commissioner may determine national standards of policing for municipal police services and, in addition to the training prescribed for traffic officers in terms of the Road Traffic Act, 1989 (Act 29 of 1989), determine national standards with regard to the training of members of municipal police services.
(2) (a) A draft of the national standards contemplated in subsection (1) shall be published in the Gazette, together with a notice inviting all interested persons to submit comments regarding the proposed national standards in writing, within a period stated in the notice and which shall not be less than 60 days from the date of publication.
(b) If the National Commissioner decides to amend the national standards as a result of comments received, it shall not be necessary to publish the national standards again before promulgation.
(3) In order to ensure that national standards are maintained, the National Commissioner—

(a) may request and obtain information and documents under the control of the municipal police service or municipality in question;

(b) may enter any building or premises under the control of the municipal police service or municipality in question; and

(c) shall be entitled to all reasonable assistance by any member of the municipal police service and any employee of the municipality in question.

(4) If a municipal police service has failed to maintain national standards, the National Commissioner shall report the failure to the Minister.

[S. 64L inserted by s. 3 of Act 83 of 1998.]

64M Minister’s power in respect of municipal police service

(1) Upon receipt of a report contemplated in section 64L, the Minister may request the member of the Executive Council concerned to intervene as contemplated in section 139 of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996), and shall provide the member with a copy of that report.

(2) (a) If the member of the Executive Council fails to intervene as requested, the Minister may intervene as contemplated in section 100 of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996), in which case section 64N (4) to (7) shall apply with the necessary changes.

(b) For the purposes of this subsection, any reference in section 64N (4) to (7) to—

(a) the member of the Executive Council, shall be deemed to be a reference to the Minister;

(b) the member of the Executive Council responsible for local government, shall be deemed to be a reference to the Minister for Provincial Affairs and Constitutional Development;
(c) the member of the Executive Council responsible for transport and traffic matters, shall be deemed to be a reference to the Minister of Transport;

(d) the Premier, shall be deemed to be a reference to the President;

(e) an official of the provincial government, shall be deemed to be a reference to an official of the national government; and

(f) to section 139 (2) of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996), shall be deemed to be a reference to section 100 (2).

[S. 64M inserted by s. 3 of Act 83 of 1998.]

64N Member of Executive Council's power in respect of municipal police service

(1) In order to ensure that the conditions, if any, subject to which a municipal police service was established, are complied with and that national standards are maintained, the member of the Executive Council or a member of the provincial secretariat designated in writing for that purpose by the member—

(a) may request and obtain information and documents under the control of the municipal police service or municipality in question;

(b) may enter any building or premises under the control of the municipal police service or municipality in question; and

(c) shall be entitled to all reasonable assistance by any member of the municipal police service and any employee of the municipality in question.

(2) If the member of the Executive Council is satisfied that a municipal police service has failed to comply with the conditions or national standards, he or she may, by notice in writing, inform the municipal council in question of such failure and request the council to ensure that the municipal police service complies with the conditions or national standards within a period specified in the notice.

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(3) The member of the Executive Council may, from time to time, upon the request of the municipal council extend the period contemplated in subsection (2).

(4) If the municipal council fails to comply with the notice contemplated in subsection (2) within the period specified in the notice or within the extended period contemplated in subsection (3), the member of the Executive Council may, after consultation with the member or members of the Executive Council responsible for local government, transport and traffic matters or where no such member or members have been appointed, the Premier or such member or members of the Executive Council to whom the responsibilities have been assigned by the Premier—

(a) appoint an official of the provincial government as administrator of the municipal police service in question and charge such official with the responsibility to ensure that the municipal police service complies with the conditions and national standards; and

(b) take such other steps as he or she may deem necessary to ensure compliance with the conditions and national standards.

(5) The administrator appointed under subsection (4) (a) may, subject to section 139 (2) of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996), and subject to the directions of the member of the Executive Council, exercise all the powers and perform all the duties of the executive head of the municipal police service.

(6) If the member of the Executive Council is satisfied that the municipal police service complies with the conditions and national standards, he or she may terminate the appointment of the administrator.

(7) All expenditure incurred by or in connection with the intervention by the member of the Executive Council shall be for the account of the municipality in question.

[S. 64N inserted by s. 3 of Act 83 of 1998.]
64O Certain other sections of this Act to apply to municipal police service

The Minister may prescribe which other provisions of this Act shall apply to a municipal police service and the extent to which they shall apply.

[S. 64O inserted by s. 3 of Act 83 of 1998.]

64P Regulations in respect of municipal police service

(1) The Minister may, subject to subsection (2), make regulations regarding the effective functioning of municipal police services.

(2) (a) A draft of the regulations contemplated in subsection (1) shall be published in the Gazette, together with a notice inviting all interested persons to submit comments regarding the proposed regulations in writing, within a period stated in the notice and which shall not be less than 60 days from the date of publication.

(b) If the Minister decides to amend the regulations as a result of comments received, it shall not be necessary to publish the regulations again before promulgation.

[S. 64P inserted by s. 3 of Act 83 of 1998.]

64Q Saving and transitional arrangements in respect of existing municipal police service

(1) (a) When the South African Police Service Amendment Act, 1998, takes effect, the Durban City Police, established under section 83 of the Durban Extended Powers Consolidated Ordinance, 1976 (Natal Ordinance 18 of 1976), shall be deemed to have been established under section 64A, and shall continue to so exist until 30 September 1999.

(b) If an application for its establishment under section 64A is lodged on or before 30 September 1999, the Durban City Police shall continue to so exist until the application is either approved or disapproved.

(c) Any person who was a member of the Durban City Police immediately before the South African Police Service Amendment
Act, 1998, took effect, shall continue to be a member of the Durban City Police and become a member of the municipal police service if the establishment thereof is approved as contemplated in paragraph (b), even if that person does not comply with the training requirements for appointment as a member of a municipal police service established under this Act: Provided that the person shall cease to be a member with effect from 1 October 2003, unless he or she complies with the training requirements for appointment.

(2) (a) Every person who, on the date of the establishment of a municipal police service under section 64A for a particular municipality, is registered as a traffic officer in terms of any law and who is employed by that municipality may be appointed as a member of the municipal police service even though the person may not comply with the training requirements for appointment as a member of the municipal police service.

(b) A person appointed as contemplated in paragraph (a) shall cease to be a member of the municipal police service with effect from 1 October 2003, unless he or she has successfully completed a training course which complies with the requirements determined by the National Commissioner.

(3) (a) After the South African Police Service Amendment Act, 1998, has taken effect, no municipal service may include the word ‘police’ in its name unless the service has been established as a municipal police service under section 64A.

(b) Before 1 January 1999, a municipal council shall change the name of any service other than a municipal police service which is in existence when the South African Police Service Amendment Act, 1998, takes effect and which includes the word ‘police’ in its name: Provided that the National Commissioner may from time to time, upon good cause shown, extend that date for a total period of 24 months.

[S. 64Q inserted by s. 3 of Act 83 of 1998.]
CHAPTER 13
OFFENCES (ss 65–71)

65 Receipt or possession of certain property

Any person who receives or has in his or her possession any property which in terms of this Act may not be sold, pledged, lent or otherwise disposed of, knowing the same to have been sold, pledged, lent or otherwise disposed of in contravention of this Act, shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 12 months.

66 Wearing and use of uniforms, badges, etc of Service

(1) Any person who wears any uniform or distinctive badge or button of the Service or wears anything materially resembling any such uniform, badge or button or wears anything with the intention that it should be regarded as such uniform, badge or button, shall, unless—

(a) he or she is a member entitled by reason of his or her appointment, rank or designation to wear such uniform, badge or button; or

(b) he or she has been granted permission by the National or Provincial Commissioner to wear such uniform, badge or button,

be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding six months.

(2) Any person who wears, or without the written permission of the National Commissioner, makes use of any decoration or medal instituted, constituted or created under this Act, or its bar, clasp or ribbon, or anything so closely resembling any such decoration, medal, bar, clasp or ribbon as to be calculated to deceive, shall, unless he or she is the person to whom such decoration or medal was awarded, be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding six months.
Interference with members

(1) Any person who—
   
   (a) resists or wilfully hinders or obstructs a member in the exercise of his or her powers or the performance of his or her duties or functions or, in the exercise of his or her powers or the performance of his or her duties or functions by a member wilfully interferes with such member or his or her uniform or equipment or any part thereof; or
   
   (b) in order to compel a member to perform or to abstain from performing any act in respect of the exercise of his or her powers or the performance of his or her duties or functions, or on account of such member having done or abstained from doing such an act, threatens or suggests the use of violence against, or restraint upon such member or any of his or her relatives or dependants, or threatens or suggests any injury to the property of such member or of any of his or her relatives or dependants,

shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 12 months.

(2) Any person who—
   
   (a) conspires with or induces or attempts to induce any member not to perform his or her duty or any act in conflict with his or her duty; or
   
   (b) is a party to, assists or incites the commission of any act whereby any lawful order given to a member may be evaded,

shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding two years.

(3) Any person who induces or attempts to induce a member to commit misconduct shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding six months.

(4) In the event of a criminal prosecution of any member or a representative of an employee organisation on account of a
contravention of subsection (2) or (3), it shall constitute a defence if the sole purpose of such person’s conduct was to—

(a) further or cause a strike by members; or

(b) further the activities of a bona fide employee organisation.

68 False representations

(1) Any person who pretends that he or she is a member shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding two years.

(2) Any person who by means of a false certificate or any false representation obtains an appointment in the Service, or, having been dismissed from the Service, receives, by concealing the dismissal, any salary, wages, allowance, gratuity or pension, shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding six months.

(3) Any person who, in connection with any activity carried on by him or her takes, assumes, uses or in any manner publishes any name, description, title or symbol indicating or conveying or purporting to indicate or convey or which is calculated or is likely to lead other persons to believe or infer that such activity is carried on under or in terms of the provisions of this Act or under the patronage of the Service, or is in any manner associated or connected with the Service, without the approval of the National Commissioner, shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding six months.

69 Prohibition on publication of photographs or sketches of certain persons in custody

(1) For the purposes of this section—

‘photograph’ includes any picture, visually perceptible image, depiction or any other similar representation of the person concerned; and

‘publish’, in relation to a photograph or sketch, includes to exhibit, show, televise, represent or reproduce.
(2) No person may, without the written permission of the National or Provincial Commissioner, publish a photograph or sketch of a person—
   (a) who is suspected of having committed an offence and who is in custody pending a decision to institute criminal proceedings against him or her;
   (b) who is in custody pending the commencement of criminal proceedings in which he or she is an accused; or
   (c) who is or may reasonably be expected to be a witness in criminal proceedings and who is in custody pending the commencement of his or her testimony in such proceedings.

(3) Any person who publishes a photograph or sketch in contravention of subsection (2), shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 12 months.

[S. 69 substituted by s. 6 of Act 41 of 1997.]

70 Unauthorised disclosure of information

Any member who wilfully discloses information in circumstances in which he or she knows, or could reasonably be expected to know, that such a disclosure will or may prejudicially affect the exercise or the performance by the Service of the powers or the functions referred to in section 215 of the Constitution, shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding two years.

71 Unauthorised access to or modification of computer material

(1) Without derogating from the generality of subsection (2)—
   ‘access to a computer’ includes access by whatever means to any program or data contained in the random access memory of a computer or stored by any computer on any storage medium, whether such storage medium is physically attached to the
computer or not, where such storage medium belongs to or is under the control of the Service;
‘contents of any computer’ includes the physical components of any computer as well as any program or data contained in the random access memory of a computer or stored by any computer on any storage medium, whether such storage medium is physically attached to the computer or not, where such storage medium belongs to or is under the control of the Service;
‘modification’ includes both a modification of a temporary or permanent nature; and
‘unauthorised access’ includes access by a person who is authorised to use the computer but is not authorised to gain access to a certain program or to certain data held in such computer or is unauthorised, at the time when the access is gained, to gain access to such computer, program or data.

(2) Any person who wilfully gains unauthorised access to any computer which belongs to or is under the control of the Service or to any program or data held in such a computer, or in a computer to which only certain or all members have restricted or unrestricted access in their capacity as members, shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding two years.

(3) Any person who wilfully causes a computer which belongs to or is under the control of the Service or to which only certain or all members have restricted or unrestricted access in their capacity as members, to perform a function while such person is not authorised to cause such computer to perform such function, shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding two years.

(4) Any person who wilfully performs an act which causes an unauthorised modification of the contents of any computer which belongs to or is under the control of the Service or to which only certain or all members have restricted or unrestricted access in their capacity as members with the intention to—
(a) impair the operation of any computer or of any program in any computer or of the operating system of any computer or the reliability of data held in such computer; or
(b) prevent or hinder access to any program or data held in any computer,
shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding five years.

(5) Any act or event for which proof is required for a conviction of an offence in terms of this section which was committed or took place outside the Republic shall be deemed to have been committed or have taken place in the Republic: Provided that—

(a) the accused was in the Republic at the time he or she performed the act or any part thereof by means of which he or she gained or attempted to gain unauthorised access to the computer, caused the computer to perform a function or modified or attempted to modify its contents;
(b) the computer, by means of or with regard to which the offence was committed, was in the Republic at the time the accused performed the act or any part thereof by means of which he or she gained or attempted to gain unauthorised access to it, caused it to perform a function or modified or attempted to modify its contents; or
(c) the accused was a South African citizen at the time of the commission of the offence.

CHAPTER 14
REPEAL AND TRANSITIONAL PROVISIONS (s 72)

72 Repeal and transitional provisions
(1) (a) Subject to this section, the Rationalisation Proclamation is hereby repealed, excluding—
(i) sections 8 (1), 9 (1) to (8), 10, 12 (1) and (2) (a) to (j), 13 and 14 thereof; and
(ii) any other provision of that Proclamation in so far as it relates to the interpretation or execution of a provision mentioned in subparagraph (i).

(b) Sections 11, 12 and 15 of this Act shall, where applicable, be subject to section 9 (1) to (8) of the Rationalisation Proclamation until the National Commissioner has certified that the assignment of the functions referred to in section 219 of the Constitution by the National Commissioner to all Provincial Commissioners as contemplated in section 9 (4) (a) of the Rationalisation Proclamation, has been completed, whereupon sections 11, 12 and 15 of this Act shall be applicable to the National and Provincial Commissioner in relation to the Province concerned.

(c) The Minister may make regulations regarding all matters which are necessary or expedient for the purposes of this subsection.

(d) Any person who, immediately before the commencement of this Act, was a member of a force contemplated in section 5 (2) (a) (i), and who has not been appointed to a post in or additional to the fixed establishment or otherwise dealt with in accordance with section 14 of the Rationalisation Proclamation, shall serve in a pre-rationalised post until he or she is appointed to a post in or additional to the fixed establishment or is otherwise dealt with in accordance with that section.

(e) Any person referred to in paragraph (d) who has been or is appointed to a post in or additional to the fixed establishment or is otherwise dealt with in terms of the Rationalisation Proclamation, shall be deemed to have been so appointed or dealt with under the corresponding provision of this Act.

(2) In the application of the provisions mentioned in subsection (1) (a), and unless the context otherwise indicates or if clearly inappropriate, any reference therein to the Rationalisation Proclamation or to the Police Act, 1958 (Act 7 of 1958), or to any repealed provision thereof, shall be construed as a reference to this Act, or to the corresponding provision thereof, as the case may be.

(3) Any reference in any law to a Commissioner of a police force

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<td>(ii) any other provision of that Proclamation in so far as it relates to the interpretation or execution of a provision mentioned in subparagraph (i).</td>
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shall, except where such post has not yet been abolished, and unless clearly inappropriate, be construed as a reference to the National Commissioner or, in regard to any matter in respect of which a Provincial Commissioner is lawfully responsible, and subject to section 219 of the Constitution, to the Provincial Commissioner concerned.

(4) (a) Anything done, including any regulation made or standing order or instruction issued or other administrative measure taken or any contract entered into or any obligation incurred under the Rationalisation Proclamation or any law repealed by this Act or the Rationalisation Proclamation which could be done under this Act and in force immediately before the commencement of this Act, shall be deemed to have been so done, made, issued, taken, entered into or incurred, as the case may be, under this Act until amended, abolished, withdrawn or repealed under this Act.

(b) Any reference in any regulation, standing order or administrative measure to a regional commissioner or a district commissioner shall, unless clearly inappropriate, be construed as a reference to a Provincial Commissioner or an area commissioner, respectively.

(5) and (6) . . .

[Sub-ss. (5) and (6) deleted by s. 4 of Act 83 of 1998.]

CHAPTER 15
SHORT TITLE AND COMMENCEMENT (s 73)

73 Short title and commencement
This Act shall be called the South African Police Service Act, 1995, and shall come into operation on a date fixed by the President by proclamation in the Gazette.
Schedule

(Section 16 (2) (iA))

[Schedule added by s. 5 of Act 57 of 2008.]

1 High treason;
2 any offence referred to in paragraph (a) of the definition of ‘specified offence’ of the Protection of Constitutional Democracy against Terrorist and Related Activities Act, 2004 (Act 33 of 2004);
3 sedition;
4 any offence referred to in Schedule 1 to the Implementation of the Rome Statute of the International Criminal Court Act, 2002 (Act 27 of 2002);
5 any offence referred to in Chapters 2, 3 and 4 of the Prevention of Organised Crime Act, 1998 (Act 121 of 1998);
6 any offence referred to in section 13 (f) of the Drugs and Drug Trafficking Act, 1992 (Act 140 of 1992);
7 any offence referred to in the Non-Proliferation of Weapons of Mass Destruction Act, 1993 (Act 87 of 1993);
8 any offence relating to the dealing in or smuggling of ammunition, firearms, explosives or armament and the unlawful possession of such firearms, explosives or armament;
9 any offence contemplated in Chapter 2 and section 34 of the Prevention and Combating of Corrupt Activities Act, 2004 (Act 12 of 2004);
10 any offence referred to in the Regulation of Foreign Military Assistance Act, 1998 (Act 15 of 1998), or the Prohibition of Mercenary Activities and the Regulation of Certain Activities in Country of Armed Conflict Act, 2006 (Act 27 of 2006);
11 any offence referred to in the National Conventional Arms Control Act, 2002 (Act 41 of 2002);
12 any offence the punishment wherefor may be imprisonment for life.
SOUTH AFRICAN POLICE SERVICE INTERIM
REGULATIONS FOR COMMUNITY POLICE
FORUMS AND BOARDS

Published under
GN R384 in GG 22273 of 11 May 2001

SCHEDULE

1 Definitions
In these Regulations, unless the context otherwise indicates—
‘executive committee’ means the committee elected by a
community police forum, sub-forum or board and which is
responsible for the day to day running of the affairs of the forum,
sub-forum or board;
‘constitution’ means a constitution complying with the require-
ments set out in regulation 7; and
‘these Regulations’ means the South African Police Service
Interim Regulations for Community Police Forums and Boards,

2 Establishment of a Community Police Forum
(1) A station commissioner must, subject to the instructions of the
Provincial Commissioner, take all reasonable steps to establish a
community police forum which is broadly representative of the
community in the station area under his or her jurisdiction.
(2) In order to establish a community police forum, a station
commissioner must—
(a) identify community based organisations, institutions
and interest groups in the station area under his or her
jurisdiction;
(b) determine a suitable date, time and venue for a meeting of all interested persons to establish a community police forum;
(c) take reasonable steps to make the date, time and venue of the meeting known to the organisations, institutions and groups, referred to in subparagraph (a), as well as to the general public in the station area;
(d) explain to those attending the said meeting what the objects of a community police forum are;
(e) invite nominations for a reasonable number of persons to serve on a steering committee, together with the station commissioner, to establish a community police forum; and
(f) determine a date, time and venue for an inaugural meeting.

(3) The station commissioner must render all reasonable assistance to the steering committee to—
(a) draft a constitution for the community police forum which is to be established;
(b) take reasonable steps to make the date, time and venue of the meeting known to the organisations, institutions and groups, referred to in subregulation (1)(a), as well as to the general public in the station area; and
(c) arrange the inaugural meeting.

(4) At the inaugural meeting, the steering committee must present the draft constitution to those present and—
(a) if the majority of those present at the meeting adopt the constitution in its draft or an amended form, the meeting must proceed to have a chairperson and an executive committee elected in accordance with the procedure provided for in the constitution to manage the affairs of the community police forum; or
(b) if the majority of those present at the meeting rejects the draft constitution, the meeting must, by majority vote—
   (i) elect a new steering committee to redraft a constitution for the community police forum and
give such directions to the new steering committee concerning the contents of the constitution as the meeting may deem fit; and
(ii) determine a date, time and venue for the next meeting to consider the new draft constitution.

(5) The station commissioner must render all reasonable assistance to the new steering committee to—
(a) draft a constitution for the community police forum which is to be established;
(b) take reasonable steps to make the date, time and venue of the next meeting known to the organisations, institutions and groups, referred to in subregulation (1)(a), as well as to the general public in the station area; and
(c) arrange the next meeting.

(6) At the next meeting, the new steering committee must present the draft constitution to those present at the meeting and the meeting must—
(a) by majority vote, adopt the constitution in its draft form or bring about the necessary amendments to the draft constitution and adopt it in its amended form; and
(b) elect a chairperson and an executive committee to manage the affairs of the community police forum, in accordance with the procedure provided for in the constitution thus adopted.

(7) The station commissioner must, within 30 days after the establishment of a community police forum, submit a copy of the constitution of the community police forum to the area commissioner.

3 Establishment of a Community Police Sub-Forum

(1) A community police sub-forum may be established—
(a) in respect of any part of a station area; or
(b) to deal with policing matters mainly affecting the members of a significant section of the community within a station area.
(2) A community police forum may, after having taken into account—
(a) the size of the station area;
(b) the population density and population distribution within the station area;
(c) the degree of operational independence of satellite police stations, if any, in the station area;
(d) crime tendencies within the station area and how these tendencies influence a particular part of the station area or a particular section of the community within the station area; and
(e) any other factor relevant to the improvement of service delivery by the Service within the station area,
establish a community police sub-forum which is broadly representative of the relevant section of the community in the station area concerned.

(3) In order to establish a community police sub-forum, a community police forum must—
(a) identify relevant community based organisations, institutions and interest groups in the relevant part of the station area or the members of the relevant section of the community within the station area concerned;
(b) determine a suitable date, time and venue for a meeting of all relevant interested persons to establish a community police sub-forum;
(c) take reasonable steps to make the date, time and venue of the meeting known to the organisations, institutions and groups, referred to in subparagraph (a), as well as to the general public in the relevant part of the station area;
(d) explain to those attending the said meeting what the objects of a community police sub-forum are;
(e) invite nominations for a reasonable number of persons to serve on a steering committee, together with the
executive committee of the community police forum concerned, to establish a community police sub-forum; and

(f) determine a date, time and venue for an inaugural meeting.

(4) The community police forum must render all reasonable assistance to the steering committee to—

(a) draft a constitution for the community police sub-forum which is to be established;

(b) take reasonable steps to make the date, time and venue of the meeting known to the organisations, institutions and groups, referred to in subregulation (3)(a), or the members of the relevant section of the community within the station area; and

(c) arrange the inaugural meeting.

(5) At the inaugural meeting, the steering committee must present the draft constitution to those present and the meeting must—

(a) by majority vote, adopt the constitution in its draft form or bring about the necessary amendments to the draft constitution and adopt it in its amended form; and

(b) elect a chairperson and an executive committee to manage the affairs of the community police sub-forum, in accordance with the procedure provided for in the constitution thus adopted.

(6) The station commissioner must, within 30 days after the establishment of a community police sub-forum, submit a copy of the constitution of the community police sub-forum to the area commissioner.

4 Establishment of an Area Community Police Board

(1) As soon as may be reasonably possible after the establishment of more than one community police forum in the area of jurisdiction of an area commissioner, such area commissioner must invite the executive committee of every community police
forum established in the said area to a meeting to be held on a
date and at a time and venue determined by the area
commissioner with the purpose to establish an area community
police board for that area.

(2) At the meeting, arranged in accordance with subregulation
(1), the area commissioner must—
   (a) explain to those attending the said meeting what the
       objects of an area community police board are;
   (b) invite nominations for a reasonable number of persons
       to serve on a steering committee, together with the area
       commissioner or a member designated by him or her, to
       establish an area community police board; and
   (c) determine a date, time and venue for the next meeting.

(3) The area commissioner must render all reasonable assis-
tance to the steering committee to—
   (a) draft a constitution for the area community police board
       which is to be established;
   (b) take reasonable steps to make the date, time and venue
       of the meeting known to any member of an executive
       committee of a community police forum in that area that
       did not attend the first meeting; and
   (c) arrange the next meeting.

(4) At the next meeting, the steering committee must present the
draft constitution to those present at the meeting and the meeting
must—
   (a) by majority vote, adopt the constitution in its draft form
       or bring about the necessary amendments to the draft
       constitution and adopt it in its amended form; and
   (b) elect a chairperson and an executive committee to
       manage the affairs of the area community police board
       in accordance with the procedure provided for in the
       constitution thus adopted.

(5) The area commissioner must, within 30 days after the
establishment of an area community police board, submit a copy
of the constitution of the area community police board to the
provincial commissioner.
5 Establishment of a Provincial Community Police Board

(1) As soon as may be reasonably possible after the establishment of more than one area community police board in a province, the provincial commissioner must invite the executive committee of every area community police board established in the said province to a meeting to be held on a date and at a time and venue determined by the provincial commissioner with the purpose to establish a provincial community police board for that province.

(2) At the meeting arranged in accordance with subregulation (1), the provincial commissioner must—

(a) explain to those attending the said meeting what the objects of a provincial community police board are;

(b) invite nominations for a reasonable number of persons to serve on a steering committee, together with the provincial commissioner or a member designated by him or her, to establish a provincial community police board; and

(c) determine a date, time and venue for the next meeting.

(3) The provincial commissioner must render all reasonable assistance to the steering committee to—

(a) draft a constitution for the provincial community police board which is to be established;

(b) take reasonable steps to make the date, time and venue of the meeting known to any member of an executive committee of an area community police board in that province that did not attend the first meeting; and

(c) arrange the next meeting.

(4) At the next meeting, the steering committee must present the draft constitution to those present at the meeting and the meeting must—

(a) by majority vote, adopt the constitution in its draft form or bring about the necessary amendments to the draft constitution and adopt it in its amended form; and
(b) elect a chairperson and an executive committee to manage the affairs of the provincial community police board in accordance with the procedure provided for in the constitution thus adopted.

(5) The provincial commissioner must, within 30 days after the establishment of a provincial community police board, submit a copy of the constitution of the provincial community police board to the National Commissioner.

6 General principles relating to the functioning of a Community Police Forum or Board

(1) A community police forum, sub-forum or board performs the functions set out in section 18 of this Act.

(2) A community police forum, sub-forum or board has no power of command and control over the Service or any part or member thereof and the policing of the station area, area or province in respect of which a community police forum, sub-forum or board has been established, remains the responsibility of the Service.

(3) Management of the Service at national—, provincial—, area—or station level is the responsibility of police management at the respective levels and a community police forum, sub-forum or board may not perform any function of the management of the Service at any level.

(4) A community police forum, sub-forum or board is a non-political entity and no member of such a forum or board may—

(a) wear any insignia or identification mark in respect of any political party, organisation, movement or body while attending a meeting of a community police forum, sub-forum or board; or

(b) utilise his or her membership of a community police forum, sub-forum or board to further or prejudice party-political interests.

(5) A member of a community police forum, sub-forum or board is not entitled to have access to police registers or files without the approval of the provincial—, area—or station commissioner.
concerned and may only be allowed access to police dockets with the prior written approval of the relevant Director of Public Prosecutions.

(6) A member of a community police forum, sub-forum or board may only use property belonging to or under the control of the Service with the prior written approval of the provincial—, area—or station commissioner concerned.

(7) A community police forum, sub-forum or board must have a written constitution which complies with the requirements set out in regulation 7 and function in accordance therewith.

7 Constitution of a Community Police Forum, Sub-Forum or Board

The constitution of a community police forum, sub-forum or board must set out—

(a) the name of the forum, sub-forum or board;

(b) the aims and objectives of the forum, sub-forum or board, which must at least contain the objects set out in section 18 of this Act;

(c) a code of conduct for members of the forum, sub-forum or board;

(d) the membership requirements which may not be such that they have the effect of unfairly discriminating against any member of the community on any ground;

(e) the composition, powers and functions of the executive committee of the forum, sub-forum or board which must provide that it shall at least consist of the chairperson, the vice-chairperson, a secretary and a person responsible to manage the financial affairs of the forum, sub-forum or board;

(f) the election procedures for members of the executive committee;

(g) the terms of office of members of the executive committee;

(h) basic meeting procedures, including—
(i) what would constitute a quorum at a meeting;
(ii) how voting must take place at meetings;
(iii) that minutes of all meetings of the forum, sub-forum or board including meetings of its executive committee must be kept; and
(iv) how notice of meetings (including regular—, special—and annual general meetings) must be given to members;
(i) how the forum, sub-forum or board will communicate with its members and the community concerned;
(j) the procedure for amending the constitution;
(k) the management and control of the financial affairs of the forum, sub-forum or board;
(l) (i) in the case of a community police sub-forum, how members will be designated to represent the sub-forum on the community police forum;
(ii) in the case of a community police forum, how members of the forum will be designated to represent the forum on the area community police board; and
(iii) in the case of an area community police board, how members of the board will be designated to represent the board at the provincial community police board;
(m) dispute resolution procedures; and
(n) the procedure for the dissolution of the forum, sub-forum or board.

8 Community Safety Plan

(1) A community police forum must, after consultation with the station commissioner concerned, develop a community safety plan before the end of each financial year for the station area in respect of which it was established and submit such plan to the relevant area community police board.

(2) A community safety plan contemplated in subregulation (1), must, as a minimum, set out—
(a) the action steps, programmes or projects which the community police forum plans for the next financial year in order to promote the achievement of the objects referred to in section 18(1) of this Act in that station area;

(b) how such action steps, programmes or projects will be funded; and

(c) how such action steps, programmes or projects will promote the achievement of the objects referred to in section 18(1) of this Act.

(3) An area community police board must, after having considered the community safety plans of the community police forums within that area and after consultation with the area commissioner concerned, develop a community safety plan for the area concerned setting out the action steps, programmes or projects which the area community police board plans in order to co-ordinate and support the community safety plans of the community police forums in that area and submit such plan to the provincial community police board.

(4) A provincial community police board may make recommendations to area community police boards in order to co-ordinate and support the implementation of area community safety plans.

9 Specialised Units

(1) To ensure closer cooperation between community police forums, sub-forums or boards, stations and specialized units of the Service, a provincial—, area—and station commissioner may request the commander of a specialized unit to designate one or more members of that unit to represent the unit, when requested thereto, at a meeting of a forum or board to address the forum, sub-forum or board on specific matters relating to the functions of such unit.

(2) If a specialized unit performed activities in a specific station area, the commander of such a unit may be requested to submit a report on the performance of the said activities to the station—, area—or provincial commissioner when such a commissioner is
10 Communication

(1) Decisions taken at community police forums, sub-forums and boards must be conveyed by the provincial—, area—and station commissioner concerned to the members under their command.

(2) Community police forums and boards must continuously and timeously be informed of policy developments in the Service with regard to community policing issues to enable them to submit their input with regard thereto.

(3) Any unclassified circular, whether from national—, provincial—, area—or station level, must, upon request, be made available to a community police forum or board.

(4) A member of a community police forum or board may, for the duration of discussions relating to community policing issues, upon the invitation of the relevant station—, area—, or provincial commissioner, attend management meetings at such station—, area—or provincial level respectively.

11 Logistical support

(1) The Service is not obliged to provide office accommodation to a community police forum, sub-forum or board.

(2) Notwithstanding the provisions of subregulation (1), a station commissioner may, in order to assist a community police forum to perform its functions, temporarily make available, for use by that forum, an office which is not immediately required by the Service for the performance of its functions: Provided that such forum does not have access to any other accommodation that may be utilised for this purpose.

(3) A station commissioner may permit a member of a community police forum to use a telephone or facsimile under the control of the Service to make an official call or send an official fax, if he or she deems it necessary to enable the forum to perform its functions.
(4) A station commissioner may instruct an employee of the Service to type the minutes of a meeting of a community police forum or its executive committee and official correspondence of the forum and to utilise equipment of the Service for that purpose, if such forum or its executive committee has no access to such equipment and may allow the use of stationary of the Service for that purpose if the forum has no stationary at its disposal.

(5) No equipment or stores may be issued to a member of a community police forum, sub-forum or board and no such member may be allowed to utilise a police vehicle.

(6) A member of a community police forum who is also a member of a community police board, may be transported by police vehicle to and from meetings and workshops of such board only in cases where he or she does not have reasonable access to private or public transport.

12 Financial process and system

(1) A community police forum, sub-forum or board may raise funds in order to support or perform its activities.

(2) A community police forum, sub-forum and board must manage its financial affairs in accordance with generally acceptable accounting practices applicable in the Republic and an income and expenditure statement must be presented at each general meeting of the forum, sub-forum or board.

(3) All financial records of a community police forum, sub-forum and board must be audited by an independent auditor on an annual basis.

(4) Community police forums, sub-forums and boards are non-profit, community-spirited bodies that perform their functions in order to achieve the objects, set out in section 18 of this Act, in the interest of the communities in respect of which they were established and membership and participation in the activities of a community police forum, sub-forum or board by any member of a community is voluntary and no member of a forum, sub-forum
(4) An employee or board is entitled to any remuneration on account of his or her membership or participation in the activities of such forum, sub-forum or board.

(5) A community police forum, sub-forum or board may not establish itself as a section 21 company. Any section 21 company established by a community police forum, sub-forum or board must function completely independent from such forum, sub-forum or board.

(6) A member of the Service may not be a director of a section 21 company established by a community police forum, sub-forum or board.

(7) The financial year of a community police forum, sub-forum and board shall commence on 1 April of every year and shall end on 31 March of the next year.

13 Employee organisations

A representative of a labour union may only attend a meeting of a community police forum, sub-forum or board in his or her capacity as such representative when matters affecting labour relations are discussed. Any such representative who attends other meetings of a community police forum, sub-forum or board does so in his or her capacity as a member of the Service or of the community.

14 Dispute resolution and problem solving

(1) Issues arising at a community police forum that cannot be resolved at that level, must be referred to the area commissioner or the area community police board.

(2) Issues arising at an area community police board or referred to it or to the area commissioner in terms of subregulation (1), that cannot be resolved within 90 days at that level, must be referred to the provincial commissioner or provincial community police board.

(3) If the provincial commissioner or provincial community police board cannot resolve an issue at that level, it must be referred to
15 Transitional arrangements

(1) Any community police forum, sub-forum or board established before the coming into operation of these Regulations, shall be deemed to have been established in terms of these Regulations:

Provided that—

(a) such community police forum, sub-forum or board has not established itself as a section 21 company before the coming into operation of these Regulations;

(b) a community police forum, sub-forum or board which does not have a constitution that complies with the requirements set out in regulation 7, must, within 90 days after the coming into operation of these Regulations, or within such extended period as may be determined by the relevant provincial commissioner upon application by such forum, sub-forum or board, adopt a constitution that complies with these requirements; and

(c) a community police forum, sub-forum or board which does not have an executive committee as provided for in these Regulations, must, within 120 days after the coming into operation of these Regulations, or within such extended period as may be determined by the relevant provincial commissioner upon application by such forum, sub-forum or board, from its members elect such an executive committee.

(2) Anything done by a community police forum, sub-forum or board before the coming into operation of these Regulations and which may be done in terms of these Regulations, shall be deemed to have been done in terms of these Regulations.

(3) The National Commissioner may determine such further transitional measures as may be reasonably necessary to ensure the effective and efficient implementation of these Regulations.
(4) Any funds received before the coming into operation of these Regulations by a community police forum, sub-forum or board, which had not been established as a section 21 company, shall be deemed to have been administered in accordance with these Regulations: Provided that if the financial records of such forum, sub-forum or board had, in the past, not been audited by an independent auditor, the community police forum, sub-forum or board appoints an independent auditor to audit the records and provided further that, the community police forum, sub-forum or board concerned, upon receipt of the report of the auditor, adopts a resolution in which the administration of the funds is approved.

(5) If the existing financial year of any community police forum, sub-forum or board, established before the coming into operation of these Regulations, differed from the financial year prescribed by regulation 12(6), the next financial year of such forum, sub-forum or board shall commence on 1 April 2002.

16 Short title

These Regulations shall be called the South African Police Service Interim Regulations for Community Police Forums and Boards, 2001.
CIVILIAN SECRETARIAT FOR POLICE

COMMUNITY SAFETY FORUMS POLICY

GLOSSARY OF TERMS
ADR—Alternative Dispute Resolution
BAC—Business Against Crime
CBO—Community-based Organisations
CJS—Criminal Justice System
COGTA—Department of Co-operative Governance and Traditional Affairs
CPF—Community Police Forum
CSA—Community Safety Audit
CSF—Community Safety Forums
CSP—Community Safety Plan
DCS—Department of Correctional Services
Dev Com—Integrated Justice System Development Committee
DHA—Department of Home Affairs
DM—District Municipality
DoJCD—Department of Justice and Constitutional Development
DSD—Department of Social Development
IDASA—Institute for Democracy in South Africa
IDP—Integrated Development Planning Process
IDP’s—Integrated Development Plans
CIVILIAN SECRETARIAT FOR POLICE
POLICY FOR ESTABLISHMENT OF COMMUNITY
SAFETY FORUMS

1 INTRODUCTION

Community Safety Forums emanated from the requirements outlined in the National Crime Prevention Strategy (NCPS) of 1996, and the 1998 White Paper on Safety and Security. Both sought to improve, amongst others, the functioning of the criminal justice system (and in particular the police) in the local domain and to enhance crime prevention activities. Whilst the NCPS and the White Paper created the opportunity for integrated approaches to preventing crime and increasing the efficiency of law enforcement, it failed to articulate around the methodology and structural arrangements as to exactly how the CSF concept must be implemented.

CSFs are based on the premise that increased co-operation and interaction would improve the functioning and deliberations
within the local criminal justice system and the delivery of crime prevention projects. This resulted in the CSF concept evolving as a replicable structure for integrated problem solving at local level destined to provide means for sharing information and co-coordinating an inter-disciplinary approach to crime prevention. This approach is inclusive of collaboration and responses from all the departments in the Justice, Crime Prevention and Security (JCPS) cluster and other relevant organs of state.

The Community Safety Forum does not aim to replace or duplicate any existing structure or forum at local level. It will solely serve as a coordinating structure for collaboration and integrated planning and implementation at local government level. Therefore, the main intention remains the replication of the co-ordination and monitoring functions of the JCPS (or criminal justice system) structure to streamline and enhance integrated planning at local government level.

Since the CSF concept is closely related to Community Policing, a clear distinction needs to be drawn. Community Safety Forums (CSF’s) are meant to facilitate the delivery of a multi-sectoral governmental approach on safety in local communities and is distinguished from the CPF through its jurisdiction and tasks. The CPF is a legal community structure established in terms of the South African Police Service (SAPS) Act and is mandated to facilitate community-police relations within a specific police station precinct (police station boundary) and serves as the mouthpiece of the community with the police and vice versa on policing matters and other relevant safety issues. Members of this forum are elected during formal election processes and get its mandate from the community to execute the legal powers and functions.

The jurisdiction of a CSF is aligned to the municipal and/or district municipal jurisdiction/boundary. Once formalized and established, it will facilitate and enhance co-operation, integrated planning and coordinate implementation of safety programmes and projects in the local sphere. It will consist of representatives formally nominated and endorsed by the respective department, institution or community based organisation. In this regard, the
CPF will be but one of the stakeholders represented in the CSF structure; e.g. by taking over the co-ordination of crime prevention activities, community safety forums could allow community policing to focus exclusively on police-community issues and report on successes, projects and challenges. As such, they could serve as the major conduit for community participation in community safety forums. The forums could also assist CPFs to access government resources that would previously have been beyond their reach.

Therefore, CSFs are meant to harness the energies of JCPS departments and relevant organs of state with a view to realizing synergies and better coordination. Some of the important principles that inform service delivery in government include the following:

- Integrated service delivery
- Multi-agency collaboration
- Joint planning of operations
- Strong community participation and consultation
- A commitment to sharing of resources
- Community engagement and accountability
- Responsiveness
- Openness and transparency

The context for the development of a policy framework for CSFs stems from a Cabinet instruction to the Department of Police, through the JCPS cluster to facilitate and expedite the establishment of CSFs throughout the country. Research towards the policy included an audit conducted during 2010 which revealed that a number of CSFs have been established and is in existence in some of the provinces in the country. However, the organisational designs and responsibilities of existing CSFs differ from area to area.

This policy framework aims to respond to these challenges by proposing a uniform policy approach to the establishment of CSFs.
2 THE MANDATE FROM GOVERNMENT

Currently, the South African government’s strategic objective for the JCPS cluster is that “All People in South Africa Are and Feel Safe”. The Constitution bestows the right on all South African citizens to enjoy an accountable, effective and a service-oriented Criminal Justice System (CJS). It directs the state to provide all citizens and those within the country’s boundaries with adequate security from those who perpetrate crime. Various initiatives have been undertaken by the democratic government since 1994, in addressing crime, and to ensure that the CJS is transformed.

Government has shifted its focus from operating in silos within departments to a holistic and collaborative approach amongst the various stakeholders, through the clustering system. There are various structures that have been established on national, provincial and local spheres of government that consist of various CJS departments. The main focus of these structures is to provide strategic direction on implementing government policy in a collaborative manner. Some of these JCPS cluster structures include the National and Provincial Development Committees and Joint Operations and Intelligence Structures (JOINTS).

The mandate from government is then to formulate a policy that will see the development of CSFs in all parts of the country in order to give effect to the imperative of working in a cohesive and integrated manner.

3 THE NEED FOR COMMUNITY SAFETY FORUMS

CSFs is designed to serve as a platform for coordination, integration and monitoring the implementation of multi-sectoral crime prevention and community safety initiatives within the context of the National (and Provincial) JCPS priorities in serving as the central catalyst for joint collaboration towards a local crime prevention strategy. As such, the CSF concept also emphasises the need to ensure synergy and alignment of all government inputs and outputs in the local domain to fast track and improve service delivery whilst drawing on all available resources in
achieving the commitments underlying the developmental perspective. Such deliberations must be undertaken within the guiding framework of the intergovernmental relations prescripts and co-operative government.

4 CONSTITUTIONAL AND LEGISLATIVE FRAMEWORK

Set out below is a synopsis of the constitutional and legislative imperatives that should guide the policy framework for planning, coordination and execution of integrated crime prevention initiatives.


Section 40 of the Constitution states that government is constituted in the national, provincial and local spheres and that spheres are “distinctive, interdependent and interrelated.” Section 41 of the Constitution goes on to state that all spheres of government and all organs of state within each sphere must preserve the peace, secure the well-being of the people of the Republic; co-operate with one another in mutual trust and good faith by, inter alia, assisting and supporting one another and coordinating their actions and legislation with one another.

Section 152 of the Constitution defines the objects of local government. These include ensuring that the provision of services to communities is rendered in a sustainable manner; that social and economic development is promoted; that a safe and healthy environment is promoted; and that communities and community organizations are encouraged to be involved in the matters of local government.

The developmental duties of municipalities are outlined in Section 153 of the Constitution. It states that a municipality must budget and plan processes to give priority to the basic needs of the community; promote the social and economic development of the community; and participate in national and provincial development programs. The economic development of the community is intrinsically linked to the safety and security conditions that prevail in the local environment.
The competencies of local government are provided for in Schedules 4 and 5 of the Constitution that relate to the administration of the local government matters which are listed in Part B of Schedule 4 and Part B of Schedule 5. These matters include areas relating to street lighting, street trading, traffic, the control of public nuisances and the consequential by-law enforcement. These are some of the matters that CSFs shall address as part of their initiatives.

Section 206 (3) of the Constitution entitles each province to promote good relations between the police and the community. This cannot be achieved by the relevant provincial organ of state without the concomitant involvement of the national and local spheres of government.

The Constitution provides the over-arching framework for policy and legislation. The principles, values and injunctions of the Constitution form the basis for legislation and policies that have a bearing on the provision of safety.

4.2 The South African Police Service Act 68 of 1995 (on CPFs)

Amongst others, the SAPS Act provides for specific roles of the police in relation to community safety. These include:

- Establishing and maintaining partnerships with the community;
- Promoting communication with the community;
- Promoting cooperation on policing with the community;
- Improving transparency and accountability to the community;
- Improved partnership with the community;
- Improved service delivery at all levels; and
- Joint problem identification and problem solving.

4.3 The Inter-governmental Relations Framework Act 13 of 2005

The Act provides for the establishment of a National Intergovernmental Forum in order to promote and facilitate intergovernmental relations. Its role is to raise matters of national interest within
In terms of section 15 of the Act, two or more National Intergovernmental Forums may meet jointly when necessary to discuss and consult on issues that are inter-sectoral in nature. It is submitted that, on a national and provincial level, these joint meetings become important for discussion and agreement on policy and cross-cutting matters that have an impact on the provision of safety and security to the communities.

In terms of the Act, District Intergovernmental Forums are mandated to discuss, inter alia, the implementation of national and provincial policy and legislation with respect to such matters in the district, the provision of services in the district and coherent planning and development. Intergovernmental technical support structures comprised of officials representing the governments or organs of state participating in the intergovernmental forums provides an avenue for effective functioning of CSFs.

4.4 Municipal Systems Act 32 of 2000

One of the objectives of the Act is to provide for community participation and involvement of the local community in the affairs of the municipality. The Act mandates each local government to consultatively undertake Integrated Development Planning (IDP) for the local area. It further provides for participation by the local community in the affairs of the municipality that must take place through the councillors (s 17). The IDP process is critical in that it supports the notion of integration and consultation.

These IDP’s are local plans which are ultimately intended to guide the implementation of the policies and programmes informed by various National and Provincial Government policies, strategies and programmes. Crime prevention is no exception. In terms of Sections 23–37 of the Act, municipal planning must be development-oriented to ensure that it, together with other organs of state, contributes to the progressive
realization of the fundamental rights contained in sections 24 (Environment), 25 (Property), 26 (Housing), 27 (Health care, food, water and social security) and 29 (Education) of the Constitution. In addition, planning must be aligned with, and complement, the development plans of other organs of state so as to give effect to the principles of co-operative government. Each municipal council must adopt a single, inclusive and strategic plan for the development of the municipality which links, integrates and co-ordinates plans and takes into account proposals for the development of the municipality.

4.5 Municipal Structures Act 117 of 1998
The Act emphasizes that municipal structures should account on their involvement of communities and community organizations in the affairs of the municipality. Its objectives include reviewing the needs of communities.

The Constitution and the different pieces of legislation referred herein constitute the basis for the development of the CSF policy.

5 POLICY FRAMEWORK
The following policy instruments serve as points of reference for the development of the CSF policy.

5.1 The National Crime Prevention Strategy 1996
The NCPB represents a collation of national and international experience in crime prevention. It has the following objectives:

- The establishment of a comprehensive policy framework which will enable the government to address crime in a co-ordinated and focused manner which draws on the resources of all government agencies, as well as civil society.
- The promotion of a shared understanding and common vision of how we, as a nation, are going to tackle crime. This vision should also inform and stimulate initiatives at provincial and local level.
- The development of a set of national programmes, which serve to kick-start and focus the efforts of various
government departments in delivering quality service aimed at solving the problems leading to high crime levels, particularly in our residential areas.

- The maximization of civil society’s participation in mobilizing and sustaining crime prevention initiatives.
- Creation of a dedicated and integrated crime prevention capacity, which can conduct ongoing research and evaluation of departmental and public campaigns as well as facilitating effective crime prevention programmes at provincial and local level.
- Emphasis on greater community involvement in crime prevention.

The NCPS is based on the following four pillars:

- **The Criminal Justice Process** aims to make the CJS more efficient and effective. It must provide a sure and clear deterrent for criminals and reduce the risks of re-offending.

- **Reducing Crime through Environmental Design** focuses on designing systems to reduce the opportunity for crime and increase the ease of detection and identification of criminals.

- **Public Values and Education** concern initiatives aimed at changing the way communities react to crime and violence. It involves programmes which utilize public education and information in facilitating meaningful citizen participation in crime prevention.

- **Trans-national Crime programmes** aim at improving the controls over cross border traffic related to crime and reducing the refuge which the region offenders to international criminal syndicates.

### 5.2 The White Paper on Safety and Security, 1998

The White Paper on Safety and Security (WPSS) has as its objectives to outline:

- Strategic priorities to deal with crime.
Role and responsibilities of various role players in the Safety and Security sphere.

The role of the Department of Safety and Security (now the Department of Police) within the constitutional framework.

The WPSS makes numerous, specific references to the **role of local authorities in crime prevention**:

- The internal prevention of crime i.e. within the Municipality.
- Working with the local SAPS and CPF’s in setting priorities.
- Aligning resources and objectives within a crime prevention framework.
- Ensuring that development projects take crime prevention principles into account.
- Co-ordination of crime prevention initiatives operating within the municipal area to avoid duplication.
- Effective enforcement of by-laws.
- Effective traffic law enforcement.
- Assist victims of crime with information as to support services available.
- Initiate targeted crime prevention programmes.
- Local government to play a lead role in local crime prevention, promoting crime prevention through multi-agency partnerships.

### 5.3 The White Paper on Local Government, 1998

- Accountability to consumers (communities) on service delivery.
- Affording civil society opportunity to partner with local government to mobilize additional resources.
- Emphasis on structured stakeholder involvement in certain Council committees (issue-oriented committees).
5.4 The White Paper on Traditional Leadership and Governance

- Promotes a strong relationship between the Institution and different spheres of government, particularly local government, to ensure service delivery.
- Support municipalities in the identification of community needs.

5.5 The White Paper on Corrections in South Africa, 2005 and the Correctional Services Act 111 of 1998

- Propagates for a range of healthy external partnerships
- Promotes the adoption of rehabilitation as societal responsibility.
- Promotes a relationship between the DCS and the community, community based organizations, Non Governmental Organization and faith based organization.
- The White Paper gave rise to the development of community participation policy.
- The Act Promotes partnerships with the community as the basic tenants of rehabilitation and resulted in a Community Participation Policy which aims to involve the Community in the rehabilitation and reintegration of offenders.

6 SCOPE AND OBJECTIVES

The establishment of CSFs is intended:

To promote the development of a community where citizens live in a safe environment and have access to high quality services at local level, through integrated and coordinated multi-agency collaboration among organs of state and various communities.

CSFs are based on the premise that increased co-operation and interaction would improve the functioning of the criminal justice system and the delivery of crime prevention projects. As such, community safety forums provide a means for sharing information, and coordinating an inter-disciplinary approach to crime prevention.
6.1 Policy Statement
CSFs need to be established to enhance community safety in an integrated and coordinated manner to achieve and deliver on priorities identified at national, provincial and local levels. Crime stems from a host of factors which include inadequate access to basic services such as housing, education and health, social services, as well as employment. Crime hampers socio-economic development. Therefore, improved planning and co-ordination is required to enhance conditions of safety. There is also a need to strengthen partnerships and co-operation among relevant organs of state at local, provincial and national spheres of government, including community stakeholders.

6.2 Scope of the CSF policy
The scope of the policy relates to the following:

- Coordination within government and with other relevant agencies, community, civil society and other relevant stakeholders.
- Stimulate the identification and development of crime prevention measures and long term strategies for tackling the causes of crime and lack of safety.
- Ensuring that community safety is a high priority for relevant departments, organizations and community formations.
- Providing information, training and opportunities to share and develop good practice on crime prevention and safety.

The above scope will be achieved through dealing with the following:

- A local perspective on community safety and crime prevention;
- Social crime prevention;
- Crime prevention through environmental design;
- Encouraging and improving citizen participation in community safety initiatives;
- Promoting restorative justice;
Reducing re-offending (recidivism);
• Ensuring effective reintegration of ex-offender (parolees) into the community;
• Improving community cohesion;
• Improving community participation in the local economy;
• Addressing gender-based violence and violence against women and children;
• Addressing alcohol and substance abuse;
• Ensuring safer streets and safer schools;
• Ensuring safer human settlements;
• Ensuring access to justice; and
• Ensuring road transport safety and safer public transport.

The above list is not exhaustive and is left to the discretion of the CSF to add such areas which it deems necessary for in the discretion of CSFs to consider and add such other areas which might become expedient for a [sic]

6.3 Objectives of a Community Safety Forum

The main objectives of a CSF are to:

• Coordinate, promote co-operation, synergise and integrate planning and budgeting between government departments on matters of community safety and security.
• Facilitate the implementation of government-community partnership capabilities on matters of community safety and security.
• Strategically consult and engage communities (through organized structures) to participate in the development of local planning and monitoring of safety, security and development plans.
• Strategically muster community strengths to implement programmes that enhance community safety, security and development.
7 FUNCTIONS OF A COMMUNITY SAFETY FORUM
The CSF is responsible for the following key functions:

- Ensuring that synergies are realized through cooperative and integrated functioning among government departments and relevant institutions or structures on issues of community safety and security.
- Facilitate the execution of regular safety audits, in partnership with civil society, and coordinate the development of a Safety Strategy and Plan (SSP) and its alignment with national, provincial and local priorities and plans.
- Coordinating, monitoring and evaluating the implementation of safety programmes or projects.

8 POLICY IMPLEMENTATION REQUIREMENTS
There is a need to clearly specify the practical, supportive elements that are required towards a successful implementation of the CSF policy. This includes, and is not limited to human, material and financial resources; and structural design and is logically connected to the roles and responsibilities.

8.1 Establishment and Location of Community Safety Forums
The Member of the Executive Council responsible for policing shall, in consultation with the mayor(s), establish a CSF that is broadly representative of local community structures and organs of state, to be located and operate within the Metropolitan, District and Local municipal boundaries. The district CSF will consist of representatives from the Local CSFs, under its jurisdiction, in providing further coordination and technical support towards ensuring functionality and integration.

8.2 Composition of Community Safety Forums
As a broad structure for integrated local crime prevention planning, coordination and implementation, CSFs must involve participants from all three spheres of government, as well as community-based organizations and formations.
These should include the following departments (with their agencies):

- Department of Correctional Services (DCS);
- Department of Justice and Constitutional Development (DoJCD);
- Department of Home Affairs (DHA);
- Department of Co-operative Governance and Traditional Affairs (COGTA);
- Metro, District and Local Municipalities;
- South African Local Government Agency (SALGA);
- Social Cluster Departments (in all spheres of government);
- South African Police Service;
- Civilian Secretariat for Police; and
- Provincial Departments responsible for community safety.

Communities serve as critical role-players in the composition of CSFs. In order to give effect to enhancing community participation in the CSF, the continuous presence of organized civil society and community structures or sectors is encouraged. Civil society or organized local communities that could form part of CSFs include at least the following:

- Existing CPFs;
- Non-governmental organizations working in relevant functional areas (e.g. in respect of child protection, victim support, restorative justice or economic empowerment);
- Faith-based organizations;
- Ward councilors as ex-officio members;
- Organisations representing the interests of specific groups like Women’s Formations;
- Traditional leaders;
- Business sector; and
- Other organized community structures such as military veterans.
The ideal organisational representation for an effective district or local CSF should comprise all role-players cited above. However, the boundaries for organs of state should be addressed through proper alignment or demarcation processes. A Protocol document on how the organs of state will engage on CSF matters in all spheres of government, within the IGR Framework, should be developed in this regard.

8.3 Work Organisation for Community Safety Forums

Local/District/Metropolitan Level Structures: In order to ensure that CSFs effectively deliver on their mandate at a local, district and metropolitan level, there is a need to establish structures that will be strategically organized into sub-committees in order to achieve their objectives. The establishment and structuring of sub-committees should be done through specific programmes where the relevant department will be expected to lead based on its portfolio or mandate. This should not be construed as if the CSF replaces any existing committees and/or forums required in the specific departmental or entity’s legislative or policy mandate. However, the CSF may facilitate and coordinate the rationalization of such departmental IGR forums towards clustering and alignment within its sub-committee approach. This will enhance productivity and efficiency. For example, in a sub-committee on transport safety, the officials from the Department of Transport will take the lead in programmes or initiatives relating to such. The CSF and the representative of the provincial department responsible for community safety will assume the responsibility of reporting on CSF activities through the existing government cluster structures at provincial and national government.

The secretariat function and coordination of these structures remains the joint responsibility of the Metropolitan, District and/or Local Municipality and that of the provincial department responsible for community safety. In the case where a local municipality does not have the
capacity or means to establish and administer a CSF, the District municipality concerned, with the assistance of the provincial secretariat, must intervene and take lead on ensuring a CSF is established in such municipality. Once the municipality concerned required the necessary capacity and resources, the CSF must be handed back to the respective municipality.

- **Provincial Level**—In order to ensure accountability by the local/metropolitan and district level CSF, a provincial structure—IJS Development Committee—should be developed and/or strengthened to ensure that relevant and required interventions are addressed and the reports thereof are forwarded to the national cluster structure (JCPS). In consultation with the IJS Development Committee, the provincial departments of Community Safety and COGTA will facilitate and coordinate planning, programme support, capacity building, mentoring, monitoring, oversight, and accountability.

- **National Level**—The Development Committee, in conjunction with the Civilian Secretariat for Police, will provide vision, policy direction, oversight, strategic advice, co-ordination, and programme evaluation. This structure must develop appropriate and uniform standards to ensure effectiveness and quality deliberations.

### 8.4 Roles and Responsibilities of Stakeholders

A formal statement or concrete list defining the roles and responsibilities of the stakeholders is necessary to determine and clarify understandings of various partners about the collaboration and the allocation. Their roles are the following:

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<th>Level</th>
<th>Structure</th>
<th>Responsibility</th>
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<tbody>
<tr>
<td>Governance</td>
<td>JCPS Cluster (Social Crime Prevention); Social Cluster (National)</td>
<td>Vision, Policy, Oversight, Advice, Co-ordination, Evaluation</td>
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Below is a description of the minimum responsibilities of the stakeholders:

**Department of Correctional Services:**
- Facilitate social acceptance and effective reintegration of ex-offenders into their communities.
- Facilitate and manage parole release programmes (pre-release, supervision and parole) with communities.
- Facilitate community service programmes.

**Department of Justice and Constitutional Development:**
- Facilitate and promote access to justice services available to the communities (e.g. legal aid board and Thuthuzela Care Centres).
- Empower citizens to understand the Constitution, laws that impact on their lives, and access all their rights.
- Ensure Restorative Justice and Alternative Dispute Resolution (ADR) initiatives.
- Ensure that victim empowerment and support programmes are adopted and are run effectively to address victims traumatic experiences.
- Conduct *face-the-people* sessions on bail and sentencing (accountability) at local level.
- Facilitate, coordinate and ensure functionality of Provincial UJ Development Committees.

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<th>Level</th>
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<th>Responsibility</th>
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<td>Oversight Level</td>
<td>Provincial Departments responsible for community safety; Provincial Dev Corn; Social Cluster (Provincial)</td>
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<tr>
<td>Core Performance Level</td>
<td>CSF (metro/district/local municipality)</td>
<td>Research, Problem Solving, Integrated Planning, Co-ordination, oversight, project implementation</td>
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Department of Home Affairs:
- Facilitate and promote members of the public to understand and easily access Home Affairs services.
- Ensure that all citizens have the necessary documentation to access government services.
- Manage internal migration at local level through migration/immigration help points.
- Spearhead programmes and projects concerning safety in relation to internal human movement and settlement.

Department of Co-operative Governance and Traditional Affairs:
- Create a framework in which municipalities are compelled to establish CSFs.
- Provide technical assistance to the Provincial Secretariats during establishment and oversee the continuous participation and deliberations of municipalities in CSFs.
- Ensure each IDP makes proper provision for local community safety initiatives and that such initiatives are budgeted for.
- Assist municipalities with administration and resourcing to optimize functionality of CSFs in meeting its objectives.

Department of Social Development
- Facilitate community service programmes.
- Provide probation and child justice services to persons at risk and in conflict with the law.
- Take a lead on social crime prevention issues.
- Develop and manage secure places of safety for petty offenders and children in conflict with the law.
- Develop and implement social crime prevention programmes.
- Lead victim empowerment programmes (VEP).

Department of Education
- Facilitate the identification and implementation of Safer school projects.
Lead in identifying and problematic schools and provide guidance on educational projects and campaigns.

Department of Women, Children and People with Disabilities

- Provide and implement a comprehensive framework for safety nets in relation to vulnerable groups.
- Lead in social crime prevention programmes aimed at creating a safe and secure environment for women and children and people with disabilities.

Other Social Cluster Departments:

- Implement comprehensive social security and integrated food security programmes to the benefit of local communities.
- Implement comprehensive health care programmes at local level.
- Ensure proper housing and human settlement at local level.
- Ensure sustainable livelihood to improve the quality of life for local communities.
- Facilitate access to education and implement safer schools programmes.
- Promote social cohesion at local level through various programmes.
- Ensure the implementation of sufficient tourism safety to enhance and improve investment.

Local/District/Metropolitan Municipalities:

- Provide secretariat services for the CSF structure.
- Provide budget and infrastructure for CSF functioning.
- Develop and integrate safety/crime prevention action plans into IDP’s.
- Implement safety/crime prevention plans.
- Ensure CSF operational committee synergy.
- Develop and integrate CSF annual program of action into IDP’s.
- Demarcate operational boundaries for CSFs.
Civilian Secretariat for Police and Provincial Departments responsible for Community Safety:

National Level:
- Develop and review CSF Policy and relevant legislation
- Develop national standards and regulations for CSFs.
- Monitor, evaluate and report on CSF policy implementation to JCPS.

Provincial Level:
- Establish Intergovernmental Forums to enable provincial and local coordination of CSF work.
- Determine performance indicators for CSF structures in conjunction with COGTA, SALGA and municipalities.
- Facilitate and coordinate design and integration of safety plans into IDP’s jointly with local government.
- Facilitate and assist with the structuring and establishment of CSFs at the local sphere and ensure alignment with the metropolitan, district and/or local municipal boundaries.
- Budget for and provide assistance with administration and resources essential to ensure functionality and effectiveness of CSFs.
- Monitor, evaluate and report on CSF performance to national [sic].

The South African Police Service:
- Facilitating and maintaining a partnership between the community and the police, including establishment of and support for the functioning of CPFs.
- Support the participation of CPFs in CSFs.
- Facilitating communication between the police and the community.
- Improving the rendering of police services to the community at a local level.
- Joint identification of local policing priorities and co-ownership of problem-solving programmes at a local level.
Conducting periodic reporting to the community (accountability) in conjunction with the CSF and CPFs structures.

Facilitate and implement approved rural safety policies and strategies.

**CPF and incorporated structures:**
- Identifying policing priorities with the Police.
- Joint identification and co-ownership of policing programmes.
- Reciprocal control of crime fighting programmes.
- Ensuring police accountability to the community.
- Conduct other extended responsibilities on the CJS presented earlier in the document.

**The role of communities in Community Safety Forums**

As an integral part of implementing community safety initiatives, the communities, through established sectoral interests such as business and religious forums and other organized community structures, should be mobilized to take the initiative on issues pertaining to community safety and security.

**9 BUDGETING, RESOURCES AND SUPPORT SYSTEMS FOR COMMUNITY SAFETY FORUMS**

The objective of CSFs is to coordinate, facilitate and monitor integrated planning, budgeting and utilisation of resources towards focused and joint implementation of initiatives to achieve the national objectives and targets on government’s priority outcome of “All People in South Africa Are and Feel Safe”. Crime prevention and community safety initiatives necessitate a strategic channelling of resources and capacities by all role players involved in the wide spectrum.

Since the CSF are not per se an implementing agent or institution, it is anticipated that it will initially require funding for establishing infrastructure, training of people to serve as secretariat and support personnel on the one hand and continuous funding for administration. Since the CSF will be located at local level, it is proposed that Metropolitan, district and
local municipalities must assist in providing appropriate infrastructure; e.g. office space and where possible logistical support through the normal municipal budgeting process. Provincial Secretariats and district municipalities, where necessary, must assist and support individual local municipalities with financial assistance and resources to ensure administration and infrastructure is in place for the CSF to properly function and execute its functions.

The Civilian Secretariat (National) must develop and regularly review national guidelines (in conjunction with the DevComm) to facilitate the development of a uniform training programme and its roll-out for all people who will be involved in the administration and functioning of the CSF (including provincial and national departmental officials). This suggests that budgeting must be done for training by the partnership unit (of the Civilian Secretariat).

The funding for community safety programmes must come from the respective JCPS and Sector departments as part of their normal budgeting processes and the equitable share. At the beginning of each cycle (financial year), each relevant (JCPS or Sector) department, SOE, agency and other institution must provide and register all relevant community safety projects within the CSF which must be formally captured in the respective municipality’s IDP with full detail, such as the project and its objective, the amount budgeted, and the resources to be deployed for implementation. The CSF must facilitate a discussion on the appropriateness of the programmes/projects and provide guidance on the integration and alignment of such projects to the respective local government priorities.

Municipalities and the Provincial Secretariats are regarded as the key role-players (implementing agents) to guide and facilitate community safety initiatives at local level and therefore must continue budgeting for leading community safety projects and initiatives. This emphasises the need for Provincial Secretariats to strengthen their budget inputs to secure dedicated funding from the equitable share and to create appropriate capacity to compliment municipalities in local community safety initiatives.
and interventions. In this regard, the assistance of Provincial Treasuries is critical to ensure that such funding is ring-fenced and must be subject to compliance monitoring and auditing. The CSF approach does not exempt any role-player(s) from its legal or constitutional mandate towards the local government sphere. This is equally applicable to the prescripts of governance rules and procedures within the government and/or other institution; e.g. the PFMA MFMA, Treasury regulations, etc. Each role-player will remain accountable for expenditure of the programme/project as part of its normal budget planning and accounting procedures to each Accounting Officer and/or CEO.

10 MINIMUM STANDARDS FOR CSFS
The following serve as the irreducible minimum standards that should be considered for implementing CSF’s:
- CSF must be established and aligned to District and local Municipal boundaries.
- Stakeholder representation in the CSF must be at strategic and decision making level.
- Municipalities must, together with the provincial departments responsible for community safety, co-ordinate all CSF activities and report on implementation and achievements. Should any challenges arise, it must be reported and discussed at CSF level, and if no solution is found, a report must be send to the Provincial Department and the National Partnership Unit in the Civilian Secretariat to facilitate intervention.

11 IMPLEMENTATION AND METHODOLOGY
Once this policy is approved, a strategy will be developed to set out clear directives on the following:
- The methodology to be applied for implementation;
- The development of a training manual and timelines for training;
- An action plan on implementation approach, scope and timelines for the actual CSF roll-out;
Prescribed lines of reporting, report formats and intervals of reporting on CSF deliberations; and

A Communication strategy to guide consultation and interaction with all role-players and stakeholders, including the communities at large.
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APPENDIX

Annexure A

Code of Conduct

1 PREAMBLE

NOTING that Chapter 11 of the Constitution of the Republic of South Africa, 1996, provides for accountability of the South African Police Service to the communities they serve;

AND NOTING that Chapter 7 of the South African Police Service Act, 1995 (Act 68 of 1995), provides for the establishment of Community Police Forums and Boards through which the South African Police Service can liaise with communities with a view to promoting efficient and effective service;

AND WHEREAS Section 19 of the South African Police Service Act of 1995, provides that a Provincial Commissioner shall, subject to the directions of the Member of the Executive Council, be responsible for establishing community police forums at police stations in the province, which shall be broadly representative of the local community;

AND WHEREAS Regulation 2 of the South African Police Service Interim Regulations for Community Police Forums and Boards of 2001 provides that a station commissioner must, subject to the instructions of the Provincial Commissioner, take all responsible steps to establish a Community Police Forum.
which is broadly representative of the community in the station area under his or her jurisdiction;

AND WHEREAS Regulation 7 of the South African Police Service Interim Regulations for Community Police Forums and Boards of 2001 prescribes the contents of the Constitution of a Community Police Forum or Board;

AND WHEREAS Regulation 2 of the South African Police Interim Regulations for Community Police Forums and Boards of 2001 provides that at an inaugural meeting of all community based organisations, institutions, interest groups and the general public in the station area, a constitution of a Community Police Forum must be adopted by majority vote and a chairperson and executive committee elected in accordance with the procedure provided for in the constitution;

WHEREFORE we as members of all community based organisations, institutions, interest groups and the general public in the station area of ................................................ hereby adopt this Constitution for the ........................................ Community Police Forum.

2 INTERPRETATION

2.1 In this Constitution, unless clearly inconsistent with or otherwise indicated by the context—

2.1.1 “Cluster Board” means the Community Police Board established in respect of the group of police stations wherein the South African Police Service has included the ........................................ station for management purposes and which is regarded as having been established in terms of section 20 of the Act;

2.1.2 “Constitution” means the Constitution of the ............................... Community Police Forum as set out in this document and the appendices hereto;

2.1.3 “Community Police Forum” means the Community Police Forum referred to in section 3 of the Constitution;

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2.1.4 "Department" means the Department of Community Safety and Liaison;
2.1.5 "Executive Committee" means the Executive Committee contemplated in section 11 of the Constitution;
2.1.6 "Police Service" means the South African Police Service;
2.1.7 "Provincial Board" means the KwaZulu-Natal Provincial Community Police Board established in terms of section 21 of the Act;
2.1.8 "the Act" means the South African Police Service Act, 1995 (Act 68 of 1995);
2.1.9 "the Regulations" means the South African Police Service Interim Regulations for Community Police Forums and Boards, 2001 (Published under GN R384 in GG 22273 of 11 May 2001); and
2.1.10 "youth representative" means a person between the age of 14 and 35 elected in accordance with the procedure provided for in section 13 of the Constitution.

2.2 Any reference in this Constitution to legislation or subordinate legislation is to such legislation or subordinate legislation at the date of adoption hereof and as amended or re-enacted from time to time.

2.3 Words importing the singular shall include the plural, and vice versa, words importing the masculine gender shall include the feminine and neuter genders, and vice versa, and words importing natural persons shall include legal persons, and vice versa.

2.4 If any provision in the definition clause is a substantive provision conferring rights or imposing obligations on a party, then notwithstanding that such provision is contained in this clause, effect shall be given thereto as if such provision were a substantive provision in the body of the Constitution.

2.5 When any number of days are prescribed in this Constitu-
3 ESTABLISHMENT AND NAME OF FORUM

3.1 The Community Police Forum for the ................................
police station is hereby established in terms of section 19 of
the Act.

3.2 The Community Police Forum for the ............................
police station is called the ............................... Community
Police Forum.

4 VISION

4.1 The vision of the Community Police Forum is community
mobilisation towards a safe and peaceful ..........................
station area.

5 AIMS AND OBJECTIVES

The aims and objectives of the Community Police Forum are to—

5.1 establish and maintain a partnership between the commu-
nity and the Police Service;

5.2 promote effective communication between the Police
Service and the community;

5.3 promote cooperation between the Police Service and the
community to fulfill the needs of the community regarding
policing;

5.4 improve the rendering of police services to the community;

5.5 improve the transparency in the Police Service and the
accountability of the Police Service to the community;

5.6 promote joint problem identification and problem-solving by
the Police Service and the community;

5.7 promote community policing in the station area;

5.8 support and coordinate the proper functioning of the
Community Police Sub-Forums in accordance with the
Constitution of the Republic of South Africa of 1996, any applicable legislation and any applicable government policy; and

5.9 consult with and advise the Cluster Board, Provincial Board, the department and the Station Commissioner or their delegates with regard to all matters pertaining to community policing in the station area.

6 LEGAL NATURE AND POWERS OF THE COMMUNITY POLICE FORUM

6.1 The Community Police Forum is a juristic person and a non-profit making organisation which acts through the Executive Committee.

6.2 The Community Police Forum, notwithstanding any change of its members or management, will exist as a voluntary organisation with legal personality independently of its members.

6.3 The Community Police Forum has all the powers and may perform all the functions necessary to pursue its aims and objectives, including the power to establish Community Police Sub-forums in respect of any part of a station area, for the youth in the station area and to deal with policing matters mainly affecting the members of any other significant section of the community within the station area.

6.4 The Community Police Forum may own assets, incur losses and liabilities, enter into contracts and institute or defend any legal proceedings in its own name.

6.5 All immovable property or registerable rights obtained by the Community Police Forum shall be registered in the name of the Community Police Forum.

6.6 The Executive Committee represents the Community Police Forum and all acts performed by the Executive Committee or on its authority are the acts of the Community Police Forum.

6.7 The Community Police Forum must, after consultation with the Station Commissioner, develop a community safety plan.
plan as contemplated in Regulation 8 of the Regulations before the end of each financial year and submit same to the Cluster Board.

6.8 The Community Police Forum may make rules and issue guidelines in respect of the achievement of its aims and objectives, the execution of its powers and the execution of the powers and functions of the Executive Committee; Provided that any such rule or guideline may not be in conflict with the provisions of the Constitution.

7 INDEMNITY OF COMMUNITY POLICE FORUM MEMBERS

7.1 All members, including members of the Executive Committee, are—

7.1.1 indemnified by the Community Police Forum against all proceedings, costs and expenses incurred by reason of any act, omission or incident during the performance of their duties on behalf of the Community Police Forum, unless they have acted with gross negligence or in a manner that constitutes willful misconduct; and

7.1.2 not personally liable for any liabilities of the Community Police Forum.

8 COMPOSITION OF COMMUNITY POLICE FORUM

The Community Police Forum is composed of—

8.1 members from community based organisations, institutions, interest groups and the general public who are broadly representative of the community in the station area, including, but not limited to—

8.1.1 the safety representative of each ward committee within the station area;

8.1.2 one representative from each community crime prevention association operating in the station area;

8.1.3 one representative from each private security company operating in the station area;
8.1.4 between one and three representatives from business operating in the station area, including the local Business Against Crime and the Local Chamber of Commerce;
8.1.5 between one and three traditional leaders who has jurisdiction in the station area;
8.1.6 between one and three representatives from religious formations operating in the station area;
8.1.7 one representative from each Non-governmental Organisation operating in the station area;
8.1.8 one representative from each organised labour institution operating in the station area;
8.1.9 between one and three community representatives who reside in the station area who are not from any particular organisation or group;
8.1.10 between one and three representatives from any other relevant organisation identified by the Station Commissioner and community.

8.2 the youth desk representative elected in accordance with section 13 of the Constitution or, in the absence of the youth desk representative, his or her designate;
8.3 the Station Commissioner ex officio;
8.4 six members of the Police Service designated by the Station Commissioner from time to time for that purpose;
8.5 one official of the department designated by the Head of Department; and
8.6 additional members which the Community Police Forum may, whenever the Community Police Forum deems it necessary, co-opt to serve on the Community Police Forum in an advisory capacity.

9 MEMBERSHIP REQUIREMENTS
9.1 Members of the Community Police Forum shall render their services on a voluntary basis and shall have no claim to compensation solely for services rendered to the forum.
9.2 Members of the Community Police Forum must be resident in the station area. No person residing in another area may be a member of the Community Police Forum.

10 DECISION MAKING PROCEDURES
10.1 The Community Police Forum shall, as far as reasonably possible, reach decisions by consensus. If consensus cannot be achieved, the Community Police Forum shall vote on the matter. If the votes are tied, the Chairperson shall adjourn the meeting and reconvene the meeting in accordance with this Constitution after having identified an expert to provide advice to the meeting regarding the matter that led to the votes being tied.

10.2 If, upon the resumption of the meeting and after the Community Police Forum has considered the advice of the identified expert, the votes of the members are still tied, the Chairperson shall have a casting vote in addition to his or her deliberative vote.

11 COMPOSITION OF EXECUTIVE COMMITTEE
11.1 The Executive Committee of the Community Police Forum consists of—
  11.1.1 Chairperson;
  11.1.2 Deputy Chairperson;
  11.1.3 Secretary;
  11.1.4 Deputy Secretary;
  11.1.5 Treasurer;
  11.1.6 Public Relations Officer;
  11.1.7 Community Police Forum Coordinator of the SAPS ex officio; and
  11.1.8 three additional members.

12 PROCEDURE FOR THE ELECTION OF EXECUTIVE COMMITTEE
12.1 The Executive Committee must be elected at an Annual General Meeting of the Community Police Forum.
12.2 The Station Commissioner shall appoint an independent person or persons to act as the Electoral Officer of the election of the Executive Committee at least thirty (30) days prior to the Annual General Meeting.

12.3 The department shall render any assistance required by the Electoral Officer in the execution of his or her duties, including, but not limited to the facilitation of the election processes.

12.4 The following procedure applies in respect of the election of the Executive Committee—

12.4.1 Nominations for the members of the Executive Committee shall be made on the day of the Annual General Meeting under the direction of the Electoral Officer as follows:

(a) one nomination for each of the positions of—

(i) Chairperson;
(ii) Deputy Chairperson;
(iii) Secretary;
(iv) Deputy Secretary
(v) Treasurer;
(vi) Public Relations Officer; and
(vii) three additional members,

by any member of the Community Police Forum referred to in section 8.1 of the Constitution from the members of the Community Police Forum referred to in section 8.1 of the Constitution and submitted in writing to the Electoral Officer at the Annual General Meeting;

(b) the Electoral Officer shall prepare ballot papers in respect of each position with the names of the five (5) candidates in respect of that position who had received the most nominations and place the ballot papers before the Annual General Meeting on the day of the Annual General Meeting;
(c) in the event that it is impossible to determine which five candidates have the most nominations in respect of any position, the Electoral Officer shall prepare the ballot paper in respect of such position with the names of all candidates and place the ballot paper before the Annual General Meeting;

(d) each member present at the Annual General Meeting may, having regard to the grounds of disqualification to hold office as a member of the Executive Committee contained herein, the Code of Conduct attached hereto and any other relevant consideration, scrutinise the names on the ballot papers and raise an objection to any of the names appearing or not appearing on the ballot papers and request the removal, addition or substitution of any name on the ballot papers, which request must be voted on by members present at the Annual General Meeting referred to in section 8.1 of the Constitution;

12.4.2 the members of the Executive Committee are elected in the following order—

(a) Chairperson;
(b) Deputy Chairperson;
(c) Secretary;
(d) Deputy Secretary;
(e) Treasurer;
(f) Public Relations Officer; and
(g) three additional members.

12.4.3 each member present at the Annual General Meeting referred to in section 8.1 has one vote for each position;

12.4.4 after the votes are cast, the Electoral Officer must determine whether any candidate must be declared duly elected, and in the event that no candidate can
be declared duly elected, further rounds of secret balloting must be held, with names of those candidates who received the least votes and whose votes when combined with each other do not exceed the number of votes obtained by the leading candidate, must be eliminated from the following round of the ballot;

12.4.5 the Electoral Officer must announce the results of each round of balloting to the Annual General Meeting before the following round commences;

12.5 The Electoral Officer must announce the final result of each position immediately after the conclusion of the vote in respect of that position.

12.6 any newly elected member of the Executive Committee takes office upon closure of the Annual General Meeting;

12.7 any outgoing member of the Executive Committee must present a handover report to the newly elected member of the Executive Committee within fifteen (15) days of the date of the Annual General Meeting;

12.8 An Executive Committee member shall cease to hold office if he or she—

12.8.1 resigns his or her office by notice in writing to the Community Police Forum;

12.8.2 is or becomes of unsound mind;

12.8.3 surrenders his or her estate as insolvent or his or her estate is sequestrated;

12.8.4 is convicted of an offence which involves dishonesty;

12.8.5 is or becomes disqualified from being appointed or acting as a director of a company or as a member of a close corporation;

12.8.6 is absent from three consecutive meetings of the Executive Committee without special leave of absence given by the Chairperson, or without good reason given to the Executive Committee; or

12.8.7 ceases to be a member of the Community Police Forum.
12.9 The Executive Committee has the right to co-opt any member of the Community Police Forum as a member of the Executive Committee to fill any vacancy pending the election of another Executive Committee member by the Community Police Forum at a Special General Meeting.

12.10 The Community Police Forum may, at a Special General Meeting, remove any Executive Committee member before the expiry of his or her term of office and elect another Executive Committee member in his or her place to hold office for the remainder of the term of office of the Executive Committee member so removed: Provided that the intention to vote upon his or her removal from office was specified in the notice convening the meeting.

13 ELECTION OF YOUTH DESK REPRESENTATIVE

13.1 The youth desk representative must be elected by the representatives of the youth formations operating within the station area and youth residing in the station area at a special meeting of these representatives which must be held thirty (30) days prior to an Annual General Meeting where elections of the Executive Committee will be held or within thirty (30) days of a vacancy occurring or at a special meeting contemplated in 13.9;

13.2 The Station Commissioner shall appoint an independent person or persons to act as the Electoral Officer of the election of the youth desk representative at least thirty (30) days prior to the special meeting.

13.3 The department shall render any assistance required by the Electoral Officer in the execution of his or her duties, including, but not limited to the facilitation of the election processes.

13.4 The following procedure applies in respect of the election of the youth desk representative—

13.4.1 Nominations for the youth desk representative shall be made on the day of the special meeting under the direction of the Electoral Officer as follows:
(a) one nomination from each of the youth formations;
(b) submitted in writing to the Electoral Officer at the special meeting;
(c) the Electoral Officer shall prepare a ballot paper with the names of the five (5) candidates who had received the most nominations and place the ballot paper before the special meeting on the day of the special meeting;
(d) in the event that it is impossible to determine which five candidates have the most nominations, the Electoral Officer shall prepare the ballot paper with the names of all candidates and place the ballot paper before the special meeting;
(e) each member present at the special meeting may, having regard to the grounds of disqualification to hold office as the youth desk representative contained herein, the Code of Conduct attached hereto and any other relevant consideration, scrutinise the names on the ballot paper and raise an objection to any of the names appearing or not appearing on the ballot paper and request the removal, addition or substitution of any name on the ballot paper, which request must be voted on by all members present at the special meeting;

13.4.2 each member present at the special meeting has one vote by secret ballot;
13.4.3 after the votes are cast, the Electoral Officer must determine whether any candidate must be declared duly elected, and in the event that no candidate can be declared duly elected, further rounds of secret balloting must be held, with names of those candidates who received the least votes and whose votes when combined with each other do not exceed
the number of votes obtained by the leading candidate, must be eliminated from the following round of the ballot;

13.4.4 the Electoral Officer must announce the results of each round of balloting to the special meeting before the following round commences;

13.5 The Electoral Officer must announce the final result immediately after the conclusion of the vote.

13.6 The newly elected youth desk representative takes office upon closure of the special meeting.

13.7 The outgoing youth desk representative must present a handover report to the newly elected youth desk representative within fifteen (15) days of the date of the special meeting.

13.8 The youth desk representative shall cease to hold office if he or she—

13.8.1 resigns his or her office by notice in writing to the Community Police Forum;

13.8.2 is or becomes of unsound mind;

13.8.3 surrenders his or her estate as insolvent or his or her estate is sequestrated;

13.8.4 is convicted of an offence which involves dishonesty;

13.8.5 is or becomes disqualified from being appointed or acting as director of a company or as member of a close corporation;

13.8.6 is absent from three consecutive meetings of the Community Police Forum without special leave of absence given by the Chairperson, or without good reason given to the Community Police Forum; or

13.8.7 ceases to be a youth representative of his or her youth formation or a resident in the station area.

13.9 The representatives of the youth formations operating in the station area and the youth residing in the station area may, at a special meeting called for the purpose, remove the youth desk representative before the expiry of his or her
term of office and elect another youth desk representative in his or her place to hold office for the remainder of the term of office of the youth desk representative so removed: Provided that the intention to vote upon his or her removal from office was specified in the notice convening the meeting.

14 TERM OF OFFICE

14.1 The term of office of elected members of the Executive Committee is five (5) years and any member may only be re-elected for one more consecutive term.

14.2 The term of office of the youth desk representative is five (5) years or until he or she turns 36, whichever occurs first. The youth desk representative may only be re-elected for one more consecutive term.

15 POWERS AND FUNCTIONS OF EXECUTIVE COMMITTEE

15.1 The Executive Committee is responsible for the management of the affairs of the Community Police Forum and it has the authority to attend to any matter that could or might be attended to by the Community Police Forum, except where a matter is specifically reserved in this Constitution to be dealt with by a meeting of the Community Police Forum.

15.2 Without in any way limiting the powers and authority of the Executive Committee, the Executive Committee has the following powers and functions:

15.2.1 to pass any resolution or take any decision, that may be necessary or expedient in order to achieve the objectives of the Community Police Forum: Provided that the Executive Committee may not pass a resolution or take a decision that is inconsistent with this Constitution, or any resolutions or decisions of a meeting of the Community Police Forum passed or
taken prior to the date of the resolution or decision by the Executive Committee;

15.2.2 at such intervals as the Executive Committee may require, but at least once every financial year, to cause the accounting records of the Community Police Forum to be audited, by an independent auditor appointed by the Executive Committee, for compliance with Generally Accepted Accounting Practices and certified as a true reflection of the income, expenditure, assets and liabilities of the Community Police Forum;

15.2.3 subject to approval at a meeting of the Community Police Forum, to form sub-committees from the members of the Community Police Forum for special, general or ad hoc purposes and to delegate to any such sub-committee all or any of the powers conferred on the Executive Committee by this Constitution;

15.2.4 subject to approval at a meeting of the Community Police Forum, to institute, conduct, defend, oppose, settle or abandon any legal proceedings, by or against the Community Police Forum, or otherwise concerning the affairs of the Community Police Forum, and to settle or allow time for payment in satisfaction of any debts or any claims or demands by or against the Community Police Forum;

15.2.5 subject to approval at a meeting of the Community Police Forum, to invest, re-invest and deal with any monies of the Community Police Forum, not immediately required for the purposes of the Community Police Forum, upon such securities and on such terms as it may deem fit, and from time to time to vary or realise such investments;

15.2.6 subject to approval at a meeting of the Community Police Forum, to sell, lease, alienate or otherwise dispose of part or parts of the movable or immovable
property or any right of the Community Police Forum, as it may think most beneficial to the Community Police Forum, and to apply the consideration arising therefrom as it may think most advantageous to the Community Police Forum;

15.2.7 subject to approval at a meeting of the Community Police Forum, to purchase, hire or take in exchange or otherwise acquire any movable or immovable property or rights for the Community Police Forum;

15.2.8 approve any communication from the Community Police Forum to the public; and

15.2.9 subject to approval at a meeting of the Community Police Forum, to utilise the assets and funds of the Community Police Forum for the objects of the Community Police Forum, as set out in this Constitution.

15.3 The Community Police Forum may at a general meeting overturn, approve or amend any decision of the Executive Committee: Provided that no such decision by the Community Police Forum will adversely affect any pre-existing right of any person or invalidate any action already taken by the Executive Committee.

16 DUTIES OF MEMBERS OF THE EXECUTIVE COMMITTEE

16.1 The Chairperson must—

16.1.1 ensure execution of all decisions of the Executive Committee;

16.1.2 preside over all meetings;

16.1.3 represent the Community Police Forum at meetings, forums and events; and

16.1.4 present reports on the work of the Community Police Forum at all meetings.

16.2 The Deputy Chairperson must—

16.2.1 in the Chairperson’s absence, assume all functions of the Chairperson and in the absence of both the
Chairperson and the Deputy Chairperson at any meeting, the Executive Committee shall nominate one of their members to preside at such a meeting;

16.2.2 in conjunction with the Treasurer, ensure that the funds of the Community Police Forum are administered in accordance with the objectives, decisions and resolutions of the Community Police Forum; and

16.2.3 prepare and circulate the annual report of the activities of the Community Police Forum, which must include the audited annual financial statements.

16.3 The Secretary must—

16.3.1 ensure that the minutes of all meetings, procedures and resolutions are recorded;

16.3.2 receive and dispatch all correspondence to and from the Community Police Forum;

16.3.3 arrange all meetings in consultation with the Chairperson;

16.3.4 ensure the safekeeping of all official documents of the Community Police Forum;

16.3.5 send out notices of meetings;

16.3.6 in consultation with the Chairperson attend to all correspondence; and

16.3.7 perform all other duties usually associated with the office of Secretary.

16.4 The Deputy Secretary must—

16.4.1 in the Secretary’s absence, assume all functions of the Secretary and in the absence of both the Secretary and the Deputy Secretary at any meeting, the Executive Committee shall nominate one of their members to act as Secretary at such a meeting;

16.4.2 assist the Secretary in the performance of his or her functions.

16.5 The Treasurer must—

16.5.1 open an account with an institution registered with
the Financial Services Board in the name of the Community Police Forum;
16.5.2 prepare an annual budget and fundraising strategy for the Community Police Forum for approval at an Annual General Meeting;
16.5.3 manage all funds received and expenditure by the Community Police Forum;
16.5.4 keep record and proof of all monies received or expended by the Community Police Forum;
16.5.5 deposit all monies received by the Community Police Forum in its account on the first banking day of each month;
16.5.6 prepare a quarterly income and expenditure report for submission to and approval by the Community Police Forum;
16.5.7 prepare audited annual financial statements to be approved at an Annual General Meeting;
16.5.8 ensure adherence to the principles contemplated in the Public Finance Management Act, 1999 (Act 1 of 1999); and
16.5.9 account to the Executive Committee and the Community Police Forum on the execution of his or her duties.

16.6 The Public Relations Officer must—
16.6.1 act as liaison between the Community Police Forum and the general public within a station area;
16.6.2 promote communication between the Community Police Forum and the communities within the station area; and
16.6.3 execute these duties in consultation with the Station Commissioner and the department.

16.7 Additional Members has those duties allocated to them by the Chairperson.
17 REPRESENTATION ON CLUSTER BOARD

17.1 Subject to section 17.2, the Chairperson of the Executive Committee represents the Community Police Forum on the Cluster Board.

17.2 In the event that it is deemed desirable by the Executive Committee, the Community Police Forum may elect a member of the Community Police Forum at an Annual General Meeting or a Special General Meeting called for the purpose to represent it on the Cluster Board instead of the Chairperson for a period determined by the Community Police Forum at the meeting.

17.3 The Community Police Forum may, at the Annual General Meeting or a Special General Meeting called for the purpose, remove the Cluster Board representative before the expiry of his or her term of office and elect another Cluster Board representative in his or her place to hold office for the remainder of the term of office of the Cluster Board representative so removed: Provided that the intention to vote upon his or her removal from office was specified in the notice convening the meeting.

17.4 The person representing the Community Police Forum on the Cluster Board in terms of this section must submit reports on the deliberations at Cluster Board meetings and the activities of the Cluster Board at each Executive Committee and Community Police Forum meeting.

17.5 The person representing the Community Police Forum on the Cluster Board in terms of this section must obtain a mandate at a meeting of the Community Police Forum in respect of every matter which must be decided upon by Cluster Board members through consensus or voting.

18 NOMINATIONS FOR CLUSTER BOARD EXECUTIVE COMMITTEE

18.1 The Community Police Forum must, at the Annual General Meeting preceding the date of the election of the Cluster Board Executive Committee, or a Special General Meeting
called for the purpose, decide on the nominee(s) for the member(s) of the Executive Committee of the Cluster Board to be elected.

18.2 A resolution recording the nominee(s) decided upon must be signed by the Chairperson and the Secretary of the meeting.

19 MEETING PROCEDURES

19.1 Executive Committee Meetings:

19.1.1 Executive Committee Meetings must be held at least once per month.

19.1.2 Seven (7) days’ notice of such meetings shall be given, except in case of an emergency.

19.2 Community Police Forum Meetings:

Community Police Forum meetings shall be held quarterly or whenever deemed necessary to attend to its business, provided that seven (7) days’ notice of such meetings must be given.

19.3 Annual General Meeting (AGM):

19.3.1 An AGM shall be held between the 1st of February and the 30th of April of every year in order to—

(a) approve the minutes of the preceding AGM;

(b) approve the certified annual financial statements;

(c) approve the annual report of the Executive Committee;

(d) consider and deliberate on the keynote address of the Chairperson;

(e) consider and deliberate on any draft resolutions on matters pertaining to the objectives of Community Policing in the station area;

(f) every fifth year, elect an Executive Committee; and

(g) attend to any matter contemplated in the Constitution.
19.3.2 Representatives referred to in section 8.1 of the Constitution as well as the general public in the station area shall be notified of the date, time, venue and agenda of an AGM at least twenty one (21) days prior to the meeting.

19.4 Special General Meeting:

19.4.1 The Executive Committee may instruct the Secretary to convene a Special General Meeting to discuss and rule on any special matters contemplated in the Constitution.

19.4.2 The Secretary shall, upon request from at least 25% of the members of the Community Police Forum, call a Special General Meeting of all members referred to in section 8.1 of the Constitution to discuss and resolve issues stated clearly in writing by members requesting such a meeting.

19.4.3 Notice of a Special General Meeting shall be given to members referred to in section 8.1 at least twenty one (21) days in advance.

19.5 Notices:

19.5.1 Upon becoming a member, such member must indicate to the Secretary whether notices must be transmitted by e-mail or facsimile transmission.

19.5.2 Any member is entitled from time to time by written notice to the Secretary, to vary his or her preferred means of communication.

19.5.3 The facsimile transmission report will serve as proof of transmission of any notice in terms of this Constitution sent by facsimile transmission.

19.5.4 The e-mail transmission report will serve as proof of transmission of any notice in terms of this Constitution sent by e-mail.

19.5.5 Any notice must include the date, time, venue and agenda items of the meeting.

19.5.6 The Secretary must preserve, either electronically or in hard copy, proof of notices sent to members.
19.5.7 Any notice shall be deemed to have been received, until the contrary is proved—

(a) if sent by telefax, on the date of sending such telefax; and

(b) if sent by e-mail, on the date of sending such e-mail.

19.5.8 Section 19.5.7 shall not operate so as to invalidate the giving or receipt of any written notice, which is actually received by the addressee other than by a method referred to in this section.

19.5.9 Any notice in terms of or in connection with this Constitution shall be valid and effective only if in writing and if received or deemed to be received by the addressee.

19.5.10 No meeting is invalid solely by reason of the non-receipt by any person entitled to receive the requisite notice.

19.6 Quorum:

19.6.1 The quorum of all meetings shall be 50% of the total members, of which at least 5% must be from the SAPS, plus 1 member. In the absence of a quorum within thirty (30) minutes after the scheduled commencement time, the meeting must be postponed.

19.6.2 At least seven (7) days’ notice must be given of the date for the meeting so postponed. In the event that there is again no quorum within thirty (30) minutes of the scheduled commencement time of the meeting, the meeting must be postponed a second time.

19.6.3 At least seven (7) days’ notice must be given of the date for the meeting so postponed. In the event that there is again no quorum within thirty (30) minutes of the scheduled commencement time of the meeting, it will be deemed that the meeting is quorate.
19.6.4 Meetings shall be conducted in accordance with the generally accepted principles for conducting meetings.

19.7 Minutes:

19.7.1 Minutes of all meetings must be kept and securely filed in accordance with generally accepted filing standards.

19.7.2 After the adoption of the minutes, the Secretary and the Chairperson must sign the minutes.

19.8 Voting:

19.8.1 All members, excluding coopted members in an advisory capacity, are entitled to vote at any meeting attended by them, except during the election of members of the Executive Committee, deciding on the nominations for the Cluster Board Executive Committee or electing the representative for the Cluster Board.

19.8.2 During the election of the members of the Executive Committee, deciding on nominations for the Cluster Board Executive Committee or electing the representative for the Cluster Board, members referred to in section 8.1 of the Constitution are entitled to vote.

19.8.3 Voting shall take place by way of secret ballot.

19.8.4 No voting by proxy shall be permitted and the majority of votes shall bind all members.

20 COMMUNICATION

20.1 The Community Police Forum must communicate to the public in the station area at least on a quarterly basis to inform the public of the work and activities of the Community Police Forum.

20.2 Communication to the public may take the form of press releases, press conferences, editorials, radio interviews, television interviews and paid or sponsored advertisements.
20.3 Only the Public Relations Officer of the Executive Committee may undertake any public communication with the approval of the Executive Committee and the Station Commissioner and no other member may communicate to the public through any means whatsoever.

20.4 Any official correspondence on behalf of the Community Police Forum addressed to any person or body must be signed by either the Chairperson, or the Deputy Chairperson.

21 AMENDMENT OF CONSTITUTION

21.1 This Constitution may only be amended on a decision taken by at least sixty six percent (66%) of members of the Community Police Forum at an Annual General Meeting or at a Special General Meeting, provided that particulars of proposed amendments are given in writing and circulated at least twenty one (21) days before such a meeting.

22 MANAGEMENT AND CONTROL OF FINANCIAL AFFAIRS

22.1 The funds of the Community Police Forum consist of all monies received or raised by means of donations for the administration and running of the Community Police Forum and its campaigns or projects.

22.2 All cheques and financial documentation requiring signature or approval on behalf of the Community Police Forum must be signed jointly by the Chairperson, the Treasurer and another member of the Executive Committee designated by the Executive Committee.

22.3 Any agreement or contract to which the Community Police Forum is a party or signatory must—

22.3.1 be signed by the Chairperson after obtaining the approval of the Executive Committee; and

22.3.2 contain, as a schedule to the agreement or contract, a copy of a dated resolution by the Executive Committee.
Committee signed by all the members authorising the Chairperson to sign the agreement or contract in question.

23 DISPUTE RESOLUTION PROCEDURES

23.1 The objectives of the Dispute Resolution Procedures are:

23.1.1 to resolve and manage conflict and grievances in the Community Police Forum; and

23.1.2 to address instances of unacceptable conduct by members of the Community Police Forum.

23.2 The Community Police Forum may decide to address misconduct, depending on the seriousness of the misconduct, in terms of this section instead of following the procedure provided for in section 26.

23.3 Disputes which cannot be resolved by the Community Police Forum must be attended to by the Cluster Board.

23.4 If the dispute still remains unresolved, it must be referred to the Provincial Commissioner for resolution in conjunction with the department.

23.5 No member may refer any dispute to a Court of Law unless all internal remedies have been exhausted.

24 DISSOLUTION

24.1 The Community Police Forum may be dissolved by the Station Commissioner, in consultation with the department, at an Annual General Meeting, or at a Special General Meeting called for that purpose by the Station Commissioner.

24.2 Without in any way limiting the power of the Station Commissioner to dissolve the Community Police Forum, the Station Commissioner may dissolve the Community Police Forum if it has become grossly ineffective or in the event of a legislative of policy change which materially affects the aims, objectives, powers and functions of the Community Police Forum.
24.3 In the event of the dissolution of the Community Police Forum its assets will be disposed of as follows:

24.3.1 if the reason for dissolution was the establishment of an alternative body that will continue the work of the Community Police Forum, then such a body shall accede to the assets of the Community Police Forum;

24.3.2 if the Community Police Forum was dissolved for any other reason, the Police Service shall accede to the assets of the Community Police Forum.

25 COMPLIANCE WITH TIME-FRAMES

25.1 No act carried out or decision taken in terms of this Constitution shall be invalid merely on the basis that it was carried out or taken outside of the time-frame prescribed by this Constitution.

25.2 Any act so carried out or decision so taken shall only be invalid upon a decision taken by at least sixty six percent (66%) of members of the Community Police Forum at an Annual General Meeting or at a Special General Meeting, provided that—

25.1.1 particulars of the act or decision are given in writing and circulated at least twenty one (21) days before such a meeting; and

25.1.2 no such decision by the Community Police Forum will retrospectively affect any right of any person.

26 CODE OF CONDUCT

26.1 All members must acquaint themselves with the code of conduct annexed hereto and must abide by its provisions.

26.2 All members must sign a copy of the code of conduct.

26.3 Any contravention of the code of conduct by a member of the Community Police Forum shall constitute misconduct.

26.4 In the event of misconduct being alleged against any
member of the Community Police Forum, the allegation(s) must be submitted in writing together with any supporting information to the Secretary.

26.5 The Secretary must within fourteen (14) days of receipt of the allegation(s) in writing notify the member concerned of the allegation(s) and schedule a special Executive Committee meeting no sooner than five (5) days after the date of the notice and no later than thirty (30) days after the notice.

26.6 The notice must require the member concerned to appear before the Executive Committee at the special meeting to respond to the allegation.

26.7 At the special meeting the Executive Committee must consider the allegation and the response of the member concerned and make a finding.

26.8 Subject to section 23, in the event of a finding of misconduct, the member concerned loses his membership of the Community Police Forum.

26.9 The former member may, within fourteen (14) days of being notified of the finding of the Executive Committee, lodge an appeal with the Community Police Forum, whose decision will be final and binding.

SIGNED AT ................ ON THE .................. DAY OF 20 ..........

Station Commissioner

..............................................................

WITNESSES

1 ............................................................

2 ............................................................

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SIGNED AT .................. ON THE .................. DAY OF 20 ..........

Chairperson of the Community Police Forum

WITNESSES

1

2
Annexure A

COMMUNITY POLICE FORUM
CODE OF CONDUCT

Each member of the community police forum—

1 commits to the achievement of the objectives of community police forums and boards set out in section 18 of the South African Police Service Act, 1995 (Act 68 of 1995);

2 undertakes to observe and uphold the Constitution of the community police forum as may be amended from time to time;

3 shall, at all times—

3.1 observe and uphold the Constitution of the Republic of South Africa, the law and any national and provincial guidelines on community policing;

3.2 be guided by the needs of the community he or she represents and the needs of the Police Service;

3.3 conduct him- or herself with integrity, dignity and honesty;

3.4 endeavour to render his or her best efforts within the confines of his or her ability and available time;

3.5 strive to foster harmonious relationships with community police forum members and to contribute positively to further the aims and objectives of the community police forum;

3.6 avoid negative criticism of and unnecessary confrontation with fellow community police forum members;

3.7 give and receive advice and constructive criticism where appropriate;

3.8 accept the constitutional authority of the Executive Committee of the community police forum;

3.9 accept the majority decision of the community police forum in regard to matters put to vote;

3.10 endeavour to be punctual in our attendance of meetings of the community police forum and to remain in attendance until excused by the Chairperson or until the end of the meeting;

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3.11 act only within the scope of the specific objectives of the community police forum in the performance of any actions or execution of any tasks on behalf of the community police forum;

3.12 not do or purport to do anything which may bind the community police forum for which he or she has no specific mandate or authority from the community police forum;

3.13 refrain from using the community police forum as a platform for personal gain or to further or prejudice any third party interests;

3.14 refrain from discussing any information pertaining to community policing without the mandate of the community police forum or Police Service at any other forum or meeting;

3.15 not wear any insignia or identification mark in respect of any political party, organisation, movement or body while attending a meeting of a community police forum;

3.16 not utilise his or her membership of a community police forum to further or prejudice party-political interests;

3.17 not interact or communicate with the media directly or indirectly without the mandate of the community police forum;

3.18 not be entitled to have access to police registers or files without the approval of the station commissioner concerned and may only be allowed access to police dockets with the prior written approval of the relevant Director of Public Prosecutions; and

3.19 only use property belonging to or under the control of the Police Service with the prior written approval of the Station Commissioner.

4 accepts that, without in any way limiting the scope of the provisions of paragraphs 1 to 3 hereof, the following acts or omissions will be regarded as misconduct:

4.1 fails to comply with, or contravenes an Act, regulation or legal obligation;
4.2 wilfully or negligently mismanages the finances of the Community Police Forum;
4.3 without permission possesses or wrongfully uses the property of the Community Police Forum;
4.4 wilfully, intentionally or negligently damages and or causes loss of Community Police Forum property;
4.5 endangers the lives of self or others by disregarding safety rules or regulations;
4.6 prejudices the administration, discipline or efficiency of the Community Police Forum;
4.7 misuses his or her position on the Community Police Forum to promote or to prejudice the interest of any political party;
4.8 steals, bribes or commits fraud;
4.9 accepts any compensation in cash or otherwise from a member of the public for performing her or his duties on the Community Police Forum;
4.10 absents or repeatedly absents him or herself from the Community Police Forum or sub-forum activities without reason or permission;
4.11 commits an act of sexual harassment;
4.12 discriminates against others on the basis of race, gender, disability, sexuality or other grounds outlawed by the Constitution;
4.13 performs poorly or inadequately for reasons other than incapacity;
4.14 while attending to the activities of the Community Police Forum, is under the influence of an intoxicating, illegal, unauthorised, habit-forming and/or stupefying drug, including alcohol;
4.15 while attending to the activities of the Community Police Forum, conducts herself or himself in an improper, disgraceful and unacceptable manner;
4.16 assaults, or attempts or threatens to assault, any person while attending to the activities of the Community Police Forum;
4.17 incites others to unprocedural and unlawful conduct;
4.18 intimidates or victimises fellow members;
4.19 prevents other members from belonging to any trade union or body;
4.20 falsifies records or any other documentation;
4.21 commits a common law or statutory offence.

Signature of member                      Date                      Place

.................................................................

Signature of witness 1   Date         Place

.................................................................

Signature of witness 2   Date         Place

.................................................................
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APPENDIX

Annexure A
Code of Conduct

1 PREAMBLE

NOTING that Chapter 11 of the Constitution of the Republic of South Africa, 1996, provides for accountability of the South African Police Service to the communities they serve;

AND NOTING that Chapter 7 of the South African Police Service Act, 1995 (Act 68 of 1995), provides for the establishment of Community Police Forums and Boards through which the South African Police Service can liaise with communities with a view to promoting efficient and effective service;

AND WHEREAS Section 19 of the South African Police Service Act of 1995, provides that a Community Police Forum may establish community police sub-forums, which shall be broadly representative of the local community;

AND WHEREAS Regulation 3 of the South African Police Service Interim Regulations for Community Police Forums and Boards of 2001 provides that a community police sub-forum may be established in respect of any part of the station area or to deal with policing matters mainly affecting the members of a certain section of the community in the station area;

AND WHEREAS Regulation 7 of the South African Police Service Interim Regulations for Community Police Forums and Boards of 2001 prescribes the contents of the Constitution of a community police sub-forum;
AND WHEREAS Regulation 3 of the South African Police Interim Regulations for Community Police Forums and Boards of 2001 provides that at an inaugural meeting of all community based organisations, institutions, interest groups and the general public in the relevant part of the station area or the members of the relevant section of the community within the station area concerned, a constitution of a community police sub-forum must be adopted by majority vote and a chairperson and executive committee elected in accordance with the procedure provided for in the Constitution;

WHEREFORE we as members of all community based organisations, institutions, interest groups and the general public in the .................................................. (area) or members of the ............................................. (section of the community) of the station area of ............................................................ hereby adopt this Constitution for the ............................................. Community Police Sub-forum.

2 INTERPRETATION

2.1 In this Constitution, unless clearly inconsistent with or otherwise indicated by the context—

2.1.1 "Cluster Board" means the Community Police Board established in respect of the group of police stations wherein the South African Police Service has included the .............................................. station for management purposes and which is regarded as having been established in terms of section 20 of the Act;

2.1.2 "Constitution" means the Constitution of the ............................................................... Community Police Sub-forum as set out in this document and the appendices hereto;

2.1.3 "Community Police Forum" means the Community Police Forum established for the .................................................. station area in terms of section 19 of the Act;
2.1.4 "Community Police Sub-forum" means the Community Police Sub-forum referred to in section 3 of the Constitution;

2.1.5 "Department" means the Department of Community Safety and Liaison;

2.1.6 "Executive Committee" means the Executive Committee contemplated in section 11 of the Constitution;

2.1.7 "Police Service" means the South African Police Service;

2.1.8 "the Act" means the South African Police Service Act, 1995 (Act 68 of 1995);

2.1.9 "the Regulations" means the South African Police Service Interim Regulations for Community Police Forums and Boards, 2001 (Published under GN R384 in GG 22273 of 11 May 2001); and

2.1.10 "youth" means a person between the age of 14 and 35.

2.2 Any reference in this Constitution to legislation or subordinate legislation is to such legislation or subordinate legislation at the date of adoption hereof and as amended or re-enacted from time to time.

2.3 Words importing the singular shall include the plural, and vice versa, words importing the masculine gender shall include the feminine and neuter genders, and vice versa, and words importing natural persons shall include legal persons, and vice versa.

2.4 If any provision in the definition clause is a substantive provision conferring rights or imposing obligations on a party, then notwithstanding that such provision is contained in this clause, effect shall be given thereto as if such provision were a substantive provision in the body of the Constitution.

2.5 When any number of days are prescribed in this Constitution, same shall be reckoned exclusively of the first and inclusively of the last calendar day.
3 ESTABLISHMENT AND NAME OF COMMUNITY POLICE SUB-FORUM

3.1 The Community Police Sub-forum for the police station is hereby established in terms of section 19 of the Act.

3.2 The Community Police Sub-forum is called the Community Police Sub-forum of Community Police Forum.

4 VISION

4.1 The vision of the Community Police Sub-forum is community mobilisation towards a safe and peaceful area or section of the community in the station area.

5 AIMS AND OBJECTIVES

The aims and objectives of the Community Police Sub-forum are to—

5.1 establish and maintain a partnership between the community and the Police Service;

5.2 promote effective communication between the Police Service and the community;

5.3 promote cooperation between the Police Service and the community to fulfill the needs of the community regarding policing;

5.4 improve the rendering of police services to the community;

5.5 improve the transparency in the Police Service and the accountability of the Police Service to the community;

5.6 promote joint problem identification and problem-solving by the Police Service and the community;

5.7 promote community policing in the area or section of the community in the station area;

5.8 consult with and advise the Community Police Forum, the department and the Station Commissioner or their del-
egates with regard to all matters pertaining to community policing in the ........................................... (area or section of the community) in the ......................... station area.

6 LEGAL NATURE AND POWERS OF THE COMMUNITY POLICE FORUM

6.1 The Community Police Sub-forum is a juristic person and a non-profit making organisation which acts through the Executive Committee.

6.2 The Community Police Sub-forum, notwithstanding any change of its members or management, will exist as a voluntary organisation with legal personality independently of its members.

6.3 The Community Police Sub-forum has all the powers and may perform all the functions necessary to pursue its aims and objectives.

6.4 The Community Police Sub-forum may own assets, incur losses and liabilities, enter into contracts and institute or defend any legal proceedings in its own name.

6.5 All immovable property or registerable rights obtained by the Community Police Sub-forum shall be registered in the name of the Community Police Sub-forum.

6.6 The Executive Committee represents the Community Police Sub-forum and all acts performed by the Executive Committee or on its authority are the acts of the Community Police Sub-forum.

6.7 The Community Police Sub-forum may make rules and issue guidelines in respect of the achievement of its aims and objectives, the execution of its powers and the execution of the powers and functions of the Executive Committee. Provided that any such rule or guideline may not be in conflict with the provisions of the Constitution.
7 INDEMNITY OF COMMUNITY POLICE SUB-FORUM MEMBERS

7.1 All members, including members of the Executive Committee, are—

7.1.1 indemnified by the Community Police Sub-forum against all proceedings, costs and expenses incurred by reason of any act, omission or incident during the performance of their duties on behalf of the Community Police Sub-forum, unless they have acted with gross negligence or in a manner that constitutes willful misconduct; and

7.1.2 not personally liable for any liabilities of the Community Police Sub-forum.

8 COMPOSITION of Community Police Sub-forum

The Community Police Sub-forum is composed of—

8.1 members from community based organisations, institutions, interest groups and the general public who are broadly representative of the community in the ........................................ (area or section of the community) in the ........................................ station area, including, but not limited to (delete that which is not applicable)—

8.1.1 the safety representative of each ward committee within the ........................................ (area) in the ........................................ station area;

8.1.2 one representative from each community crime prevention association operating in the ........................................ (area) in the ........................................ station area;

8.1.3 one representative from each private security company operating in the ........................................ (area) in the ........................................ station area;

8.1.4 between one and three representatives from business operating in the ........................................ (area) or working with ........................................ (section of the community) in the ........................................ station area;
8.1.5 between one and three traditional leaders who has jurisdiction in the ........................................... (area) or representing ...................................... (section of the community) in the .................... station area;

8.1.6 between one and three representatives from religious formations operating in the ......................... (area) or working with ................................... (section of the community) in the .................... station area;

8.1.7 one representative from each Non-governmental Organisation operating in the ......................... (area) or working with ................................... (section of the community) in the .................... station area;

8.1.8 one representative from each organised labour institution operating in the ......................... (area) or representing ................................... (section of the community) in the .................... station area;

8.1.9 between one and three members of the youth who reside in the ......................... (area) or who are members of the ................................ (section of the community) in the .................... station area;

8.1.10 between three and ten community representatives who reside in the ......................... (area) in the ......................... station area who are not from any particular organisation or grouping; and

8.1.11 between one and three representatives from any other relevant organisation identified by the Community Police Forum.

8.2 the Station Commissioner ex officio;

8.3 between one and three members of the Police Service designated by the Station Commissioner from time to time for that purpose;

8.4 a member of the Community Police Forum designated by the Community Police Forum;

8.5 one official of the department designated by the Head of Department; and

8.6 additional members which the Community Police Sub-
forum may, whenever the Community Police Sub-forum deems it necessary, co-opt to serve on the Community Police Sub-forum in an advisory capacity.

9 MEMBERSHIP REQUIREMENTS

9.1 Members of the Community Police Sub-forum shall render their services on a voluntary basis and shall have no claim to compensation solely for services rendered to the forum.

9.2 Members of the Community Police Sub-forum must be resident in the .......................................................... (area) in the station area. No person residing in another area may be a member of the Community Police Sub-forum.

10 DECISION MAKING PROCEDURES

10.1 The Community Police Sub-forum shall, as far as reasonably possible, reach decisions by consensus. If consensus cannot be achieved, the Community Police Sub-forum shall vote on the matter. If the votes are tied, the Chairperson shall adjourn the meeting and reconvene the meeting in accordance with this Constitution after having identified an expert to provide advice to the meeting regarding the matter that led to the votes being tied.

10.2 If, upon the resumption of the meeting and after the Community Police Sub-forum has considered the advice of the identified expert, the votes of the members are still tied, the Chairperson shall have a casting vote in addition to his or her deliberative vote.

11 COMPOSITION OF EXECUTIVE COMMITTEE

11.1 The Executive Committee of the Community Police Sub-forum consists of—

11.1.1 Chairperson;
11.1.2 Deputy Chairperson;
11.1.3 Secretary;

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11.1.4 Deputy Secretary;
11.1.5 Treasurer;
11.1.6 Public Relations Officer;
11.1.7 Community Police Forum Coordinator of the SAPS ex officio; and
11.1.8 three additional members.

12 PROCEDURE FOR THE ELECTION OF EXECUTIVE COMMITTEE

12.1 The Executive Committee must be elected at an Annual General Meeting of the Community Police Sub-forum.

12.2 The Station Commissioner shall appoint an independent person or persons to act as the Electoral Officer of the election of the Executive Committee at least thirty (30) days prior to the Annual General Meeting.

12.3 The department shall render any assistance required by the Electoral Officer in the execution of his or her duties, including, but not limited to the facilitation of the election processes.

12.4 The following procedure applies in respect of the election of the Executive Committee—

12.4.1 Nominations for the members of the Executive Committee shall be made on the day of the Annual General Meeting under the direction of the Electoral Officer as follows:

(a) one nomination for each of the positions of—

(i) Chairperson;
(ii) Deputy Chairperson;
(iii) Secretary;
(iv) Deputy Secretary
(v) Treasurer;
(vi) Public Relations Officer; and
(vii) three additional members,
by any member of the Community Police Sub-forum referred to in section 8.1 of the Constitution from the members of the Community Police Sub-forum referred to in section 8.1 of the Constitution and submitted in writing to the Electoral Officer at the Annual General Meeting;

(b) the Electoral Officer shall prepare ballot papers in respect of each position with the names of the five (5) candidates in respect of that position who had received the most nominations and place the ballot papers before the Annual General Meeting on the day of the Annual General Meeting;

(c) in the event that it is impossible to determine which five candidates have the most nominations in respect of any position, the Electoral Officer shall prepare the ballot paper in respect of such position with the names of all candidates and place the ballot paper before the Annual General Meeting;

(d) each member present at the Annual General Meeting may, having regard to the grounds of disqualification to hold office as a member of the Executive Committee contained herein, the Code of Conduct attached hereto and any other relevant consideration, scrutinise the names on the ballot papers and raise an objection to any of the names appearing or not appearing on the ballot papers and request the removal, addition or substitution of any name on the ballot papers, which request must be voted on by members present at the Annual General Meeting referred to in section 8.1 of the Constitution;

12.4.2 the members of the Executive Committee are elected in the following order—
12.4.3 each member present at the Annual General Meeting referred to in section 8.1 has one vote for each position;

12.4.4 after the votes are cast, the Electoral Officer must determine whether any candidate must be declared duly elected, and in the event that no candidate can be declared duly elected, further rounds of secret balloting must be held, with names of those candidates who received the least votes and whose votes when combined with each other do not exceed the number of votes obtained by the leading candidate, must be eliminated from the following round of the ballot;

12.4.5 the Electoral Officer must announce the results of each round of balloting to the Annual General Meeting before the following round commences;

12.5 The Electoral Officer must announce the final result of each position immediately after the conclusion of the vote in respect of that position.

12.6 any newly elected member of the Executive Committee takes office upon closure of the Annual General Meeting;

12.7 any outgoing member of the Executive Committee must present a handover report to the newly elected member of the Executive Committee within fifteen (15) days of the date of the Annual General Meeting;

12.8 An Executive Committee member shall cease to hold office if he or she—
12.8.1 resigns his or her office by notice in writing to the Community Police Sub-forum;
12.8.2 is or becomes of unsound mind;
12.8.3 surrenders his or her estate as insolvent or his or her estate is sequestrated;
12.8.4 is convicted of an offence which involves dishonesty;
12.8.5 is or becomes disqualified from being appointed or acting as a director of a company or as a member of a close corporation;
12.8.6 is absent from three consecutive meetings of the Executive Committee without special leave of absence given by the Chairperson, or without good reason given to the Executive Committee; or
12.8.7 ceases to be a member of the Community Police Sub-forum.

12.9 The Executive Committee has the right to co-opt any member of the Community Police Sub-forum as a member of the Executive Committee to fill any vacancy pending the election of another Executive Committee member by the Community Police Sub-forum at a Special General Meeting.

12.10 The Community Police Sub-forum may, at a Special General Meeting, remove any Executive Committee member before the expiry of his or her term of office and elect another Executive Committee member in his or her place to hold office for the remainder of the term of office of the Executive Committee member so removed: Provided that the intention to vote upon his or her removal from office was specified in the notice convening the meeting.

13 TERM OF OFFICE
13.1 The term of office of elected members of the Executive Committee is five (5) years and any member may only be re-elected for one more consecutive term.
14 POWERS AND FUNCTIONS OF EXECUTIVE COMMITTEE

14.1 The Executive Committee is responsible for the management of the affairs of the Community Police Sub-forum and it has the authority to attend to any matter that could or might be attended to by the Community Police Sub-forum, except where a matter is specifically reserved in this Constitution to be dealt with by a meeting of the Community Police Sub-forum.

14.2 Without in any way limiting the powers and authority of the Executive Committee, the Executive Committee has the following powers and functions:

14.2.1 to pass any resolution or take any decision, that may be necessary or expedient in order to achieve the objectives of the Community Police Sub-forum: Provided that the Executive Committee may not pass a resolution or take a decision that is inconsistent with this Constitution, or any resolutions or decisions of a meeting of the Community Police Sub-forum passed or taken prior to the date of the resolution or decision by the Executive Committee;

14.2.2 at such intervals as the Executive Committee may require, but at least once every financial year, to cause the accounting records of the Community Police Sub-forum to be audited, by an independent auditor appointed by the Executive Committee, for compliance with Generally Accepted Accounting Practices and certified as a true reflection of the income, expenditure, assets and liabilities of the Community Police Sub-forum;

14.2.3 subject to approval at a meeting of the Community Police Sub-forum, to form sub-committees from the members of the Community Police Sub-forum for special, general or ad hoc purposes and to delegate
to any such sub-committee all or any of the powers conferred on the Executive Committee by this Constitution;

14.2.4 subject to approval at a meeting of the Community Police Sub-forum, to institute, conduct, defend, oppose, settle or abandon any legal proceedings, by or against the Community Police Sub-forum, or otherwise concerning the affairs of the Community Police Sub-forum, and to settle or allow time for payment in satisfaction of any debts or any claims or demands by or against the Community Police Sub-forum;

14.2.5 subject to approval at a meeting of the Community Police Sub-forum, to invest, re-invest and deal with any monies of the Community Police Sub-forum, not immediately required for the purposes of the Community Police Sub-forum, upon such securities and on such terms as it may deem fit, and from time to time to vary or realise such investments;

14.2.6 subject to approval at a meeting of the Community Police Sub-forum, to sell, lease, alienate or otherwise dispose of part or parts of the movable or immovable property or any right of the Community Police Sub-forum, as it may think most beneficial to the Community Police Sub-forum, and to apply the consideration arising therefrom as it may think most advantageous to the Community Police Sub-forum;

14.2.7 subject to approval at a meeting of the Community Police Sub-forum, to purchase, hire or take in exchange or otherwise acquire any movable or immovable property or rights for the Community Police Sub-forum;

14.2.8 approve any communication from the Community Police Sub-forum to the public; and

14.2.9 subject to approval at a meeting of the Community Police Sub-forum, to utilise the assets and funds of
the Community Police Sub-forum for the objects of the Community Police Sub-forum, as set out in this Constitution.

14.3 The Community Police Sub-forum may at a general meeting overturn, approve or amend any decision of the Executive Committee: Provided that no such decision by the Community Police Sub-forum will adversely affect any pre-existing right of any person or invalidate any action already taken by the Executive Committee.

15 DUTIES OF MEMBERS OF THE EXECUTIVE COMMITTEE

15.1 The Chairperson must—

15.1.1 ensure execution of all decisions of the Executive Committee;

15.1.2 preside over all meetings;

15.1.3 represent the Community Police Sub-forum at meetings, forums and events; and

15.1.4 present reports on the work of the Community Police Sub-forum at all meetings;

15.2 The Deputy Chairperson must—

15.2.1 in the Chairperson’s absence, assume all functions of the Chairperson and in the absence of both the Chairperson and the Deputy Chairperson at any meeting, the Executive Committee shall nominate one of their members to preside at such a meeting;

15.2.2 in conjunction with the Treasurer, ensure that the funds of the Community Police Sub-forum are administered in accordance with the objectives, decisions and resolutions of the Community Police Sub-forum; and

15.2.3 prepare and circulate the annual report of the activities of the Community Police Sub-forum, which must include the audited annual financial statements.

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15.3 The Secretary must—
15.3.1 ensure that the minutes of all meetings, procedures and resolutions are recorded;
15.3.2 receive and dispatch all correspondence to and from the Community Police Sub-forum;
15.3.3 arrange all meetings in consultation with the Chairperson;
15.3.4 ensure the safekeeping of all official documents of the Community Police Sub-forum;
15.3.5 send out notices of meetings;
15.3.6 in consultation with the Chairperson attend to all correspondence; and
15.3.7 perform all other duties usually associated with the office of Secretary.

15.4 The Deputy Secretary must—
15.4.1 in the Secretary's absence, assume all functions of the Secretary and in the absence of both the Secretary and the Deputy Secretary at any meeting, the Executive Committee shall nominate one of their members to act as Secretary at such a meeting;
15.4.2 assist the Secretary in the performance of his or her functions.

15.5 The Treasurer must—
15.5.1 open an account with an institution registered with the Financial Services Board in the name of the Community Police Sub-forum;
15.5.2 prepare an annual budget and fundraising strategy for the Community Police Sub-forum for approval at an Annual General Meeting;
15.5.3 manage all funds received and expenditure by the Community Police Sub-forum;
15.5.4 keep record and proof of all monies received or expended by the Community Police Sub-forum;
15.5.5 deposit all monies received by the Community Police Sub-forum in its account on the first banking day of each month;
15.5.6 prepare a quarterly income and expenditure report for submission to and approval by the Community Police Sub-forum;
15.5.7 prepare audited annual financial statements to be approved at an Annual General Meeting;
15.5.8 ensure adherence to the principles contemplated in the Public Finance Management Act, 1999 (Act 1 of 1999); and
15.5.9 account to the Executive Committee and the Community Police Sub-forum on the execution of his or her duties.

15.6 The Public Relations Officer must—
15.6.1 act as liaison between the Community Police Sub-forum and the general public within a station area;
15.6.2 promote communication between the Community Police Sub-forum and the communities within the station area; and
15.6.3 execute these duties in consultation with the Station Commissioner and the department.

15.7 Additional Members has those duties allocated to them by the Chairperson.

16 MEETING PROCEDURES
16.1 Executive Committee Meetings:
16.1.1 Executive Committee Meetings must be held at least once per month.
16.1.2 Seven (7) days’ notice of such meetings shall be given, except in case of an emergency.

16.2 Community Police Sub-forum Meetings:
Community Police Sub-forum meetings shall be held
quarterly or whenever deemed necessary to attend to its business, provided that seven (7) days’ notice of such meetings must be given.

16.3 Annual General Meeting (AGM):
16.3.1 An AGM shall be held between the 1st of February and the 30th of April of every year in order to—
(a) approve the minutes of the preceding AGM;
(b) approve the certified annual financial statements;
(c) approve the annual report of the Executive Committee;
(d) consider and deliberate on the keynote address of the Chairperson;
(e) consider and deliberate on any draft resolutions on matters pertaining to the objectives of Community Policing in the station area;
(f) every fifth year, elect an Executive Committee; and
(g) attend to any matter contemplated in the Constitution.

16.3.2 Representatives referred to in section 8.1 of the Constitution as well as the general public who reside in the ...................... (area) or of the ....................... (section of community) in the ...................... station area shall be notified of the date, time, venue and agenda of an AGM at least twenty one (21) days prior to the meeting.

16.4 Special General Meeting:
16.4.1 The Executive Committee may instruct the Secretary to convene a Special General Meeting to discuss and rule on any special matters contemplated in the Constitution.
16.4.2 The Secretary shall, upon request from at least 25% of the members of the Community Police Sub-forum, call a Special General Meeting of all members
referred to in section 8.1 of the Constitution to discuss and resolve issues stated clearly in writing by members requesting such a meeting.

16.4.3 Notice of a Special General Meeting shall be given to members referred to in section 8.1 at least twenty-one (21) days in advance.

16.5 Notices:

16.5.1 Upon becoming a member, such member must indicate to the Secretary whether notices must be transmitted by e-mail or facsimile transmission.

16.5.2 Any member is entitled from time to time by written notice to the Secretary, to vary his or her preferred means of communication.

16.5.3 The facsimile transmission report will serve as proof of transmission of any notice in terms of this Constitution sent by facsimile transmission.

16.5.4 The e-mail transmission report will serve as proof of transmission of any notice in terms of this Constitution sent by e-mail.

16.5.5 Any notice must include the date, time, venue and agenda items of the meeting.

16.5.6 The Secretary must preserve, either electronically or in hard copy, proof of notices sent to members.

16.5.7 Any notice shall be deemed to have been received, until the contrary is proved—

(a) if sent by telefax, on the date of sending such telefax; and

(b) if sent by e-mail, on the date of sending such e-mail.

16.5.8 Section 16.5.7 shall not operate so as to invalidate the giving or receipt of any written notice, which is actually received by the addressee other than by a method referred to in this section.
16.5.9 Any notice in terms of or in connection with this Constitution shall be valid and effective only if in writing and if received or deemed to be received by the addressee.

16.5.10 No meeting is invalid solely by reason of the non-receipt by any person entitled to receive the requisite notice.

16.6 Quorum:

16.6.1 The quorum of all meetings shall be 50% of the total members, of which at least 5% must be from the SAPS, plus 1 member. In the absence of a quorum within thirty (30) minutes after the scheduled commencement time, the meeting must be postponed.

16.6.2 At least seven (7) days’ notice must be given of the date for the meeting so postponed. In the event that there is again no quorum within thirty (30) minutes of the scheduled commencement time of the meeting, the meeting must be postponed a second time.

16.6.3 At least seven (7) days’ notice must be given of the date for the meeting so postponed. In the event that there is again no quorum within thirty (30) minutes of the scheduled commencement time of the meeting, it will be deemed that the meeting is quorate.

16.6.4 Meetings shall be conducted in accordance with the generally accepted principles for conducting meetings.

16.7 Minutes:

16.7.1 Minutes of all meetings must be kept and securely filed in accordance with generally accepted filing standards.

16.7.2 After the adoption of the minutes, the Secretary and the Chairperson must sign the minutes.

16.8 Voting:

16.8.1 All members, excluding co-opted members in an advisory capacity, are entitled to vote at any meeting
attended by them, except during the election of members of the Executive Committee, deciding on the nominations for the Cluster Board Executive Committee or electing the representative for the Cluster Board.

16.8.2 During the election of the members of the Executive Committee, deciding on nominations for the Cluster Board Executive Committee or electing the representative for the Cluster Board, members referred to in section 8.1 of the Constitution are entitled to vote.

16.8.3 Voting shall take place by way of secret ballot.

16.8.4 No voting by proxy shall be permitted and the majority of votes shall bind all members.

17 COMMUNICATION

17.1 The Community Police Sub-forum must communicate to the public in the ................... (area) or of the .................... (section of community) in the ................................. station area at least on a quarterly basis to inform the public of the work and activities of the Community Police Sub-forum.

17.2 Communication to the public may take the form of press releases, press conferences, editorials, radio interviews, television interviews and paid or sponsored advertisements.

17.3 Only the Public Relations Officer of the Executive Committee may undertake any public communication with the approval of the Executive Committee and the Station Commissioner and no other member may communicate to the public through any means whatsoever.

17.4 Any official correspondence on behalf of the Community Police Sub-forum addressed to any person or body must be signed by either the Chairperson, or the Deputy Chairperson.
18 AMENDMENT OF CONSTITUTION
18.1 This Constitution may only be amended on a decision taken by at least sixty six percent (66%) of members of the Community Police Sub-forum at an Annual General Meeting or at a Special General Meeting, provided that particulars of proposed amendments are given in writing and circulated at least twenty one (21) days before such a meeting.

19 MANAGEMENT AND CONTROL OF FINANCIAL AFFAIRS
19.1 The funds of the Community Police Sub-forum consist of all monies received or raised by means of donations for the administration and running of the Community Police Sub-forum and its campaigns or projects.

19.2 All cheques and financial documentation requiring signature or approval on behalf of the Community Police Sub-forum must be signed jointly by the Chairperson, the Treasurer and another member of the Executive Committee designated by the Executive Committee.

19.3 Any agreement or contract to which the Community Police Sub-forum is a party or signatory must—
19.3.1 be signed by the Chairperson after obtaining the approval of the Executive Committee; and
19.3.2 contain, as a schedule to the agreement or contract, a copy of a dated resolution by the Executive Committee signed by all the members authorising the Chairperson to sign the agreement or contract in question.

20 DISPUTE RESOLUTION PROCEDURES
20.1 The objectives of the Dispute Resolution Procedures are:
20.1.1 to resolve and manage conflict and grievances in the Community Police Sub-forum; and
20.1.2 to address instances of unacceptable conduct by members of the Community Police Sub-forum.
20.2 The Community Police Sub-forum may decide to address misconduct, depending on the seriousness of the misconduct, in terms of this section instead of following the procedure provided for in section 23.

20.3 Disputes which cannot be resolved by the Community Police Sub-forum must be attended to by the Community Police Forum.

20.4 If the dispute still remains unresolved, it must be referred to the Cluster Board for resolution in conjunction with the department.

20.5 No member may refer any dispute to a Court of Law unless all internal remedies have been exhausted.

21 DISSOLUTION

21.1 The Community Police Sub-forum may be dissolved by the Community Police Forum, in consultation with the department, at an Annual General Meeting, or at a Special General Meeting called for that purpose by the Community Police Forum.

21.2 Without in any way limiting the power of the Community Police Forum to dissolve the Community Police Sub-forum, the Community Police Forum may dissolve the Community Police Sub-forum if it has become grossly ineffective or in the event of a legislative or policy change which materially affects the aims, objectives, powers and functions of the Community Police Sub-forum.

21.3 In the event of the dissolution of the Community Police Sub-forum its assets will be disposed of as follows:

21.3.1 If the reason for dissolution was the establishment of an alternative body that will continue the work of the Community Police Sub-forum, then such a body shall accede to the assets of the Community Police Sub-forum;

21.3.2 If the Community Police Sub-forum was dissolved for any other reason, the Police Service shall accede to the assets of the Community Police Sub-forum.
22 COMPLIANCE WITH TIME-FRAMES

22.1 No act carried out or decision taken in terms of this Constitution shall be invalid merely on the basis that it was carried out or taken outside of the time-frame prescribed by this Constitution.

22.2 Any act so carried out or decision so taken shall only be invalid upon a decision taken by at least sixty six percent (66%) of members of the Community Police Sub-forum at an Annual General Meeting or at a Special General Meeting, provided that—

22.1.1 particulars of the act or decision are given in writing and circulated at least twenty one (21) days before such a meeting; and

22.1.2 no such decision by the Community Police Sub-forum will retrospectively affect any right of any person.

23 CODE OF CONDUCT

23.1 All members must acquaint themselves with the code of conduct annexed hereto and must abide by its provisions.

23.2 All members must sign a copy of the code of conduct.

23.3 Any contravention of the code of conduct by a member of the Community Police Sub-forum shall constitute misconduct.

23.4 In the event of misconduct being alleged against any member of the Community Police Sub-forum, the allegation(s) must be submitted in writing together with any supporting information to the Secretary.

23.5 The Secretary must within fourteen (14) days of receipt of the allegation(s) in writing notify the member concerned of the allegation(s) and schedule a special Executive Committee meeting no sooner than five (5) days after the date of the notice and no later than thirty (30) days after the notice.

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23.6 The notice must require the member concerned to appear before the Executive Committee at the special meeting to respond to the allegation.

23.7 At the special meeting the Executive Committee must consider the allegation and the response of the member concerned and make a finding.

23.8 Subject to section 20, in the event of a finding of misconduct, the member concerned loses his membership of the Community Police Sub-forum.

23.9 The former member may, within fourteen (14) days of being notified of the finding of the Executive Committee, lodge an appeal with the Community Police Sub-forum, whose decision will be final and binding.

SIGNED AT .............. ON THE ............... DAY OF 20 ........

Station Commissioner

.................................................................

WITNESSES

1 ..........................................................

2 ..........................................................

SIGNED AT .............. ON THE ............... DAY OF 20 ........

Chairperson of the Community Police Sub-forum

.................................................................
288 Template Constitution for Community Police Sub-Forum (s 23)

WITNESSES

1 ........................................................

2 ........................................................
Each member of the community police sub-forum—

1. commits to the achievement of the objectives of Community Police Forums and Boards set out in section 18 of the South African Police Service Act, 1995 (Act 68 of 1995);

2. undertakes to observe and uphold the Constitution of the community police sub-forum as may be amended from time to time;

3. shall, at all times—

3.1. observe and uphold the Constitution of the Republic of South Africa, the law and any national and provincial guidelines on community policing;

3.2. be guided by the needs of the community he or she represents and the needs of the Police Service;

3.3. conduct him- or herself with integrity, dignity and honesty;

3.4. endeavour to render his or her best efforts within the confines of his or her ability and available time;

3.5. strive to foster harmonious relationships with community police sub-forum members and to contribute positively to further the aims and objectives of the community police sub-forum;

3.6. avoid negative criticism of and unnecessary confrontation with fellow community police sub-forum members;

3.7. give and receive advice and constructive criticism where appropriate;

3.8. accept the constitutional authority of the Executive Committee of the community police sub-forum;

3.9. accept the majority decision of the community police sub-forum in regard to matters put to vote;

3.10. endeavour to be punctual in our attendance of meetings of the community police sub-forum and to remain in attendance until excused by the Chairperson or until the end of the meeting.
3.11 act only within the scope of the specific objectives of the community police sub-forum in the performance of any actions or execution of any tasks on behalf of the community police sub-forum;
3.12 not do or purport to do anything which may bind the community police sub-forum for which he or she has no specific mandate or authority from the community police sub-forum;
3.13 refrain from using the community police sub-forum as platform for personal gain or to further or prejudice any third party interests;
3.14 refrain from discussing any information pertaining to community policing without the mandate of the community police sub-forum or Police Service at any other forum or meeting;
3.15 not wear any insignia or identification mark in respect of any political party, organisation, movement or body while attending a meeting of a Community Police Sub-forum;
3.16 not utilise his or her membership of a Community Police Sub-forum to further or prejudice party-political interests;
3.17 not interact or communicate with the media directly or indirectly without the mandate of the community police sub-forum;
3.18 not be entitled to have access to police registers or files without the approval of the station commissioner concerned and may only be allowed access to police dockets with the prior written approval of the relevant Director of Public Prosecutions; and
3.19 only use property belonging to or under the control of the Police Service with the prior written approval of the Station Commissioner.

4 accepts that, without in any way limiting the scope of the provisions of paragraphs 1 to 3 hereof, the following acts or omissions will be regarded as misconduct:
4.1 fails to comply with, or contravenes an Act, regulation or legal obligation;
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<th>Description</th>
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<tr>
<td>4.2</td>
<td>wilfully or negligently mismanages the finances of the Community Police Sub-forum;</td>
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<td>4.3</td>
<td>without permission possesses or wrongfully uses the property of the Community Police Sub-forum;</td>
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<td>4.4</td>
<td>wilfully, intentionally or negligently damages and or causes loss of Community Police Sub-forum property;</td>
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<td>4.5</td>
<td>endangers the lives of self or others by disregarding safety rules or regulations;</td>
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<td>4.6</td>
<td>prejudices the administration, discipline or efficiency of the Community Police Sub-forum;</td>
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<td>4.7</td>
<td>misuses his or her position on the Community Police Sub-forum to promote or to prejudice the interest of any political party;</td>
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<td>4.8</td>
<td>steals, bribes or commits fraud;</td>
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<td>4.9</td>
<td>accepts any compensation in cash or otherwise from a member of the public for performing her or his duties on the Community Police Sub-forum;</td>
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<tr>
<td>4.10</td>
<td>absents or repeatedly absents him or herself from the Community Police Sub-forum activities without reason or permission;</td>
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<tr>
<td>4.11</td>
<td>commits an act of sexual harassment;</td>
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<td>4.12</td>
<td>discriminates against others on the basis of race, gender, disability, sexuality or other grounds outlawed by the Constitution;</td>
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<td>4.13</td>
<td>performs poorly or inadequately for reasons other than incapacity;</td>
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<td>4.14</td>
<td>while attending to the activities of the Community Police Sub-forum, is under the influence of an intoxicating, illegal, unauthorised, habit-forming and/or stupefying drug, including alcohol;</td>
</tr>
<tr>
<td>4.15</td>
<td>while attending to the activities of the Community Police Sub-forum, conducts herself or himself in an improper, disgraceful and unacceptable manner;</td>
</tr>
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</table>
4.16 assaults, or attempts or threatens to assault, any person while attending to the activities of the Community Police Sub-forum;
4.17 incites others to un-procedural and unlawful conduct;
4.18 intimidates or victimises fellow members;
4.19 prevents other members from belonging to any trade union or body;
4.20 falsifies records or any other documentation;
4.21 commits a common law or statutory offence.

.............................................. ...................... ........................
Signature of member Date Place

.............................................. ...................... ........................
Signature of witness 1 Date Place

.............................................. ...................... ........................
Signature of witness 2 Date Place
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APPENDIX

Annexure A
Code of Conduct

1 PREAMBLE
NOTING that Chapter 11 of the Constitution of the Republic of South Africa, 1996, provides for accountability of the South African Police Service to the communities they serve;
AND NOTING that Chapter 7 of the South African Police Service Act, 1995 (Act 68 of 1995), provides for the establishment of Community Police Forums and Boards through which the South African Police Service can liaise with communities with a view to promoting efficient and effective service;
AND WHEREAS Section 19 of the South African Police Service Act of 1995, provides that a Community Police Forum may establish community police sub-forums, which shall be broadly representative of the local community;
AND WHEREAS Regulation 3 of the South African Police Service Interim Regulations for Community Police Forums and Boards of 2001 provides that a community police sub-forum may be established in respect of any part of the station area or to deal with policing matters mainly affecting the members of a certain section of the community in the station area;
AND WHEREAS Regulation 7 of the South African Police Service Interim Regulations for Community Police Forums and Boards of 2001 prescribes the contents of the Constitution of a community police sub-forum;
AND WHEREAS Regulation 3 of the South African Police Interim Regulations for Community Police Forums and Boards of 2001 provides that at an inaugural meeting of all community based...
organisations, institutions, interest groups and the general public in the relevant part of the station area or the members of the relevant section of the community within the station area concerned, a constitution of a community police sub-forum must be adopted by majority vote and a chairperson and executive committee elected in accordance with the procedure provided for in the Constitution;

WHEREFORE we as members of the youth of the station area of ......................................... hereby adopt this Constitution for the ......................................... Youth Desk.

2 INTERPRETATION

2.1 In this Constitution, unless clearly inconsistent with or otherwise indicated by the context—

2.1.1 “Cluster Board” means the Community Police Board established in respect of the group of police stations wherein the South African Police Service has included the .......................................... station for management purposes and which is regarded as having been established in terms of section 20 of the Act;

2.1.2 “Constitution” means the Constitution of the ......................... Youth Desk as set out in this document and the appendices hereto;

2.1.3 “Community Police Forum” means the Community Police Forum established for the ......................... station area in terms of section 19 of the Act;

2.1.4 “Department” means the Department of Community Safety and Liaison;

2.1.5 “Executive Committee” means the Executive Committee contemplated in section 11 of the Constitution;

2.1.6 “Police Service” means the South African Police Service;

2.1.7 “the Act” means the South African Police Service Act, 1995 (Act 68 of 1995); and

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2.1.8 “the Regulations” means the South African Police Service Interim Regulations for Community Police Forums and Boards, 2001 (Published under GN R384 in GG 22273 of 11 May 2001);

2.1.9 “youth” means a person between the age of 14 and 35 resident in the ......................... station area; and

2.1.10 “Youth Desk” means the Youth Desk referred to in section 3 of the Constitution;

2.2 Any reference in this Constitution to legislation or subordinate legislation is to such legislation or subordinate legislation at the date of adoption hereof and as amended or re-enacted from time to time.

2.3 Words importing the singular shall include the plural, and vice versa, words importing the masculine gender shall include the feminine and neuter genders, and vice versa, and words importing natural persons shall include legal persons, and vice versa.

2.4 If any provision in the definition clause is a substantive provision conferring rights or imposing obligations on a party, then notwithstanding that such provision is contained in this clause, effect shall be given thereto as if such provision were a substantive provision in the body of the Constitution.

2.5 When any number of days are prescribed in this Constitution, same shall be reckoned exclusively of the first and inclusively of the last calendar day.

3 ESTABLISHMENT AND NAME OF YOUTH DESK

3.1 The ......................... Youth Desk for the ......................... police station is hereby established in terms of section 19 of the Act.

3.2 The Youth Desk is called the ......................... Youth Desk.
4 VISION
4.1 The vision of the Youth Desk is youth mobilisation towards a safe and peaceful community in the station area.

5 AIMS AND OBJECTIVES
The aims and objectives of the Youth Desk are to—
5.1 establish and maintain a partnership between the youth and the Police Service;
5.2 promote effective communication between the Police Service and the youth;
5.3 promote cooperation between the Police Service and the youth to fulfill the needs of the youth regarding policing;
5.4 improve the rendering of police services to the youth;
5.5 improve the transparency in the Police Service and the accountability of the Police Service to the youth;
5.6 promote joint problem identification and problem-solving by the Police Service and the youth;
5.7 promote community policing among the members of the youth in the station area;
5.8 consult with and advise the Community Police Forum, the department and the Station Commissioner or their delegates with regard to all matters pertaining to community policing among the youth in the station area.

6 LEGAL NATURE AND POWERS OF THE YOUTH DESK
6.1 The Youth Desk is a juristic person and a non-profit making organisation which acts through the Executive Committee.
6.2 The Youth Desk, notwithstanding any change of its members or management, will exist as a voluntary organisation with legal personality independently of its members.
6.3 The Youth Desk has all the powers and may perform all the functions necessary to pursue its aims and objectives.
6.4 The Youth Desk may own assets, incur losses and liabilities, enter into contracts and institute or defend any legal proceedings in its own name.

6.5 All immovable property or registerable rights obtained by the Youth Desk shall be registered in the name of the Youth Desk.

6.6 The Executive Committee represents the Youth Desk and all acts performed by the Executive Committee or on its authority are the acts of the Youth Desk.

6.7 The Youth Desk may make rules and issue guidelines in respect of the achievement of its aims and objectives, the execution of its powers and the execution of the powers and functions of the Executive Committee: Provided that any such rule or guideline may not be in conflict with the provisions of the Constitution.

7 INDEMNITY OF YOUTH DESK MEMBERS

7.1 All members, including members of the Executive Committee, are—

7.1.1 indemnified by the Youth Desk against all proceedings, costs and expenses incurred by reason of any act, omission or incident during the performance of their duties on behalf of the Youth Desk, unless they have acted with gross negligence or in a manner that constitutes willful misconduct; and

7.1.2 not personally liable for any liabilities of the Youth Desk.

8 COMPOSITION OF YOUTH DESK

The Youth Desk is composed of—

8.1 members from the youth who are broadly representative of the youth in the ......................... station area, including, but not limited to—

8.1.1 the youth desk representative of the Community Police Forum ex officio;
8.1.2 between one and three representatives from each youth based formation, organisation, institution and interest group established within the police station area; and

8.1.3 between ten and twenty members of the youth who are not from any formation, organisation, institution or interest group and who are residing or working within the geographical area of the ...................... station area,

8.2 between one and three representatives from business working with youth in the ................................................ station area;

8.3 between one and three representatives from religious formations working with the youth in the ......................... station area;

8.4 one representative from each Non-governmental Organisation working with the youth in the ......................... station area;

8.5 one representative from each organised labour institution representing the youth in the ................................. station area;

8.6 between one and three community representatives who reside in the ............................................. station area who are not from any particular organisation or grouping; and

8.7 between one and three representatives from any other relevant organisation identified by the Community Police Forum.

8.8 the Station Commissioner ex officio;

8.9 between one and three members of the Police Service designated by the Station Commissioner from time to time for that purpose;

8.10 one official of the department designated by the Head of Department; and

8.11 additional members which the Youth Desk may, whenever the Youth Desk deems it necessary, co-opt to serve on the Youth Desk in an advisory capacity.

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9 MEMBERSHIP REQUIREMENTS

9.1 Members of the Youth Desk shall render their services on a voluntary basis and shall have no claim to compensation solely for services rendered to the forum.

9.2 Members of the Youth Desk must be resident in the ...................... station area. No person residing in another area may be a member of the Youth Desk.

10 DECISION MAKING PROCEDURES

10.1 The Youth Desk shall, as far as reasonably possible, reach decisions by consensus. If consensus cannot be achieved, the Youth Desk shall vote on the matter. If the votes are tied, the Chairperson shall adjourn the meeting and reconvene the meeting in accordance with this Constitution after having identified an expert to provide advice to the meeting regarding the matter that led to the votes being tied.

10.2 If, upon the resumption of the meeting and after the Youth Desk has considered the advice of the identified expert, the votes of the members are still tied, the Chairperson shall have a casting vote in addition to his or her deliberative vote.

11 COMPOSITION OF EXECUTIVE COMMITTEE

11.1 The Executive Committee of the Youth Desk consists of—

11.1.1 Chairperson;
11.1.2 Deputy Chairperson;
11.1.3 Secretary;
11.1.4 Deputy Secretary;
11.1.5 Treasurer;
11.1.6 Public Relations Officer;
11.1.7 Community Police Forum Coordinator of the SAPS ex officio; and
11.1.8 three additional members.
12 PROCEDURE FOR THE ELECTION OF EXECUTIVE COMMITTEE

12.1 The Executive Committee must be elected at an Annual General Meeting of the Youth Desk.

12.2 The Station Commissioner shall appoint an independent person or persons to act as the Electoral Officer of the election of the Executive Committee at least thirty (30) days prior to the Annual General Meeting.

12.3 The department shall render any assistance required by the Electoral Officer in the execution of his or her duties, including, but not limited to the facilitation of the election processes.

12.4 The following procedure applies in respect of the election of the Executive Committee—

12.4.1 Nominations for the members of the Executive Committee shall be made on the day of the Annual General Meeting under the direction of the Electoral Officer as follows:

(a) one nomination for each of the positions of—

(i) Chairperson;
(ii) Deputy Chairperson;
(iii) Secretary;
(iv) Deputy Secretary
(v) Treasurer;
(vi) Public Relations Officer; and
(vii) three additional members,

by any member of the Youth Desk referred to in section 8.1 of the Constitution from the members of the Youth Desk referred to in section 8.1 of the Constitution and submitted in writing to the Electoral Officer at the Annual General Meeting;

(b) the Electoral Officer shall prepare ballot papers in respect of each position with the names of the
five (5) candidates in respect of that position who had received the most nominations and place the ballot papers before the Annual General Meeting on the day of the Annual General Meeting;

(c) in the event that it is impossible to determine which five candidates have the most nominations in respect of any position, the Electoral Officer shall prepare the ballot paper in respect of such position with the names of all candidates and place the ballot paper before the Annual General Meeting;

(d) each member present at the Annual General Meeting may, having regard to the grounds of disqualification to hold office as a member of the Executive Committee contained herein, the Code of Conduct attached hereto and any other relevant consideration, scrutinise the names on the ballot papers and raise an objection to any of the names appearing or not appearing on the ballot papers and request the removal, addition or substitution of any name on the ballot papers, which request must be voted on by members present at the Annual General Meeting referred to in section 8.1 of the Constitution;

12.4.2 the members of the Executive Committee are elected in the following order—

(a) Chairperson;
(b) Deputy Chairperson;
(c) Secretary;
(d) Deputy Secretary;
(e) Treasurer;
(f) Public Relations Officer; and
(g) three additional members.
12.4.3 each member present at the Annual General Meeting referred to in section 8.1 has one vote for each position;

12.4.4 after the votes are cast, the Electoral Officer must determine whether any candidate must be declared duly elected, and in the event that no candidate can be declared duly elected, further rounds of secret balloting must be held, with names of those candidates who received the least votes and whose votes when combined with each other do not exceed the number of votes obtained by the leading candidate, must be eliminated from the following round of the ballot;

12.4.5 the Electoral Officer must announce the results of each round of balloting to the Annual General Meeting before the following round commences;

12.5 The Electoral Officer must announce the final result of each position immediately after the conclusion of the vote in respect of that position.

12.6 any newly elected member of the Executive Committee takes office upon closure of the Annual General Meeting;

12.7 any outgoing member of the Executive Committee must present a handover report to the newly elected member of the Executive Committee within fifteen (15) days of the date of the Annual General Meeting;

12.8 An Executive Committee member shall cease to hold office if he or she—

12.8.1 resigns his or her office by notice in writing to the Youth Desk;

12.8.2 is or becomes of unsound mind;

12.8.3 surrenders his or her estate as insolvent or his or her estate is sequestrated;

12.8.4 is convicted of an offence which involves dishonesty;

12.8.5 is or becomes disqualified from being appointed or acting as a director of a company or as a member of a close corporation;
12.8.6 is absent from three consecutive meetings of the Executive Committee without special leave of absence given by the Chairperson, or without good reason given to the Executive Committee; or
12.8.7 ceases to be a member of the Youth Desk.

12.9 The Executive Committee has the right to co-opt any member of the Youth Desk as a member of the Executive Committee to fill any vacancy pending the election of another Executive Committee member by the Youth Desk at a Special General Meeting.

12.10 The Youth Desk may, at a Special General Meeting, remove any Executive Committee member before the expiry of his or her term of office and elect another Executive Committee member in his or her place to hold office for the remainder of the term of office of the Executive Committee member so removed: Provided that the intention to vote upon his or her removal from office was specified in the notice convening the meeting.

13 TERM OF OFFICE

13.1 The term of office of an elected member of the Executive Committee is five (5) years or until he or she turns 36, whichever occurs first.

13.2 Subject to section 13.1, any member may only be re-elected for one more consecutive term.

14 POWERS AND FUNCTIONS OF EXECUTIVE COMMITTEE

14.1 The Executive Committee is responsible for the management of the affairs of the Youth Desk and it has the authority to attend to any matter that could or might be attended to by the Youth Desk, except where a matter is specifically reserved in this Constitution to be dealt with by a meeting of the Youth Desk.

14.2 Without in any way limiting the powers and authority of the Executive Committee, the Executive Committee has the power to make by-laws for the regulation of its own proceedings.
Executive Committee, the Executive Committee has the following powers and functions:

14.2.1 to pass any resolution or take any decision, that may be necessary or expedient in order to achieve the objectives of the Youth Desk: Provided that the Executive Committee may not pass a resolution or take a decision that is inconsistent with this Constitution, or any resolutions or decisions of a meeting of the Youth Desk passed or taken prior to the date of the resolution or decision by the Executive Committee;

14.2.2 at such intervals as the Executive Committee may require, but at least once every financial year, to cause the accounting records of the Youth Desk to be audited, by an independent auditor appointed by the Executive Committee, for compliance with Generally Accepted Accounting Practices and certified as a true reflection of the income, expenditure, assets and liabilities of the Youth Desk;

14.2.3 subject to approval at a meeting of the Youth Desk, to form sub-committees from the members of the Youth Desk for special, general or ad hoc purposes and to delegate to any such sub-committee all or any of the powers conferred on the Executive Committee by this Constitution;

14.2.4 subject to approval at a meeting of the Youth Desk, to institute, conduct, defend, oppose, settle or abandon any legal proceedings, by or against the Youth Desk, or otherwise concerning the affairs of the Youth Desk, and to settle or allow time for payment in satisfaction of any debts or any claims or demands by or against the Youth Desk;

14.2.5 subject to approval at a meeting of the Youth Desk, to invest, re-invest and deal with any monies of the Youth Desk, not immediately required for the purposes of the Youth Desk, upon such securities
and on such terms as it may deem fit, and from time to time to vary or realise such investments;

14.2.6 subject to approval at a meeting of the Youth Desk, to sell, lease, alienate or otherwise dispose of part or parts of the movable or immovable property or any right of the Youth Desk, as it may think most beneficial to the Youth Desk, and to apply the consideration arising therefrom as it may think most advantageous to the Youth Desk;

14.2.7 subject to approval at a meeting of the Youth Desk, to purchase, hire or take in exchange or otherwise acquire any movable or immovable property or rights for the Youth Desk;

14.2.8 approve any communication from the Youth Desk to the public; and

14.2.9 subject to approval at a meeting of the Youth Desk, to utilise the assets and funds of the Youth Desk for the objects of the Youth Desk, as set out in this Constitution.

14.3 The Youth Desk may at a general meeting overturn, approve or amend any decision of the Executive Committee: Provided that no such decision by the Youth Desk will adversely affect any pre-existing right of any person or invalidate any action already taken by the Executive Committee.

15 DUTIES OF members of the executive committee

15.1 The Chairperson must—

15.1.1 ensure execution of all decisions of the Executive Committee;

15.1.2 preside over all meetings;

15.1.3 represent the Youth Desk at meetings, forums and events; and

15.1.4 present reports on the work of the Youth Desk at all meetings;
15.2 The Deputy Chairperson must—
15.2.1 in the Chairperson’s absence, assume all functions of the Chairperson and in the absence of both the Chairperson and the Deputy Chairperson at any meeting, the Executive Committee shall nominate one of their members to preside at such a meeting;
15.2.2 in conjunction with the Treasurer, ensure that the funds of the Youth Desk are administered in accordance with the objectives, decisions and resolutions of the Youth Desk; and
15.2.3 prepare and circulate the annual report of the activities of the Youth Desk, which must include the audited annual financial statements.

15.3 The Secretary must—
15.3.1 ensure that the minutes of all meetings, procedures and resolutions are recorded;
15.3.2 receive and dispatch all correspondence to and from the Youth Desk;
15.3.3 arrange all meetings in consultation with the Chairperson;
15.3.4 ensure the safekeeping of all official documents of the Youth Desk;
15.3.5 send out notices of meetings;
15.3.6 in consultation with the Chairperson attend to all correspondence; and
15.3.7 perform all other duties usually associated with the office of Secretary.

15.4 The Deputy Secretary must—
15.4.1 in the Secretary’s absence, assume all functions of the Secretary and in the absence of both the Secretary and the Deputy Secretary at any meeting, the Executive Committee shall nominate one of their members to act as Secretary at such a meeting;
15.4.2 assist the Secretary in the performance of his or her functions.
15.5 The Treasurer must—

15.5.1 open an account with an institution registered with the Financial Services Board in the name of the Youth Desk;

15.5.2 prepare an annual budget and fundraising strategy for the Youth Desk for approval at an Annual General Meeting;

15.5.3 manage all funds received and expenditure by the Youth Desk;

15.5.4 keep record and proof of all monies received or expended by the Youth Desk;

15.5.5 deposit all monies received by the Youth Desk in its account on the first banking day of each month;

15.5.6 prepare a quarterly income and expenditure report for submission to and approval by the Youth Desk;

15.5.7 prepare audited annual financial statements to be approved at an Annual General Meeting;

15.5.8 ensure adherence to the principles contemplated in the Public Finance Management Act, 1999 (Act 1 of 1999); and

15.5.9 account to the Executive Committee and the Youth Desk on the execution of his or her duties.

15.6 The Public Relations Officer must—

15.6.1 act as liaison between the Youth Desk and the general public within a station area;

15.6.2 promote communication between the Youth Desk and the communities within the station area; and

15.6.3 execute these duties in consultation with the Station Commissioner and the department.

15.7 Additional Members has those duties allocated to them by the Chairperson.
16 MEETING PROCEDURES

16.1 Executive Committee Meetings:
16.1.1 Executive Committee Meetings must be held at least once per month.
16.1.2 Seven (7) days' notice of such meetings shall be given, except in case of an emergency.

16.2 Youth Desk Meetings:
Youth Desk meetings shall be held quarterly or whenever deemed necessary to attend to its business, provided that seven (7) days' notice of such meetings must be given.

16.3 Annual General Meeting (AGM):
16.3.1 An AGM shall be held between the 1st of February and the 30th of April of every year in order to—
(a) approve the minutes of the preceding AGM;
(b) approve the certified annual financial statements;
(c) approve the annual report of the Executive Committee;
(d) consider and deliberate on the keynote address of the Chairperson;
(e) consider and deliberate on any draft resolutions on matters pertaining to the objectives of Community Policing in the station area;
(f) every fifth year, elect an Executive Committee; and
(g) attend to any matter contemplated in the Constitution.
16.3.2 Representatives referred to in section 8.1 of the Constitution as well as the general youth who reside in the ......................... station area shall be notified of the date, time, venue and agenda of an AGM at least twenty one (21) days prior to the meeting.

16.4 Special General Meeting:
16.4.1 The Executive Committee may instruct the Secre-
tary to convene a Special General Meeting to discuss and rule on any special matters contemplated in the Constitution.

16.4.2 The Secretary shall, upon request from at least 25% of the members of the Youth Desk, call a Special General Meeting of all members referred to in section 8.1 of the Constitution to discuss and resolve issues stated clearly in writing by members requesting such a meeting.

16.4.3 Notice of a Special General Meeting shall be given to members referred to in section 8.1 at least twenty one (21) days in advance.

16.5 Notices:

16.5.1 Upon becoming a member, such member must indicate to the Secretary whether notices must be transmitted by e-mail or facsimile transmission.

16.5.2 Any member is entitled from time to time by written notice to the Secretary, to vary his or her preferred means of communication.

16.5.3 The facsimile transmission report will serve as proof of transmission of any notice in terms of this Constitution sent by facsimile transmission.

16.5.4 The e-mail transmission report will serve as proof of transmission of any notice in terms of this Constitution sent by e-mail.

16.5.5 Any notice must include the date, time, venue and agenda items of the meeting.

16.5.6 The Secretary must preserve, either electronically or in hard copy, proof of notices sent to members.

16.5.7 Any notice shall be deemed to have been received, until the contrary is proved—
(a) if sent by telefax, on the date of sending such telefax; and
(b) if sent by e-mail, on the date of sending such e-mail.
16.5.8 Section 16.5.7 shall not operate so as to invalidate the giving or receipt of any written notice, which is actually received by the addressee other than by a method referred to in this section.

16.5.9 Any notice in terms of or in connection with this Constitution shall be valid and effective only if in writing and if received or deemed to be received by the addressee.

16.5.10 No meeting is invalid solely by reason of the non-receipt by any person entitled to receive the requisite notice.

16.6 Quorum:

16.6.1 The quorum of all meetings shall be 50% of the total members, of which at least 5% must be from the SAPS, plus 1 member. In the absence of a quorum within thirty (30) minutes after the scheduled commencement time, the meeting must be postponed.

16.6.2 At least seven (7) days’ notice must be given of the date for the meeting so postponed. In the event that there is again no quorum within thirty (30) minutes of the scheduled commencement time of the meeting, the meeting must be postponed a second time.

16.6.3 At least seven (7) days’ notice must be given of the date for the meeting so postponed. In the event that there is again no quorum within thirty (30) minutes of the scheduled commencement time of the meeting, it will be deemed that the meeting is quorate.

16.6.4 Meetings shall be conducted in accordance with the generally accepted principles for conducting meetings.

16.7 Minutes:

16.7.1 Minutes of all meetings must be kept and securely filed in accordance with generally accepted filing standards.
16.7.2 After the adoption of the minutes, the Secretary and the Chairperson must sign the minutes.

16.8 Voting:

16.8.1 All members, excluding co-opted members in an advisory capacity, are entitled to vote at any meeting attended by them, except during the election of members of the Executive Committee.

16.8.2 During the election of the members of the Executive Committee, members referred to in section 8.1 of the Constitution are entitled to vote.

16.8.3 Voting shall take place by way of secret ballot.

16.8.4 No voting by proxy shall be permitted and the majority of votes shall bind all members.

17 COMMUNICATION

17.1 The Youth Desk must communicate to the youth in the ............................................ station area at least on a quarterly basis to inform the public of the work and activities of the Youth Desk.

17.2 Communication to the public may take the form of press releases, press conferences, editorials, radio interviews, television interviews and paid or sponsored advertisements.

17.3 Only the Public Relations Officer of the Executive Committee may undertake any public communication with the approval of the Executive Committee and the Community Police Forum and no other member may communicate to the public through any means whatsoever.

17.4 Any official correspondence on behalf of the Youth Desk addressed to any person or body must be signed by either the Chairperson, or the Deputy Chairperson.

18 AMENDMENT OF CONSTITUTION

18.1 This Constitution may only be amended on a decision taken by at least sixty six percent (66%) of members of the
Youth Desk at an Annual General Meeting or at a Special General Meeting, provided that particulars of proposed amendments are given in writing and circulated at least twenty one (21) days before such a meeting.

19 MANAGEMENT AND CONTROL OF FINANCIAL AFFAIRS

19.1 The funds of the Youth Desk consist of all monies received or raised by means of donations for the administration and running of the Youth Desk and its campaigns or projects.

19.2 All cheques and financial documentation requiring signature or approval on behalf of the Youth Desk must be signed jointly by the Chairperson, the Treasurer and another member of the Executive Committee designated by the Executive Committee.

19.3 Any agreement or contract to which the Youth Desk is a party or signatory must—
19.3.1 be signed by the Chairperson after obtaining the approval of the Executive Committee; and
19.3.2 contain, as a schedule to the agreement or contract, a copy of a dated resolution by the Executive Committee signed by all the members authorising the Chairperson to sign the agreement or contract in question.

20 DISPUTE RESOLUTION PROCEDURES

20.1 The objectives of the Dispute Resolution Procedures are:
20.1.1 to resolve and manage conflict and grievances in the Youth Desk; and
20.1.2 to address instances of unacceptable conduct by members of the Youth Desk.

20.2 The Youth Desk may decide to address misconduct, depending on the seriousness of the misconduct, in terms of this section instead of following the procedure provided for in section 23.
20.3 Disputes which cannot be resolved by the Youth Desk must be attended to by the Community Police Forum.

20.4 If the dispute still remains unresolved, it must be referred to the Cluster Board for resolution in conjunction with the department.

20.5 No member may refer any dispute to a Court of Law unless all internal remedies have been exhausted.

21 DISSOLUTION

21.1 The Youth Desk may be dissolved by the Community Police Forum, in consultation with the department, at an Annual General Meeting, or at a Special General Meeting called for that purpose by the Community Police Forum.

21.2 Without in any way limiting the power of the Community Police Forum to dissolve the Youth Desk, the Community Police Forum may dissolve the Youth Desk if it has become grossly ineffective or in the event of a legislative or policy change which materially affects the aims, objectives, powers and functions of the Youth Desk.

21.3 In the event of the dissolution of the Youth Desk its assets will be disposed of as follows:

21.3.1 If the reason for dissolution was the establishment of an alternative body that will continue the work of the Youth Desk, then such a body shall accede to the assets of the Youth Desk;

21.3.2 If the Youth Desk was dissolved for any other reason, the Police Service shall accede to the assets of the Youth Desk.

22 COMPLIANCE WITH TIME-FRAMES

22.1 No act carried out or decision taken in terms of this Constitution shall be invalid merely on the basis that it was carried out or taken outside of the time-frame prescribed by this Constitution.

22.2 Any act so carried out or decision so taken shall only be invalid upon a decision taken by at least sixty six percent
(66%) of members of the Youth Desk at an Annual General Meeting or at a Special General Meeting, provided that—
22.1.1 particulars of the act or decision are given in writing and circulated at least twenty one (21) days before such a meeting; and
22.1.2 no such decision by the Youth Desk will retrospectively affect any right of any person.

23 CODE OF CONDUCT
23.1 All members must acquaint themselves with the code of conduct annexed hereto and must abide by its provisions.
23.2 All members must sign a copy of the code of conduct.
23.3 Any contravention of the code of conduct by a member of the Youth Desk shall constitute misconduct.
23.4 In the event of misconduct being alleged against any member of the Youth Desk, the allegation(s) must be submitted in writing together with any supporting information to the Secretary.
23.5 The Secretary must within fourteen (14) days of receipt of the allegation(s) in writing notify the member concerned of the allegation(s) and schedule a special Executive Committee meeting no sooner than five (5) days after the date of the notice and no later than thirty (30) days after the notice.
23.6 The notice must require the member concerned to appear before the Executive Committee at the special meeting to respond to the allegation.
23.7 At the special meeting the Executive Committee must consider the allegation and the response of the member concerned and make a finding.
23.8 Subject to section 20, in the event of a finding of misconduct, the member concerned loses his membership of the Youth Desk.
23.9 The former member may, within fourteen (14) days of being notified of the finding of the Executive Committee, lodge an appeal with the Youth Desk, whose decision will be final and binding.

SIGNED AT ............... ON THE ............... DAY OF 20 ........

Station Commissioner

........................................... WITNESSES

1 ......................................................

2 ......................................................

SIGNED AT ............... ON THE ............... DAY OF 20 ........

Chairperson of the Youth Desk

...........................................................

WITNESSES

1 ......................................................

2 ......................................................
Annexure A

YOUTH DESK

CODE OF CONDUCT

Each member of the Youth Desk—
1 commits to the achievement of the objectives of Community Police Forums and Boards set out in section 18 of the South African Police Service Act, 1995 (Act 68 of 1995);
2 undertakes to observe and uphold the Constitution of the Youth Desk as may be amended from time to time;
3 shall, at all times—
3.1 observe and uphold the Constitution of the Republic of South Africa, the law and any national and provincial guidelines on community policing;
3.2 be guided by the needs of the community he or she represents and the needs of the Police Service;
3.3 conduct him- or herself with integrity, dignity and honesty;
3.4 endeavour to render his or her best efforts within the confines of his or her ability and available time;
3.5 strive to foster harmonious relationships with Youth Desk members and to contribute positively to further the aims and objectives of the Youth Desk;
3.6 avoid negative criticism of and unnecessary confrontation with fellow Youth Desk members;
3.7 give and receive advice and constructive criticism where appropriate;
3.8 accept the constitutional authority of the Executive Committee of the Youth Desk;
3.9 accept the majority decision of the Youth Desk in regard to matters put to vote;
3.10 endeavour to be punctual in our attendance of meetings of the Youth Desk and to remain in attendance until excused by the Chairperson or until the end of the meeting;
3.11 act only within the scope of the specific objectives of the Youth Desk in the performance of any actions or execution of any tasks on behalf of the Youth Desk;
3.12 not do or purport to do anything which may bind the Youth Desk for which he or she has no specific mandate or authority from the Youth Desk;

3.13 refrain from using the Youth Desk as platform for personal gain or to further or prejudice any third party interests;

3.14 refrain from discussing any information pertaining to community policing without the mandate of the Youth Desk or Police Service at any other forum or meeting;

3.15 not wear any insignia or identification mark in respect of any political party, organisation, movement or body while attending a meeting of a Youth Desk;

3.16 not utilise his or her membership of a Youth Desk to further or prejudice party-political interests;

3.17 not interact or communicate with the media directly or indirectly without the mandate of the Youth Desk;

3.18 not be entitled to have access to police registers or files without the approval of the station commissioner concerned and may only be allowed access to police dockets with the prior written approval of the relevant Director of Public Prosecutions; and

3.19 only use property belonging to or under the control of the Police Service with the prior written approval of the Station Commissioner.

4 accepts that, without in any way limiting the scope of the provisions of paragraphs 1 to 3 hereof, the following acts or omissions will be regarded as misconduct:

4.1 fails to comply with, or contravenes an Act, regulation or legal obligation;

4.2 wilfully or negligently mismanages the finances of the Youth Desk;

4.3 without permission possesses or wrongfully uses the property of the Youth Desk;

4.4 wilfully, intentionally or negligently damages and or causes loss of Youth Desk property;
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4.5 endangers the lives of self or others by disregarding safety rules or regulations;
4.6 prejudices the administration, discipline or efficiency of the Youth Desk;
4.7 misuses his or her position on the Youth Desk to promote or to prejudice the interest of any political party;
4.8 steals, bribes or commits fraud;
4.9 accepts any compensation in cash or otherwise from a member of the public for performing her or his duties on the Youth Desk;
4.10 absents or repeatedly absents him or herself from the Youth Desk activities without reason or permission;
4.11 commits an act of sexual harassment;
4.12 discriminates against others on the basis of race, gender, disability, sexuality or other grounds outlawed by the Constitution;
4.13 performs poorly or inadequately for reasons other than incapacity;
4.14 while attending to the activities of the Youth Desk, is under the influence of an intoxicating, illegal, unauthorised, habit-forming and/or stupefying drug, including alcohol;
4.15 while attending to the activities of the Youth Desk, conducts herself or himself in an improper, disgraceful and unacceptable manner;
4.16 assaults, or attempts or threatens to assault, any person while attending to the activities of the Youth Desk;
4.17 incites others to un-procedural and unlawful conduct;
4.18 intimidates or victimises fellow members;
4.19 prevents other members from belonging to any trade union or body;
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4.20 falsifies records or any other documentation;
4.21 commits a common law or statutory offence.

.............................................. ...................... ........................
Signature of member Date Place

.............................................. ...................... ........................
Signature of witness 1 Date Place

.............................................. ...................... ........................
Signature of witness 2 Date Place

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APPENDIX
Annexure A
Code of Conduct

1 PREAMBLE
NOTING that Chapter 11 of the Constitution of the Republic of South Africa, 1996, provides for accountability of the South African Police Service to the communities they serve;
AND NOTING that Chapter 7 of the South African Police Service Act, 1995 (Act 68 of 1995), provides for the establishment of Community Police Forums and Boards through which the South African Police Service can liaise with communities with a view to promoting efficient and effective service;
AND WHEREAS Section 20 of the South African Police Service Act of 1995, provides that a Provincial Commissioner shall, subject to the directions of the Member of the Executive Council, be responsible for establishing Community Police Boards in respect of all areas in the province;
AND WHEREAS Regulation 7 of the South African Police Service Interim Regulations for Community Police Forums and Boards of 2001 prescribes the contents of the Constitution of a Community Police Forum or Board;
AND WHEREAS Regulation 4 of the South African Police Interim Regulations for Community Police Forums and Boards of 2001
provides that at a meeting of all executive committees of the Community Police Forums in the police area, a constitution of a Community Police Cluster Board must be adopted by majority vote and a chairperson and executive committee elected in accordance with the procedure provided for in the constitution; WHEREFORE we as members of all in the station area of all executive committees of the Community Police Forums in the police area hereby adopt this Constitution for the Community Police Cluster Board.

2 INTERPRETATION

2.1 In this Constitution, unless clearly inconsistent with or otherwise indicated by the context—

2.1.1 “Cluster Board” means the Community Police Board established in respect of the group of police stations wherein the South African Police Service has included the ......................... stations for management purposes and which is regarded as having been established in terms of section 20 of the Act;

2.1.2 “Constitution” means the Constitution of the ......................... Community Police Cluster Board as set out in this document and the appendices hereto;

2.1.3 “Community Police Forum” means a Community Police Forum established in terms of section 19 of the Act;

2.1.4 “Department” means the Department of Community Safety and Liaison;

2.1.5 “Executive Committee” means the Executive Committee contemplated in section 11 of the Constitution;

2.1.6 “Police Service” means the South African Police Service;
2.1.7 “Provincial Board” means the KwaZulu-Natal Provincial Community Police Board established in terms of section 21 of the Act;

2.1.8 “the Act” means the South African Police Service Act, 1995 (Act 68 of 1995);

2.1.9 “the Regulations” means the South African Police Service Interim Regulations for Community Police Forums and Boards, 2001 (Published under GN R384 in GG 22273 of 11 May 2001); and

2.1.10 “youth representative” means a person between the age of 14 and 35 elected in accordance with the procedure provided for in section 13 of the Constitution.

2.2 Any reference in this Constitution to legislation or subordinate legislation is to such legislation or subordinate legislation at the date of adoption hereof and as amended or re-enacted from time to time.

2.3 Words importing the singular shall include the plural, and vice versa, words importing the masculine gender shall include the feminine and neuter genders, and vice versa, and words importing natural persons shall include legal persons, and vice versa.

2.4 If any provision in the definition clause is a substantive provision conferring rights or imposing obligations on a party, then notwithstanding that such provision is contained in this clause, effect shall be given thereto as if such provision were a substantive provision in the body of the Constitution.

2.5 When any number of days are prescribed in this Constitution, same shall be reckoned exclusively of the first and inclusively of the last calendar day.

3 ESTABLISHMENT AND NAME OF CLUSTER BOARD

3.1 The Community Police Cluster Board for the ................. police area is hereby established in terms of section 20 of the Act.
3.2 The Community Police Cluster Board for the police area is called the Community Police Cluster Board.

4 VISION
4.1 The vision of the Community Police Cluster Board is community mobilisation towards a safe and peaceful police area.

5 AIMS AND OBJECTIVES
The aims and objectives of the Community Police Cluster Board are to—
5.1 establish and maintain a partnership between the community and the Police Service;
5.2 promote effective communication between the Police Service and the community;
5.3 promote cooperation between the Police Service and the community to fulfill the needs of the community regarding policing;
5.4 improve the rendering of police services to the community;
5.5 improve the transparency in the Police Service and the accountability of the Police Service to the community;
5.6 promote joint problem identification and problem-solving by the Police Service and the community;
5.7 promote community policing in the police area;
5.8 support and coordinate the proper functioning of the Community Police Forums in the police area in accordance with the Constitution of the Republic of South Africa of 1996, any applicable legislation and any applicable government policy; and
5.9 consult with and advise the Provincial Board, the department and the Cluster Commander or their delegates with regard to all matters pertaining to community policing in the station area.

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6.1 The Community Police Cluster Board is a juristic person
and a non-profit making organisation which acts through
the Executive Committee.

6.2 The Community Police Cluster Board, notwithstanding any
change of its members or management, will exist as a
voluntary organisation with legal personality independently
of its members.

6.3 The Community Police Cluster Board has all the powers
and may perform all the functions necessary to pursue its
aims and objectives.

6.4 The Community Police Cluster Board may own assets,
icur losses and liabilities, enter into contracts and institute
or defend any legal proceedings in its own name.

6.5 All immovable property or registerable rights obtained by
the Community Police Cluster Board shall be registered in
the name of the Community Police Cluster Board.

6.6 The Executive Committee represents the Community
Police Cluster Board and all acts performed by the
Executive Committee or on its authority are the acts of the
Community Police Cluster Board.

6.7 The Community Police Cluster Board must, after consulta-
tion with the Cluster Commander and based on the
community safety plans of all the Community Police
Forums in the police area, develop a community safety plan
for the police area as contemplated in Regulation 8 of the
Regulations before the end of each financial year and
submit same to the Provincial Board.

6.8 The Community Police Cluster Board may make rules and
issue guidelines in respect of the achievement of its aims
and objectives, the execution of its powers and the
execution of the powers and functions of the Executive
Committee: Provided that any such rule or guideline may
not be in conflict with the provisions of the Constitution.
7 INDEMNITY OF COMMUNITY POLICE CLUSTER BOARD MEMBERS

7.1 All members, including members of the Executive Committee, are—

7.1.1 indemnified by the Community Police Cluster Board against all proceedings, costs and expenses incurred by reason of any act, omission or incident during the performance of their duties on behalf of the Community Police Cluster Board, unless they have acted with gross negligence or in a manner that constitutes willful misconduct; and

7.1.2 not personally liable for any liabilities of the Community Police Cluster Board.

8 COMPOSITION of Community Police Cluster Board

The Community Police Cluster Board is composed of—

8.1 the elected representative of each Community Police Forum;

8.2 the youth desk representative elected in accordance with section 13 of the Constitution or, in the absence of the youth desk representative, his or her designate;

8.3 the Cluster Commander ex officio;

8.4 six members of the Police Service designated by the Cluster Commander from time to time for that purpose;

8.5 one official of the department designated by the Head of Department; and

8.6 additional members which the Community Police Cluster Board may, whenever the Community Police Cluster Board deems it necessary, co-opt to serve on the Community Police Cluster Board in an advisory capacity.
9 MEMBERSHIP REQUIREMENTS

9.1 Members of the Community Police Cluster Board shall render their services on a voluntary basis and shall have no claim to compensation solely for services rendered to the Cluster Board.

9.2 A member of the Cluster Board emanating from a Community Police Forum shall cease to be a member of the Cluster Board in the event that he or she ceases to be a member of such Community Police Forum or if the Community Police Forum withdraws him or her from representing it on the Cluster Board.

9.3 Members of the Community Police Cluster Board must be resident in the cluster area. No person residing in another area may be a member of the Community Police Cluster Board.

10 DECISION MAKING PROCEDURES

10.1 The Community Police Cluster Board shall, as far as reasonably possible, reach decisions by consensus. If consensus cannot be achieved, the Community Police Cluster Board shall vote on the matter. If the votes are tied, the Chairperson shall adjourn the meeting and reconvene the meeting in accordance with this Constitution after having identified an expert to provide advice to the meeting regarding the matter that led to the votes being tied.

10.2 If, upon the resumption of the meeting and after the Community Police Cluster Board has considered the advice of the identified expert, the votes of the members are still tied, the Chairperson shall have a casting vote in addition to his or her deliberative vote.

11 COMPOSITION OF EXECUTIVE COMMITTEE

11.1 The Executive Committee of the Community Police Cluster Board consists of—

11.1.1 Chairperson;
11.1.2 Deputy Chairperson;
11.1.3 Secretary;
11.1.4 Deputy Secretary;
11.1.5 Treasurer;
11.1.6 Public Relations Officer;
11.1.7 Community Police Cluster Board Coordinator of the SAPS ex officio; and
11.1.8 three additional members.

12 PROCEDURE FOR THE ELECTION OF EXECUTIVE COMMITTEE

12.1 The Executive Committee must be elected at an Annual General Meeting of the Community Police Cluster Board.

12.2 The Cluster Commander shall appoint an independent person or persons to act as the Electoral Officer of the election of the Executive Committee at least thirty (30) days prior to the Annual General Meeting.

12.3 The department shall render any assistance required by the Electoral Officer in the execution of his or her duties, including, but not limited to the facilitation of the election processes.

12.4 The following procedure applies in respect of the election of the Executive Committee—

12.4.1 Nominations for the members of the Executive Committee shall be made on the day of the Annual General Meeting under the direction of the Electoral Officer as follows:

\( (a) \) one nomination for each of the positions of—

(i) Chairperson;
(ii) Deputy Chairperson;
(iii) Secretary;
(iv) Deputy Secretary
(v) Treasurer;

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(vi) Public Relations Officer; and
(vii) three additional members,
by any member of the Community Police Cluster Board referred to in section 8.1 of the Constitution from the members of the Community Police Cluster Board referred to in section 8.1 of the Constitution and submitted in writing to the Electoral Officer at the Annual General Meeting;

(b) the Electoral Officer shall prepare ballot papers in respect of each position with the names of the five (5) candidates in respect of that position who had received the most nominations and place the ballot papers before the Annual General Meeting on the day of the Annual General Meeting;

(c) in the event that it is impossible to determine which five candidates have the most nominations in respect of any position, the Electoral Officer shall prepare the ballot paper in respect of such position with the names of all candidates and place the ballot paper before the Annual General Meeting;

(d) each member present at the Annual General Meeting may, having regard to the grounds of disqualification to hold office as a member of the Executive Committee contained herein, the Code of Conduct attached hereto and any other relevant consideration, scrutinise the names on the ballot papers and raise an objection to any of the names appearing or not appearing on the ballot papers and request the removal, addition or substitution of any name on the ballot papers, which request must be voted on by members present at the Annual General Meeting referred to in section 8.1 of the Constitution;

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12.4.2 The members of the Executive Committee are elected in the following order—
(a) Chairperson;
(b) Deputy Chairperson;
(c) Secretary;
(d) Deputy Secretary;
(e) Treasurer;
(f) Public Relations Officer; and
(g) three additional members.

12.4.3 Each member present at the Annual General Meeting referred to in section 8.1 has one vote for each position;

12.4.4 After the votes are cast, the Electoral Officer must determine whether any candidate must be declared duly elected, and in the event that no candidate can be declared duly elected, further rounds of secret balloting must be held, with names of those candidates who received the least votes and whose votes when combined with each other do not exceed the number of votes obtained by the leading candidate, must be eliminated from the following round of the ballot;

12.4.5 The Electoral Officer must announce the results of each round of balloting to the Annual General Meeting before the following round commences;

12.5 The Electoral Officer must announce the final result of each position immediately after the conclusion of the vote in respect of that position;

12.6 Any newly elected member of the Executive Committee takes office upon closure of the Annual General Meeting;

12.7 Any outgoing member of the Executive Committee must present a handover report to the newly elected member of the Executive Committee within fifteen (15) days of the date of the Annual General Meeting;
12.8 An Executive Committee member shall cease to hold office if he or she—
   12.8.1 resigns his or her office by notice in writing to the Community Police Cluster Board;
   12.8.2 is or becomes of unsound mind;
   12.8.3 surrenders his or her estate as insolvent or his or her estate is sequestrated;
   12.8.4 is convicted of an offence which involves dishonesty;
   12.8.5 is or becomes disqualified from being appointed or acting as a director of a company or as a member of a close corporation;
   12.8.6 is absent from three consecutive meetings of the Executive Committee without special leave of absence given by the Chairperson, or without good reason given to the Executive Committee; or
   12.8.7 ceases to be a member of the Community Police Cluster Board.

12.9 The Executive Committee has the right to co-opt any member of the Community Police Cluster Board as a member of the Executive Committee to fill any vacancy pending the election of another Executive Committee member by the Community Police Cluster Board at a Special General Meeting.

12.10 The Community Police Cluster Board may, at a Special General Meeting, remove any Executive Committee member before the expiry of his or her term of office and elect another Executive Committee member in his or her place to hold office for the remainder of the term of office of the Executive Committee member so removed: Provided that the intention to vote upon his or her removal from office was specified in the notice convening the meeting.
13 ELECTION OF YOUTH DESK REPRESENTATIVE

13.1 The youth desk representative must be elected by the youth desk representatives of the Community Police Forums in the police area at a special meeting of these representatives which must be held thirty (30) days prior to an Annual General Meeting where elections of the Executive Committee will be held or within thirty (30) days of a vacancy occurring or at a special meeting contemplated in 13.9;

13.2 The Cluster Commander shall appoint an independent person or persons to act as the Electoral Officer of the election of the youth desk representative at least thirty (30) days prior to the special meeting.

13.3 The department shall render any assistance required by the Electoral Officer in the execution of his or her duties, including, but not limited to the facilitation of the election processes.

13.4 The following procedure applies in respect of the election of the youth desk representative—

13.4.1 Nominations for the youth desk representative shall be made on the day of the special meeting under the direction of the Electoral Officer as follows:

(a) one nomination from each of the youth desk representatives;

(b) submitted in writing to the Electoral Officer at the special meeting;

(c) the Electoral Officer shall prepare a ballot paper with the names of the five (5) candidates who had received the most nominations and place the ballot paper before the special meeting on the day of the special meeting;

(d) in the event that it is impossible to determine which five candidates have the most nominations, the Electoral Officer shall prepare the
ballot paper with the names of all candidates and place the ballot paper before the special meeting;

(f) each member present at the special meeting may, having regard to the grounds of disqualification to hold office as the youth desk representative contained herein, the Code of Conduct attached hereto and any other relevant consideration, scrutinise the names on the ballot paper and raise an objection to any of the names appearing or not appearing on the ballot paper and request the removal, addition or substitution of any name on the ballot paper, which request must be voted on by all members present at the special meeting;

13.4.2 each member present at the special meeting has one vote by secret ballot;

13.4.3 after the votes are cast, the Electoral Officer must determine whether any candidate must be declared duly elected, and in the event that no candidate can be declared duly elected, further rounds of secret balloting must be held, with names of those candidates who received the least votes and whose votes when combined with each other do not exceed the number of votes obtained by the leading candidate, must be eliminated from the following round of the ballot;

13.4.4 the Electoral Officer must announce the results of each round of balloting to the special meeting before the following round commences;

13.5 The Electoral Officer must announce the final result immediately after the conclusion of the vote.

13.6 The newly elected youth desk representative takes office upon closure of the special meeting.
13.7 The outgoing youth desk representative must present a handover report to the newly elected youth desk representative within fifteen (15) days of the date of the special meeting.

13.8 The youth desk representative shall cease to hold office if he or she—

13.8.1 resigns his or her office by notice in writing to the Community Police Cluster Board;

13.8.2 is or becomes of unsound mind;

13.8.3 surrenders his or her estate as insolvent or his or her estate is sequestrated;

13.8.4 is convicted of an offence which involves dishonesty;

13.8.5 is or becomes disqualified from being appointed or acting as director of a company or as member of a close corporation;

13.8.6 is absent from three consecutive meetings of the Community Police Cluster Board without special leave of absence given by the Chairperson, or without good reason given to the Community Police Cluster Board;

13.8.7 ceases to be a youth desk representative of his or her Community Police Forum; or

13.8.8 ceases to be a member of the Community Police Cluster Board.

13.9 The youth desk representatives of the Community Police Forums in the police area may, at a special meeting called for the purpose, remove the youth desk representative before the expiry of his or her term of office and elect another youth desk representative in his or her place to hold office for the remainder of the term of office of the youth desk representative so removed: Provided that the intention to vote upon his or her removal from office was specified in the notice convening the meeting.
14 TERM OF OFFICE
14.1 The term of office of elected members of the Executive Committee is five (5) years and any member may only be re-elected for one more consecutive term.

14.2 The term of office of the youth desk representative is five (5) years or until he or she turns 36, whichever occurs first. The youth desk representative may only be re-elected for one more consecutive term.

15 POWERS AND FUNCTIONS OF EXECUTIVE COMMITTEE
15.1 The Executive Committee is responsible for the management of the affairs of the Community Police Cluster Board and it has the authority to attend to any matter that could or might be attended to by the Community Police Cluster Board, except where a matter is specifically reserved in this Constitution to be dealt with by a meeting of the Community Police Cluster Board.

15.2 Without in any way limiting the powers and authority of the Executive Committee, the Executive Committee has the following powers and functions:

15.2.1 to pass any resolution or take any decision, that may be necessary or expedient in order to achieve the objectives of the Community Police Cluster Board: Provided that the Executive Committee may not pass a resolution or take a decision that is inconsistent with this Constitution, or any resolutions or decisions of a meeting of the Community Police Cluster Board passed or taken prior to the date of the resolution or decision by the Executive Committee;

15.2.2 at such intervals as the Executive Committee may require, but at least once every financial year, to cause the accounting records of the Community Police Cluster Board to be audited, by an independent auditor appointed by the Executive Committee;
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for compliance with Generally Accepted Accounting Practices and certified as a true reflection of the income, expenditure, assets and liabilities of the Community Police Cluster Board;

15.2.3 subject to approval at a meeting of the Community Police Cluster Board, to form sub-committees from the members of the Community Police Cluster Board for special, general or ad hoc purposes and to delegate to any such sub-committee all or any of the powers conferred on the Executive Committee by this Constitution;

15.2.4 subject to approval at a meeting of the Community Police Cluster Board, to institute, conduct, defend, oppose, settle or abandon any legal proceedings, by or against the Community Police Cluster Board, or otherwise concerning the affairs of the Community Police Cluster Board, and to settle or allow time for payment in satisfaction of any debts or any claims or demands by or against the Community Police Cluster Board;

15.2.5 subject to approval at a meeting of the Community Police Cluster Board, to invest, re-invest and deal with any monies of the Community Police Cluster Board, not immediately required for the purposes of the Community Police Cluster Board, upon such securities and on such terms as it may deem fit, and from time to time to vary or realise such investments;

15.2.6 subject to approval at a meeting of the Community Police Cluster Board, to sell, lease, alienate or otherwise dispose of part or parts of the movable or immovable property or any right of the Community Police Cluster Board, as it may think most beneficial to the Community Police Cluster Board, and to apply the consideration arising therefrom as it may think most advantageous to the Community Police Cluster Board;
15.2.7 subject to approval at a meeting of the Community Police Cluster Board, to purchase, hire or take in exchange or otherwise acquire any movable or immovable property or rights for the Community Police Cluster Board;

15.2.8 approve any communication from the Community Police Cluster Board to the public; and

15.2.9 subject to approval at a meeting of the Community Police Cluster Board, to utilise the assets and funds of the Community Police Cluster Board for the objects of the Community Police Cluster Board, as set out in this Constitution.

15.3 The Community Police Cluster Board may at a general meeting overturn, approve or amend any decision of the Executive Committee: Provided that no such decision by the Community Police Cluster Board will adversely affect any pre-existing right of any person or invalidate any action already taken by the Executive Committee.

16 DUTIES OF members of the executive committee

16.1 The Chairperson must—

16.1.1 ensure execution of all decisions of the Executive Committee;

16.1.2 preside over all meetings;

16.1.3 represent the Community Police Cluster Board at meetings, forums and events; and

16.1.4 present reports on the work of the Community Police Cluster Board at all meetings;

16.2 The Deputy Chairperson must—

16.2.1 in the Chairperson’s absence, assume all functions of the Chairperson and in the absence of both the Chairperson and the Deputy Chairperson at any meeting, the Executive Committee shall nominate one of their members to preside at such a meeting;

16.2.2 in conjunction with the Treasurer, ensure that the funds of the Community Police Cluster Board
administered in accordance with the objectives, decisions and resolutions of the Community Police Cluster Board; and

16.2.3 prepare and circulate the annual report of the activities of the Community Police Cluster Board, which must include the audited annual financial statements.

16.3 The Secretary must—
16.3.1 ensure that the minutes of all meetings, procedures and resolutions are recorded;
16.3.2 receive and dispatch all correspondence to and from the Community Police Cluster Board;
16.3.3 arrange all meetings in consultation with the Chairperson;
16.3.4 ensure the safekeeping of all official documents of the Community Police Cluster Board;
16.3.5 send out notices of meetings;
16.3.6 in consultation with the Chairperson attend to all correspondence; and
16.3.7 perform all other duties usually associated with the office of Secretary.

16.4 The Deputy Secretary must—
16.4.1 in the Secretary’s absence, assume all functions of the Secretary and in the absence of both the Secretary and the Deputy Secretary at any meeting, the Executive Committee shall nominate one of their members to act as Secretary at such a meeting;
16.4.2 assist the Secretary in the performance of his or her functions.

16.5 The Treasurer must—
16.5.1 open an account with an institution registered with the Financial Services Board in the name of the Community Police Cluster Board;
16.5.2 prepare an annual budget and fundraising strategy
for the Community Police Cluster Board for approval at an Annual General Meeting;

16.5.3 manage all funds received and expenditure by the Community Police Cluster Board;

16.5.4 keep record and proof of all monies received or expended by the Community Police Cluster Board;

16.5.5 deposit all monies received by the Community Police Cluster Board in its account on the first banking day of each month;

16.5.6 prepare a quarterly income and expenditure report for submission to and approval by the Community Police Cluster Board;

16.5.7 prepare audited annual financial statements to be approved at an Annual General Meeting;

16.5.8 ensure adherence to the principles contemplated in the Public Finance Management Act, 1999 (Act 1 of 1999); and

16.5.9 account to the Executive Committee and the Community Police Cluster Board on the execution of his or her duties.

16.6 The Public Relations Officer must—

16.6.1 act as liaison between the Community Police Cluster Board and the general public within a station area;

16.6.2 promote communication between the Community Police Cluster Board and the communities within the station area; and

16.6.3 execute these duties in consultation with the Station Commissioner and the department.

16.7 Additional Members has those duties allocated to them by the Chairperson.

17 REPRESENTATION ON CLUSTER BOARD

17.1 Subject to section 17.2, the Chairperson of the Executive Committee represents the Community Police Cluster Board on the Provincial Board.

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17.2 In the event that it is deemed desirable by the Executive Committee, the Community Police Cluster Board may elect a member of the Community Police Cluster Board at an Annual General Meeting or a Special General Meeting called for the purpose to represent it on the Cluster Board instead of the Chairperson for a period determined by the Community Police Cluster Board at the meeting.

17.3 The Community Police Cluster Board may, at the Annual General Meeting or a Special General Meeting called for the purpose, remove the Cluster Board representative before the expiry of his or her term of office and elect another Cluster Board representative in his or her place to hold office for the remainder of the term of office of the Cluster Board representative so removed: Provided that the intention to vote upon his or her removal from office was specified in the notice convening the meeting.

17.4 The person representing the Community Police Cluster Board on the Cluster Board in terms of this section must submit reports on the deliberations at Cluster Board meetings and the activities of the Cluster Board at each Executive Committee and Community Police Cluster Board meeting.

17.5 The person representing the Community Police Cluster Board on the Provincial Board in terms of this section must obtain a mandate at a meeting of the Community Police Cluster Board in respect of every matter which must be decided upon by Cluster Board members through consensus or voting.

18 NOMINATIONS FOR PROVINCIAL BOARD EXECUTIVE COMMITTEE

18.1 The Community Police Cluster Board must, at the Annual General Meeting preceding the date of the election of the Provincial Board Executive Committee, or a Special General Meeting called for the purpose, decide on the nominee(s) for the member(s) of the Executive Committee of the Provincial Board to be elected.
18.2 A resolution recording the nominee(s) decided upon must be signed by the Chairperson and the Secretary of the meeting.

19 MEETING PROCEDURES

19.1 Executive Committee Meetings:
   19.1.1 Executive Committee Meetings must be held at least once per month.
   19.1.2 Seven (7) days’ notice of such meetings shall be given, except in case of an emergency.

19.2 Community Police Cluster Board Meetings:
Community Police Cluster Board meetings shall be held quarterly or whenever deemed necessary to attend to its business, provided that seven (7) days’ notice of such meetings must be given.

19.3 Annual General Meeting (AGM):
   19.3.1 An AGM shall be held between the 1st of February and the 30th of April of every year in order to—
(a) approve the minutes of the preceding AGM;
(b) approve the certified annual financial statements;
(c) approve the annual report of the Executive Committee;
(d) consider and deliberate on the keynote address of the Chairperson;
(e) consider and deliberate on any draft resolutions on matters pertaining to the objectives of Community Policing in the station area;
(f) every fifth year, elect an Executive Committee; and
(g) attend to any matter contemplated in the Constitution.

19.3.2 Representatives referred to in section 8.1 of the Constitution as well as the general public in the
station area shall be notified of the date, time, venue and agenda of an AGM at least twenty one (21) days prior to the meeting.

19.4 Special General Meeting:
19.4.1 The Executive Committee may instruct the Secretary to convene a Special General Meeting to discuss and rule on any special matters contemplated in the Constitution.
19.4.2 The Secretary shall, upon request from at least 25% of the members of the Community Police Cluster Board, call a Special General Meeting of all members referred to in section 8.1 of the Constitution to discuss and resolve issues stated clearly in writing by members requesting such a meeting.
19.4.3 Notice of a Special General Meeting shall be given to members referred to in section 8.1 at least twenty one (21) days in advance.

19.5 Notices:
19.5.1 Upon becoming a member, such member must indicate to the Secretary whether notices must be transmitted by e-mail or facsimile transmission.
19.5.2 Any member is entitled from time to time by written notice to the Secretary, to vary his or her preferred means of communication.
19.5.3 The facsimile transmission report will serve as proof of transmission of any notice in terms of this Constitution sent by facsimile transmission.
19.5.4 The e-mail transmission report will serve as proof of transmission of any notice in terms of this Constitution sent by e-mail.
19.5.5 Any notice must include the date, time, venue and agenda items of the meeting.
19.5.6 The Secretary must preserve, either electronically or in hard copy, proof of notices sent to members.
19.5.7 Any notice shall be deemed to have been received, until the contrary is proved—
(a) if sent by telefax, on the date of sending such telefax; and 
(b) if sent by e-mail, on the date of sending such e-mail.

19.5.8 Section 19.5.7 shall not operate so as to invalidate the giving or receipt of any written notice, which is actually received by the addressee other than by a method referred to in this section.

19.5.9 Any notice in terms of or in connection with this Constitution shall be valid and effective only if in writing and if received or deemed to be received by the addressee.

19.5.10 No meeting is invalid solely by reason of the non-receipt by any person entitled to receive the requisite notice.

19.6 Quorum:

19.6.1 The quorum of all meetings shall be 50% of the total members, of which at least 5% must be from the SAPS, plus 1 member. In the absence of a quorum within thirty (30) minutes after the scheduled commencement time, the meeting must be postponed.

19.6.2 At least seven (7) days' notice must be given of the date for the meeting so postponed. In the event that there is again no quorum within thirty (30) minutes of the scheduled commencement time of the meeting, the meeting must be postponed a second time.

19.6.3 At least seven (7) days' notice must be given of the date for the meeting so postponed. In the event that there is again no quorum within thirty (30) minutes of the scheduled commencement time of the meeting, it will be deemed that the meeting is quorate.

19.6.4 Meetings shall be conducted in accordance with the generally accepted principles for conducting meetings.
19.7 Minutes:
19.7.1 Minutes of all meetings must be kept and securely filed in accordance with generally accepted filing standards.
19.7.2 After the adoption of the minutes, the Secretary and the Chairperson must sign the minutes.

19.8 Voting:
19.8.1 All members, excluding co-opted members in an advisory capacity, are entitled to vote at any meeting attended by them, except during the election of members of the Executive Committee, deciding on the nominations for the Cluster Board Executive Committee or electing the representative for the Cluster Board.
19.8.2 During the election of the members of the Executive Committee, deciding on nominations for the Cluster Board Executive Committee or electing the representative for the Cluster Board, members referred to in section 8.1 of the Constitution are entitled to vote.
19.8.3 Voting shall take place by way of secret ballot.
19.8.4 No voting by proxy shall be permitted and the majority of votes shall bind all members.

20 COMMUNICATION
20.1 The Community Police Cluster Board must communicate to the public in the police area at least on a quarterly basis to inform the public of the work and activities of the Community Police Cluster Board.
20.2 Communication to the public may take the form of press releases, press conferences, editorials, radio interviews, television interviews and paid or sponsored advertisements.
20.3 Only the Public Relations Officer of the Executive Committee may undertake any public communication with the approval of the Executive Committee and the Cluster
Commander and no other member may communicate to the public through any means whatsoever.

20.4 Any official correspondence on behalf of the Community Police Cluster Board addressed to any person or body must be signed by either the Chairperson, or the Deputy Chairperson.

21 AMENDMENT OF CONSTITUTION

21.1 This Constitution may only be amended on a decision taken by at least sixty six percent (66%) of members of the Community Police Cluster Board at an Annual General Meeting or at a Special General Meeting, provided that particulars of proposed amendments are given in writing and circulated at least twenty one (21) days before such a meeting.

22 MANAGEMENT AND CONTROL OF FINANCIAL AFFAIRS

22.1 The funds of the Community Police Cluster Board consist of all monies received or raised by means of donations for the administration and running of the Community Police Cluster Board and its campaigns or projects.

22.2 All cheques and financial documentation requiring signature or approval on behalf of the Community Police Cluster Board must be signed jointly by the Chairperson, the Treasurer and another member of the Executive Committee designated by the Executive Committee.

22.3 Any agreement or contract to which the Community Police Cluster Board is a party or signatory must—

22.3.1 be signed by the Chairperson after obtaining the approval of the Executive Committee; and

22.3.2 contain, as a schedule to the agreement or contract, a copy of a dated resolution by the Executive Committee signed by all the members authorising the Chairperson to sign the agreement or contract in question.

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23 DISPUTE RESOLUTION PROCEDURES

23.1 The objectives of the Dispute Resolution Procedures are:
   23.1.1 to resolve and manage conflict and grievances in the Community Police Cluster Board; and
   23.1.2 to address instances of unacceptable conduct by members of the Community Police Cluster Board.

23.2 The Community Police Cluster Board may decide to address misconduct, depending on the seriousness of the misconduct, in terms of this section instead of following the procedure provided for in section 26.

23.3 Disputes which cannot be resolved by the Community Police Cluster Board must be attended to by the Provincial Board.

23.4 If the dispute still remains unresolved, it must be referred to the Provincial Commissioner for resolution in conjunction with the department.

23.5 No member may refer any dispute to a court of law unless all internal remedies have been exhausted.

24 DISSOLUTION

24.1 The Community Police Cluster Board may be dissolved by the Cluster Commander, in consultation with the department, at an Annual General Meeting, or at a Special General Meeting called for that purpose by the Cluster Commander.

24.2 Without in any way limiting the power of the Cluster Commander to dissolve the Community Police Cluster Board, the Cluster Commander may dissolve the Community Police Cluster Board if it has become grossly ineffective or in the event of a legislative or policy change which materially affects the aims, objectives, powers and functions of the Community Police Cluster Board.

24.3 In the event of the dissolution of the Community Police Cluster Board its assets will be disposed of as follows:
   24.3.1 if the reason for dissolution was the establishment of an alternative body that will continue the work of the
Community Police Cluster Board, then such a body shall accede to the assets of the Community Police Cluster Board:

24.3.2 If the Community Police Cluster Board was dissolved for any other reason, the Police Service shall accede to the assets of the Community Police Cluster Board.

25 COMPLIANCE WITH TIME-FRAMES

25.1 No act carried out or decision taken in terms of this Constitution shall be invalid merely on the basis that it was carried out or taken outside of the time-frame prescribed by this Constitution.

25.2 Any act so carried out or decision so taken shall only be invalid upon a decision taken by at least sixty six percent (66%) of members of the Community Police Cluster Board at an Annual General Meeting or at a Special General Meeting, provided that—

25.1.1 particulars of the act or decision are given in writing and circulated at least twenty one (21) days before such a meeting; and

25.1.2 no such decision by the Community Police Cluster Board will retrospectively affect any right of any person.

26 CODE OF CONDUCT

26.1 All members must acquaint themselves with the code of conduct annexed hereto and must abide by its provisions.

26.2 All members must sign a copy of the code of conduct.

26.3 Any contravention of the code of conduct by a member of the Community Police Cluster Board shall constitute misconduct.

26.4 In the event of misconduct being alleged against any member of the Community Police Cluster Board, the allegation(s) must be submitted in writing together with any supporting information to the Secretary.
26.5 The Secretary must within fourteen (14) days of receipt of the allegation(s) in writing notify the member concerned of the allegation(s) and schedule a special Executive Committee meeting no sooner than five (5) days after the date of the notice and no later than thirty (30) days after the notice.

26.6 The notice must require the member concerned to appear before the Executive Committee at the special meeting to respond to the allegation.

26.7 At the special meeting the Executive Committee must consider the allegation and the response of the member concerned and make a finding.

26.8 Subject to section 23, in the event of a finding of misconduct, the member concerned loses his membership of the Community Police Cluster Board.

26.9 The former member may, within fourteen (14) days of being notified of the finding of the Executive Committee, lodge an appeal with the Community Police Cluster Board, whose decision will be final and binding.

SIGNED AT ................ ON THE .................. DAY OF 20 ..........

Station Commissioner

..........................................................

WITNESSES

1 .........................................................

2 .........................................................
SIGNED AT ................ ON THE ................ DAY OF 20 ..........

Chairperson of the Community Police Cluster Board

.................................................................

WITNESSES

1 ................................................................

2 ................................................................

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Annexure A

COMMUNITY POLICE CLUSTER BOARD
CODE OF CONDUCT

Each member of the community police Cluster Board—
1 commits to the achievement of the objectives of community police forums and boards set out in section 18 of the South African Police Service Act, 1995 (Act 68 of 1995);
2 undertakes to observe and uphold the Constitution of the community police Cluster Board as may be amended from time to time;
3 shall, at all times—
3.1 observe and uphold the Constitution of the Republic of South Africa, the law and any national and provincial guidelines on community policing;
3.2 be guided by the needs of the community he or she represents and the needs of the Police Service;
3.3 conduct him- or herself with integrity, dignity and honesty;
3.4 endeavour to render his or her best efforts within the confines of his or her ability and available time;
3.5 strive to foster harmonious relationships with community police Cluster Board members and to contribute positively to further the aims and objectives of the community police Cluster Board;
3.6 avoid negative criticism of and unnecessary confrontation with fellow community police Cluster Board members;
3.7 give and receive advice and constructive criticism where appropriate;
3.8 accept the constitutional authority of the Executive Committee of the community police Cluster Board;
3.9 accept the majority decision of the community police Cluster Board in regard to matters put to vote;
3.10 endeavour to be punctual in our attendance of meetings of the community police Cluster Board and to remain in attendance until excused by the Chairperson or until the end of the meeting;
3.11 act only within the scope of the specific objectives of the community police Cluster Board in the performance of any actions or execution of any tasks on behalf of the community police Cluster Board;

3.12 not do or purport to do anything which may bind the community police Cluster Board for which he or she has no specific mandate or authority from the community police Cluster Board;

3.13 refrain from using the community police Cluster Board as platform for personal gain or to further or prejudice any third party interests;

3.14 refrain from discussing any information pertaining to community policing without the mandate of the community police Cluster Board or Police Service at any other forum or meeting;

3.15 not wear any insignia or identification mark in respect of any political party, organisation, movement or body while attending a meeting of a community police Cluster Board;

3.16 not utilise his or her membership of a community police Cluster Board to further or prejudice party-political interests;

3.17 not interact or communicate with the media directly or indirectly without the mandate of the community police Cluster Board;

3.18 not be entitled to have access to police registers or files without the approval of the station commissioner concerned and may only be allowed access to police dockets with the prior written approval of the relevant Director of Public Prosecutions; and

3.19 only use property belonging to or under the control of the Police Service with the prior written approval of the Station Commissioner.
accepts that, without in any way limiting the scope of the provisions of paragraphs 1 to 3 hereof, the following acts or omissions will be regarded as misconduct:

4.1 fails to comply with, or contravenes an Act, regulation or legal obligation;
4.2 wilfully or negligently mismanages the finances of the Community Police Cluster Board;
4.3 without permission possesses or wrongfully uses the property of the Community Police Cluster Board;
4.4 wilfully, intentionally or negligently damages and or causes loss of Community Police Cluster Board property;
4.5 endangers the lives of self or others by disregarding safety rules or regulations;
4.6 prejudices the administration, discipline or efficiency of the Community Police Cluster Board;
4.7 misuses his or her position on the Community Police Cluster Board to promote or to prejudice the interest of any political party;
4.8 steals, bribes or commits fraud;
4.9 accepts any compensation in cash or otherwise from a member of the public for performing her or his duties on the Community Police Cluster Board;
4.10 absents or repeatedly absents him or herself from the Community Police Cluster Board activities without reason or permission;
4.11 commits an act of sexual harassment;
4.12 discriminates against others on the basis of race, gender, disability, sexuality or other grounds outlawed by the Constitution;
4.13 performs poorly or inadequately for reasons other than incapacity;
4.14 while attending to the activities of the Community Police Cluster Board, is under the influence of an intoxicating, illegal, unauthorised, habit-forming and/or stupefying drug, including alcohol;
3.15 while attending to the activities of the Community Police Cluster Board, conducts herself or himself in an improper, disgraceful and unacceptable manner;
3.16 assaults, or attempts or threatens to assault, any person while attending to the activities of the Community Police Cluster Board;
3.17 incites others to un-procedural and unlawful conduct;
3.18 intimidates or victimises fellow members;
3.19 prevents other members from belonging to any trade union or body;
3.20 falsifies records or any other documentation;
3.21 commits a common law or statutory offence.

.............................................. ...................... ........................
Signature of member Date Place

.............................................. ...................... ........................
Signature of witness 1 Date Place

.............................................. ...................... ........................
Signature of witness 2 Date Place
CONSTITUTION
OF THE KWAZULU-NATAL
PROVINCIAL COMMUNITY POLICE BOARD

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Annexure A
Code of Conduct

1 PREAMBLE
NOTING that Chapter 11 of the Constitution of the Republic of South Africa, 1996, provides for accountability of the South African Police Service to the communities they serve;
AND NOTING that Chapter 7 of the South African Police Service Act, 1995 (Act 68 of 1995), provides for the establishment of Community Police Forums and Boards through which the South African Police Service can liaise with communities with a view to promoting efficient and effective service;
AND WHEREAS Section 21 of the South African Police Service Act of 1995, provides that a Provincial Commissioner shall, subject to the directions of the Member of the Executive Council, be responsible for establishing a provincial community police board;
AND WHEREAS Regulation 7 of the South African Police Service Interim Regulations for Community Police Forums and Boards of 2001 prescribes the contents of the Constitution of a Community Police Forum or Board;
AND WHEREAS Regulation 5 of the South African Police Service Interim Regulations for Community Police Forums and Boards of 2001 provides that a Constitution of a Provincial Community Police Board must be adopted by majority vote at a
meeting of all the executive committees of every cluster community police board established in a province;
WHEREFORE we as members of the executive committees of the cluster community police boards of the Province of KwaZulu-Natal hereby adopt this Constitution for the KwaZulu-Natal Provincial Community Police Board.

2 INTERPRETATION
2.1 In this Constitution, unless clearly inconsistent with or otherwise indicated by the context—
2.1.1 "Constitution" means the Constitution of the KwaZulu-Natal Provincial Community Police Board as set out in this document and the appendices hereto;
2.1.2 "Department" means the Department of Community Safety and Liaison;
2.1.3 "Executive Committee" means the Executive Committee contemplated in section 11 of the Constitution;
2.1.4 "MEC" means the Member of the Executive Council of KwaZulu-Natal responsible for Community Safety and Liaison;
2.1.5 "Provincial Board" means the KwaZulu-Natal Provincial Community Police Board referred to in section 3 of the Constitution;
2.1.6 "Police Service" means the South African Police Service;
2.1.7 "the Act" means the South African Police Service Act, 1995 (Act 68 of 1995);
2.1.8 "the Regulations" means the South African Police Service Interim Regulations for Community Police Forums and Boards, 2001 (Published under GN R384 in GG 22273 of 11 May 2001);
2.1.9 "youth representative" means a person between the age of 14 and 35 elected by the youth representatives from all the Cluster Community
Police Board youth desks in accordance with the procedure provided for in section 13 of the Constitution;

2.2 Any reference in this Constitution to legislation or subordinate legislation is to such legislation or subordinate legislation at the date of adoption hereof and as amended or re-enacted from time to time.

2.3 Words importing the singular shall include the plural, and vice versa, words importing the masculine gender shall include the feminine and neuter genders, and vice versa, and words importing natural persons shall include legal persons, and vice versa.

2.4 If any provision in the definition clause is a substantive provision conferring rights or imposing obligations on a party, then notwithstanding that such provision is contained in this clause, effect shall be given thereto as if such provision were a substantive provision in the body of the Constitution.

2.5 When any number of days are prescribed in this Constitution, same shall be reckoned exclusively of the first and inclusively of the last calendar day.

3 ESTABLISHMENT AND NAME OF BOARD

3.1 The Provincial Community Police Board for the Province of KwaZulu-Natal is hereby established in terms of 21(1) of the Act.

3.2 The Provincial Community Police Board for the Province of KwaZulu-Natal is called the KwaZulu-Natal Provincial Community Police Board.

4 VISION

4.1 The vision of the Provincial Board is community mobilisation towards a safe and peaceful Province of KwaZulu-Natal.
5 AIMS AND OBJECTIVES

The aims and objectives of the Provincial Board are to—

5.1 establish and maintain a partnership between the community and the Police Service;

5.2 promote effective communication between the Police Service and the community;

5.3 promote cooperation between the Police Service and the community to fulfill the needs of the community regarding policing;

5.4 improve the rendering of police services to the community;

5.5 improve the transparency in the Police Service and the accountability of the Police Service to the community;

5.6 promote joint problem identification and problem-solving by the Police Service and the community;

5.7 promote community policing in KwaZulu-Natal;

5.8 support and coordinate the proper functioning of Cluster Community Police Boards and Community Police Forums in accordance with the Constitution of the Republic of South Africa of 1996, any applicable legislation and any applicable government policy; and

5.9 consult with and advise the MEC and the Provincial Commissioner or their delegates with regard to all matters pertaining to community policing.

6 LEGAL NATURE AND POWERS OF THE PROVINCIAL BOARD

6.1 The Provincial Board is a juristic person and a non-profit making organisation which acts through the Executive Committee.

6.2 The Provincial Board, notwithstanding any change of its members or management, will exist as a voluntary organisation with legal personality independently of its members.
6.3 The Provincial Board has all the powers and may perform all the functions necessary to pursue its aims and objectives.

6.4 The Provincial Board may own assets, incur losses and liabilities, enter into contracts and institute or defend any legal proceedings in its own name.

6.5 All immovable property or registerable rights obtained by the Provincial Board shall be registered in the name of the Provincial Board.

6.6 The Executive Committee represents the Provincial Board and all acts performed by the Executive Committee or on its authority are the acts of the Provincial Board.

6.7 The Provincial Board may make rules and issue guidelines in respect of the achievement of its aims and objectives, the execution of its powers and the execution of the powers and functions of the Executive Committee: Provided that any such rule or guideline may not be in conflict with the provisions of the Constitution.

7 INDEMNITY OF PROVINCIAL BOARD MEMBERS

7.1 All members, including members of the Executive Committee, are—

7.1.1 indemnified by the Provincial Board against all proceedings, costs and expenses incurred by reason of any act, omission or incident during the performance of their duties on behalf of the Provincial Board, unless they have acted with gross negligence or in a manner that constitutes willful misconduct; and

7.1.2 not personally liable for any liabilities of the Provincial Board.

8 COMPOSITION OF PROVINCIAL BOARD

The Provincial Board is composed of—

8.1 the elected representative of each Cluster Community Police Board;
8.2 the youth representative elected in accordance with section 13 of the Constitution or, in the absence of the youth representative, his or her designate;
8.3 the Provincial Commissioner ex officio;
8.4 six members of the Police Service designated by the Provincial Commissioner from time to time for that purpose;
8.5 two officials of the Department designated by the MEC; and
8.6 additional members which the Provincial Board may, whenever the Provincial Board deems it necessary, co-opt to serve on the Provincial Board in an advisory capacity, including, but not limited to members of the JOINTS operational structure.

9 MEMBERSHIP REQUIREMENTS
9.1 Members of the Provincial Board shall render their services on a voluntary basis and shall have no claim to compensation solely for services rendered to such forums and boards.
9.2 A member of the Provincial Board emanating from a Cluster Community Police Board shall cease to be a member of the Provincial Board in the event that he or she ceases to be a member of such Cluster Community Police Board or if the Cluster Community Police Board withdraws him or her from representing it on the Provincial Board.

10 DECISION MAKING PROCEDURES
10.1 The Provincial Board shall, as far as reasonably possible, reach decisions by consensus. If consensus cannot be achieved, the Provincial Board shall vote on the matter. If the votes are tied, the Chairperson shall adjourn the meeting and reconvene the meeting in accordance with this Constitution after having identified an expert to provide advice to the meeting regarding the matter that led to the votes being tied.
10.2 If, upon the resumption of the meeting and after the Provincial Board has considered the advice of the identified
expert, the votes of the members are still tied, the Chairperson shall have a casting vote in addition to his or her deliberative vote.

11 COMPOSITION OF EXECUTIVE COMMITTEE

11.1 The Executive Committee of the Provincial Board consists of—

11.1.1 Chairperson;
11.1.2 Deputy Chairperson;
11.1.3 Secretary;
11.1.4 Deputy Secretary;
11.1.5 Treasurer;
11.1.6 Public Relations Officer;
11.1.7 Community Police Forum Coordinator of the SAPS ex officio; and
11.1.8 three additional members.

12 PROCEDURE FOR THE ELECTION OF EXECUTIVE COMMITTEE

12.1 The Executive Committee must be elected at an Annual General Meeting of the Provincial Board;

12.2 The MEC and Provincial Commissioner shall jointly appoint an independent person or persons to act as the Electoral Officer of the election of the Executive Committee at least thirty (30) days prior to the Annual General Meeting.

12.3 The department shall render any assistance required by the Electoral Officer in the execution of his or her duties, including, but not limited to the facilitation of the election processes.

12.4 The following procedure applies in respect of the election of the Executive Committee—

12.4.1 Nominations for the members of the Executive Committee shall be made on the day of the Annual General Meeting under the direction of the Electoral Officer as follows:
(a) one nomination for each of the positions of—
   (i) Chairperson;
   (ii) Deputy Chairperson;
   (iii) Secretary;
   (iv) Deputy Secretary
   (v) Treasurer;
   (vi) Public Relations Officer; and
   (vii) three additional members,
   by any Cluster Community Police Board from
   the members of the Provincial Board referred to
   in section 8.1 of the Constitution and submitted
   in writing to the Electoral Officer at the Annual
   General Meeting, together with a signed reso-
   lution by the Cluster Community Police Board;

(b) the Electoral Officer shall prepare ballot papers
   in respect of each position with the names of the
   five (5) candidates in respect of that position
   who had received the most nominations and
   place the ballot papers before the Annual
   General Meeting on the day of the Annual
   General Meeting;

(c) in the event that it is impossible to determine
   which five candidates have the most nomina-
   tions in respect of any position, the Electoral
   Officer shall prepare the ballot paper in respect
   of such position with the names of all candi-
   dates and place the ballot paper before the
   Annual General Meeting;

(d) each member present at the Annual General
   Meeting may, having regard to the grounds of
   disqualification to hold office as a member of the
   Executive Committee contained herein, the
   Code of Conduct attached hereto and any other
   relevant consideration, scrutinise the names on
   the ballot papers and raise an objection to any
of the names appearing or not appearing on the ballot papers and request the removal, addition or substitution of any name on the ballot papers, which request must be voted on by members present at the Annual General Meeting referred to in section 8.1 of the Constitution;

12.4.2 the members of the Executive Committee are elected in the following order—

(a) Chairperson;
(b) Deputy Chairperson;
(c) Secretary;
(d) Deputy Secretary;
(e) Treasurer;
(f) Public Relations Officer; and
(g) three additional members.

12.4.3 each member present at the Annual General Meeting referred to in section 8.1 has one vote for each position;

12.4.4 after the votes are cast, the Electoral Officer must determine whether any candidate must be declared duly elected, and in the event that no candidate can be declared duly elected, further rounds of secret balloting must be held, with names of those candidates who received the least votes and whose votes when combined with each other do not exceed the number of votes obtained by the leading candidate, must be eliminated from the following round of the ballot;

12.4.5 the Electoral Officer must announce the results of each round of balloting to the Annual General Meeting before the following round commences;

12.5 The Electoral Officer must announce the final result of each position immediately after the conclusion of the vote in respect of that position.
12.6 any newly elected member of the Executive Committee takes office upon closure of the Annual General Meeting;

12.7 any outgoing member of the Executive Committee must present a handover report to the newly elected member of the Executive Committee within fifteen (15) days of the date of the Annual General Meeting;

12.8 An Executive Committee member shall cease to hold office if he or she—
   12.8.1 resigns his or her office by notice in writing to the Provincial Board;
   12.8.2 is or becomes of unsound mind;
   12.8.3 surrenders his or her estate as insolvent or his or her estate is sequestrated;
   12.8.4 is convicted of an offence which involves dishonesty;
   12.8.5 is or becomes disqualified from being appointed or acting as director of a company or as member of a close corporation;
   12.8.6 is absent from three consecutive meetings of the Executive Committee without special leave of absence given by the Chairperson, or without good reason given to the Executive Committee; or
   12.8.7 ceases to be a member of the Provincial Board.

12.9 The Executive Committee has the right to co-opt any member of the Provincial Board as a member of the Executive Committee to fill any vacancy pending the election of another Executive Committee member by the Provincial Board at a Special General Meeting.

12.10 The Provincial Board may, at a Special General Meeting, remove any Executive Committee member before the expiry of his or her term of office and elect another Executive Committee member in his or her place to hold office for the remainder of the term of office of the Executive Committee member so removed: Provided that the intention to vote upon his or her removal from office was specified in the notice convening the meeting.
13 ELECTION OF YOUTH REPRESENTATIVE

13.1 The youth representative must be elected by the Cluster Community Police Board youth desk representatives at a special meeting of the youth representatives of all Cluster Community Police Board youth desks which must be held thirty (30) days prior to an Annual General Meeting where elections of the Executive Committee will be held or within thirty (30) days of a vacancy occurring or at a special meeting contemplated in 13.9.

13.2 The MEC and Provincial Commissioner shall jointly appoint an independent person or persons to act as the Electoral Officer of the election of the youth representative at least thirty (30) days prior to the special meeting.

13.3 The department shall render any assistance required by the Electoral Officer in the execution of his or her duties, including, but not limited to the facilitation of the election processes.

13.4 The following procedure applies in respect of the election of the youth representative—

13.4.1 Nominations for the youth representative shall be made on the day of the special meeting under the direction of the Electoral Officer as follows:

(a) one nomination from each of the Cluster Community Police Boards youth desks;

(b) submitted in writing to the Electoral Officer at the special meeting;

(c) the Electoral Officer shall prepare a ballot paper with the names of the five (5) candidates who had received the most nominations and place the ballot paper before the special meeting on the day of the special meeting;

(d) in the event that it is impossible to determine which five candidates have the most nominations, the Electoral Officer shall prepare the
ballot paper with the names of all candidates and place the ballot paper before the special meeting;

(e) each member present at the special meeting may, having regard to the grounds of disqualification to hold office as the youth representative contained herein, the Code of Conduct attached hereto and any other relevant consideration, scrutinise the names on the ballot paper and raise an objection to any of the names appearing or not appearing on the ballot paper and request the removal, addition or substitution of any name on the ballot paper, which request must be voted on by all members present at the special meeting;

13.4.2 each member present at the special meeting has one vote by secret ballot;

13.4.3 after the votes are cast, the Electoral Officer must determine whether any candidate must be declared duly elected, and in the event that no candidate can be declared duly elected, further rounds of secret balloting must be held, with names of those candidates who received the least votes and whose votes when combined with each other do not exceed the number of votes obtained by the leading candidate, must be eliminated from the following round of the ballot;

13.4.4 the Electoral Officer must announce the results of each round of balloting to the special meeting before the following round commences;

13.5 The Electoral Officer must announce the final result immediately after the conclusion of the vote.

13.6 The newly elected youth representative takes office upon closure of the special meeting.
13.7 The outgoing youth representative must present a handover report to the newly elected youth representative within fifteen (15) days of the date of the special meeting.

13.8 The youth representative shall cease to hold office if he or she—

13.8.1 resigns his or her office by notice in writing to the Provincial Board;

13.8.2 is or becomes of unsound mind;

13.8.3 surrenders his or her estate as insolvent or his or her estate is sequestrated;

13.8.4 is convicted of an offence which involves dishonesty;

13.8.5 is or becomes disqualified from being appointed or acting as director of a company or as member of a close corporation;

13.8.6 is absent from three consecutive meetings of the Provincial Board without special leave of absence given by the Chairperson, or without good reason given to the Provincial Board; or

13.8.7 ceases to be a youth representative of his or her Cluster Community Police Board youth desk.

13.9 The youth representatives of the Cluster Community Police Boards may, at a special meeting called for the purpose, remove the youth representative before the expiry of his or her term of office and elect another youth representatives in his or her place to hold office for the remainder of the term of office of the youth representative so removed: Provided that the intention to vote upon his or her removal from office was specified in the notice convening the meeting.

14 TERM OF OFFICE

14.1 The term of office of elected members of the Executive Committee is five (5) years and any member may only be re-elected for one more consecutive term.
14.2 The term of office of the youth representative is five (5) years or until he or she turns 36, whichever occurs first. The youth representative may only be re-elected for one more consecutive term.

15 POWERS AND FUNCTIONS OF EXECUTIVE COMMITTEE

15.1 The Executive Committee is responsible for the management of the affairs of the Provincial Board and it has the authority to attend to any matter that could or might be attended to by the Provincial Board, except where a matter is specifically reserved in this Constitution to be dealt with by a meeting of the Provincial Board.

15.2 Without in any way limiting the powers and authority of the Executive Committee, the Executive Committee has the following powers and functions:

15.2.1 to pass any resolution or take any decision, that may be necessary or expedient in order to achieve the objectives of the Provincial Board: Provided that the Executive Committee may not pass a resolution or take a decision that is inconsistent with this Constitution, or any resolutions or decisions of a meeting of the Provincial Board passed or taken prior to the date of the resolution or decision by the Executive Committee;

15.2.2 at such intervals as the Executive Committee may require, but at least once every financial year, to cause the accounting records of the Provincial Board to be audited, by an independent auditor appointed by the Executive Committee, for compliance with Generally Accepted Accounting Practices and certified as a true reflection of the income, expenditure, assets and liabilities of the Provincial Board;

15.2.3 subject to approval at a meeting of the Provincial Board, to form sub-committees from the members of
the Provincial Board for special, general or ad hoc purposes and to delegate to any such sub-committee all or any of the powers conferred on the Executive Committee by this Constitution;

15.2.4 subject to approval at a meeting of the Provincial Board, to institute, conduct, defend, oppose, settle or abandon any legal proceedings, by or against the Provincial Board, or otherwise concerning the affairs of the Provincial Board, and to settle or allow time for payment in satisfaction of any debts or any claims or demands by or against the Provincial Board;

15.2.5 subject to approval at a meeting of the Provincial Board, to invest, re-invest and deal with any monies of the Provincial Board, not immediately required for the purposes of the Provincial Board, upon such securities and on such terms as it may deem fit, and from time to time to vary or realise such investments;

15.2.6 subject to approval at a meeting of the Provincial Board, to sell, lease, alienate or otherwise dispose of part or parts of the movable or immovable property or any right of the Provincial Board, as it may think most beneficial to the Provincial Board, and to apply the consideration arising therefrom as it may think most advantageous to the Provincial Board;

15.2.7 subject to approval at a meeting of the Provincial Board, to purchase, hire or take in exchange or otherwise acquire any movable or immovable property or rights for the Provincial Board;

15.2.8 approve any communication from the Provincial Board to the public; and

15.2.9 subject to approval at a meeting of the Provincial Board, to utilise the assets and funds of the Provincial Board for the objects of the Provincial Board, as set out in this Constitution.

15.3 The Provincial Board may at a general meeting overturn,
approve or amend any decision of the Executive Committee: Provided that no such decision by the Provincial Board will adversely affect any pre-existing right of any person or invalidate any action already taken by the Executive Committee.

16 DUTIES OF MEMBERS OF THE EXECUTIVE COMMITTEE

16.1 The Chairperson must—
16.1.1 ensure execution of all decisions of the Executive Committee;
16.1.2 preside over all meetings;
16.1.3 represent the Provincial Board at meetings, forums and events; and
16.1.4 present reports on the work of the Provincial Board at all meetings;

16.2 The Deputy Chairperson must—
16.2.1 in the Chairperson’s absence, assume all functions of the Chairperson and in the absence of both the Chairperson and the Deputy Chairperson at any meeting, the Executive Committee shall nominate one of their members to preside at such a meeting;
16.2.2 in conjunction with the Treasurer, ensure that the funds of the Provincial Board are administered in accordance with the objectives, decisions and resolutions of the Provincial Board; and
16.2.3 prepare and circulate the annual report of the activities of the Provincial Board, which must include the audited annual financial statements.

16.3 The Secretary must—
16.3.1 ensure that the minutes of all meetings, procedures and resolutions are recorded;
16.3.2 receive and dispatch all correspondence to and from the Provincial Board;
16.3.3 arrange all meetings in consultation with the Chairperson;
16.3.4 ensure the safekeeping of all official documents of the Provincial Board;
16.3.5 send out notices of meetings;
16.3.6 in consultation with the Chairperson attend to all correspondence; and
16.3.7 perform all other duties usually associated with the office of Secretary.

16.4 The Deputy Secretary must—
16.4.1 in the Secretary’s absence, assume all functions of the Secretary and in the absence of both the Secretary and the Deputy Secretary at any meeting, the Executive Committee shall nominate one of their members to act as Secretary at such a meeting;
16.4.2 assist the Secretary in the performance of his or her functions.

16.5 The Treasurer must—
16.5.1 open an account with an institution registered with the Financial Services Board in the name of the Provincial Board;
16.5.2 prepare an annual budget and fundraising strategy for the Provincial Board for approval at an Annual General Meeting;
16.5.3 manage all funds received and expenditure by the Provincial Board;
16.5.4 keep record and proof of all monies received or expended by the Provincial Board;
16.5.5 deposit all monies received by the Provincial Board in its account on the first banking day of each month;
16.5.6 prepare a quarterly income and expenditure report for submission to and approval by the Provincial Board;
16.5.7 prepare audited annual financial statements to be approved at an Annual General Meeting;
16.5.8 ensure adherence to the principles contemplated in the Public Finance Management Act, 1999 (Act 1 of 1999); and
16.5.9 account to the Executive Committee and the Provincial Board on the execution of his or her duties.

16.6 The Public Relations Officer must—
16.6.1 act as liaison between the Provincial Board and the media;
16.6.2 promote communication between the Provincial Board and communities; and
16.6.3 execute these duties in consultation with the SAPS Provincial Head: Communication Services and the Media Relations Officer of the MEC.

16.7 Additional Members has those duties allocated to them by the Chairperson.

17 MEETING PROCEDURES
17.1 Executive Committee Meetings:
17.1.1 Executive Committee Meetings must be held at least once per month.
17.1.2 Seven (7) days' notice of such meetings shall be given, except in case of an emergency.

17.2 Provincial Board Meetings:
Provincial Board meetings shall be held quarterly or whenever deemed necessary to attend to its business, provided that seven (7) days' notice of such meetings must be given.

17.3 Annual General Meeting (AGM):
17.3.1 An AGM shall be held between the 1st of February and the 30th of April of every year in order to—
(a) approve the minutes of the preceding AGM;
(b) approve the certified annual financial statements;
(c) approve the annual report of the Executive Committee;
(d) consider and deliberate on the keynote address of the Chairperson;
(e) consider and deliberate on any draft resolutions on matters pertaining to the objectives of Community Policing in the Province; and
(f) every fifth year, elect an Executive Committee.

17.3.2 Cluster Community Police Boards shall be notified of the date, time, venue and agenda of an AGM at least twenty one (21) days prior to the meeting.

17.4 Special General Meeting:

17.4.1 The Executive Committee may instruct the Secretary to convene a Special General Meeting to discuss and rule on special matters.

17.4.2 The Secretary shall, upon request from at least 25% of the members of the Provincial Board, call a Special General Meeting of all Executive Committees of the Cluster Community Police Boards to discuss and resolve issues stated clearly in writing by members requesting such a meeting.

17.4.3 Notice of a Special General Meeting shall be given to Executive Committees of Cluster Community Police Boards at least twenty one (21) days in advance.

17.5 Notices:

17.5.1 Upon becoming a member, such member must indicate to the Secretary whether notices must be transmitted by e-mail or facsimile transmission.

17.5.2 Any member is entitled from time to time by written notice to the Secretary, to vary his or her preferred means of communication.

17.5.3 The facsimile transmission report will serve as proof of transmission of any notice in terms of this Constitution sent by facsimile transmission.
17.5.4 The e-mail transmission report will serve as proof of transmission of any notice in terms of this Constitution sent by e-mail.

17.5.5 Any notice must include the date, time, venue and agenda items of the meeting.

17.5.6 The Secretary must preserve, either electronically or in hard copy, proof of notices sent to members.

17.5.7 Any notice shall be deemed to have been received, until the contrary is proved—
   (a) if sent by telefax, on the date of sending such telefax;
   (b) if sent by e-mail, on the date of sending such e-mail.

17.5.8 Section 17.5.7 shall not operate so as to invalidate the giving or receipt of any written notice, which is actually received by the addressee other than by a method referred to in this section.

17.5.9 Any notice in terms of or in connection with this Constitution shall be valid and effective only if in writing and if received or deemed to be received by the addressee.

17.5.10 No meeting is invalid solely by reason of the non-receipt by any person entitled to receive the requisite notice.

17.6 Quorum:

17.6.1 The quorum of all meetings shall be 50% of the total members, of which at least 5% must be from the SAPS, plus 1 member. In the absence of a quorum within thirty (30) minutes after the scheduled commencement time, the meeting must be postponed.

17.6.2 At least seven (7) days’ notice must be given of the date for the meeting so postponed. In the event that there is again no quorum within thirty (30) minutes of the scheduled commencement time of the meeting, the meeting must be postponed a second time.
17.6.3 At least seven (7) days' notice must be given of the date for the meeting so postponed. In the event that there is again no quorum within thirty (30) minutes of the scheduled commencement time of the meeting, it will be deemed that the meeting is quorate.

17.6.4 Meetings shall be conducted in accordance with the generally accepted principles for conducting meetings.

17.7 Minutes:
17.7.1 Minutes of all meetings must be kept and securely filed in accordance with generally accepted filing standards.
17.7.2 After the adoption of the minutes, the Secretary and the Chairperson must sign the minutes.

17.8 Voting:
17.8.1 All members, excluding co-opted members in advisory capacity, are entitled to vote at any meeting attended by them, except during election of members of the Executive Committee.
17.8.2 During the election of the members of the Executive Committee, representatives of Cluster Community Police Boards are entitled to vote.
17.8.3 Voting shall take place by way of secret ballot.
17.8.4 No voting by proxy shall be permitted and the majority of votes shall bind all members.

18 COMMUNICATION
18.1 The Provincial Board must communicate to the public at least on a quarterly basis to inform the public on the work and activities of the Provincial Board.
18.2 Communication to the public may take the form of press releases, press conferences, editorials, radio interviews, television interviews and paid or sponsored advertisements.
18.3 Only the Public Relations Officer of the Executive Committee may undertake any public communication with the
approval of the Executive Committee, the Provincial Commissioner and the MEC and no other member may communicate to the public through any means whatsoever.

18.4 Any official correspondence on behalf of the Provincial Board addressed to any person or body must be signed by either the Chairperson, or the Deputy Chairperson.

19 AMENDMENT OF CONSTITUTION

19.1 This Constitution may only be amended on a decision taken by at least sixty six percent (66%) of members of the Provincial Board at an Annual General Meeting or at a Special General Meeting, provided that particulars of proposed amendments are given in writing and circulated at least twenty one (21) days before such a meeting.

20 MANAGEMENT AND CONTROL OF FINANCIAL AFFAIRS

20.1 The funds of the Provincial Board consist of all monies received or raised by means of donations for the administration and running of the Provincial Board and its campaigns or projects.

20.2 All cheques and financial documentation requiring signature or approval on behalf of the Provincial Board must be signed jointly by the Chairperson, the Treasurer and another member of the Executive Committee designated by the Executive Committee.

20.3 Any agreement or contract to which the Provincial Board is a party or signatory must—

20.3.1 be signed by the Chairperson after obtaining the approval of the Executive Committee; and

20.3.2 contain, as a schedule to the agreement or contract, a copy of a dated resolution by the Executive Committee signed by all the members authorising the Chairperson to sign the agreement or contract in question.
21 DISPUTE RESOLUTION PROCEDURES

21.1 The objectives of the Dispute Resolution Procedures are:
   21.1.1 to resolve and manage conflict and grievances in the Provincial Board; and
   21.1.2 to address instances of unacceptable conduct by members of the Provincial Board.

21.2 The Provincial Board may decide to address misconduct, depending on the seriousness of the misconduct, in terms of this section instead of following the procedure provided for in section 24.

21.3 Disputes which cannot be resolved by the Provincial Board must be attended to by the Provincial Commissioner in conjunction with the Department.

21.4 If the dispute still remains unresolved, it must be referred to the National Commissioner.

21.5 No member may refer any dispute to a Court of Law unless all internal remedies have been exhausted.

22 DISSOLUTION

22.1 The Provincial Board may be dissolved by the Provincial Commissioner, in consultation with the MEC, at an Annual General Meeting, or at a Special General Meeting called for that purpose by the Provincial Commissioner.

22.2 Without in any way limiting the power of the Provincial Commissioner to dissolve the Provincial Board, the Provincial Commissioner may dissolve the Provincial Board if it has become grossly ineffective or in the event of a legislative of policy change which materially affects the aims, objectives, powers and functions of the Provincial Board.

22.3 In the event of the dissolution of the Provincial Board its assets will be disposed of as follows:
   22.3.1 if the reason for dissolution was the establishment of an alternative body that will continue the work of the Provincial Board, then such a body shall accede to the assets of the Provincial Board;
22.3.2 If the Provincial Board was dissolved for any other reason, the Police Service shall accede to the assets of the Provincial Board.

23 COMPLIANCE WITH TIME-FRAMES

23.1 No act carried out or decision taken in terms of this Constitution shall be invalid merely on the basis that it was carried out or taken outside of the time-frame prescribed by this Constitution.

23.2 Any act so carried out or decision so taken shall only be invalid upon a decision taken by at least sixty six percent (66%) of members of the Provincial Board at an Annual General Meeting or at a Special General Meeting, provided that—

23.1.1 particulars of the act or decision are given in writing and circulated at least twenty one (21) days before such a meeting; and

23.1.2 no such decision by the Provincial Board will retrospectively affect any right of any person.

24 CODE OF CONDUCT

24.1 All members must acquaint themselves with the code of conduct annexed hereto and must abide by its provisions.

24.2 All members must sign a copy of the code of conduct.

24.3 Any contravention of the code of conduct by a member of the Provincial Board shall constitute misconduct.

24.4 In the event of misconduct being alleged against any member of the Provincial Board, the allegation(s) must be submitted in writing together with any supporting information to the Secretary.

24.5 The Secretary must within fourteen (14) days of receipt of the allegation(s) in writing notify the member concerned of the allegation(s) and schedule a special Executive Committee meeting no sooner than five (5) days after the date of the notice and no later than thirty (30) days after the notice.
24.6 The notice must require the member concerned to appear before the Executive Committee at the special meeting to respond to the allegation.

24.7 At the special meeting the Executive Committee must consider the allegation and the response of the member concerned and make a finding.

24.8 Subject to section 21, in the event of a finding of misconduct, the member concerned loses his membership of the Provincial Board.

24.9 The former member may, within fourteen (14) days of being notified of the finding of the Executive Committee, lodge an appeal with the Provincial Board, whose decision will be final and binding.

SIGNED AT ........................ ON THE .................. DAY OF 2012
Station Commissioner

...................................................

WITNESSES

1 .........................................................
2 .........................................................

SIGNED AT ........................ ON THE .................. DAY OF 2012
Chairperson of the Provincial Board

...................................................
Annexure A

KWAZULU-NATAL PROVINCIAL COMMUNITY POLICE BOARD
CODE OF CONDUCT

Each member of the PROVINCIAL BOARD—
1 commits to the achievement of the objectives of community police forums and boards set out in section 18 of the South African Police Service Act, 1995 (Act 68 of 1995);
2 undertakes to observe and uphold the Constitution of the Provincial Board as may be amended from time to time;
3 shall, at all times—
3.1 observe and uphold the Constitution of the Republic of South Africa, the law and any national and provincial guidelines on community policing;
3.2 be guided by the needs of the community he or she represents and the needs of the Police Service;
3.3 conduct him- or herself with integrity, dignity and honesty;
3.4 endeavour to render his or her best efforts within the confines of his or her ability and available time;
3.5 strive to foster harmonious relationships with Provincial Board members and to contribute positively to further the aims and objectives of the provincial board;
3.6 avoid negative criticism of and unnecessary confrontation with fellow Provincial Board members;
3.7 give and receive advice and constructive criticism where appropriate;
3.8 accept the constitutional authority of the Executive Committee of the PROVINCIAL BOARD;
3.9 accept the majority decision of the PROVINCIAL BOARD in regard to matters put to vote;
3.10 endeavour to be punctual in our attendance of meetings of the PROVINCIAL BOARD and to remain in attendance until excused by the Chairperson or until the end of the meeting;
3.11 act only within the scope of the specific objectives of the PROVINCIAL BOARD in the performance of any actions or execution of any tasks on behalf of the PROVINCIAL BOARD;
3.12 not do or purport to do anything which may bind the PROVINCIAL BOARD for which he or she has no specific mandate or authority from the PROVINCIAL BOARD;
3.13 refrain from using the PROVINCIAL BOARD as platform for personal gain or to further or prejudice any third party interests;
3.14 refrain from discussing any information pertaining to community policing without the mandate of the PROVINCIAL BOARD, Cluster Community Police Board, CPF or Police Service at any other forum or meeting;
3.15 not wear any insignia or identification mark in respect of any political party, organisation, movement or body while attending a meeting of a community police forum, sub-forum or board;
3.16 not utilise his or her membership of a community police forum, sub-forum or board to further or prejudice party-political interests;
3.17 not interact or communicate with the media directly or indirectly without the mandate of the PROVINCIAL BOARD, Cluster Community Police Board, CPF or Police Service;
3.18 not be entitled to have access to police registers or files without the approval of the provincial—, cluster—or station commissioner concerned and may only be allowed access
to police dockets with the prior written approval of the relevant Director of Public Prosecutions; and
3.19 only use property belonging to or under the control of the Police Service with the prior written approval of the provincial—or, cluster—or station commissioner concerned.
4 accepts that, without in any way limiting the scope of the provisions of paragraphs 1 to 3 hereof, the following acts or omissions will be regarded as misconduct:
4.1 fails to comply with, or contravenes an Act, regulation or legal obligation;
4.2 wilfully or negligently mismanages the finances of the Provincial Board;
4.3 without permission possesses or wrongfully uses the property of the Provincial Board;
4.4 wilfully, intentionally or negligently damages and or causes loss of Provincial Board property;
4.5 endangers the lives of self or others by disregarding safety rules or regulations;
4.6 prejudices the administration, discipline or efficiency of the Provincial Board;
4.7 misuses his or her position on the Provincial Board to promote or to prejudice the interest of any political party;
4.8 steals, bribes or commits fraud;
4.9 accepts any compensation in cash or otherwise from a member of the public for performing her or his duties on the Provincial Board;
4.10 absents or repeatedly absents him or herself from the Provincial Board activities without reason or permission;
4.11 commits an act of sexual harassment;
4.12 discriminates against others on the basis of race, gender, disability, sexuality or other grounds outlawed by the Constitution;
4.13 performs poorly or inadequately for reasons other than incapacity;
4.14 while attending to the activities of the Provincial Board, is under the influence of an intoxicating, illegal, unauthorised, habit-forming and/or stupefying drug, including alcohol;
4.15 while attending to the activities of the Provincial Board, conducts herself or himself in an improper, disgraceful and unacceptable manner;
4.16 assaults, or attempts or threatens to assault, any person while attending to the activities of the Provincial Board;
4.17 incites others to un-procedural and unlawful conduct;
4.18 intimidates or victimises fellow members;
4.19 prevents other members from belonging to any trade union or body;
4.20 falsifies records or any other documentation;
4.21 commits a common law or statutory offence.

.............................................. ...................... ........................
Signature of member Date Place

.............................................. ...................... ........................
Signature of witness 1 Date Place

.............................................. ...................... ........................
Signature of witness 2 Date Place
MEMORANDUM OF UNDERSTANDING
by and between
THE DEPARTMENT OF COMMUNITY SAFETY
AND LIAISON
&
THE KWAZULU-NATAL PROVINCIAL
COMMUNITY POLICE BOARD

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1 DEFINITIONS

1.1 In this memorandum, unless clearly inconsistent with or otherwise indicated by the context—

1.1.1 “Constitution” means the Constitution of the KwaZulu-Natal Provincial Community Police Board;

1.1.2 “Cluster Boards” means the Community Police Boards established in respect of groups of police stations which the South African Police Service has clustered together for management purposes and which is regarded as having been established in terms of section 20 of the Act;

1.1.3 “CPF” means Community Police Forum;

1.1.4 “Department” means the KwaZulu-Natal Provincial Government in its Department of Community Safety and Liaison;

1.1.5 “memorandum” means the memorandum set out in this document and the appendices hereto;

1.1.6 “parties” means the Department and the Provincial Board and each individual shall be referred to as “the party”;

1.1.7 “Provincial Board” means the KwaZulu-Natal Provincial Community Police Board;

1.1.8 “Police Service” means the South African Police Service;

1.1.9 “the Act” means the South African Police Service Act, 1995 (Act 68 of 1995);

1.1.10 “the MEC” means the Member of the Executive Council of KwaZulu-Natal responsible for Community Safety and Liaison; and

2 PREAMBLE
NOTING that Section 12 of the Constitution of the Republic of South Africa of 1996, enshrines the right of freedom and security of the person and in this regard provides that everyone has the right to freedom and security of the person, which includes the right—

(a) not to be deprived of freedom arbitrarily or without just cause;
(b) not to be detained without trial;
(c) to be free from all forms of violence from either public or private sources;
(d) not to be tortured in any way; and
(e) not to be treated or punished in a cruel, inhuman or degrading way.

AND NOTING that section 198 of Chapter 11 of the Constitution requires national security to—

(a) reflect the resolve of South Africans, as individuals and as a nation, to live as equals, to live in peace and harmony, to be free from fear and want and to seek a better life; and
(b) be pursued in compliance with the law, including international law.

AND NOTING that section 205 of Chapter 11 of the Constitution provides that the objects of the police service are to prevent, combat and investigate crime, to maintain public order, to protect and secure the inhabitants of the Republic and their property, and to uphold and enforce the law;

AND NOTING that section 206 of Chapter 11 of the Constitution envisages each Province to promote good relations between the police and the community;

AND NOTING that Chapter 7 of the South African Police Service Act, 1995 (Act 68 of 1995), provides for the establishment of Community Police Forums and Boards through which the South African Police Service can liaise with communities with a view to promoting efficient and effective service;
AND WHEREAS Regulation 5 of the South African Police Service Interim Regulations for Community Police Forums and Boards of 2001 provides that a Constitution of a Provincial Community Police Board must be adopted by majority vote at a meeting of all the executive committees of every cluster community police board established in a province;
AND WHEREAS the members of the executive committees of the cluster community police boards of the Province of KwaZulu-Natal adopted its Constitution on 20 October 2012 and elected the members of its executive committee;
AND NOTING that section 3 of the Nonprofit Organisations Act, 1997 (Act 71 of 1997), requires, within the limits prescribed by law, every organ of state to determine and coordinate the implementation of its policies and measures in a manner designed to promote, support and enhance the capacity of nonprofit organisations to perform their functions;
AND WHEREAS the Province of KwaZulu-Natal, through its Department of Community Safety and Liaison, has been supporting the Provincial Community Police Board in accordance with its Constitutional duty to promote good relations between the community and the South African Police Service and its legislative duty to promote, support and enhance the capacity of nonprofit organisations to perform their functions;
AND WHEREAS the parties wish to regulate their relationship to enhance the efficiency and effectiveness of the Provincial Board and to promote synergy with other institutions concerned with crime prevention and law enforcement;
WHEREFORE the parties hereby enter into this memorandum of understanding to regulate the relationship between them.

3 PARTIES

3.1 The parties to this memorandum are—

3.1.1 the Department; and
3.1.2 the Provincial Board.
4 INTRODUCTION

4.1 On 20 October 2012 the Provincial Board adopted its Constitution (Annexure A) and elected the members of the Executive Committee.

4.2 The objectives of the Provincial Board are to—
   4.2.1 establish and maintain a partnership between the community and the Police Service;
   4.2.2 promote effective communication between the Police Service and the community;
   4.2.3 promote cooperation between the Police Service and the community to fulfil the needs of the community regarding policing;
   4.2.4 improve the rendering of police services to the community;
   4.2.5 improve the transparency in the Police Service and the accountability of the Police Service to the community;
   4.2.6 promote joint problem identification and problem-solving by the Police Service and the community;
   4.2.7 promote community policing in KwaZulu-Natal;
   4.2.8 support and coordinate the proper functioning of Cluster Community Police Boards and Community Police Forums in accordance with the Constitution of the Republic of South Africa of 1996, any applicable legislation and any applicable government policy; and
   4.2.9 consult with and advise the MEC and the Provincial Commissioner or their delegates with regard to all matters pertaining to community policing.

4.3 The objectives of the memorandum are to—
   4.3.1 provide for capacitation of the Provincial Board by the Department in order to enable the Provincial Board to more efficiently and effectively pursue its objectives; and
   4.3.2 provide for measures to create synergy between the
Provincial Board and the other institutions concerned with crime prevention and law enforcement at a provincial, district and local level in line with their objectives.

5 UNDERTAKINGS BY THE DEPARTMENT

5.1 The Department agrees to, subject to available financial and human resources and the provisions of the Public Finance Management Act, 1999 and a needs assessment received from the Provincial Board,—

5.1.1 facilitate training of members of the Provincial Board, which may be based on a skills audit undertaken by the Provincial Board, on relevant subjects, including, but not limited to—

(a) the powers, functions and duties of the Police Service;
(b) crime prevention;
(c) the criminal justice system;
(d) financial management;
(e) computer literacy; and
(f) administration.

5.1.2 facilitate meetings and workshops of the Provincial Board, including, but not limited to, arranging for venues, catering, transport and accommodation of representatives of the Provincial Board;

5.1.3 sponsor equipment, furniture, office space, communication facilities and stationery necessary for the administration of the Provincial Board;

5.1.4 assist the Provincial Board and its members in procuring sponsorships for their operations; and

5.1.5 provide advice and support in respect of the operation and functioning of the Provincial Board and its members.

6 UNDERTAKINGS BY THE PROVINCIAL BOARD

6.1 The Provincial Board agrees to—
6.1.1 vigorously pursue all its objectives as set out in its constitution;
6.1.2 ensure that the members of the Provincial Board adhere to the Code of Conduct contained in the constitution and take the required steps in the event of any non-adherence;
6.1.3 comply with the provisions of its constitution;
6.1.4 facilitate the adoption of constitutions by the Cluster Boards and CPFs which have substantially the same provisions as the constitution of the Provincial Board, with the necessary changes, and in accordance with Schedule 1 hereto;
6.1.5 facilitate the cooperation and interaction of the CPFs with the volunteers under the Volunteer Crime Prevention Programme of the Department;
6.1.6 facilitate the cooperation and interaction of the CPFs with Street and Village Committees, neighbourhood watches and private security service providers;
6.1.7 facilitate the cooperation and interaction of the CPFs with Ward Committees on safety related matters;
6.1.8 facilitate the cooperation and interaction of the CPFs with Local Community Safety Forums;
6.1.9 facilitate the cooperation and interaction of Cluster Boards with District Community Safety Forums;
6.1.10 cooperate and interact with any provincial crime prevention or related structure established by or with the support of the Department;
6.1.11 cooperate and facilitate the cooperation of the Cluster Boards and CPFs with projects and programmes of the Department at a local, district and provincial level;
6.1.12 coordinate and facilitate the development of community safety plans by the CPFs and Cluster Boards as required by Regulation 8 of the Regulations;
6.1.13 after consultation with the Provincial Commissioner
of the Police Service, develop a community safety plan for the Province of KwaZulu-Natal;

6.1.14 each year, before 30 June, submit its audited annual financial statements to the Department and compile and submit a report to the Department on—
(a) the achievement of its objectives;
(b) the implementation of the community safety plan;
(c) the utilisation and management of any furniture, office space, communication facilities and stationery received in terms of the memorandum together with supporting documentation; and
(d) any other aspect required by the Department.

6.1.15 at the Department’s written request, allow the Department or its agent or the Auditor-General to inspect and copy any document, record, book of account or bank statement relating to the utilisation any sponsorship in terms of the memorandum;

6.1.16 cooperate fully with any financial audit procedure of the Department or its agent or the Auditor-General and shall furnish any document, record, book of account or bank statement on written request;

6.1.17 alert the Department and the Police Service of any member of a CPF who is or becomes engaged in criminal conduct or potentially criminal conduct and cooperate with the Police Service in enforcing the law in respect of such member or representative.

7 DISPUTE RESOLUTION PROCEDURES

7.1 The objectives of the Dispute Resolution Procedures are:

7.1.1 to resolve and manage conflict between the parties;

7.1.2 to resolve and manage grievances of the parties; and

7.1.3 to address instances of unacceptable conduct by the parties or their members.
7.2 Any conflict, grievance or unacceptable conduct must immediately be reported to the leadership of the parties.

7.3 The parties must immediately engage each other peacefully on a neutral platform and take all reasonable steps to resolve the matter.

7.4 If the matter still remains unresolved, it must be referred to the MEC for a final decision on the matter.

8 IMPLEMENTATION AND GOOD FAITH

8.1 The parties undertake to do all such things, perform all such acts and take all steps to procure the doing of all such things and the performance of all such acts, as may be necessary or incidental to give or conducive to the giving of effect to the terms, conditions and import of this memorandum.

8.2 The parties shall at all times during the continuance of this memorandum observe the principles of good faith towards one another in the performance of their obligations in terms of this memorandum.

9 DURATION

9.1 Notwithstanding the date of signature hereto, this memorandum shall commence on 1 December 2012 and remain valid until 31 March 2014.

10 SIGNATURES

10.1 The Department is herein represented by Mr RV Bhengu in his capacity as Head of Department, he being duly authorised thereto; and

10.2 The Provincial Board is herein represented by Mr D Mntambo in his capacity as Chairperson, he being duly authorised thereto.

SIGNED AT ............... ON THE ................. DAY OF 20 ...........
SCHEDULE 1
Mandatory provisions for constitutions
(Regulation 7 of the Regulations)

(a) the name of the forum, sub-forum or board;
(b) the aims and objectives of the forum, sub-forum or board, which must at least contain the objects set out in section 18 of this Act;
(c) a code of conduct for members of the forum, sub-forum or board;
(d) the membership requirements which may not be such that they have the effect of unfairly discriminating against any member of the community on any ground;
(e) the composition, powers and functions of the executive committee of the forum, sub-forum or board which must provide that it shall at least consist of the chairperson, the vice-chairperson, a secretary and a person responsible to manage the financial affairs of the forum, sub-forum or board;
(f) the election procedures for members of the executive committee;
(g) the terms of office of members of the executive committee;
(h) basic meeting procedures, including—
   (i) what would constitute a quorum at a meeting;
   (ii) how voting must take place at meetings;
(iii) that minutes of all meetings of the forum, sub-forum or board including meetings of its executive committee must be kept; and
(iv) how notice of meetings (including regular—, special—, and annual general meetings) must be given to members,
(i) how the forum, sub-forum or board will communicate with its members and the community concerned;
(j) the procedure for amending the constitution;
(k) the management and control of the financial affairs of the forum, sub-forum or board;
(l) dispute resolution procedures; and
(m) the procedure for the dissolution of the forum, sub-forum or board.
TEMPLATE CONSTITUTION FOR COMMUNITY CRIME PREVENTION ASSOCIATION

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1 PREAMBLE
NOTING that Section 12 of the Constitution of the Republic of South Africa of 1996, enshrines the right of freedom and security of the person and in this regard provides that everyone has the right to freedom and security of the person, which includes the right—

(a) not to be deprived of freedom arbitrarily or without just cause;
(b) not to be detained without trial;
(c) to be free from all forms of violence from either public or private sources;
(d) not to be tortured in any way; and
(e) not to be treated or punished in a cruel, inhuman or degrading way.

AND NOTING that section 198 of Chapter 11 of the Constitution requires national security to—

(a) reflect the resolve of South Africans, as individuals and as a nation, to live as equals, to live in peace and harmony, to be free from fear and want and to seek a better life; and

(b) be pursued in compliance with the law, including international law.

AND NOTING that section 205 of Chapter 11 of the Constitution provides that the objects of the police service are to prevent, combat and investigate crime, to maintain public order, to protect and secure the inhabitants of the Republic and their property, and to uphold and enforce the law;
AND NOTING that section 206 of Chapter 11 of the Constitution envisages each Province to promote good relations between the police and the community;

AND NOTING that Chapter 7 of the South African Police Service Act, 1995 (Act 68 of 1995), provides for the establishment of Community Police Forums and Boards through which the South African Police Service can liaise with communities with a view to promoting efficient and effective service;

AND NOTING that Chapter 7 of the South African Police Service Act, 1995 provides further that the South African Police Service may liaise with the community by means other than through community police forums and boards;

AND RECOGNISING that community participation and involvement are critical to fighting the scourge of crime;

AND NOTING that Section 18 of the Constitution provides that everyone has the right to freedom of association;

AND WHEREAS members of civil society organisations involved in crime prevention programmes have formed the KZNCCPA in pursuance of the objective of contributing to crime prevention and crime reduction programmes at a provincial, district and local level;

AND WHEREAS the members of the KZNCCPA adopted the KZNCCPA Constitution on 13 November 2012 and elected the members of its executive committee;

AND NOTING that section 3 of the Nonprofit Organisations Act, 1997 (Act 71 of 1997), requires, within the limits prescribed by law, every organ of state to determine and coordinate the implementation of its policies and measures in a manner designed to promote, support and enhance the capacity of nonprofit organisations to perform their functions;

AND WHEREAS the Province of KwaZulu-Natal, through its Department of Community Safety & Liaison, is assisting members of civil society organisations involved in crime prevention programmes to organise themselves into voluntary associations, in accordance with its Constitutional duty to promote good relations between the community and the South
African Police Service and its legislative duty to promote, support and enhance the capacity of nonprofit organisations to perform their functions; 
WHEREFORE we as members of .................................. hereby adopt this Constitution for the .................................. Community Crime Prevention Association.

2 INTERPRETATION

2.1 In this Constitution, unless clearly inconsistent with or otherwise indicated by the context—

2.1.1 “Constitution” means the Constitution of the .................................. Community Crime Prevention Association as set out in this document and the appendices hereto;

2.1.2 “CPF” means Community Police Forum;

2.1.3 “Department” means the Department of Community Safety and Liaison;

2.1.4 “MEC” means the Member of the Executive Council of KwaZulu-Natal responsible for Community Safety and Liaison;

2.1.5 “Police Service” means the South African Police Service;

2.1.6 “the Act” means the South African Police Service Act, 1995 (Act 68 of 1995);

2.1.7 “the Association” means the .................................. Community Crime Prevention Association referred to in section 3 of the Constitution;

2.1.8 “the KZNCCPA” means the KwaZulu-Natal Community Crime Prevention Association established on 13 November 2012 as the umbrella body for voluntary community crime prevention associations in the Province of KwaZulu-Natal.

2.2 Any reference in this Constitution to legislation or subordinate legislation is to such legislation or subordinate legislation at the date of adoption hereof and as amended or re-enacted from time to time.
2.3 Words importing the singular shall include the plural, and vice versa, words importing the masculine gender shall include the feminine and neuter genders, and vice versa, and words importing natural persons shall include legal persons, and vice versa.

2.4 If any provision in the definition clause is a substantive provision conferring rights or imposing obligations on a party, then notwithstanding that such provision is contained in this clause, effect must be given thereto as if such provision were a substantive provision in the body of the Constitution.

2.5 When any number of days are prescribed in this Constitution, same must be reckoned exclusively of the first and inclusively of the last calendar day.

3 NAME OF ASSOCIATION
The name of the voluntary association established by this Constitution is the ....................... Community Crime Prevention Association and its shortened name is .....................................

4 LEGAL NATURE AND INDEMNITY
4.1 The Association is a juristic person and a non-profit making organisation which, notwithstanding any change of its members or management, will exist as a voluntary organisation with legal personality and which independently of its members may own assets, incur losses and liabilities and may institute or defend any legal proceedings in its own name.

4.2 All immovable property or registerable rights obtained by the Association must be registered in the name of the Association and members or office-bearers have no rights in the property or other assets of the Association solely by virtue of their being members or office-bearers.

4.3 All members, including members of the Executive Committee, are—

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4.3.1 indemnified by the Association against all proceedings, costs and expenses incurred by reason of any act, omission or incident during the performance of their duties on behalf of the Association, unless they have acted with gross negligence or in a manner that constitutes willful misconduct; and

4.3.2 not personally liable for any liabilities of the Association.

5 AIMS AND OBJECTIVES
The aims and objectives of the Association are to—

5.1 coordinate and manage crime prevention activities and campaigns.

5.2 coordinate and manage skills development, training and mentorship of its members in respect of crime prevention and civic responsibility.

5.3 engage government, both provincial and municipal, around socio-economic solutions such as skills training, job creation, education, health and community development initiatives to ensure a long-term paradigm shift within the community in order to fight the challenges of crime from within.

5.4 encourage social networking in the fight against crime.

5.5 promote broad public participation in government initiatives to fight crime.

5.6 foster partnerships with—

5.6.1 the Police Service;

5.6.2 other community crime prevention associations;

5.6.3 other civil society organisations; and

5.6.4 business.

5.7 coordinate and manage street, village, voting district and hot-spot patrols by its members.

5.8 receive reports from their constituents and other community members on suspected criminal and criminal incidents.
5.9 coordinate the management of criminal or suspected criminal incidents encountered by its members whilst on street, village, voting district and hot-spot patrols.

5.10 coordinate and manage the interaction of its members with the Police Service for purposes of managing incidents and providing crime intelligence, including, but not limited to,—

5.10.1 ensuring that its members keep the Police Service and CPFs informed of its scheduled patrols by members' constituents and other community members;

5.10.2 ensuring that reports from their members and other community members on suspected criminal and criminal incidents are brought under the attention of the Police Service and the CPFs;

5.10.3 ensuring that criminal or suspected criminal incidents are managed in accordance with the guidelines attached as Annexure A.

5.11 coordinate and manage the participation of its members in CPF meetings for purposes of communicating and assisting in solving Police Service challenges at a local level.

5.12 coordinate and facilitate input from its members in the development of community safety plans by the CPFs; and

5.13 mobilise resources to address the current challenges of ...............................................

6 COMPOSITION AND STRUCTURE of association

6.1 The Association is composed of individuals and non-governmental organisations that are resident or operational in the areas where the Association operates who wish to volunteer their skills and resources in pursuance of the aims and objectives of the Association.

7 MEMBERSHIP REQUIREMENTS

7.1 Any person or non-governmental organisation who resides or operates in the areas where the Association is
7.2 A person or organisation mentioned in 7.1 must apply to the Executive Committee for registration as a member by supplying his/her/its full names, identity or registration number, contact details and residential or business address.

7.3 Application for membership may be refused by the Association on good cause shown taking into account the principles enshrined in the Code of Conduct.

7.4 The members of the Association must be recorded in a register reflecting the details referred to in 7.2.

7.5 Members of the Association shall render their services on a voluntary basis and shall have no claim to compensation solely for services rendered to the Association.

7.6 The Association may, whenever it deems it necessary, co-opt other residents of the area within which it operates, experts or community leaders to the Association in a voluntary, advisory, non-voting capacity, including, but not limited to—

7.6.1 representatives of political parties;
7.6.2 representatives of employee organisations;
7.6.3 traditional leaders;
7.6.4 religious leaders;
7.6.5 representatives of business;
7.6.6 representatives of other community crime prevention associations; and
7.6.7 residents from surrounding wards.

7.7 The Association is a non-political entity and no member of the Association may—

7.7.1 wear any insignia or identification mark in respect of any political party, organisation, movement or body while attending a meeting of the Association; or
7.7.2 utilise his or her membership of the Association to further or prejudice party-political interests.

8 COMPOSITION OF EXECUTIVE COMMITTEE

8.1 The Executive Committee of the Association consists of—

8.1.1 Chairperson;
8.1.2 Deputy-Chairperson;
8.1.3 Secretary;
8.1.4 Treasurer;
8.1.5 Public Relations Officer; and
8.1.6 ten additional members.

8.2 The term of office of elected members of the Executive Committee is 5 years and any member may only be re-elected for one more consecutive term.

8.3 The members of the Executive Committee must be at least 18 years of age and must be elected at an Annual General Meeting of the Association.

8.4 The MEC or his or her delegate must appoint an independent person to act as the Electoral Officer of the election of the Executive Committee at least 30 days prior to the Annual General Meeting.

8.5 The Department must render any assistance required by the Electoral Officer in the execution of his or her duties, including, but not limited to the facilitation of the election processes.

8.6 The following procedure applies in respect of the election of the Executive Committee—

8.6.1 Nominations for the members of the Executive Committee shall be made as follows:

(a) one nomination for each of the positions of—
   (i) Chairperson;
   (ii) Deputy-Chairperson;
   (iii) Secretary;


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(iv) Treasurer;
(v) Public Relations Officer; and
(vi) ten additional members,
by a member of the Association and submitted in writing to the Electoral Officer at least fourteen (14) days prior to the Annual General Meeting;
(b) the Electoral Officer must prepare ballot papers in respect of each position with the names of the five (5) candidates in respect of that position who had received the most nominations and place the ballot papers before the Annual General Meeting;
(c) in the event that it is impossible to determine which five candidates have the most nominations in respect of any position, the Electoral Officer must prepare the ballot paper in respect of such position with the names of all candidates and place the ballot paper before the Annual General Meeting;
(d) each member present at the Annual General Meeting may, having regard to the grounds of disqualification to hold office as a member of the Executive Committee contained herein, the Code of Conduct attached hereto and any other relevant consideration, scrutinise the names on the ballot papers and raise an objection to any of the names appearing or not appearing on the ballot papers and request the removal, addition or substitution of any name on the ballot papers, which request must be voted on by all members present at the Annual General Meeting.

8.6.2 the members of the Executive Committee are elected in the following order—
(a) Chairperson;
(b) Deputy-Chairperson;
8.6.3 each member present at the Annual General Meeting has one vote for each position;

8.6.4 after the votes are cast, the Electoral Officer must determine whether any candidate must be declared duly elected, and in the event that no candidate can be declared duly elected, further rounds of secret balloting must be held, with names of those candidates who received the least votes and whose votes when combined with each other do not exceed the number of votes obtained by the leading candidate, must be eliminated from the following round of the ballot;

8.6.5 the Electoral Officer must announce the results of each round of balloting to the Annual General Meeting before the following round commences.

8.7 The Electoral Officer must announce the final result of each position immediately after the conclusion of the vote in respect of that position.

8.8 Any newly elected member of the Executive Committee takes office upon being declared successfully elected by the Electoral Officer.

8.9 Any outgoing member of the Executive Committee must present a handover report to the newly elected member of the Executive Committee within ten (10) days of the date of the Annual General Meeting.

8.10 An Executive Committee member shall cease to hold office if he or she—

8.10.1 resigns his or her office by notice in writing to the Association;

8.10.2 is or becomes of unsound mind;
8.10.3 is convicted of any criminal offence, including any conviction in respect of an offence involving dishonesty;
8.10.4 is absent from three consecutive meetings of the Executive Committee without special leave of absence given by the Chairperson, or without good reason given to the Executive Committee; or
8.10.5 ceases to be a member of the Association.

8.11 The Executive Committee has the right to co-opt any member of the Association as a member of the Executive Committee to fill any vacancy pending the election of another Executive Committee member by the Association at a Special General Meeting.

8.12 The Association may, at a Special General Meeting, remove any Executive Committee member before the expiry of his or her term of office and elect another Executive Committee member in his or her place to hold office for the remainder of the term of office of the Executive Committee member so removed: Provided that the intention to vote upon his or her removal from office was specified in the notice convening the meeting.

9 POWERS AND FUNCTIONS OF EXECUTIVE COMMITTEE

9.1 The Executive Committee is responsible for the management of the affairs of the Association and it has the authority to attend to any matter that could or might be attended to by the Association, except where a matter is specifically reserved in this Constitution to be dealt with by a general meeting of members.

9.2 Without in any way limiting the powers and authority of the Executive Committee, the Executive Committee has the following powers and functions:
9.2.1 to pass any resolution or take any decision, that may be necessary or expedient in order to achieve the objectives of the Association: Provided that the
Executive Committee may not pass a resolution or take a decision that is inconsistent with this Constitution, or any resolutions or decisions of a general meeting of the Association passed or taken prior to the date of the resolution or decision by the Executive Committee;

9.2.2 to form or appoint sub-committees from the representatives of members of the Association for special or general purposes, including, but not limited to a sub-committee for the youth, and to delegate to any such sub-committee all or any of the powers conferred on the Executive Committee by this Constitution;

9.2.3 at such intervals as the Executive Committee may require, but at least once every financial year, to cause the accounting records of the Association to be audited, by an independent auditor appointed by the Executive Committee, for compliance with Generally Accepted Accounting Practices and certified as a true reflection of the income, expenditure, assets and liabilities of the Association;

9.2.4 to institute, conduct, defend, oppose, settle or abandon any legal proceedings, by or against the Association, or otherwise concerning the affairs of the Association, and to settle or allow time for payment in satisfaction of any debts or any claims or demands by or against the Association;

9.2.5 to invest, re-invest and deal with any monies of the Association, not immediately required for the purposes of the Association, upon such securities and on such terms as it may deem fit, and from time to time to vary or realise such investments;

9.2.6 to sell, lease, alienate or otherwise dispose of part or parts of the movable or immovable property or any right of the Association, as it may think most beneficial to the Association, and to apply the
9.2.7 to purchase, hire or take in exchange or otherwise acquire any movable or immovable property or rights for the Association;
9.2.8 approve any communication from the Association to the public; and
9.2.9 to utilise the assets and funds of the Association for the objects of the Association, as set out in this Constitution.

9.3 The Association may at a general meeting overturn, approve or amend any decision of the Executive Committee: Provided that no such decision by the Association will adversely affect any pre-existing right of any person or invalidate any action already taken by the Executive Committee.

10 DUTIES OF members of the executive committee

10.1 The Chairperson must—
10.1.1 ensure execution of all decisions of the Executive Committee;
10.1.2 preside over all meetings;
10.1.3 represent the Association at meetings, forums and events;
10.1.4 in conjunction with the Treasurer, ensure that the funds of the Association are administered in accordance with the objectives, decisions and resolutions of the Association;
10.1.5 prepare and circulate the annual report of the activities of the Association, which must include the audited annual financial statements;
10.1.6 present reports on the work of the Association at all meetings; and
10.1.7 prepare the keynote address for the Annual General Meeting, which must include, but is not limited to, a summary of developments during the reporting period.

10.2 The Deputy-Chairperson must—

10.2.1 in the Chairperson’s absence, assume all functions of the Chairperson and in the absence of both the Chairperson and the Vice-Chairperson at any meeting, the Executive Committee must nominate one of their members to preside at such a meeting; and

10.2.2 assist the Chairperson in the execution of his or her functions.

10.3 The Secretary must—

10.3.1 ensure that the minutes of all meetings and procedures are recorded and resolutions are implemented;

10.3.2 receive and dispatch all correspondence to and from the Association;

10.3.3 arrange all meetings in consultation with the Chairperson;

10.3.4 ensure the safekeeping of all official documents of the Association;

10.3.5 send out notices of meetings;

10.3.6 in consultation with the Chairperson attend to all correspondence; and

10.3.7 perform all other duties usually associated with the office of Secretary.

10.4 The Treasurer must—

10.4.1 open an account with an institution registered with the Financial Services Board in the name of the Association;

10.4.2 prepare an annual budget and fundraising strategy for the Association for approval at an Annual General Meeting;
10.4.3 manage all funds received and expenditure by the Association;
10.4.4 keep record and proof of income, expenditure, assets and liabilities of the Association;
10.4.5 deposit all monies received by the Association in its account within three (3) days of receipt;
10.4.6 within six (6) months after the end of the financial year, draw up annual financial statements to be approved at an Annual General Meeting, which must include at least—
   (a) a statement of income and expenditure for that financial year; and
   (b) a balance sheet showing its assets, liabilities and financial position as at the end of that financial year.
10.4.7 within two (2) months after drawing up its financial statements, arrange for a written report compiled by an accounting officer and tabled at an Annual General Meeting stating whether or not—
   (a) the financial statements of the Association are consistent with its accounting records;
   (b) the accounting policies of the Association are appropriate and have been appropriately applied in the preparation of the financial statements; and
   (c) the Association has complied with the provisions of this Act and of its constitution which relate to financial matters.
10.4.8 account to the Executive Committee and the Association on the execution of his or her duties.
10.6 The Public Relations Officer must—
10.6.1 act as liaison between the Association and the media;
10.6.2 promote communication between the Association and communities; and
10.6.3 execute these duties after consultation with relevant stakeholders.

10.7 Additional Members have those duties allocated to them by the Chairperson.

11 PARTICIPATION IN THE DISTRICT AND LOCAL COORDINATING COMMITTEES OF THE KZNCCPA

11.1 The Association must designate a representative to serve on the district coordinating committee of the KZNCCPA for the district or metropolitan municipal area wherein it is operational and in writing inform the Executive Committee of the KZNCCPA of its designation.

11.2 The Association must designate a representative to serve on the local coordinating committee of the KZNCCPA for the local municipal area wherein it is operational and in writing inform the Executive Committee of the KZNCCPA of its designation.

11.3 The disqualifications to hold office in 8.10 apply mutatis mutandis to representatives on the District and Local Coordinating Committees.

12 REPRESENTATION ON KZNCCPA

12.1 Subject to section 12.2, the Chairperson of the Executive Committee and such other members of the Executive Committee designated by the Executive Committee, if required by the KZNCCPA, represent the Association on the KZNCCPA.

12.2 In the event that it is deemed desirable by the Executive Committee, the Association may elect a member of the Executive Committee at an Annual General Meeting or a Special General Meeting called for the purpose to represent it on the KZNCCPA instead of the Chairperson for a period determined by the Association at the meeting.

12.3 The Association may, at the Annual General Meeting or a Special General Meeting called for the purpose, remove
the representative before the expiry of his or her term of office and elect another representative in his or her place to hold office for the remainder of the term of office of the representative so removed: Provided that the intention to vote upon his or her removal from office was specified in the notice convening the meeting.

12.4 The person(s) representing the Association on the KZNCCPA in terms of this section must submit reports on the deliberations at Association meetings and the activities of the KZNCCPA at each Executive Committee and Association meeting.

12.5 The person(s) representing the Association on the KZNCCPA in terms of this section must obtain a mandate at a meeting of the Association in respect of every matter which must be decided upon by Association members through consensus or voting.

13 NOMINATIONS FOR KZNCCPA EXECUTIVE COMMITTEE

13.1 The Association must, at the Annual General Meeting preceding the date of the election of the KZNCCPA Executive Committee, or a Special General Meeting called for the purpose, decide on the nominee(s) for the member(s) of the Executive Committee of the KZNCCPA to be elected.

13.2 A resolution recording the nominee(s) decided upon must be signed by the Chairperson and the Secretary of the meeting.

14 MEETING PROCEDURES

14.1 Executive Committee Meetings:
   14.1.1 Executive Committee meetings must be held twice per month;
   14.1.2 Seven (7) days' notice of such meetings must be given, except in case of an emergency.
14.2 Association General Meetings:
Association General Meetings, other than Annual General Meetings and Special General Meetings, must be held quarterly or whenever deemed necessary to attend to its business, provided that seven (7) days' notice of such meetings must be given.

14.3 Annual General Meeting (AGM):
14.3.1 An AGM must be held between the 1st of December and the end of February of every year in order to—
   (a) approve the minutes of the preceding AGM;
   (b) approve the certified annual financial statements;
   (c) approve the annual report of the Executive Committee;
   (d) consider and deliberate on the keynote address of the Chairperson;
   (e) consider and deliberate any draft resolutions on matters pertaining to the objectives of community crime prevention in .........................; and
   (f) every fifth year, elect an Executive Committee.

14.3.2 Residents, members of business and members of civil society organisations of the ......................... area must be notified of the date, time, venue and agenda of an AGM at least twenty one (21) days prior to the meeting.

14.4 Special General Meeting:
14.4.1 The Executive Committee may instruct the Secretary to convene a Special General Meeting to discuss and rule on special matters:

14.4.2 The Secretary must, upon request from at least 25% of the members of the Association, call a Special General Meeting of members to discuss and resolve issues stated clearly in writing by members requesting such a meeting;

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14.4.3 Members must be notified of the date, time, venue and agenda of a Special General Meeting at least twenty one (21) days prior to the meeting.

14.5 Notices:
14.5.1 Upon becoming a member, the member must indicate to the Secretary whether notices must be transmitted by short message service (sms), e-mail or facsimile transmission;
14.5.2 Any member is entitled from time to time by written notice to the Secretary, to vary his or her preferred means of communication;
14.5.3 The sms transmission report will serve as proof of transmission of any notice in terms of this Constitution sent by facsimile transmission;
14.5.4 The facsimile transmission report will serve as proof of transmission of any notice in terms of this Constitution sent by facsimile transmission;
14.5.5 The e-mail transmission report will serve as proof of transmission of any notice in terms of this Constitution sent by e-mail;
14.5.6 Any notice must include the date, time, venue and agenda items of the meeting;
14.5.7 The Secretary must preserve, either electronically or in hard copy, proof of notices sent to members;
14.5.8 Any notice shall be deemed to have been received, until the contrary is proved—
   (a) if sent by sms, on the date of sending such sms;
   (b) if sent by telefax, on the date of sending such telefax;
   (c) if sent by e-mail, on the date of sending such e-mail.
14.5.9 Section 14.5.7 shall not operate so as to invalidate the furnishing or receipt of any written notice, which is actually received by the addressee other than by a method referred to in this section;
14.5.10 Any notice in terms of or in connection with this Constitution shall be valid and effective only if in writing and if received or deemed to be received by the addressee;

14.5.11 No meeting is invalid solely by reason of the non-receipt by any person entitled to receive the requisite notice.

14.6 Quorum:
14.6.1 The quorum of all meetings shall be 50% plus 1 of the total members;
14.6.2 Meetings must be conducted in accordance with the generally accepted principles for conducting meetings.

14.7 Minutes:
14.7.1 Minutes of all meetings must be kept and securely filed in accordance with generally accepted filing standards;
14.7.2 After the adoption of the minutes, the Secretary and the Chairperson must sign the minutes.

14.8 Voting:
14.8.1 All members, except the Chairperson of the meeting, are entitled to vote at any meeting attended by them on any matter put to the vote;
14.8.2 In the event of a deadlock, the Chairperson, after affording members a final opportunity to deliberate on the matter concerned, must put the matter to a second vote and if the deadlock persists, the Chairperson shall have a casting vote;
14.8.3 (Option 1: “Voting shall take place by show of hands”); (option 2: “Voting shall take place by show of hands except in the case of elections of the Executive Committee, in which case voting would take place by secret ballot”); (option 3: “Voting shall take place by show of hands except in the case of elections of the Executive Committee, in which case voting would take place by open ballot”);
14.8.4 No voting by proxy is permitted and the majority of votes binds all members.

15 COMMUNICATION
15.1 The Association must communicate to the public of ........... at least on a quarterly basis to inform the public of ............... on the work and activities of the Association.
15.2 Communication to the public may take the form of press releases, press conferences, editorials, radio interviews, television interviews and paid or sponsored advertisements.
15.3 Only the Public Relations Officer of the Executive Committee may undertake any public communication with the approval of the Executive Committee and no other member may communicate to the public through any means whatsoever.
15.4 Any official correspondence on behalf of the Association addressed to any person or body must be signed by the Secretary.

16 AMENDMENT OF CONSTITUTION
16.1 This Constitution may only be amended on a decision taken by at least sixty six percent (66%) of members of the Association at an Annual General Meeting or at a Special General Meeting, provided that particulars of proposed amendments are given in writing and circulated at least twenty one (21) days before such a meeting.
16.2 A copy of any amendment to the Constitution must be submitted to the Commissioner of the South African Revenue Service within thirty (30) days of the amendment.

17 MANAGEMENT AND CONTROL OF FINANCIAL AFFAIRS
17.1 The financial year of the Association is from 1 April to 31 March.
17.2 The funds of the Association consist of all monies received or raised by means of donations or any other source, which must be deposited into the bank account referred to in 10.4.1 through which all the Association’s financial transactions must be conducted.

17.3 The Association is prohibited from directly or indirectly distributing any of its funds to any person (otherwise than in the course of undertaking any public benefit activity) and is required to utilise its funds solely for the object for which it has been established.

17.4 Any donation received by the Association must be utilised for the purpose of the donation and in accordance with any conditions attached to the donation.

17.5 The Association is prohibited from accepting any donation which is revocable at the instance of the donor for reasons other than a material failure to conform to the designated purposes and conditions of such donation, including any misrepresentation with regard to the tax deductibility thereof in terms of section 18A of the Income Tax Act, 1962 (Act 58 of 1962): Provided that a donor (other than a donor which is an approved public benefit organisation or an institution board or body which is exempt from tax in terms of section 10(1)(cA)(i) of the Income Tax Act, 1962, which has as its sole or principal object the carrying on of any public benefit activity) may not impose conditions which could enable such donor or any connected person in relation to such donor to derive some direct or indirect benefit from the application of such donation.

17.6 The Association may not pay any remuneration to any employee, office bearer, member or other person which is excessive, having regard to what is generally considered reasonable in the sector and in relation to the service rendered and has not and will not economically benefit any person in a manner which is not consistent with its objects.
17.7 All members of the Executive Committee are responsible in a fiduciary capacity for the funds and assets of the Association.

17.8 All cheques and financial documentation requiring signature or approval on behalf of the Association must be signed by the Chairperson, the Treasurer and one other member of the Executive Committee.

17.9 The Executive Committee may, in the absence of the Chairperson and the Treasurer, designate two other members of the Executive Committee to sign cheques and financial documentation requiring signature or approval on behalf of the Association.

17.10 Any agreement or contract to which the Association is a party or signatory must—

17.10.1 be signed by the Chairperson after obtaining the approval of the Executive Committee; and

17.10.2 contain, as a schedule to the agreement or contract, a copy of a dated resolution by the Executive Committee signed by all the members authorising the Chairperson to sign the agreement or contract in question.

17.11 All financial records must be retained and carefully preserved for a period of four years after completion of the transactions, acts or operations to which they relate.

18 DISPUTE RESOLUTION PROCEDURES

18.1 The objectives of the Dispute Resolution Procedures are:

18.1.1 to resolve and manage conflict and grievances in the Association; and

18.1.2 to address instances of unacceptable conduct by members of the Association or their representatives.

18.2 The Association may elect to address unacceptable behavior, depending on the seriousness of the behavior, in terms of this section.
18.3 Disputes which cannot be resolved by the Association must be attended to by the local and district committees of the KZNCCPA.

18.4 If the dispute still remains unresolved, it must be referred to the KZNCCPA.

19 DISSOLUTION

19.1 The Association may be dissolved at an Annual General Meeting, or at a Special General Meeting called for that purpose.

19.2 In the event of the dissolution of the Association its assets will be disposed of as follows:

19.2.1 if the reason for dissolution was the establishment of an alternative body that will continue the work of the Association, then such a body shall accede to the assets of the Association; or

19.2.2 if the Association was dissolved for any other reason, the donors of the funds or assets shall accede to the funds or assets of the Association.

20 COMPLIANCE WITH TIME-FRAMES

20.1 No act carried out or decision taken in terms of this Constitution shall be invalid merely on the basis that it was carried out or taken outside of the time-frame prescribed by this Constitution.

20.2 Any act so carried out or decision so taken shall only be invalid upon a decision taken by at least sixty six percent (66%) of members of the Association at an Annual General Meeting or at a Special General Meeting, provided that—

20.2.1 particulars of the act or decision are given in writing and circulated at least twenty one (21) days before such a meeting; and

20.2.2 no such decision by the Association will retrospectively affect any right of any person.
21  CODE OF CONDUCT

21.1 All members and their representatives must acquaint themselves with the code of conduct annexed hereto and must abide by its provisions.

21.2 All members and their representatives must sign a copy of the code of conduct.

21.3 Any contravention of the code of conduct by a member of the Association or its representative constitutes misconduct.

21.4 In the event of misconduct being alleged against any member of the Association or its representative, the allegation(s) must be submitted in writing, together with any supporting information, to the Secretary.

21.5 The Secretary must, within fourteen (14) days of receipt of the allegation(s), in writing notify the member or its representative concerned of the allegation(s) and schedule a special Executive Committee meeting no sooner than five (5) days after the date of the notice, and no later than thirty (30) days after the notice.

21.6 The notice must require the member or its representative concerned to appear before the Executive Committee at the special meeting to respond to the allegation.

21.7 At the special meeting the Executive Committee must consider the allegation and the response of the member or its representative concerned and make a finding.

21.8 In the event of a finding of misconduct, the member concerned loses his membership of the Association or the representative loses its representation of the member.

21.9 The former member or representative may, within fourteen (14) days of being notified of the finding of the Executive Committee, lodge an appeal with the Association, whose decision will be final and binding.

SIGNED AT ....................... ON THE .................. DAY OF 2013.
GUIDELINES ON DEALING WITH CRIMES COMMITTED IN THE PRESENCE OF A PRIVATE PERSON

1 INTRODUCTION
Private persons, especially members of community crime prevention associations and members of the private security industry, through the nature of their activities are exposed to crimes being committed in their presence. This may happen at times when members of the South African Police Service either are present or when they are not.

The law of South Africa provides how to manage such incidents when they occur. This document provides a set of guidelines to private persons based on the provisions of our law.

2 DUTY TO ASSIST THE POLICE
2.1 When a person commits or tries to commit a crime and a police official pursues such a person to arrest and detain him or her, a person in the vicinity of the police official may be called upon to provide assistance.

2.2 Section 47 of the Criminal Procedure Act of 1977 (Act 51 of 1977 and hereinafter referred to as “the Act”), provides for private persons to assist in arrest when called upon and it determines that—
2.2.1 every male inhabitant of the Republic between sixteen and sixty years old must, when requested by any police official to do so, assist such police official—
   (a) in arresting any person;
   (b) in detaining any person so arrested.

2.2.2 any person who, without good reason, fails to assist a police official, will be guilty of an offence.

3 PRIVATE ARREST

3.1 When a person commits or tries to commit a serious crime in the presence of another person, such as murder, rape, robbery, kidnapping or theft, and there is a police official nearby, the person must immediately alert the police official of the situation.

3.2 If there is no police official nearby, the person must immediately phone the police and provide details of the situation and await the arrival of the police if it is indeed safe to do so.

3.3 If the person does not have access to a phone, the nearest by-stander must be requested to call the police.

3.4 In the event that the person is unable to reach the police for whatever reason, any private security company operating in the area may be called.

3.5 As many family members, friends, work colleagues and other members of the crime prevention association or private security company as possible should also be informed.

3.6 Any change in the situation, such as the suspect leaving the scene of the crime, must be reported telephonically to the police.

3.7 In the event that the police is unable to arrive at the scene in time to arrest the suspect to prevent his or her from fleeing the scene and, provided it is safe to do so, the private person may, in terms of section 42 of the Act, pursue
and arrest the suspect and any other private person to whom the purpose of the pursuit has been made known, may join and assist therein.

3.8 In terms of section 39 of the Act, a suspect may be arrested by touching his or her body or, if the circumstances so require, by confining his or her body using reasonably necessary and proportional means.

3.9 In the event that the suspect resists the attempt or flees, the use of force is strongly discouraged. Provided that it is safe to do, the private person should rather keep track of the movements of the suspect and keep alerting the police telephonically of his or her whereabouts. It is also recommended to keep other persons in the vicinity informed of the situation.

3.10 Immediately after arresting the suspect, he or she must be informed of the reason for the arrest and taken to a police station as soon as possible.

3.11 Throughout this process, the safety of the private person and that of others are of paramount importance and may not be compromised.

3.12 In the event of an unlawful attack upon the life or body of a person or that of another, the person has the right to defend him- or herself or that of another by reasonably necessary and proportional means.

3.13 It must be remembered, however, that removing oneself or another person from the presence of the potential attacker to a place of safety is always better than confrontation. It is also advisable to store emergency numbers on one’s cellular phone to call for assistance when necessary.
Annexure B

CODE OF CONDUCT

Each member of the Association—

1. commits to the achievement of the objectives as set out in the Constitution;
2. undertakes to observe and uphold the Constitution of the Association as may be amended from time to time;
3. must, at all times—
   3.1 observe and uphold the Constitution of the Republic of South Africa, the law and any national and provincial guidelines on community policing and crime prevention;
   3.2 be guided by the needs of the community it, he or she represents and the needs of the Police Service;
   3.3 conduct it-, him- or herself with integrity, dignity and honesty;
   3.4 endeavour to render its, his or her best efforts within the confines of its, his or her ability and available time;
   3.5 strive to foster harmonious relationships with Association members and members’ representatives and to contribute positively to further the aims and objectives of the Association;
   3.6 avoid negative criticism of and unnecessary confrontation with fellow Association members or members’ representatives;
   3.7 give and receive advice and constructive criticism where appropriate;
   3.8 accept the constitutional authority of the Executive Committee of the Association;
   3.9 accept the majority decision of the Association in regard to matters put to vote;
   3.10 endeavour to be punctual in our attendance of meetings of the Association and to remain in attendance until excused by the Chairperson or until the end of the meeting;
   3.11 act only within the scope of the specific objectives of the
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Association in the performance of any actions or execution of any tasks on behalf of the Association;
3.12 not do or purport to do anything which may bind the Association for which it, he or she has no specific mandate or authority from the Association;
3.13 refrain from using the Association as platform for personal gain or to further or prejudice any third party interests;
3.14 refrain from discussing any information pertaining to community policing without the mandate of the Association at any other forum or meeting;
3.15 refrain from engaging in any personal relationship with any other member or any other person which has an adverse effect on the Association;
3.16 not wear any insignia or identification mark in respect of any political party, organisation, movement or body while attending a meeting of the Association;
3.17 not interact or communicate with the media directly or indirectly without the mandate of the Association; and
3.18 only use property belonging to or under the control of the Association with the prior approval of the Executive Committee.

.............................................. .............................................. ........................
Signature of representative of member Date Place

.............................................. .............................................. ........................
Signature of witness 1 Date Place

.............................................. .............................................. ........................
Signature of witness 2 Date Place

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CONSTITUTION
OF THE
KWAZULU-NATAL COMMUNITY CRIME
PREVENTION ASSOCIATION

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APPENDIX

Annexure A
Code of Conduct

1 PREAMBLE

NOTING that Section 12 of the Constitution of the Republic of South Africa of 1996, enshrines the right of freedom and security of the person and in this regard provides that everyone has the right to freedom and security of the person, which includes the right—

(a) not to be deprived of freedom arbitrarily or without just cause;
(b) not to be detained without trial;
(c) to be free from all forms of violence from either public or private sources;
(d) not to be tortured in any way; and
(e) not to be treated or punished in a cruel, inhuman or degrading way.

AND NOTING that section 198 of Chapter 11 of the Constitution requires national security to—

(a) reflect the resolve of South Africans, as individuals and as a nation, to live as equals, to live in peace and harmony, to be free from fear and want and to seek a better life; and
(b) be pursued in compliance with the law, including international law.

AND NOTING that section 205 of Chapter 11 of the Constitution provides that the objects of the police service are to prevent, combat and investigate crime, to maintain public order, to protect and secure the inhabitants of the Republic and their property, and to uphold and enforce the law;

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AND NOTING that section 206 of Chapter 11 of the Constitution envisages each Province to promote good relations between the police and the community;
AND NOTING that Chapter 7 of the South African Police Service Act, 1995 (Act 68 of 1995), provides for the establishment of Community Police Forums and Boards through which the South African Police Service can liaise with communities with a view to promoting efficient and effective service;
AND NOTING that Chapter 7 of the South African Police Service Act, 1995 provides further that the South African Police Service may liaise with the community by means other than through community police forums and boards;
AND RECOGNISING that community participation and involvement are critical to fighting the scourge of crime;
AND NOTING that Section 18 of the Constitution provides that everyone has the right to freedom of association;
AND WHEREAS members of civil society organisations involved in crime prevention programmes have expressed the wish to organise themselves into a voluntary association in pursuance of the objective of contributing in crime prevention and crime reduction programmes at a local level;
AND NOTING that section 3 of the Nonprofit Organisations Act, 1997 (Act 71 of 1997), requires, within the limits prescribed by law, every organ of state to determine and coordinate the implementation of its policies and measures in a manner designed to promote, support and enhance the capacity of nonprofit organisations to perform their functions;
AND WHEREAS the Province of KwaZulu-Natal, through its Department of Community Safety & Liaison, is assisting members of civil society organisations involved in crime prevention programmes to organise themselves into a voluntary association, in accordance with its Constitutional duty to promote good relations between the community and the South African Police Service and its legislative duty to promote, support and enhance the capacity of nonprofit organisations to perform their functions;

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WHEREFORE we as members of civil society organisations involved in crime prevention programmes of the Province of KwaZulu-Natal hereby adopt this Constitution for the KwaZulu-Natal Community Crime Prevention Association.

2 INTERPRETATION

2.1 In this Constitution, unless clearly inconsistent with or otherwise indicated by the context—

2.1.1 “Constitution” means the Constitution of the KwaZulu-Natal Community Crime Prevention Association as set out in this document and the appendices hereto;

2.1.2 “CPF” means Community Police Forum;

2.1.3 “Department” means the Department of Community Safety and Liaison;

2.1.4 “MEC” means the Member of the Executive Council of KwaZulu-Natal responsible for Community Safety and Liaison;

2.1.5 “Police Service” means the South African Police Service;

2.1.6 “the Act” means the South African Police Service Act, 1995 (Act 68 of 1995); and

2.1.7 “the Association” means the KwaZulu-Natal Community Crime Prevention Association referred to in section 3 of the Constitution.

2.2 Any reference in this Constitution to legislation or subordinate legislation is to such legislation or subordinate legislation at the date of adoption hereof and as amended or re-enacted from time to time.

2.3 Words importing the singular shall include the plural, and vice versa; words importing the masculine gender shall include the feminine and neuter genders, and vice versa, and words importing natural persons shall include legal persons, and vice versa.

2.4 If any provision in the definition clause is a substantive provision conferring rights or imposing obligations on a
party, then notwithstanding that such provision is contained in this clause, effect must be given thereto as if such provision were a substantive provision in the body of the Constitution.

2.5 When any number of days are prescribed in this Constitution, same must be reckoned exclusively of the first and inclusively of the last calendar day.

3 NAME OF ASSOCIATION

The name of the voluntary association established by this Constitution is the KwaZulu-Natal Community Crime Prevention Association and its abbreviated name is KZNCCPA.

4 LEGAL NATURE AND INDEMNITY

4.1 The Association is a juristic person and a non-profit making organisation which, notwithstanding any change of its members or management, will exist as a voluntary organisation with legal personality and which independently of its members may own assets, incur losses and liabilities and may institute or defend any legal proceedings in its own name.

4.2 All immovable property or registerable rights obtained by the Association must be registered in the name of the Association and members or office-bearers have no rights in the property or other assets of the Association solely by virtue of their being members or office-bearers.

4.3 All members, including members of the Executive Committee, are—

4.3.1 indemnified by the Association against all proceedings, costs and expenses incurred by reason of any act, omission or incident during the performance of their duties on behalf of the Association, unless they have acted with gross negligence or in a manner that constitutes willful misconduct; and

4.3.2 not personally liable for any liabilities of the Association.
5 AIMS AND OBJECTIVES
The aims and objectives of the Association are to—
5.1 encourage social networking in the fight against crime;
5.2 promote broad public participation in government initiatives to fight crime;
5.3 foster partnerships with the Police Service, civil society organisations and business to fight crime;
5.4 promote cooperation with the Police Service as well as other state law enforcement and non-governmental security organisations;
5.5 lead the campaign against police killings and police brutality;
5.6 participate in crime prevention capacity building initiatives of government and other institutions; and
5.7 promote good relations between the community and police.

6 COMPOSITION AND STRUCTURE OF ASSOCIATION
6.1 The Association is composed of each civil society crime prevention organization in KwaZulu-Natal recognized by the Department and represented by duly elected representatives of each organization designated thereto in writing by each organisation.

6.2 The number of representatives on the Association of all members shall be equal.

7 MEMBERSHIP REQUIREMENTS
7.1 Members of the Association shall render their services on a voluntary basis and shall have no claim to compensation solely for services rendered to the Association.

7.2 A representative of a recognized crime prevention organization shall cease to represent that organization on the Association in the event that the Association receives written notification that he or she has ceased to be a
7.3 The Association may, whenever it deems it necessary, co-opt other designated representatives of members, experts or community leaders to the Association in a voluntary, advisory, non-voting capacity, including, but not limited to—

7.3.1 representatives of political parties;
7.3.2 representatives of employee organisations;
7.3.3 traditional leaders; and
7.3.4 representatives of business.

7.4 The Association is a non-political entity and no member of the Association may—

7.4.1 wear any insignia or identification mark in respect of any political party, organisation, movement or body while attending a meeting of the Association; or
7.4.2 utilise his or her membership of the Association to further or prejudice party-political interests.

8 COMPOSITION OF EXECUTIVE COMMITTEE

8.1 The Executive Committee of the Association consists of—

8.1.1 Chairperson;
8.1.2 Vice-Chairperson;
8.1.3 Secretary;
8.1.4 Vice-Secretary;
8.1.5 Treasurer;
8.1.6 Public Relations Officer; and
8.1.7 eight additional members.

8.2 The term of office of elected members of the Executive Committee is 5 years and any member may only be re-elected for one more consecutive term.

8.3 The Executive Committee must be elected at an Annual General Meeting of the Association.
8.4 The MEC must appoint an independent person to act as the Electoral Officer of the election of the Executive Committee at least 30 days prior to the Annual General Meeting.

8.5 The Department must render any assistance required by the Electoral Officer in the execution of his or her duties, including, but not limited to the facilitation of the election processes.

8.6 The following procedure applies in respect of the election of the Executive Committee—

8.6.1 Nominations for the members of the Executive Committee shall be made as follows:

(a) one nomination for each of the positions of—

(i) Chairperson;
(ii) Vice-Chairperson;
(iii) Secretary;
(iv) Vice-Secretary;
(v) Treasurer;
(vi) Public Relations Officer; and
(vii) eight additional members,

by any recognized civil society crime prevention organisation and submitted in writing to the Electoral Officer at least fourteen (14) days prior to the Annual General Meeting, together with a signed resolution by the organisation;

(b) the Electoral Officer must prepare ballot papers in respect of each position with the names of the five (5) candidates in respect of that position who had received the most nominations and place the ballot papers before the Annual General Meeting;

(c) in the event that it is impossible to determine which five candidates have the most nominations in respect of any position, the Electoral Officer must prepare the ballot paper in respect of such position with the names of all candi-
8.6.2 the members of the Executive Committee are elected in the following order—
   (a) Chairperson;
   (b) Vice-Chairperson;
   (c) Secretary;
   (d) Vice-Secretary;
   (e) Treasurer;
   (f) Public Relations Officer; and
   (g) eight additional members.

8.6.3 each member present at the Annual General Meeting has one vote for each position:

8.6.4 after the votes are cast, the Electoral Officer must determine whether any candidate must be declared duly elected, and in the event that no candidate can be declared duly elected, further rounds of secret balloting must be held, with names of those candidates who received the least votes and whose votes when combined with each other do not exceed the number of votes obtained by the leading candidate, must be eliminated from the following round of the ballot;
8.6.5 the Electoral Officer must announce the results of each round of balloting to the Annual General Meeting before the following round commences;

8.7 The Electoral Officer must announce the final result of each position immediately after the conclusion of the vote in respect of that position.

8.8 Any newly elected member of the Executive Committee takes office upon being declared successfully elected by the Electoral Officer.

8.9 Any outgoing member of the Executive Committee must present a handover report to the newly elected member of the Executive Committee within ten (10) days of the date of the Annual General Meeting.

8.10 An Executive Committee member shall cease to hold office if he or she—

8.10.1 resigns his or her office by notice in writing to the Association;

8.10.2 is or becomes of unsound mind;

8.10.3 is convicted of any criminal offence, including any conviction in respect of an offence involving dishonesty;

8.10.4 is absent from three consecutive meetings of the Executive Committee without special leave of absence given by the Chairperson, or without good reason given to the Executive Committee;

8.10.5 ceases to be a representative of a member of the Association; or

8.10.6 the organisation represented by the member ceases to be a member of the Association.

8.11 The Executive Committee has the right to co-opt any representative on the Association as a member of the Executive Committee to fill any vacancy pending the election of another Executive Committee member by the Association at a Special General Meeting.

8.12 The Association may, at a Special General Meeting, remove any Executive Committee member before the
expiry of his or her term of office and elect another Executive Committee member in his or her place to hold office for the remainder of the term of office of the Executive Committee member so removed; Provided that the intention to vote upon his or her removal from office was specified in the notice convening the meeting.

9 POWERS AND FUNCTIONS OF EXECUTIVE COMMITTEE

9.1 The Executive Committee is responsible for the management of the affairs of the Association and it has the authority to attend to any matter that could or might be attended to by the Association, except where a matter is specifically reserved in this Constitution to be dealt with by a general meeting of members.

9.2 Without in any way limiting the powers and authority of the Executive Committee, the Executive Committee has the following powers and functions:

9.2.1 to pass any resolution or take any decision, that may be necessary or expedient in order to achieve the objectives of the Association: Provided that the Executive Committee may not pass a resolution or take a decision that is inconsistent with this Constitution, or any resolutions or decisions of a general meeting of the Association passed or taken prior to the date of the resolution or decision by the Executive Committee;

9.2.2 to form or appoint sub-committees from the representatives of members of the Association for special or general purposes, including, but not limited to a sub-committee for the youth, and to delegate to any such sub-committee all or any of the powers conferred on the Executive Committee by this Constitution;

9.2.3 at such intervals as the Executive Committee may require, but at least once every financial year, to
cause the accounting records of the Association to be audited, by an independent auditor appointed by the Executive Committee, for compliance with Generally Accepted Accounting Practices and certified as a true reflection of the income, expenditure, assets and liabilities of the Association;

9.2.4 to institute, conduct, defend, oppose, settle or abandon any legal proceedings, by or against the Association, or otherwise concerning the affairs of the Association, and to settle or allow time for payment in satisfaction of any debts or any claims or demands by or against the Association;

9.2.5 to invest, re-invest and deal with any monies of the Association, not immediately required for the purposes of the Association, upon such securities and on such terms as it may deem fit, and from time to time to vary or realise such investments;

9.2.6 to sell, lease, alienate or otherwise dispose of part or parts of the movable or immovable property or any right of the Association, as it may think most beneficial to the Association, and to apply the consideration arising therefrom as it may think most advantageous to the Association;

9.2.7 to purchase, hire or take in exchange or otherwise acquire any movable or immovable property or rights for the Association;

9.2.8 approve any communication from the Association to the public; and

9.2.9 to utilise the assets and funds of the Association for the objects of the Association, as set out in this Constitution.

9.3 The Association may at a general meeting overturn, approve or amend any decision of the Executive Committee: Provided that no such decision by the Association will
adversely affect any pre-existing right of any person or invalidate any action already taken by the Executive Committee.

10 DUTIES OF MEMBERS OF THE EXECUTIVE COMMITTEE

10.1 The Chairperson must—
10.1.1 ensure execution of all decisions of the Executive Committee;
10.1.2 preside over all meetings;
10.1.3 represent the Association at meetings, forums and events;
10.1.4 in conjunction with the Treasurer, ensure that the funds of the Association are administered in accordance with the objectives, decisions and resolutions of the Association;
10.1.5 prepare and circulate the annual report of the activities of the Association, which must include the audited annual financial statements;
10.1.6 present reports on the work of the Association at all meetings; and
10.1.7 prepare the keynote address for the Annual General Meeting, which must include, but is not limited to, a summary of developments during the reporting period.

10.2 The Vice-Chairperson must—
10.2.1 in the Chairperson’s absence, assume all functions of the Chairperson and in the absence of both the Chairperson and the Vice-Chairperson at any meeting, the Executive Committee must nominate one of their members to preside at such a meeting; and
10.2.2 assist the Chairperson in the execution of his or her functions.

10.3 The Secretary must—
10.3.1 ensure that the minutes of all meetings and procedures are recorded and resolutions are implemented;
10.3.2 receive and dispatch all correspondence to and from the Association;
10.3.3 arrange all meetings in consultation with the Chairperson;
10.3.4 ensure the safekeeping of all official documents of the Association;
10.3.5 send out notices of meetings;
10.3.6 in consultation with the Chairperson attend to all correspondence; and
10.3.7 perform all other duties usually associated with the office of Secretary.

10.4 The Vice-Secretary must—
10.4.1 in the Secretary’s absence, assume all functions of the Secretary and in the absence of both the Secretary and the Vice-Secretary at any meeting, the Executive Committee must nominate one of their members to be the Secretary at such a meeting; and
10.4.2 assist the Secretary in the execution of his or her functions.

10.5 The Treasurer must—
10.5.1 open an account with an institution registered with the Financial Services Board in the name of the Association;
10.5.2 prepare an annual budget and fundraising strategy for the Association for approval at an Annual General Meeting;
10.5.3 manage all funds received and expenditure by the Association;
10.5.4 keep record and proof of income, expenditure, assets and liabilities of the Association;
10.5.5 deposit all monies received by the Association in its account within three (3) days of receipt.
10.5.6 within six (6) months after the end of the financial year, draw up annual financial statements to be approved at an Annual General Meeting, which must include at least—

(a) a statement of income and expenditure for that financial year; and

(b) a balance sheet showing its assets, liabilities and financial position as at the end of that financial year.

10.5.7 within two (2) months after drawing up its financial statements, arrange for a written report compiled by an accounting officer and tabled at an Annual General Meeting stating whether or not—

(a) the financial statements of the Association are consistent with its accounting records;

(b) the accounting policies of the Association are appropriate and have been appropriately applied in the preparation of the financial statements; and

(c) the Association has complied with the provisions of this Act and of its constitution which relate to financial matters.

10.5.8 account to the Executive Committee and the Association on the execution of his or her duties.

10.6 The Public Relations Officer must—

10.6.1 act as liaison between the Association and the media;

10.6.2 promote communication between the Association and communities; and

10.6.3 execute these duties after consultation with relevant stakeholders.

10.7 Additional Members has those duties allocated to them by the Chairperson.
11 COMPOSITION OF DISTRICT AND LOCAL CO-ORDINATING COMMITTEES

11.1 The District Coordinating Committee for a district or metropolitan municipal area consists of representatives from all members of the Association which are operational in that district or metropolitan municipal area.

11.2 Each member of the Association must designate a representative to serve on the district coordinating committee for each district or metropolitan municipal area wherein it is operational and in writing inform the Executive Committee of its designation(s).

11.3 The Local Coordinating Committee for a local municipal area consists of representatives from all members of the Association which are operational in that local municipal area.

11.4 Each member of the Association must designate a representative to serve on the local coordinating committee for each local municipal area wherein it is operational and in writing inform the Executive Committee of its designation(s).

11.5 The disqualifications to hold office in 8.10 apply mutatis mutandis to representatives on the District and Local Coordinating Committees.

11.6 The representatives on each District and Local Coordinating Committee must, on an annual basis or whenever a vacancy occurs, elect from among the representatives on the committee concerned, a chairperson and a secretary.

11.7 The duties of the Chairperson and the Secretary of the Executive Committee in 10 apply mutatis mutandis to chairpersons and secretaries of District and Local Coordinating Committees.
12 POWERS AND FUNCTIONS OF DISTRICT AND LOCAL COORDINATING COMMITTEES

12.1 District and Local Coordinating Committees are responsible for the coordination of members' activities in the pursuance of the objectives of the Association at a district and local level respectively.

12.2 District Coordinating Committees must take direction from the Executive Committee on the execution of coordinating functions and report to the Executive Committee on activities on a monthly basis.

12.3 Local Coordinating Committees must take direction from District Coordinating Committees on the execution of coordinating functions and report to the District Coordinating Committees on activities on a monthly basis.

12.4 Without in any way limiting the coordinating role of the District and Local Coordinating Committees, the District and Local Coordinating Committees must form partnerships between members of the Association and all stakeholders at district and local level to promote the achievement of the objectives of the Association.

13 MEETING PROCEDURES

13.1 District and Local Coordinating Committee Meetings:

13.1.1 District and Local Coordinating Committee meetings must be held whenever the committee members deem it necessary, but not less than once per month;

13.1.2 Seven (7) days' notice of such meetings must be given, except in case of an emergency.

13.2 Executive Committee Meetings:

13.2.1 Executive Committee meetings must be held bi-monthly.

13.2.2 Seven (7) days' notice of such meetings must be given, except in case of an emergency.

13.3 Association General Meetings:
Association General Meetings, other than Annual General Meetings and Special General Meetings, must be held quarterly or whenever deemed necessary to attend to its business, provided that seven (7) days' notice of such meetings must be given.

13.4 Annual General Meeting (AGM):
13.4.1 An AGM must be held between the 1st of December and the 30th of April of every year in order to—
(a) approve the minutes of the preceding AGM;
(b) approve the certified annual financial statements;
(c) approve the annual report of the Executive Committee;
(d) consider and deliberate on the keynote address of the Chairperson;
(e) consider and deliberate any draft resolutions on matters pertaining to the objectives of community crime prevention in the Province; and
(f) every fifth year, elect an Executive Committee.

13.4.2 Representatives of recognized civil society crime prevention organisations must be notified of the date, time, venue and agenda of an AGM at least twenty one (21) days prior to the meeting.

13.5 Special General Meeting:
13.5.1 The Executive Committee may instruct the Secretary to convene a Special General Meeting to discuss and rule on special matters.

13.5.2 The Secretary must, upon request from at least 25% of the members of the Association, call a Special General Meeting of all representatives of recognized civil society crime prevention organisations to discuss and resolve issues stated clearly in writing by members requesting such a meeting.

13.5.3 Representatives of recognized civil society crime prevention organisations must be notified of the
date, time, venue and agenda of a Special General Meeting at least twenty one (21) days prior to the meeting.

13.6 Notices:

13.6.1 Upon becoming a member, the representatives of such member must indicate to the Secretary whether notices must be transmitted by e-mail or facsimile transmission.

13.6.2 Any representative of a member is entitled from time to time by written notice to the Secretary, to vary his or her preferred means of communication.

13.6.3 The facsimile transmission report will serve as proof of transmission of any notice in terms of this Constitution sent by facsimile transmission.

13.6.4 The e-mail transmission report will serve as proof of transmission of any notice in terms of this Constitution sent by e-mail.

13.6.5 Any notice must include the date, time, venue and agenda items of the meeting.

13.6.6 The Secretary must preserve, either electronically or in hard copy, proof of notices sent to members.

13.6.7 Any notice shall be deemed to have been received, until the contrary is proved—

(a) if sent by telefax, on the date of sending such telefax;

(b) if sent by e-mail, on the date of sending such e-mail.

13.6.8 Section 13.6.7 shall not operate so as to invalidate the furnishing or receipt of any written notice, which is actually received by the addressee other than by a method referred to in this section.

13.6.9 Any notice in terms of or in connection with this Constitution shall be valid and effective only if in writing and if received or deemed to be received by the addressee.
13.6.10 No meeting is invalid solely by reason of the non-receipt by any person entitled to receive the requisite notice.

13.7 Quorum:
13.7.1 The quorum of all meetings shall be 50% plus 1 of the total members.
13.7.2 Meetings must be conducted in accordance with the generally accepted principles for conducting meetings.

13.8 Minutes:
13.8.1 Minutes of all meetings must be kept and securely filed in accordance with generally accepted filing standards.
13.8.2 After the adoption of the minutes, the Secretary and the Chairperson must sign the minutes.

13.9 Voting:
13.9.1 All members, except the Chairperson of the meeting, are entitled to vote at any meeting attended by them on any matter put to the vote.
13.9.2 In the event of a deadlock, the Chairperson, after affording members a final opportunity to deliberate on the matter concerned, must put the matter to a second vote and if the deadlock persists, the Chairperson shall have a casting vote.
13.9.3 Voting shall take place by way of secret ballot.
13.9.4 No voting by proxy is permitted and the majority of votes binds all members.

14 COMMUNICATION
14.1 The Association must communicate to the public at least on a quarterly basis to inform the public on the work and activities of the Association.
14.2 Communication to the public may take the form of press releases, press conferences, editorials, radio interviews, television interviews and paid or sponsored advertisements.
14.3 Only the Public Relations Officer of the Executive Committee may undertake any public communication with the approval of the Executive Committee and no other member may communicate to the public through any means whatsoever.

14.4 Any official correspondence on behalf of the Association addressed to any person or body must be signed by the Secretary or Vice-Secretary.

15 AMENDMENT OF CONSTITUTION

15.1 This Constitution may only be amended on a decision taken by at least sixty six percent (66%) of members of the Association at an Annual General Meeting or at a Special General Meeting, provided that particulars of proposed amendments are given in writing and circulated at least twenty one (21) days before such a meeting.

15.2 A copy of any amendment to the Constitution must be submitted to the Commissioner of the South African Revenue Service within thirty (30) days of the amendment.

16 MANAGEMENT AND CONTROL OF FINANCIAL AFFAIRS

16.1 The financial year of the Association is from 1 April to 31 March.

16.2 The funds of the Association consist of all monies received or raised by means of donations or any other source, which must be deposited into the bank account referred to in 10.4.1 through which all the Association's financial transactions must be conducted.

16.3 The Association is prohibited from directly or indirectly distributing any of its funds to any person (otherwise than in the course of undertaking any public benefit activity) and is required to utilise its funds solely for the object for which it has been established.

16.4 Any donation received by the Association must be utilised

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for the purpose of the donation and in accordance with any conditions attached to the donation.

16.5 The Association is prohibited from accepting any donation which is revocable at the instance of the donor for reasons other than a material failure to conform to the designated purposes and conditions of such donation, including any misrepresentation with regard to the tax deductibility thereof in terms of section 18A of the Income Tax Act, 1962 (Act 58 of 1962): Provided that a donor (other than a donor which is an approved public benefit organisation or an institution board or body which is exempt from tax in terms of section 10(1)(cA)(i) of the Income Tax Act, 1962, which has as its sole or principal object the carrying on of any public benefit activity) may not impose conditions which could enable such donor or any connected person in relation to such donor to derive some direct or indirect benefit from the application of such donation.

16.6 The Association may not pay any remuneration to any employee, office bearer, member or other person which is excessive, having regard to what is generally considered reasonable in the sector and in relation to the service rendered and has not and will not economically benefit any person in a manner which is not consistent with its objects.

16.7 All members of the Executive Committee are responsible in a fiduciary capacity for the funds and assets of the Association.

16.8 All cheques and financial documentation requiring signature or approval on behalf of the Association must be signed by both the Chairperson and the Treasurer jointly.

16.9 Any agreement or contract to which the Association is a party or signatory must—

16.9.1 be signed by the Chairperson after obtaining the approval of the Executive Committee; and

16.9.2 contain, as a schedule to the agreement or contract, a copy of a dated resolution by the Executive
Committee signed by all the members authorising the Chairperson to sign the agreement or contract in question.

16.10 All financial records must be retained and carefully preserved for a period of four years after completion of the transactions, acts or operations to which they relate.

17 DISPUTE RESOLUTION PROCEDURES

17.1 The objectives of the Dispute Resolution Procedures are:
17.1.1 to resolve and manage conflict and grievances in the Association; and
17.1.2 to address instances of unacceptable conduct by members of the Association or their representatives.

17.2 The Association may elect to address unacceptable behaviour, depending on the seriousness of the behaviour, in terms of this section.

17.3 Disputes which cannot be resolved by the Association must be attended to by the Department.

17.4 If the dispute still remains unresolved, it must be referred to the MEC.

18 DISSOLUTION

18.1 The Association may be dissolved at an Annual General Meeting, or at a Special General Meeting called for that purpose.

18.2 In the event of the dissolution of the Association its assets will be disposed of as follows:
18.2.1 if the reason for dissolution was the establishment of an alternative body that will continue the work of the Association, then such a body shall accede to the assets of the Association;
18.2.2 if the Association was dissolved for any other reason, the Department shall accede to the assets of the Association.
19 COMPLIANCE WITH TIME-FRAMES

19.1 No act carried out or decision taken in terms of this Constitution shall be invalid merely on the basis that it was carried out or taken outside of the time-frame prescribed by this Constitution.

19.2 Any act so carried out or decision so taken shall only be invalid upon a decision taken by at least sixty six percent (66%) of members of the Association at an Annual General Meeting or at a Special General Meeting, provided that—

19.1.1 particulars of the act or decision are given in writing and circulated at least twenty one (21) days before such a meeting; and

19.1.2 no such decision by the Association will retrospectively affect any right of any person.

20 CODE OF CONDUCT

20.1 All members and their representatives must acquaint themselves with the code of conduct annexed hereto and must abide by its provisions.

20.2 All members and their representatives must sign a copy of the code of conduct.

20.3 Any contravention of the code of conduct by a member of the Association or its representative constitutes misconduct.

20.4 In the event of misconduct being alleged against any member of the Association or its representative, the allegation(s) must be submitted in writing, together with any supporting information, to the Secretary.

20.5 The Secretary must, within fourteen (14) days of receipt of the allegation(s), in writing notify the member or its representative concerned of the allegation(s) and schedule a special Executive Committee meeting no sooner than five (5) days after the date of the notice, and no later than thirty (30) days after the notice.

20.6 The notice must require the member or its representative...
20.7 At the special meeting the Executive Committee must consider the allegation and the response of the member or its representative concerned and make a finding.

20.8 In the event of a finding of misconduct, the member concerned loses his membership of the Association or the representative loses its representation of the member.

20.9 The former member or representative may, within fourteen (14) days of being notified of the finding of the Executive Committee, lodge an appeal with the Association, whose decision will be final and binding.

SIGNED AT .......... ON THE .................. DAY OF 2012 ........

CHAIRPERSON VICE-CHAIRPERSON SECRETARY

WITNESS WITNESS WITNESS

Annexure A

CODE OF CONDUCT

Each member of the Association and its representatives—
1 commit to the achievement of the objectives as set out in the Constitution;
2 undertake to observe and uphold the Constitution of the Association as may be amended from time to time;
3 must, at all times—
3.1 observe and uphold the Constitution of the Republic of South Africa, the law and any national and provincial guidelines on community policing and crime prevention;

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be guided by the needs of the community it, he or she represents and the needs of the Police Service;

3.3 conduct it-, him- or herself with integrity, dignity and honesty;

3.4 endeavour to render its, his or her best efforts within the confines of its, his or her ability and available time;

3.5 strive to foster harmonious relationships with Association members and members’ representatives and to contribute positively to further the aims and objectives of the Association;

3.6 avoid negative criticism of and unnecessary confrontation with fellow Association members or members’ representatives;

3.7 give and receive advice and constructive criticism where appropriate;

3.8 accept the constitutional authority of the Executive Committee of the Association;

3.9 accept the majority decision of the Association in regard to matters put to vote;

3.10 endeavour to be punctual in our attendance of meetings of the Association and to remain in attendance until excused by the Chairperson or until the end of the meeting;

3.11 act only within the scope of the specific objectives of the Association in the performance of any actions or execution of any tasks on behalf of the Association;

3.12 not do or purport to do anything which may bind the Association for which it, he or she has no specific mandate or authority from the Association;

3.13 refrain from using the Association as platform for personal gain or to further or prejudice any third party interests;

3.14 refrain from discussing any information pertaining to community policing without the mandate of the Association at any other forum or meeting;
3.15 not wear any insignia or identification mark in respect of any political party, organisation, movement or body while attending a meeting of the Association;

3.16 not interact or communicate with the media directly or indirectly without the mandate of the Association; and

3.17 only use property belonging to or under the control of the Association with the prior approval of the Executive Committee.

<table>
<thead>
<tr>
<th>Signature of representative of member</th>
<th>Date</th>
<th>Place</th>
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<tr>
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<td>Place</td>
</tr>
<tr>
<td>Signature of witness 2</td>
<td>Date</td>
<td>Place</td>
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MEMORANDUM OF UNDERSTANDING
by and between
THE DEPARTMENT OF COMMUNITY SAFETY
AND LIAISON
& THE
KWAZULU-NATAL COMMUNITY CRIME PREVENTION ASSOCIATION

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1 DEFINITIONS

1.1 In this memorandum, unless clearly inconsistent with or otherwise indicated by the context—

1.1.1 “Constitution” means the Constitution of the KwaZulu-Natal Community Crime Prevention Association as set out in this document and the appendices hereto;
1.1.2 "CPF" means Community Police Forum;
1.1.3 "Department" means the KwaZulu-Natal Provincial Government in its Department of Community Safety and Liaison;
1.1.4 "KZNCCPA" means the KwaZulu-Natal Community Crime Prevention Association;
1.1.5 "memorandum" means the memorandum set out in this document and the appendices hereto;
1.1.6 "parties" means the Department and the KZNCCPA and each individual shall be referred to as "the party";
1.1.7 "Police Service" means the South African Police Service;
1.1.8 "the Act" means the South African Police Service Act, 1995 (Act 68 of 1995); and
1.1.9 "the MEC" means the Member of the Executive Council of KwaZulu-Natal responsible for Community Safety and Liaison.

2 PREAMBLE

NOTING that Section 12 of the Constitution of the Republic of South Africa of 1996, enshrines the right of freedom and security of the person and in this regard provides that everyone has the right to freedom and security of the person, which includes the right—

(a) not to be deprived of freedom arbitrarily or without just cause;
(b) not to be detained without trial;
(c) to be free from all forms of violence from either public or private sources;
(d) not to be tortured in any way; and
(e) not to be treated or punished in a cruel, inhuman or degrading way.

AND NOTING that section 198 of Chapter 11 of the Constitution requires national security to—
(a) reflect the resolve of South Africans, as individuals and as a nation, to live as equals, to live in peace and harmony, to be free from fear and want and to seek a better life; and

(b) be pursued in compliance with the law, including international law;

AND NOTING that section 205 of Chapter 11 of the Constitution provides that the objects of the police service are to prevent, combat and investigate crime, to maintain public order, to protect and secure the inhabitants of the Republic and their property, and to uphold and enforce the law;

AND NOTING that section 206 of Chapter 11 of the Constitution envisages each Province to promote good relations between the police and the community;

AND NOTING that Chapter 7 of the South African Police Service Act, 1995 (Act 68 of 1995), provides for the establishment of Community Police Forums and Boards through which the South African Police Service can liaise with communities with a view to promoting efficient and effective service;

AND NOTING that Chapter 7 of the South African Police Service Act, 1995 provides further that the South African Police Service may liaise with the community by means other than through community police forums and boards;

AND RECOGNISING that community participation and involvement are critical to fighting the scourge of crime;

AND WHEREAS members of civil society organisations involved in crime prevention programmes have expressed the wish to organise themselves into a voluntary association in pursuance of the objective of contributing in crime prevention and crime reduction programmes at a local level;

AND NOTING that section 3 of the Nonprofit Organisations Act, 1997 (Act 71 of 1997), requires, within the limits prescribed by law, every organ of state to determine and coordinate the implementation of its policies and measures in a manner
designed to promote, support and enhance the capacity of nonprofit organisations to perform their functions;
AND WHEREAS the Province of KwaZulu-Natal, through its Department of Community Safety and Liaison, has been assisting members of civil society organisations involved in crime prevention programmes to organise themselves into a voluntary association called the KwaZulu-Natal Community Crime Prevention Association, in accordance with its Constitutional duty to promote good relations between the community and the South African Police Service and its legislative duty to promote, support and enhance the capacity of nonprofit organisations to perform their functions;
AND WHEREAS the parties wish to regulate their relationship to enhance the efficiency and effectiveness of the KZNCCPA and to promote synergy with other institutions concerned with crime prevention and law enforcement;
WHEREFORE the parties hereby enter into this memorandum of understanding to regulate the relationship between them.

3 PARTIES
3.1 The parties to this memorandum are—
   3.1.1 the Department; and
   3.1.2 the KZNCCPA.

4 INTRODUCTION
4.1 On ................. the KZNCCPA adopted its Constitution (Annexure A) and elected the members of the Executive Committee.
4.2 The KZNCCPA comprises the members and their representatives listed in Schedule 1 hereto.
4.3 The objectives of the KZNCCPA are to—
   4.3.1 encourage social networking in the fight against crime;
   4.3.2 promote broad public participation in government initiatives to fight crime;
4.3.3 foster partnerships with the Police Service, civil society organisations and business to fight crime;
4.3.4 promote cooperation with the Police Service as well as other state law enforcement and non-governmental security organisations;
4.3.5 lead the campaign against police killings and police brutality;
4.3.6 participate in crime prevention capacity building initiatives of government and other institutions; and
4.3.7 promote good relations between the community and police.

4.4 The objectives of the memorandum are to—

4.4.1 provide for capacitation of the KZNCCPA by the Department in order to enable the KZNCCPA to more efficiently and effectively pursue its objectives; and
4.4.2 provide for measures to create synergy between the KZNCCPA and its members and the other institutions concerned with crime prevention and law enforcement at a provincial, district and local level in line with their objectives.

5 UNDERTAKINGS BY THE DEPARTMENT

5.1 The Department agrees to, subject to available financial and human resources and the provisions of the Public Finance Management Act, 1999—

5.1.1 facilitate training of representatives of the KZNCCPA on—

(a) crime prevention;
(b) the criminal justice system;
(c) financial management;
(d) computer literacy; and
(e) administration.
5.1.2 facilitate meetings and workshops of the KZNCCPA, including, but not limited to, arranging for venues, catering, transport and accommodation of representatives of the KZNCCPA;

5.1.3 sponsor equipment, furniture, office space, communication facilities and stationery necessary for the administration of the KZNCCPA;

5.1.4 assist the KZNCCPA and its members in procuring sponsorships for their operations;

5.1.5 provide advice and support in respect of the operation and functioning of the KZNCCPA and its members;

5.1.6 recognise any community crime prevention organisation for purposes of becoming a member of the KZNCCPA in accordance with the provisions of clause 7 hereof.

6 UNDERTAKINGS BY THE KZNCCPA

6.1 The KZNCCPA agrees to—

6.1.1 vigorously pursue all its objectives as set out in its constitution;

6.1.2 ensure that the members of the KZNCCPA and their representatives adhere to the Code of Conduct contained in the constitution of the KZNCCPA and take the required steps in the event of any non-adherence;

6.1.3 facilitate the adoption of constitutions by its members which have substantially the same provisions as the constitution of the KZNCCPA, with the necessary changes;

6.1.4 facilitate the cooperation and interaction of its members with the volunteers under the Volunteer Crime Prevention Programme of the Department;

6.1.5 facilitate the participation by its members in Street and Village Committees;
6.1.6 facilitate the cooperation and interaction of its members with Ward Committees on safety related matters;
6.1.7 facilitate the participation by its members in Community Police Forums and Sub-forums;
6.1.8 facilitate the cooperation and interaction of its Local Coordinating Committees with Local Community Safety Forums;
6.1.9 facilitate the cooperation and interaction of its District Coordinating Committees with District Community Safety Forums;
6.1.10 cooperate and interact with the Provincial Community Police Board;
6.1.11 cooperate and facilitate the cooperation of its coordinating committees and members with projects and programmes of the Department at a local, district and provincial level;
6.1.12 alert the Department and the Police Service of any member or representative who is or becomes engaged in criminal conduct or potentially criminal conduct and cooperate with the Police Service in enforcing the law in respect of such member or representative.

7 RECOGNITION OF ORGANISATIONS

7.1 Both parties shall recognise any community crime prevention organisation for purposes of becoming a member of the KZNCCPA if the organisation—
7.1.1 has aims and objectives similar to those of the KZNCCPA;
7.1.2 pursues such aims and objectives for the public benefit and not for profit;
7.1.3 has a valid constitution with governance and financial management provisions acceptable to the Department and which must at least include provisions listed under Schedule 2 hereto;
7.1.4 has a duly elected Executive Committee;
7.1.5 has operations in KwaZulu-Natal or any part thereof;
7.1.6 has no involvement in or link to any criminal activity.

7.2 Any organisation who wishes to become a member of the KZNCCPA must submit to the Department a formal application for recognition in the format contained in Schedule 3 together with—

7.2.1 a certified copy of its constitution;
7.2.2 a certified copy of the minutes of the meeting where its Executive Committee was elected;
7.2.3 the full names, identity numbers and contact details of the members of the Executive Committee;
7.2.4 a list of its members and the full names of their representatives on the organisation;
7.2.5 a list of sponsors or contributors of the organisation for the past 24 months;
7.2.6 copies of its latest annual financial statements or, if not available, the latest three months’ bank statements;
7.2.7 a duly signed resolution by the organisation to apply for recognition for purposes of membership of the KZNCCPA; and
7.2.8 any other documentation or information requested by the Department.

7.3 Upon receipt of the required documentation and information, the Department must notify the KZNCCPA of the request and furnish the KZNCCPA with copies of the relevant documentation.

7.4 The KZNCCPA must provide the Department with written comments on the request for recognition within 30 days after receipt of the notice and documentation.

7.5 The Department must in writing inform the applicant and the KZNCCPA of its decision within 60 days after receipt of the application.

7.6 Once the Department has decided to recognise an
organisation, the KZNCCPA must do all that is necessary to facilitate the membership admission process.

8 DISPUTE RESOLUTION PROCEDURES
8.1 The objectives of the Dispute Resolution Procedures are:
8.1.1 to resolve and manage conflict between the parties;
8.1.2 to resolve and manage grievances of the parties; and
8.1.3 to address instances of unacceptable conduct by the parties or their members.
8.2 Any conflict, grievance or unacceptable conduct must immediately be reported to the leadership of the parties.
8.3 The parties must immediately engage each other peacefully on a neutral platform and take all reasonable steps to resolve the matter.
8.4 If the matter still remains unresolved, it must be referred to the MEC for a final decision on the matter.

9 IMPLEMENTATION AND GOOD FAITH
9.1 The parties undertake to do all such things, perform all such acts and take all steps to procure the doing of all such things and the performance of all such acts, as may be necessary or incidental to give or conducive to the giving of effect to the terms, conditions and import of this memorandum.
9.2 The parties shall at all times during the continuance of this memorandum observe the principles of good faith towards one another in the performance of their obligations in terms of this memorandum.

10 DURATION
10.1 Notwithstanding the date of signature hereto, this memorandum shall commence on ......................... and remain valid until 31 March 2014.
MOU by and between the DCSL & the KZNCCPA (s 11–Schedule 1) 463

11 SIGNATURES

11.1 The Department is herein represented by ..........................
in his/her capacity as ............................. he/she being duly authorised thereto; and
11.2 The KZNCCPA is herein represented by ..........................
in his/her capacity as ............................. he/she being duly authorised thereto.

SIGNED AT ........................ ON THE .................. DAY OF 2012

<table>
<thead>
<tr>
<th>DEPARTMENT</th>
<th>KZNCCPA</th>
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<td>WITNESS</td>
<td>WITNESS</td>
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Schedule 1

Members and Representatives of KZNCCPA

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<thead>
<tr>
<th>Member</th>
<th>Representative</th>
<th>Contact No.</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. FEDCO</td>
<td>MARIA MABASO</td>
<td>083 473 2769</td>
</tr>
<tr>
<td>2. UMUKHUMBI</td>
<td>MLUNGISI MASONDO</td>
<td>083 748 5111</td>
</tr>
<tr>
<td>3. QEDUBUGE-BENGU</td>
<td>ZAMOKUHLE SHABALALA</td>
<td>082 646 3934</td>
</tr>
<tr>
<td>4. JULUKA TSHOTSHI</td>
<td>MDU MKHIZE</td>
<td>073 369 1315</td>
</tr>
<tr>
<td>5. AMANGE</td>
<td>H.B. MTHEWA</td>
<td>073 406 4236</td>
</tr>
<tr>
<td>6. BHASOBHA TSOTSI</td>
<td>XOLANI HLONGWANE</td>
<td>072 305 5140</td>
</tr>
<tr>
<td>7. VIMBANGAPHAM-BILI</td>
<td>NKOSINATHI MATHE</td>
<td>072 163 9058</td>
</tr>
</tbody>
</table>

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Mandatory Provisions for Constitutions

(a) Background/Preamble: Background clauses describe the context, circumstances and motivations which gave rise to the creation of the voluntary association.

(b) Name: The constitution must state the full name, and any abbreviation of the name, of the voluntary association.

(c) Objectives: The objectives describe the purpose of the voluntary association and what it intends to do. These clauses should show that the voluntary association exists to promote a public interest objective and not primarily for the self-interest, gain or profit of its members and office-bearers. The main objectives must be listed in general terms.

(d) Legal status: If a voluntary association with an independent legal personality is to be created, the common law requires that the constitution contains provisions specifying that—
   (i) the voluntary association is an incorporated association with its own legal identity;
   (ii) the organisation will continue to exist despite changes in its membership (perpetual succession); and
   (iii) the assets and liabilities of the organisation will be held separately from those of its members.

(e) Profits not to be distributed to members: The constitution must state that the income and property will be used to...
promote its objectives and will not be distributed to its members or office-bearers, except as reasonable payment for their work. It must be made clear that the members and office-bearers have no personal right to the property of the voluntary association. This principle applies not only during the lifetime of the organisation but also when it closes down. The constitution must state that on dissolution its property will be given to an organisation with similar objectives.

(f) **Powers**: A voluntary association may need the power to purchase, mortgage and sell movable or immovable property, for example, or invest the funds in any way to employ and pay employees. The constitution must set out the powers and they must be consistent with its non-profit objectives.

(g) **Members**: Membership clauses define who may become a member of the voluntary association, the procedures for admitting and removing members and the duties and privileges of members.

(h) **Structure**: The constitution must specify the structure of the association and the mechanisms and procedures for governing and managing it. This is an important part of the constitution because structures and procedures build in accountability by the office-bearers to the members of the voluntary association. There should be a clause which identifies the highest governing body, usually a general meeting of members or a managing body. Usually the constitution of a voluntary association provides for the appointment of a group of people with executive powers, such as an executive committee, to manage the affairs of the voluntary association subject to the terms of the constitution. Clauses that specify how to conduct meetings, make and record decisions and elect or appoint office-bearers must be included.

(i) **Financial matters**: This section of the constitution states how the money will be managed and accounted for. There should be clauses that describe how the organisation will...
prepare annual financial statements. Clauses which set a date for the end of the financial year and state that the association will use a banking account must be included.

(i) Amendments to the constitution and dissolution: Clauses which explain how the constitution can be changed and how the voluntary association can be closed down by its members are essential.

(k) Indemnity: The constitution should provide that the members and office-bearers are not personally liable for any of its obligations and debts. These clauses reinforce the principle of limited liability captured in the legal status clauses.

(l) Disputes: The constitution may set out a procedure for resolving serious disputes between members about how to interpret the constitution.

SCHEDULE 3
Application for Recognition for Purposes of Membership of KZNCCPA

<table>
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<tr>
<td>5</td>
<td>Names and ID numbers of Executive Committee</td>
</tr>
<tr>
<td>5.1</td>
<td>Position: .......................................... Name: ...................................................... ID: ............................................................</td>
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### MOU by and between the DCSL & the KZNCCPA (Schedule 3)

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#### List of members and full names of representatives

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<td>8</td>
<td>Certified copy of its constitution attached?</td>
<td>YES / NO</td>
</tr>
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<td>9</td>
<td>Certified copy of the minutes of the meeting where its Executive Committee was elected attached?</td>
<td>YES / NO</td>
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<tr>
<td>10</td>
<td>Copies of its latest annual financial statements or, if not available, the latest three months' bank statements attached?</td>
<td>YES / NO</td>
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<td>11</td>
<td>A duly signed resolution by the organisation to apply for recognition for purposes of membership of the KZNCPA attached?</td>
<td>YES / NO</td>
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<td>Name of person making the application</td>
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<td>13</td>
<td>Capacity of person making the application</td>
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<td>14</td>
<td>Signature of person making the application</td>
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<td>15</td>
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<td>Comments by KZNCCPA</td>
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GUIDELINES ON DEALING WITH CRIMES COMMITTED IN THE PRESENCE OF A PRIVATE PERSON

1 INTRODUCTION
Private persons, especially members of voting district safety teams, street committees, community crime prevention associations and members of the private security industry, through the nature of their activities are exposed to crimes being committed in their presence. This may happen at times when members of the South African Police Service either are present or when they are not.
The law of South Africa provides how to manage such incidents when they occur. This document provides a set of guidelines to private persons based on the provisions of our law.

2 DUTY TO ASSIST THE POLICE
2.1 When a person commits or tries to commit a crime and a police official pursues such a person to arrest and detain him or her, a person in the vicinity of the police official may be called upon to provide assistance.
2.2 Section 47 of the Criminal Procedure Act of 1977 (Act 51 of 1977 and hereinafter referred to as “the Act”), provides for private persons to assist in arrest when called upon and it determines that—
2.2.1 every male inhabitant of the Republic between sixteen and sixty years old must, when requested by any police official to do so, assist such police official—
(a) in arresting any person;
(b) in detaining any person so arrested.
any person who, without good reason, fails to assist a police official, will be guilty of an offence.

3 PRIVATE ARREST

3.1 When a person commits or tries to commit a serious crime in the presence of another person, such as murder, rape, robbery, kidnapping or theft, and there is a police official nearby, the person must immediately alert the police official of the situation.

3.2 If there is no police official nearby, the person must immediately phone the police and provide details of the situation and await the arrival of the police if it is indeed safe to do so.

3.3 If the person does not have access to a phone, the nearest bystander must be requested to call the police.

3.4 In the event that the person is unable to reach the police for whatever reason, any private security company operating in the area may be called.

3.5 As many family members, neighbours, friends, work colleagues and other members of the street committee, crime prevention association or private security company as possible should also be informed.

3.6 Any change in the situation, such as the suspect leaving the scene of the crime, must be reported telephonically to the police.

3.7 In the event that the police is unable to arrive at the scene in time to arrest the suspect to prevent his or her from fleeing the scene and, provided it is safe to do so, the private person may, in terms of section 42 of the Act, pursue and arrest the suspect and any other private person to whom the purpose of the pursuit has been made known, may join and assist therein.

3.8 In terms of section 39 of the Act, a suspect may be arrested by touching his or her body or, if the circumstances so require, by confining his or her body using reasonably necessary and proportional means.
3.9 In the event that the suspect resists the attempt or flees, the use of force is strongly discouraged. Provided that it is safe to do, the private person should rather keep track of the movements of the suspect and keep alerting the police telephonically of his or her whereabouts. It is also recommended to keep other persons in the vicinity informed of the situation.

3.10 Immediately after arresting the suspect, he or she must be informed of the reason for the arrest and taken to a police station as soon as possible.

3.11 Throughout this process, the safety of the private person and that of others are of paramount importance and may not be compromised.

3.12 In the event of an unlawful attack upon the life or body of a person or that of another, the person has the right to defend him- or herself or that of another by reasonably necessary and proportional means.

3.13 It must be remembered, however, that removing oneself or another person from the presence of the potential attacker to a place of safety is always better than confrontation. It is also advisable to store emergency numbers on one’s cellular phone to call for assistance when necessary.
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KWAZULU-NATAL HOLISTIC COMMUNITY LIAISON FRAMEWORK

476 Structure: KZN Holistic Community Framework Diagram 7.1

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Structure: KZN Holistic Community Framework Diagram 7.1

NITY LIAISON FRAMEWORK

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7.2 STRUCTURE: COMMUNITY POLICING IN KWAZULU-NATAL

KZN PROVINCIAL COI

THE EXECUTIVE COMMITTEE OF THE PROVINCE

THE PROVINCIAL COMMUNITY PC

© Juta & Co. Ltd and KZN Community Safety & Liaison
COMMUNITY POLICE BOARD

- Treasurer
- Public Relations Officer
- SAPS Community Police Forum Coordinator (ex officio)
- 3 Additional Members

Official Community Police Board

- SAPS Officers as designated by the Provincial SAPS Commissioner
- 2 MEC designated representatives from KZN Dept. Community Safety
- Additional Members as may be co-opted by the Board

POLICE BOARD MEMBERS

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7.3 STRUCTURE: COMMUNITY POLICE CLUSTER BOARD

THE EXECUTIVE COMMITTEE OF THE COMMUNITY POLICE CLUSTER BOARD

THE COMMUNITY POLICE CLUSTER

© Juta & Co. Ltd and KZN Community Safety & Liaison
POLICE CLUSTER BOARD

- Treasurer
- Public Relations Officer
- SAPS Community Police Cluster Board Coordinator (Ex officio)
- 3 Additional Members

UNITY CLUSTER POLICE BOARD

- 5 Officers指定 by the cluster manager
- 1 Dept. Official as designated by the head of department for the KZN Dept. Community Safety and Liaison
- Additional Members as may be co-opted by the cluster board

BOARD MEMBERS

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7.4 STRUCTURE: COMMUNITY POLICE FORUM

THE EXECUTIVE COMMITTEE OF THE STATION

MEMBERS FROM COMMUNITY BASED ORGANISATIONS, INSTITUTIONS, INTEREST GROUPS AND THE GENERAL PUBLIC WHO ARE REPRESENTATIVE OF THE COMMUNITY IN THE STATION AREA

THE STATION COMMUNITY POL

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