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GOVERNMENT NOTICES GOEWERMENTSKENNISGEWINGS

DEPARTMENT OF SAFETY AND SECURITY DEPARTEMENT VAN VEILIGHEID EN SEKURITEIT

No. R. 710

11 June 1999

REGULATIONS FOR MUNICIPAL POLICE SERVICES

The Minister for Safety and Security has, under section 64P of the South African Police Service Act, 1995 (Act No. 68 of 1995), made the regulations in the Schedule.

F S MUFAMADI,
Minister for Safety and Security.

SCHEDULE**1. Application for the establishment of a municipal police service**

- (1) An application in terms of section 64A(1) of this Act must be made on the form contained in Annexure 1.
- (2) An application referred to in subregulation (1) must be signed by the Chief Executive Officer of the municipality concerned and must be accompanied by a certified extract of the minutes of a meeting of the municipal council in which the council has resolved to apply for the establishment of a municipal police service and adopted resolutions which approved the following:
 - (a) the name of the municipal police service which is to be established which is so clearly distinguishable from that of the Service that it will prevent confusion;
 - (b) the ranking structure that will apply in the said municipal police service which is so clearly distinguishable from that of the Service that it will prevent confusion: Provided that the municipal police service may utilize the ranks of constable, sergeant, inspector, superintendent, senior superintendent and director;
 - (c) a proposal containing graphically depicted uniforms and insignia of the said municipal police service which are so clearly distinguishable from that of the Service that it will prevent confusion: Provided that the uniform must display the coat of arms of the municipality concerned;
 - (d) a business plan consistent with its Integrated Development Plan covering a period of not less than five years from the contemplated date of establishment of the municipal police service, which contains an exposition of the resources at the disposal of the municipal council concerned and how these resources will be affected by the establishment and maintenance of the municipal police service, which contains sufficient information so as to enable the member of the Executive Council to satisfy himself or herself that the municipal council has the financial and other resources at its disposal to establish and maintain a municipal police

service complying with the national standards determined by the National Commissioner;

- (e) a detailed description of the composition of the committee contemplated in section 64J(1) and which indicates how that composition will ensure proper civilian oversight over the said municipal police service;
- (f) a detailed exposition of the organisational structure of the said municipal police service, indicating the number of persons which the municipal council contemplates to appoint as members thereof and setting out the number of such members who will primarily be utilized to -
 - (i) render traffic policing services;
 - (ii) enforce municipal by-laws and regulations; and
 - (iii) render crime prevention services; and
- (g) a detailed report setting out the traffic policing services which will be rendered by the said municipal police service and how it is contemplated to ensure that traffic policing services will not be prejudicially affected by the establishment of the said municipal police service.

2. Application procedure

- (1) Six copies of the application contemplated in regulation 1 must be submitted to the member of the Executive Council at least 120 days before the date, mentioned in the application, upon which the municipal council would prefer the municipal police service to be established.
- (2) Within ten days after the receipt of the application, the member of the Executive Council must submit a copy of the application to -
 - (a) each member of the Executive Council referred to in section 64A(3)(c);
 - (b) the National Commissioner; and
 - (c) where applicable, the metropolitan council concerned.
- (3) The National Commissioner and, where applicable, the metropolitan council concerned must, within 60 days after the receipt of the copy of the application, in writing notify the member of the Executive Council whether they support or oppose the application and, in the event that the application is opposed, of the reasons for such opposition.
- (4) Upon receipt of the notices referred to in subregulation (3) and the approval or non-approval in writing of the members of the Executive Council referred to in section 64A(3)(c), the member of the Executive Council must, before the expiry of 120 days from the date of the receipt of the application from the municipal council concerned, in writing notify the said municipal council of the outcome of the application.
- (5) The notice to the municipal council contemplated in subregulation (4), must inform the municipal council concerned that -
 - (a) the application has been approved and upon which date the municipal

- police service will be established by notice in the *Provincial Gazette*;
- (b) the application has been approved subject to the conditions specified in the notice and that the municipal council may, if it prefers, submit representations concerning these conditions to the member of the Executive Council within 30 days from the date of the notice, failing which, the municipal police service will be established by notice in the *Provincial Gazette*, subject to the said conditions, from a date specified in the notice;
 - (c) the application has not been approved and the reasons for such non-approval and that the municipal council may, if it prefers, submit representations concerning the non-approval to the member of the Executive Council within 30 days from the date of the notice; or
 - (d) the application is under consideration and that such further information as specified in the notice must be furnished before a final decision on the application will be made.
- (6) Within 30 days after the receipt of the representations, if any, referred to in subregulation (5)(b) or (c) or the further information contemplated in subregulation (5)(d), the member of the Executive Council must notify the municipal council concerned that -
- (a) the application has been approved and the date upon which the municipal police service will be established by notice in the *Provincial Gazette*; or
 - (b) the application has not been approved and the reasons for such non-approval.
- (7) Record, in the form set out in Annexure 2, of the procedure followed with regard to an application contemplated in regulation 1, must be kept by the Provincial Secretary for Safety and Security.

3. Publication of notice of establishment

If an application for the establishment of a municipal police service has been approved by the member of the Executive Council, the member of the Executive Council must publish a notice, in the form set out in Annexure 3, in the *Provincial Gazette*, whereby the municipal police service is established.

4. Notification to National Commissioner

After the publication of the notice of establishment of a municipal police service as contemplated in regulation 3, the member of the Executive Council must in writing notify the National Commissioner and the Executive Director of the Independent Complaints Directorate of such establishment.

5. Rendering of a 24-hour municipal police service

Subject to section 64A(2), a municipal council must establish at least one municipal

police service office within the area of jurisdiction of the municipal council concerned which will provide a 24-hour police service.

6. Annual plan of the municipal police service

- (1) The annual plan contemplated in section 64C(2)(g) must be developed by the Executive Head of the municipal police service after consultation with the relevant policing co-ordinating committee referred to in section 64K and the relevant community policing forum(s), in so far as the plan relates to the prevention of crime in the area of jurisdiction of the municipal council concerned, the Executive Head must develop the plan in cooperation with the Provincial Commissioner concerned.
- (2) At least 60 days before the end of each financial year of the municipal council concerned, the Executive Head must submit the plan referred to in subsection (1) to the Provincial Commissioner and the member of the Executive Council responsible for transport and traffic matters concerned.
- (3) Within 30 days after the receipt of the plan contemplated in subsection (2), the Provincial Commissioner concerned must -
 - (a) if he or she is satisfied that the implementation of the plan will improve effective policing in that part of the province, submit a certificate to the Executive Head concerned in which he or she confirms that, in so far as the plan relates to the prevention of crime, the plan has been developed in co-operation with the Service and will improve effective policing in that part of the province; or
 - (b) if he or she is not satisfied that, given the resources available to the municipal police service, the implementation of the plan will not improve effective policing in that part of the province, submit a certificate to the Executive Head concerned in which he or she sets out the reasons why he or she is not so satisfied.
- (4) Within 30 days after the receipt of the plan contemplated in subsection (2), the member of the Executive Council responsible for transport and traffic matters, may in writing submit comments concerning the plan, in so far as it affects traffic policing services, to the Executive Head concerned.
- (5) Upon receipt of a certificate contemplated in subsection (3), the Executive Head must submit the plan referred to in section 64C(2)(g), together with the said certificate, to the committee referred to in section 64J.
- (6) Upon the approval by the municipal council concerned of the annual plan contemplated in section 64C(2)(g), a copy of the plan must be forwarded to the member of the Executive Council, the member of the Executive Council responsible for transport and traffic matters, and the Provincial Commissioner concerned.

7. Reports by the Executive Head

- (1) The Executive Head must, at the end of each quarter of the financial year of the municipal council concerned, in writing submit a report concerning the functioning of the municipal police service and the implementation of the plan contemplated in section 64C(2)(g) to the committee referred to in section 64J.
- (2) A copy of the report contemplated in subregulation (1) must be forwarded to the member of the Executive Council and the Provincial Commissioner concerned.

8. Certificate of appointment

For the purposes of section 64G a certificate of appointment, in the form contained in Annexure 4 and with the photograph of the member of the municipal police service affixed thereto, must be issued by the Executive Head to every member of a municipal police service, and such certificate may be replaced as often as the Executive Head may deem necessary: Provided that the Executive Head may, in his or her discretion, withhold the issue of such certificate to such a member taking into account the rights of the affected member.

9. Provisions of this Act applicable to municipal police services

The provisions of this Act which are set out in Column 1 of Annexure 5 are applicable to a municipal police service to the extent set out in Column 2 of that Annexure.

10. Powers of a municipal police service

The powers conferred upon a member of the Service by the legislative provisions referred to in Column 1 of Annexure 6, may, to the extent set out in Column 2 of that Annexure, be exercised by a member of a municipal police service.

11. Requirements for appointment as a member of a municipal police service

- (1) Subject to the provisions of sections 64D and 64Q, a person may be appointed as a member of a municipal police service, if such person -
 - (a) is registered as a traffic officer in terms of the Road Traffic Act, 1989 (Act No. 29 of 1989);
 - (b) applied in the form set out in Annexure 7 and affirms under oath or by way of solemn declaration that the particulars furnished in the application, are the truth;
 - (c) has permanent residence in the Republic of South Africa;
 - (d) is at least eighteen (18) years old of which documentary proof must be furnished;
 - (e) submits himself or herself to a medical examination as determined by the Executive Head and is found to be physically and mentally fit for appointment as a member of a municipal police service;

- (f) is in possession of at least a senior certificate or equivalent qualification, of which documentary proof must be furnished;
 - (g) has no previous criminal convictions (excluding previous convictions relating to political activities in the previous dispensation) and such a person shall allow his or her fingerprints to be taken;
 - (h) has successfully completed the training determined by the National Commissioner;
 - (i) is proficient in English;
 - (j) takes the Oath of Office determined by the municipal council concerned; and
 - (k) complies with the requirements determined by the municipal council concerned in addition to the requirements set out in subregulations (a)-(j).
- (2) Notwithstanding the provisions of subregulation (1), the National Commissioner may, having due regard to the requirements of sections 64A(2), 64L(1) and 64P(1) of the Act, upon a recommendation of the Executive Head made in conformity with parameters in an agreement reached at the National Bargaining Council for Local Government, waive any of the requirements set out in subregulations (a)-(i) in the interest of the effective functioning of a municipal police service.

12. Establishment and composition of policing co-ordinating committees

- (1) The Provincial Commissioner concerned must, in terms of section 64K(1), establish at least one policing co-ordinating committee in the area of jurisdiction of a municipal police service.
- (2) An operational co-ordinating committee, established to co-ordinate law enforcement operations in terms of the National Crime Prevention Strategy and which functions in respect of an area in which a policing co-ordinating committee is established in terms of subregulation (1), will cease to exist with effect from the date of the establishment of the committee referred to in subregulation (1).
- (3) A committee established in terms of subregulation (1) comprises of at least one representative each from the Service, the South African National Defence Force, the Departments of Correctional Services, Justice and Welfare, the municipal police service and the provincial traffic service.
- (4) The committee may, from time to time, co-opt any person or a representative from any institution as a member of the committee, whether for a specific period or purpose or indefinitely.

13. Functions and duties of policing co-ordinating committees

- (1) The committee must determine operational policy and procedures to co-ordinate policing in the area in respect of which the committee has been established.

- (2) In determining the said policy and procedures the committee must give due regard to the working procedures as may from time to time be applicable to the National Crime Prevention Strategy's Law Enforcement Operational Coordinating Mechanism.
- (3) The committee may plan operations to be jointly executed by the personnel of more than one agency or institution represented on the committee.
- (4) Personnel of each agency or institution taking part in the execution of a joint operation, as contemplated in subregulation (3), shall, in the execution of such operation, function under the command and control of the agency or institution by which they are employed.
- (5) The committee may plan and implement joint training exercises in which personnel of more than one agency or institution represented on the committee, are involved.
- (6) The committee shall meet at least once every month.
- (7) The committee shall designate a secretariat and monitoring centre to oversee the day to day operations of the committee.
- (8) The committee is responsible to establish liaison with the intelligence community in accordance with the working procedures referred to in subregulation (2).

APPLICATION FOR THE ESTABLISHMENT OF A MUNICIPAL POLICE SERVICE

(Section 64A(1) of the South African Police Service Act (Act No. 68 of 1995))

Please note: This application must be completed in black ink by the Chief Executive Officer. Six copies of the application must be submitted to the member of the Executive Council at least 120 days before the date on which the municipality wishes to establish the Municipal Police Service mentioned in the application.

PART A

NAME OF MUNICIPAL COUNCIL

Particulars of Chief Executive Officer

[illegible]

Area code & tel nr

[illegible]**Street Address**[illegible]**Code**

--	--	--	--	--	--

Postal Address[illegible]**Code**

--	--	--	--	--	--

Area code & tel nr

[illegible]

Area code & fax nr

PART B**1. CERTIFIED EXTRACT OF THE MINUTES OF THE MEETING OF MUNICIPAL COUNCIL**

A certified extract of the minutes of the meeting of the municipal council, in which the council has resolved to apply for the establishment of a municipal police service, must be attached hereto as Annexure A.

Take note: See regulation 1(2).

2. PROPOSED NAME FOR THE MUNICIPAL POLICE SERVICE

.....

.....

.....

.....

Take note: See regulation 1(2)(a).

3. PROPOSED RANKING STRUCTURE OF THE MUNICIPAL POLICE SERVICE

The proposed ranking structure of the municipal police service must be attached hereto as Annexure B.

Take note: See regulation 1(2)(b).

4. PROPOSED UNIFORM AND INSIGNIA OF THE MUNICIPAL POLICE SERVICE

The graphically depicted proposed uniform and insignia of the municipal police service must be attached hereto as Annexure C.

Take note: See regulation 1(2)(c).

5. BUSINESS PLAN

The business plan of the municipal police service must be attached hereto as Annexure D.

Take note: See section 64C(2)(g) and regulation 1(2)(d).

6. CERTIFICATE CERTIFYING FINANCIAL VIABILITY

A certificate issued by the City Treasurer, certifying that the municipality has the financial and other resources at its disposal to establish and maintain a municipal police service complying with the national standards, must be attached hereto as Annexure E.

Take note: See regulation 1(2)(d).

7. COMMITTEE CONTEMPLATED TO ENSURE CIVILIAN OVERSIGHT

The committee contemplated to ensure civilian oversight must be attached hereto as Annexure F.

Take note: See section 64J and regulation 1(2)(e).

8. ORGANISATIONAL STRUCTURE

The organisational structure must be attached hereto as Annexure G.

Take Note: See regulation 1(2)(f).

9. DETAILED REPORT SETTING OUT TRAFFIC POLICING SERVICES

The detailed report setting out traffic policing services must be attached hereto as Annexure H.

Take Note: See regulation 1(2)(g).

10. PROPOSED DATE UPON WHICH THE MUNICIPAL COUNCIL WOULD PREFER THE MUNICIPAL POLICE SERVICE TO BE ESTABLISHED

.....

.....

.....

.....

I, the undersigned, hereby state that the information furnished in this application is true and correct.

.....
DATE

.....
SIGNATURE OF CHIEF EXECUTIVE OFFICER

.....
OFFICIAL STAMP OF MUNICIPAL COUNCIL

ANNEXURE 2

OFFICIAL RECORD OF APPLICATION

1. APPLICATION RECEIVED ON BY

2. SUBMISSION OF APPLICATION TO RELEVANT ROLE PLAYERS

APPLICATION SUBMITTED TO	SENT BY (Signature)	DATE SENT
National Commissioner		
Metropolitan Council (if applicable)		
MEC for Local Government		
MEC for Finance		
MEC for Transport and Traffic		

Take Note: Copies of accompanying letters must be attached hereto.

3. RESPONSES FROM ROLE PLAYERS

RESPONSE FROM	RECEIVED BY (Signature)	DATE RECEIVED
National Commissioner		
Metropolitan Council (If applicable)		
MEC for Local Government		
MEC for Finance		
MEC for Transport and Traffic		

Take Note: Copies of response letters must be attached hereto.

4. APPLICATION APPROVED / NOT APPROVED / APPROVED ON THE CONDITIONS SET OUT IN ANNEXURE (Delete which is not applicable)

DATE

SIGNATURE OF MEC FOR SAFETY AND SECURITY

5. DATE ON WHICH RESPONSE WAS SUBMITTED TO APPLICANT MUNICIPALITY :

6. NOTICE PUBLISHED IN PROVINCIAL GAZETTE NO :

DATED :

ANNEXURE 3

**ESTABLISHMENT OF MUNICIPAL POLICE SERVICE
IN TERMS OF SECTION 64A(4) OF
THE SOUTH AFRICAN POLICE SERVICE ACT, 1995
(ACT NO. 68 OF 1995)**

By virtue of the powers vested in me by section 64A(4) of the South African Police Service Act, 1995 (Act No. 68 of 1995), I,

....., MEC for Safety and Security of
..... (name of province), hereby establish a municipal
police service to be known as the
(name of municipal police service), for the area of jurisdiction of the
..... (name of municipal council), subject to the following
conditions: (if any).

ANNEXURE 4

APPOINTMENT CERTIFICATE (Section 64G of Act No. 68 of 1995)	
It is hereby certified that	
Employee No:	Infra No:
ID No:	
has been appointed as a member of the	
.....	
(name of municipal police service)	
and holds the rank of	
.....	since
(Rank)	(Date)
Signed on	at
.....	
Executive Head	

ANNEXURE 5

**PROVISIONS OF THE SOUTH AFRICAN POLICE SERVICE ACT, 1995
(ACT NO. 68 OF 1995) APPLICABLE TO
A MUNICIPAL POLICE SERVICE**

Column 1	Column 2
13	Only subsections (2), (3), (9) and (13)
14	The whole
42	The whole - Provided that the reference to the National- or Provincial Commissioner be interpreted as a reference to the Executive Head of the municipal police service
44	The whole
46	The whole
53	The whole - Provided that the reference to the relevant Commissioner be interpreted as a reference to the relevant Executive Head of the municipal police service.
55	The whole
56	The whole
61	The whole
66	The whole - Provided that a reference to any uniform, distinctive badge or button, be interpreted as a reference to a uniform, distinctive badge or button worn by the members of the relevant municipal police service, and that the reference to the National- or Provincial Commissioner will be interpreted as a reference to the relevant Executive Head of the municipal police service.
67	The whole
68	The whole
69	The whole
70	The whole - Provided that the reference to the Service will include a reference to the relevant municipal police service.
71	The whole - Provided that the reference to the Service will include a reference to the relevant municipal police service.

ANNEXURE 6

Column 1	Column 2
Section 8 of the Stock Theft Act, 1959 (Act No. 57 of 1959)	Only the powers referred to in subsection (3) and (7)
Section 9 of the Stock Theft Act, 1959 (Act No. 57 of 1959)	The powers referred to in this section
Section 4 of the Tear Gas Act, 1964 (Act No. 16 of 1964)	The powers referred to in this section
Section 14 of the Mental Health Act, 1973 (Act No. 18 of 1973)	Only the powers referred to in subsection (2) - Provided that a member of a municipal police service shall hand such a person over to a member of the Service
Section 70 of the Mental Health Act, 1973 (Act No. 18 of 1973)	Only the powers referred to in subsection (1)
Section 21 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977)	The power referred to in this section
Section 22 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977)	The power referred to in this section
Section 26 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977)	The power referred to in this section
Section 27 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977)	The power referred to in this section
Section 37 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977)	The power referred to in this section
Section 72 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977)	The power referred to in this section for the purposes contemplated in section 55
Section 53 of the Sea Fishery Act, 1988 (Act No. 12 of 1988)	The powers referred to in this section
Section 11 of the Drugs and Drug Trafficking Act, 1992 (Act No. 140 of 1992)	Only the powers referred to in subsections (1)(a) (b), (d), (g) and 2(a)
Section 13 of the South African Police Service Act, 1995 (Act No. 68 of 1995)	Only the powers referred to in subsections (4), (7)(c), (8) and (11): Provided that the reference to the National- or Provincial Commissioner in subsection 8, be interpreted as a reference to the Executive Head of the municipal police service

Section 2 of the Domestic Violence Act, 1998 (Act No. 116 of 1998)	The powers referred to in section 2, subject to the national instructions issued by the National Commissioner as contemplated in section 18 of the Act
Section 4 of the Domestic Violence Act, 1998 (Act No. 116 of 1998)	The powers referred to in section 4, subject to the national instructions issued by the National Commissioner as contemplated in section 18 of the Act
Section 8 of the Domestic Violence Act, 1998 (Act No. 116 of 1998)	The powers referred to in section 8, subject to the national instructions issued by the National Commissioner as contemplated in section 18 of the Act.

ANNEXURE 7

Municipality of (name)
APPLICATION FOR APPOINTMENT TO MUNICIPAL POLICE SERVICE
 To be filled in by the applicant in his/her own handwriting

APPLICATION IN RESPONSE TO:

DEPARTMENTAL CIRCULAR No. TO POSITION

OR

PUBLIC ADVERTISEMENT DATED GRADE

1. PERSONAL

Surname (Block letters) State Dr./Mr./Mrs./Miss

Maiden Name (if applicable) Telephone Numbers: Bus Res

First Name (Block letters)

Residential & Post Address
(Block letters)Postal Code Age years, months. Date of Birth -- Place of Birth

Marital status (state if married, separated, single, widowed or divorced)

Do you have any relatives employed in the Council's Service?

Name: Post/s Occupied

Number and ages of children under age of 18 years: Number Ages:

Nationality Identity No. **2. HEALTH**

Indicate state of health

Give details of any serious operation or illness

Do you suffer from any physical defect? If so, give details

3. PREVIOUS EXPERIENCEA. If already in the employment of the Council:Service No. Gang No.

Present Department

Station

Present Position

Grade Ref. From R..... to R.....

Date Appointed to Present Grade --

Existing Basic Rate of Pay: R.....

Length of unbroken service with Council years, months. Date entered service --B. If not in the employment of the Council:Name of present employer Since --

Nature of employment

Present basic salary and allowances

Details of previous positions held. (Attach copies of certificates of service in support, or state if such certificates may be obtained).

Employer	Position	From	To	Reason for leaving	Held Yes/No
1)					
2)					
3)					
4)					

- C. Have you previously been employed by this Council? Department
- If so, state period from -- To -- Service No.
- D. If you have been employed by any other Local Authority in South Africa during the past 12 months, were you a member of the Pension Fund? (if so, have you withdrawn your contribution in that Fund?)
- E. Are you or any member of your family a member of a close corporation, partnership, company or involved in any other business activity? YES/NO (If yes, please state details)

4. QUALIFICATIONS

a) Educational

- (i) Last school attended from 19..... to 19..... Standard Passed
- * Certified photostat copy or statement listing subjects and marks/symbols to be attached.

(ii) Details of Degree(s)/Diploma(s)/Certificate(s) held

Nature of Degree/Diploma/Certificate

Obtained

Where obtained

b) Proficiency in Languages	Speak	Read	Write	Examinations Passed
1) English				
2) Afrikaans				
3) Zulu				
4) Other				

5. Detail your relevant experience for this position as concisely as possible: (If considered necessary, attach a separate statement setting out information in greater detail):

6. Have you ever been (a) Convicted of a Criminal Offence?
(I understand that if records subsequently reveal that I have been convicted of a criminal offence which I have not reported, my application will be unsuccessful/appointment will be terminated)

(b) Dismissed or requested to resign from any employment?

(c) Insolvent?

7. Driver's Licence Held	Type	Code	Licence No	Is this Licence Endorsed (Yes/No)

I hereby make application for appointment to the position indicated in the service of the answers to the questions set out above are correct in every detail.

Council and certify that my

Date 19.....

SIGNATURE

DO NOT ATTACH ORIGINAL CERTIFICATES - COPIES ONLY

FOR USE BY HEAD OF DEPARTMENT ONLY

No. R. 710

11 Junie 1999

REGULASIES VIR MUNISIPALE POLISIEDIENSTE

Die Minister vir Veiligheid en Sekuriteit het, kragtens artikel 64P van die Wet op die Suid-Afrikaanse Polisiediens, 1995 (Wet No. 68 van 1995), die Regulasies in die Bylae uitgevaardig.

F S MUFAMADI,
Minister vir Veiligheid en Sekuriteit.

BYLAE**1. Aansoek vir die instelling van 'n munisipale polisiediens**

- (1) 'n Aansoek ingevolge artikel 64A(1) van hierdie Wet moet in die vorm vervat in Aanhangsel 1 gedoen word.
- (2) 'n Aansoek waarna in subregulasie (1) verwys word, moet deur die Hoof Uitvoerende Beampte van die betrokke munisipaliteit onderteken word en moet vergesel word van 'n gesertifiseerde uittreksel van die notule van 'n vergadering van die munisipale raad waarin die raad besluit het om aansoek te doen vir die instelling van 'n munisipale polisiediens en resolusies aanvaar het wat die volgende goedkeur:
 - (a) die naam van die munisipale polisiediens wat ingestel staan te word wat so duidelik onderskeibaar is van dié van die Diens dat dit verwarring sal voorkom;
 - (b) die rangstruktuur wat in die genoemde munisipale polisiediens van toepassing sal wees wat so duidelik onderskeibaar is van dié van die Diens dat dit verwarring sal voorkom: Met dien verstande dat die munisipale polisiediens die range van konstabel, sersant, inspekteur, superintendent, senior superintendent en direkteur kan gebruik;
 - (c) 'n voorstel wat 'n grafiese uitbeelding van die uniforms en insignia van die genoemde munisipale polisiediens bevat wat so duidelik onderskeibaar is van dié van die Diens dat dit verwarring sal voorkom: Met dien verstande dat die uniform die wapenskild van die betrokke munisipaliteit moet vertoon;
 - (d) 'n besigheidsplan, in ooreenstemming met die munisipale raad se Saamgestelde Ontwikkelingsplan wat oor 'n tydperk van nie minder nie as vyf jaar strek vanaf die beoogde datum van instelling van die munisipale polisiediens nie en wat 'n uiteensetting bevat van die hulpbronne waaroor die betrokke munisipale raad beskik en wat aandui

hoe hierdie hulpbronne deur die instelling en instandhouding van die munisipale polisie diens geaffekteer sal word en wat voldoende inligting bevat om die lid van die Uitvoerende Raad in staat te stel om homself of haarself tevrede te stel dat die munisipale raad die finansiële en ander hulpbronne tot hul beskikking het om 'n munisipale polisie diens in te stel en instand te hou wat voldoen aan die nasionale standarde bepaal deur die Nasionale Kommissaris;

- (e) 'n uitvoerige beskrywing van die samestelling van die komitee beoog in artikel 64J(1) en wat aandui hoe daardie samestelling voldoende burgerlike toesig oor die betrokke munisipale polisie diens sal verseker;
- (f) 'n uitvoerige uiteensetting van die organisatoriese struktuur van die betrokke munisipale polisie diens wat die getal persone wat die munisipale raad beoog om as lede daarvan aan te stel, aandui en wat die getal uiteensit van sodanige lede wat primêr benut sal word om -
 - (i) verkeerspolisiëringdienste te verrig;
 - (ii) munisipale verordeninge en regulasies af te dwing; en
 - (iii) misdaadvoorkomingsdienste te verrig; en
- (g) 'n uitvoerige verslag wat die verkeerspolisiëringdienste wat deur die genoemde munisipale polisie diens verrig sal word, uiteensit en hoe dit beoog word om te verseker dat verkeerspolisiëringdienste nie nadelig beïnvloed sal word deur die instelling van die genoemde munisipale polisie diens nie.

2. Aansoekprosedure

- (1) Ses kopieë van die aansoek beoog in regulasie 1, moet minstens 120 dae voor die datum genoem in die aansoek waarop die munisipale raad sal verkies dat die munisipale polisie diens ingestel moet word, aan die lid van die Uitvoerende Raad, voorgelê word.
- (2) Binne tien dae na ontvangs van die aansoek, moet die lid van die Uitvoerende Raad 'n kopie van die aansoek voorlê aan -
 - (a) elke lid van die Uitvoerende Raad waarna in artikel 64A(3)(c) verwys word;
 - (b) die Nasionale Kommissaris; en
 - (c) waar van toepassing, die betrokke metropolitaanse raad.
- (3) Die Nasionale Kommissaris en, waar van toepassing, die betrokke metropolitaanse raad, moet binne 60 dae na ontvangs van die kopie van die aansoek, die lid van die Uitvoerende Raad skriftelik in kennis stel of hulle die aansoek ondersteun of opponeer en, in die geval waar die aansoek opponeer word, die rede vir sodanige opponering.
- (4) By ontvangs van die kennisgewings waarna in subregulasie (3) verwys word en die skriftelike goedkeuring of afkeuring deur die lede van die Uitvoerende Raad waarna in artikel 64A(3)(c) verwys word, moet die lid van die Uitvoerende Raad

voor die verstryking van 120 dae vanaf die datum van ontvangs van die aansoek van die betrokke munisipale raad, die betrokke munisipale raad skriftelik in kennis stel van die uitslag van die aansoek.

- (5) Die kennisgewing aan die munisipale raad beoog in subregulasie (4) moet die betrokke munisipale raad inlig dat -
- (a) die aansoek goedgekeur is en die datum waarop die munisipale polisie diens deur kennisgewing in die *Provinsiale Koerant* ingestel sal word;
 - (b) die aansoek goedgekeur is onderhewig aan die voorwaardes bepaal in die kennisgewing en dat die munisipale raad, indien die raad verkies, vertoë aan die lid van die Uitvoerende Raad rakende hierdie voorwaardes binne 30 dae vanaf die datum van die kennisgewing kan indien, by versuim waarvan die munisipale polisie diens deur kennisgewing in die *Provinsiale Koerant* ingestel sal word, onderhewig aan die genoemde voorwaardes, vanaf 'n datum in die kennisgewing uiteengesit;
 - (c) die aansoek nie goedgekeur is nie en die redes vir sodanige afkeuring en dat die munisipale raad, indien die raad verkies, vertoë rakende die afkeuring binne 30 dae vanaf die datum van die kennisgewing by die lid van die Uitvoerende Raad kan indien; of
 - (d) die aansoek onder oorweging is en dat sodanige verdere inligting soos bepaal in die kennisgewing verskaf moet word, alvorens 'n finale besluit oor die aansoek gemaak sal word.
- (6) Binne 30 dae na ontvangs van die vertoë, indien enige, waarna in subregulasie (5)(b) of (c) verwys word, of die verdere inligting beoog in subregulasie (5)(d), moet die lid van die Uitvoerende Raad die betrokke munisipale raad verwittig dat -
- (a) die aansoek goedgekeur is en die datum waarop die munisipale polisie diens deur kennisgewing in die *Provinsiale Koerant* ingestel sal word; of
 - (b) die aansoek nie goedgekeur is nie en die redes vir sodanige afkeuring.
- (7) 'n Verslag, in die vorm uiteengesit in Aanhangsel 2, van die prosedure gevolg met betrekking tot 'n aansoek beoog in regulasie 1, moet deur die Provinsiale Sekretariaat vir Veiligheid en Sekuriteit bygehou word.

3. Publikasie van kennisgewing van instelling

Indien 'n aansoek vir die instelling van 'n munisipale polisie diens deur die lid van die Uitvoerende Raad goedgekeur is, moet die lid van die Uitvoerende Raad 'n kennisgewing, in die vorm uiteengesit in Aanhangsel 3, in die *Provinsiale Koerant* publiseer, waarby die munisipale polisie diens ingestel word.

4. Kennisgewing aan Nasionale Kommissaris

Na die publikasie van die kennisgewing van die instelling van 'n munisipale polisie diens, soos beoog in regulasie 3, moet die lid van die Uitvoerende Raad die Nasionale Kommissaris en die Uitvoerende Direkteur van die Onafhanklike Klagtesdirektoraat skriftelik van sodanige instelling inlig.

5. Verskaffing van 'n 24-uur munisipale polisie diens

Behoudens artikel 64A(2), moet 'n munisipale raad ten minste een munisipale polisie diens kantoor binne die jurisdiksie van die betrokke munisipale raad daarstel wat 'n 24-uur polisie diens sal verskaf.

6. Jaarlikse plan van die munisipale polisie diens

- (1) Die jaarlikse plan beoog in artikel 64C(2)(g), moet ontwikkel word deur die Uitvoerende Hoof van die munisipale polisie diens na oorleg met die relevante polisiëringskoördineringskomitee waarna in artikel 64K en die relevante gemeenskapspolisiëringsforum(s) verwys word en, in soverre die plan betrekking het op die voorkoming van misdaad binne die jurisdiksie van die betrokke munisipale raad, moet die Uitvoerende Hoof die plan in samewerking met die betrokke Provinsiale Kommissaris ontwikkel.
- (2) Die Uitvoerende Hoof moet ten minste twee maande voor die einde van die finansiële jaar van die betrokke munisipale raad, die plan waarna in subartikel (1) verwys word aan die betrokke Provinsiale Kommissaris en die lid van die Uitvoerende Raad verantwoordelik vir vervoer en verkeersaangeleenthede voorlê.
- (3) Binne 30 dae na ontvangs van die plan beoog in subartikel (2) moet die betrokke Provinsiale Kommissaris -
 - (a) indien hy of sy tevrede is dat die implementering van die plan effektiewe polisiëring in daardie gedeelte van die provinsie sal verbeter, 'n sertifikaat aan die betrokke Uitvoerende Hoof voorlê waarin hy of sy bevestig dat die plan, in soverre dit betrekking het op misdaadvoorkoming, in samewerking met die Diens ontwikkel is en dat dit effektiewe polisiëring in daardie gedeelte van die provinsie sal verbeter; of
 - (b) indien hy of sy nie tevrede is dat, gegewe die hulpbronne tot die beskikking van die munisipale polisie diens, die implementering van die plan nie effektiewe polisiëring in daardie gedeelte van die provinsie sal verbeter nie, 'n sertifikaat aan die betrokke Uitvoerende Hoof voorlê waarin hy of sy die redes uiteensit waarom hy of sy nie sodanig tevrede is nie.
- (4) Binne 30 dae na ontvangs van die plan beoog in subartikel (2), kan die lid van die Uitvoerende Raad verantwoordelik vir vervoer en verkeersaangeleenthede, skriftelik kommentaar rakende die plan, in soverre dit verkeerspasiëring dienste

affekteer, aan die betrokke Uitvoerende Hoof voorlê.

- (5) By ontvangs van die sertifikaat beoog in subartikel (3) moet die Uitvoerende Hoof die plan waarna in artikel 64C(2)(g) verwys word, saam met die genoemde sertifikaat, aan die komitee waarna in artikel 64J verwys word, voorlê.
- (6) By die goedkeuring deur die betrokke munisipale raad van die jaarlikse plan beoog in artikel 64C(2)(g), moet 'n kopie van die plan aan die lid van die Uitvoerende Raad, die lid van die Uitvoerende Raad verantwoordelik vir vervoer en verkeersaangeleenthede en die betrokke Provinsiale Kommissaris gestuur word.

7. Verslae deur die Uitvoerende Hoof

- (1) Die Uitvoerende Hoof moet aan die einde van elke kwartaal van die finansiële jaar van die betrokke munisipale raad, 'n skriftelike verslag rakende die funksionering van die munisipale polisie diens en die implementering van die plan beoog in artikel 64C(2)(g) aan die komitee waarna in artikel 64J verwys word, voorlê.
- (2) 'n Kopie van die verslag beoog in subregulasie (1) moet aan die lid van die Uitvoerende Raad en die betrokke Provinsiale Kommissaris gestuur word.

8. Aanstellingsertifikaat

Vir doeleindes van artikel 64G, moet 'n aanstellingsertifikaat, in die vorm vervat in Aanhangsel 4, met 'n foto van die lid van die munisipale polisie diens daarop aangebring, deur die Uitvoerende Hoof aan elke lid van 'n munisipale polisie diens uitgereik word en sodanige sertifikaat kan deur die Uitvoerende Hoof vervang word so dikwels as wat die Uitvoerende Hoof nodig ag. Met dien verstande dat die Uitvoerende Hoof, in sy of haar diskresie, die uitreiking van sodanige sertifikaat aan sodanige lid kan weerhou, met inagneming van die regte van die geaffekteerde lid.

9. Bepalings van hierdie Wet van toepassing op munisipale polisie diens

Die bepalings van hierdie Wet wat uiteengesit is in Kolom 1 van Aanhangsel 5 is van toepassing op 'n munisipale polisie diens tot die mate uiteengesit in Kolom 2 van daardie Aanhangsel.

10. Bevoegdheid van 'n munisipale polisie diens

Die bevoegdheid opgedra aan 'n lid van die Diens deur die wetgewende bepalings waarna in Kolom 1 van Aanhangsel 6 verwys word, kan, tot die mate uiteengesit in Kolom 2 van daardie Aanhangsel, deur 'n lid van 'n munisipale polisie diens uitgeoefen word.

11. Vereistes vir aanstelling as 'n lid van 'n munisipale polisie diens

- (1) Behoudens die bepalings van artikels 64D en 64Q kan 'n persoon as 'n lid van 'n munisipale polisie diens aangestel word, indien sodanige persoon -
- (a) geregistreer is as 'n verkeersbeampte ingevolge die Padverkeerswet, 1989 (Wet No. 29 van 1989);
 - (b) aansoek gedoen het in die vorm uiteengesit in Aanhangsel 7 en onder eed of by wyse van 'n plegtige verklaring bevestig het dat die besonderhede vermeld in die aansoek, die waarheid is;
 - (c) permanente verblyf in die Republiek van Suid-Afrika het;
 - (d) minstens agtien (18) jaar oud is, waarvan dokumentêre bewys verskaf moet word;
 - (e) homself of haarself onderwerp aan 'n mediese ondersoek soos bepaal deur die Uitvoerende Hoof en fisies en geestelik geskik bevind is vir aanstelling as 'n lid van 'n munisipale polisie diens;
 - (f) in besit is van minstens 'n senior sertifikaat of gelykwaardige kwalifikasie waarvan dokumentêre bewys verskaf moet word;
 - (g) geen vorige straffregtelike skuldigbevindings het nie (uitgesonderd vorige veroordelings wat verband hou met politieke aktiwiteite in die vorige bedeling) en sodanige persoon toelaat dat sy of haar vingerafdrukke geneem word;
 - (h) die opleiding soos bepaal deur die Nasionale Kommissaris suksesvol voltooi het;
 - (i) vaardig is in Engels;
 - (j) die eed van ampsaanvaarding, soos bepaal deur die betrokke munisipale raad, aflê; en
 - (k) voldoen aan die vereistes, soos bepaal deur die betrokke munisipale raad, addisioneel tot die vereistes soos uiteengesit in subregulasies (a)-(j).
- (2) Ondanks die bepalings van subregulasie (1) kan die Nasionale Kommissaris, met behoorlike inagneming van die vereistes van artikels 64A(2), 64L(1) en 64P(1) van die Wet, op 'n aanbeveling van die Uitvoerende Hoof, wat in ooreenstemming met die parameters van 'n ooreenkoms bereik by die Nasionale Onderhandelingsraad vir Plaaslike Regering gemaak is, in belang van die effektiewe funksionering van die munisipale polisie diens, afstand doen van enige van die vereistes in subregulasies (a)-(i) uiteengesit.

12. Instelling en samestelling van polisieeringskoördineringskomitees

- (1) Die betrokke Provinsiale Kommissaris moet, ingevolge artikel 64K(1), ten minste een polisieeringskoördineringskomitee in die jurisdiksie van die munisipale polisie diens instel.
- (2) 'n Operasionele koördineringskomitee, ingestel om wetstoepassingsoperasies ingevolge die Nasionale Misdaadsvoorkoming Strategie te koördineer en wat binne 'n gebied waar 'n polisieeringskoördineringskomitee ingevolge subregulasie

- (1) ingestel is, funksioneer, sal ophou om te bestaan vanaf die datum van die instelling van die komitee waarna in subregulasie (1) verwys word.
- (3) 'n Komitee ingestel ingevolge subregulasie (1), bestaan uit ten minste een verteenwoordiger elk van die Diens, die Suid-Afrikaanse Nasionale Weermag, die Departemente van Korrektiewe Dienste, Justisie en Welsyn, die munisipale polisie diens en die provinsiale verkeersdiens.
- (4) Die komitee kan van tyd tot tyd enige persoon of 'n verteenwoordiger van enige instelling as 'n lid van die komitee koöpteer hetsy vir 'n spesifieke tydperk of doel of onbepaald.

13. Funksies en pligte van polisiëringskoördineringskomitees

- (1) Die komitee moet die operasionele beleid en prosedures bepaal om polisiëring binne die gebied waarbinne die komitee ingestel is, te koördineer.
- (2) In die bepaling van genoemde beleid en prosedures moet die komitee voldoende aandag skenk aan die werkprosedures wat van tyd tot tyd op die Nasionale Misdaadsvoorkomingstrategie se Wetstoepassing Operasionele Koördineringsmeganisme van toepassing is.
- (3) Die komitee kan operasies beplan om gesamentlik deur die personeel van een of meer agentskap of instelling wat op die komitee verteenwoordig is, uitgeoefen te word.
- (4) Personeel van elke agentskap of instelling wat aan die uitvoering van 'n gesamentlike operasie, soos beoog in subregulasie (3) deelneem, moet, in die uitvoering van sodanige operasie, onder die bevel en beheer van die agentskap of instelling waar hulle werksaam is, funksioneer.
- (5) Die komitee kan gesamentlike opleidingsoefeninge beplan en implementeer waarin personeel van meer as een agentskap of instelling wat op die komitee verteenwoordig is, betrokke is.
- (6) Die komitee moet minstens een keer per maand vergader.
- (7) Die komitee moet 'n sekretariaat en moniteringsentrum aanwys om toesig oor die dag tot dag operasies van die komitee te hou.
- (8) Die komitee is verantwoordelik om skakeling met die intelligensie gemeenskap ooreenkomstig die werk prosedures waarna in subregulasie (2) verwys word, in te stel.

DEEL B**1. GESERTIFISEERDE UITTREKSEL VAN DIE NOTULE VAN DIE VERGADERING VAN DIE MUNISIPALE RAAD**

'n Gesertifiseerde uittreksel van die notule van die vergadering van die munisipale raad waarin die raad besluit het om aansoek te doen vir die instelling van 'n munisipale polisie diens moet as Aangangsel A hieraan geheg word.

Neem kennis: Sien regulasie 1(2).

2. VOORGESTELDE NAAM VIR DIE MUNISIPALE POLISIEDIENS

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.....

Neem kennis: Sien regulasie 1(2)(a).

3. VOORGESTELDE RANGSTRUKTUUR VAN DIE MUNISIPALE POLISIEDIENS

Die voorgestelde rangstruktuur van die munisipale polisie diens moet as Aangangsel B hieraan geheg word.

Neem kennis: Sien regulasie 1(2)(b).

4. VOORGESTELDE UNIFORM EN INSIGNIA VAN DIE MUNISIPALE POLISIEDIENS

Die voorgestelde grafiese uitbeelding van die uniform en insignia van die munisipale polisie diens moet as Aangangsel C hieraan geheg word.

Neem kennis: Sien regulasie 1(2)(c).

5. BESIGHEIDSPAN

Die besigheidsplan van die munisipale polisie diens moet as Aangangsel D hieraan geheg word.

Neem kennis: Sien artikel 64C(2)(g) en regulasie 1(2)(d).

6. SERTIFIKAAT WAT FINANSIËLE LEWENSVATBAARHEID SERTIFISEER

'n Sertifikaat uitgereik deur die Stadstoesourie waarin gesertifiseer word dat die munisipaliteit beskik oor die finansiële en ander hulpbronne om 'n munisipale polisie diens in te stel en instand te hou wat voldoen aan die nasionale standaard, moet as aangangsel E hieraan geheg word.

Neem kennis: Sien regulasie 1(2)(d).

7. KOMITEE BEOOG OM BURGERLIKE TOESIG TE VERSEKER

Die komitee beoog om burgerlike toesig te verseker moet as aangangsel F hieraan geheg word.

Neem kennis: Sien artikel 64J en regulasie 1(2)(e).

8. ORGANISATORIESE STRUKTUUR

Die organisatoriese struktuur moet as aanhangsel G hieraan geheg word.

Neem kennis: Sien regulasie 1(2)(f).

9. GEDETAILLEERDE VERSLAG WAT VERKEERSPOLISIËRINGSDIENSTE UITEENSIT

Die gedetailleerde verslag wat die verkeerspolisiëringdienste uiteensit, moet as aanhangsel H hieraan geheg word.

Neem kennis: Sien regulasie 1(2)(g).

**10. VOORGESTELDE DATUM WAAROP DIE MUNISIPALE RAAD SAL VERKIES DAT
MUNISIPALE POLISIEDIENS INGESTEL WORD**

.....

.....

.....

.....

Ek, die ondertekende, verklaar hiermee dat die inligting verskaf in hierdie aansoek waar en korrek is.

.....
DATUM

.....
**HANDTEKENING VAN HOOF UITVOERENDE
BEAMPT**

.....
AMPTELIKE STEMPEL VAN MUNISIPALE RAAD

AANHANGSEL 2

AMPTELIKE REKORD VAN AANSOEK

1. AANSOEK ONTVANG OP DEUR

2. VOORLEGGING VAN AANSOEK AAN RELEVANTE ROLSPELERS

AANSOEK VOORGELÊ AAN	GESTUUR DEUR (Handtekening)	DATUM WAAROP GESTUUR
Nasionale Kommissaris		
Metropolitaanse Raad (waar van toepassing)		
LUR vir Plaaslike Regering		
LUR vir Finansies		
LUR vir Vervoer en Verkeer		

Neem kennis: Kopeë van gepaardgaande skrywes moet hieraan geheg word.

3. REAKSIE VAN ROLSPELERS

REAKSIE VAN	ONTVANG DEUR (Handtekening)	DATUM WAAROP ONTVANG
Nasionale Kommissaris		
Metropolitaanse Raad (waar van toepassing)		
LUR vir Plaaslike Regering		
LUR vir Finansies		
LUR vir Vervoer en Verkeer		

Neem kennis: Kopeë van reaksie skrywes moet hieraan geheg word.

4. AANSOEK GOEDGEKEUR / NIE GOEDGEKEUR NIE / GOEDGEKEUR OP DIE
VOORWAARDES UITEENGESIT IN DIE AANHANGSEL (Skrap wat nie van toepassing is nie)

.....
DATUM

.....
HANDTEKENING VAN LUR VIR VEILIGHEID EN
SEKURITEIT

5. DATUM WAAROP REAKSIE VOORGELÊ IS AAN APPLIKANT MUNISIPALITEIT :

6. KENNISGEWING GEPUBLISEER IN PROVINSIALE KOERANT NO:.....

DATEER:

AANHANGSEL 3

**INSTELLING VAN MUNISIPALE POLISIEDIENS
KRAGTENS ARTIKEL 64A(4) VAN DIE WET OP
DIE SUID-AFRIKAANSE POLISIEDIENS, 1995
(WET NO. 68 VAN 1995)**

Kragtens die bevoegdheid aan my verleen deur artikel 64A(4) van die Wet op die Suid-Afrikaanse Polisie, 1995 (Wet No. 68 van 1995), stel ek,
....., LUR vir Veiligheid en Sekuriteit van
..... (naam van provinsie), hiermee 'n
munisipale polisie in wat bekend sal staan as die
.....
(naam van munisipale polisie), vir die jurisdiksie gebied van die
..... (naam van munisipale raad), onderhewig
aan die volgende voorwaardes: (indien enige).

AANHANGSEL 4

AANSTELLINGSERTIFIKAAT (Artikel 64G van Wet No. 68 van 1995)	
Dit word hiermee gesertifiseer dat	
Werknemer No:	Infra No:
ID No:	
aangestel is as 'n lid van die	
.....	
(naam van munisipale polisie diens)	
en die rang beklee van	
.....	sedert
(Rang)	(Datum)
Geteken op	in
.....	
Uitvoerende Hoof	

AANHANGSEL 5

**BEPALINGS VAN DIE WET OP DIE SUID-AFRIKAANSE POLISIEDIENS, 1995
(WET NO. 68 VAN 1995) VAN TOEPASSING OP
'N MUNISIPALE POLISIEDIENS**

Kolom 1	Kolom 2
13	Slegs subartikels (2), (3), (9) en (13)
14	Die geheel
42	Die geheel - Met dien verstande dat die verwysing na die Nasionale- of Provinsiale Kommissaris geïnterpreteer word as 'n verwysing na die Uitvoerende Hoof van die munisipale polisie diens
44	Die geheel
46	Die geheel
53	Die geheel - Met dien verstande dat die verwysing na die relevante Kommissaris geïnterpreteer word as 'n verwysing na die Uitvoerende Hoof van die munisipale polisie diens
55	Die geheel
56	Die geheel
61	Die geheel
66	Die geheel - Met dien verstande dat 'n verwysing na enige uniform, kenteken of knoop geïnterpreteer word as 'n uniform, kenmerkende kenteken of knoop gedra deur lede van die relevante munisipale polisie diens, en dat 'n verwysing na die Nasionale- of Provinsiale Kommissaris geïnterpreteer sal word as 'n verwysing na die relevante Uitvoerende Hoof van die munisipale polisie diens.
67	Die geheel
68	Die geheel
69	Die geheel
70	Die geheel - Met dien verstande dat 'n verwysing na die Diens 'n verwysing na die relevante munisipale polisie diens sal insluit
71	Die geheel - met die verstande dat 'n verwysing na die Diens 'n verwysing na die relevante munisipale polisie diens sal insluit

AANHANGSEL 6

Kolom 1	Kolom 2
Artikel 8 van die Wet op Veediefstal, 1959 (Wet No. 57 van 1959)	Slegs die bevoegdhede verwys na in subartikel (3) en (7)
Artikel 9 van die Wet op Veediefstal, 1959 (Wet No. 57 van 1959)	Die bevoegdhede verwys na in hierdie artikel
Artikel 4 van die Wet op Traangas, 1964 (Wet No. 16 van 1964)	De bevoegdhede verwys na in hierdie artikel
Artikel 14 van die Wet op Geestesgesondheid, 1973 (Wet No. 18 van 1973)	Slegs die bevoegdhede verwys na in subartikel (2) - Met dien verstande dat 'n lid van 'n munisipale polisie diens so 'n persoon aan 'n lid van die Diens sal oorhandig.
Artikel 70 van die Wet op Geestesgesondheid, 1973 (Wet No. 18 van 1973)	Slegs die bevoegdhede verwys na in subartikel (1)
Artikel 21 van die Strafproseswet, 1977 (Wet No. 51 van 1977)	Die bevoegdheid verwys na in hierdie artikel
Artikel 22 van die Strafproseswet, 1977 (Wet No. 51 van 1977)	Die bevoegdheid verwys na in hierdie artikel
Artikel 26 van die Strafproseswet, 1977 (Wet No. 51 van 1977)	Die bevoegdheid verwys na in hierdie artikel
Artikel 27 van die Strafproseswet, 1977 (Wet No. 51 van 1977)	Die bevoegdheid verwys na in hierdie artikel
Artikel 37 van die Strafproseswet, 1977 (Wet No. 51 van 1977)	Die bevoegdheid verwys na in hierdie artikel
Artikel 72 van die Strafproseswet, 1977 (Wet No. 51 van 1977)	Die bevoegdheid verwys na in hierdie artikel vir die doeleindes beoog in artikel 55
Artikel 53 van die Wet op Seevisserij, 1988 (Wet No. 12 van 1988)	Die bevoegdheid verwys na in hierdie artikel
Artikel 11 van die Wet op Dwelmmiddels en Dwelmsmokkelary, 1992 (Wet No. 140 van 1992)	Slegs die bevoegdhede verwys na in subartikels (1)(a), (b), (d), (g) en (2)(a)

Artikel 13 van die Wet op die Suid-Afrikaanse Polisiediens, 1995 (Wet No. 68 van 1995)	Slegs die bevoegdhede verwys na in subartikels (4), (7)(c), (8) en (11): Met dien verstande dat die verwysing na die Nasionale- of Provinsiale Kommissaris in subartikel 8, geïnterpreteer moet word as 'n verwysing na die Uitvoerende Hoof van die munisipale polisiediens
Artikel 2 van die Wet op Gesinsgeweld, 1998 (Wet No. 116 van 1998)	Die bevoegdhede verwys na in artikel 2, onderhewig aan die nasionale instruksies uitgevaardig deur die Nasionale Kommissaris soos beoog in artikel 18 van die Wet
Artikel 4 van die Wet op Gesinsgeweld, 1998 (Wet No. 116 van 1998)	Die bevoegdhede verwys na in artikel 4, onderhewig aan die nasionale instruksies uitgevaardig deur die Nasionale Kommissaris soos beoog in artikel 18 van die Wet
Artikel 8 van die Wet op Gesinsgeweld, 1998 (Wet No. 116 van 1998)	Die bevoegdhede verwys na in artikel 8, onderhewig aan die nasionale instruksies uitgevaardig deur die Nasionale Kommissaris soos beoog in artikel 18 van die Wet

AANHANGSEL 7

Munisipaliteit van (naam) _____
AANSOEK VIR AANSTELLING TOT MUNISIPALE POLISIEDIENS
 Moet voltooi word deur die applikant in sy/haar eie handskrif

AANSOEK IN REAKSIE OP:

DEPARTEMENTELE OMSENDISKRYWE No

VIR POSISIE

OR

PUBLIEKE ADVERTENSIE GEDATEER

GRAAD

1. PERSOONLIK

Van (Blokletters) Meld Dr./Mnr./Mev./Mej

Nooiensvan (waar van toepassing)..... Telefoonnummers: Werk..... Won.....

Voorname (Blokletters)

Woon- & Posadres
(Blokletters)

Poskode

Ouderdomjare,maande. Geboortedatum -- Plek van Geboorte.....

Huweliksstatus (meld of getrouwd, vervreemd, ongetrouwd, weduwe of geskei)

Het u enige familie wat werkzaam is in diens van die Raad?

Naam: Pos/te Beklee

Getal en ouderdom van kinders onder 18 jaar: Getal Ouderdomme:

[illegible]

2. GESONDHEID

Dui toestand van gezondheid aan

Gee besonderhede van enige ernstige operasie of siekte

Ly u aan enige fisiese gebrek? Indien wel, gee besonderhede.....

3. VORIGE ONDERVINDING

A. Indien reeds in diens van die Raad: Dien sno. Spanno.

Huidige Departement Stasie

Huidige Positie Graad Verw Van R..... tot R.....

Datum Aangestel op Huidige Graad - - Bestaande Basiese Salarisskaal: R.....

Durasië van onafgebroke diens in die Raad jare, maande. Datum toetree tot diens --

B. Indien nie in diens van die Raad nie:

Naam van bestaande werkgever Sedert --

Aard van diens

Huidige basiese salaris en toelaes

Besonderhede van vorige posisies beklee. (Kopieë van sertifikate van diens ter ondersteuning aangeheg, of meld indien sulke sertifikate verkry kan word)

[illegible]

C. Was u voorheen in diens van hierdie Raad? Departement

Indien wel, meld periode vanaf -- Tot -- Diensno.

D. Indien u gedurende die afgelope 12 maande in diens van enige ander Plaaslike Owerheid in Suid-Afrika was, was u 'n lid van die Pensioenfonds? (indien wel, het u u bedrae aan daardie Fonds onttrek?)

E. Is u of enige lid van u familie 'n lid van 'n beslote koöporasie, vennootskap, maatskappy of betrokke in enige ander besighedsaktiwiteit? JA/NEE (Indien wel, meld asseblief die besonderhede)

4. KWALIFIKASIES

a) Opvoedkundig

(i) Laaste skool bygewoon vanaf 19 tot 19 Standerds Voltooi
* Gesertifiseerde fotokopie of verklaring met vakke en punte/simbole gelys, moet aangeheg word

(ii) Besonderhede van Graad(e)/Diploma(s)/Sertifikaat(e) gehou

Aard van Graad/Diploma/Sertifikaat

Verkry

Waar verkry

b) Vaardigheid in Tale	Praat	Lees	Skryf	Eksamens Deurgekom
1) Engels				
2) Afrikaans				
3) Zulu				
4) Ander				

1. Beskryf u relevant ondervinding vir hierdie posisie so bondig as moontlik. (Indien dit nodig geag word, heg 'n aparte verklaring aan waarin inligting in meer besonderhede uiteengesit word):

2. Was u voorheen (a) Skuldigbevind aan 'n Kriminele Oortreding?
(Ek verstaan dat indien dit uit rekords blyk dat ek skuldig bevind is aan 'n kriminele oortreding wat ek nie openbaar het nie, sal my aansoek onsuksesvol wees/aanstelling beëindig word)

(b) Ontslaan of gevra om te bedank van enige werk?

(c) Insolvent?

7.	Bestuurslisensie Gehou	Type	Kode	Lisensieno	Is hierdie Lisensie Geëndosseer (Ja/Nee)

Ek doen hiermee aansoek vir aanstelling tot die posisie aangedui in die diens van die antwoorde op die vrae hierbo uiteengesit in alle opsigte korrek is.

Raad en sertifiseer dat my

Datum 19

HANDTEKENING

MOENIE OORSPONKLIKE SERTIFIKATE AANHEG NIE - SLEGS KOPIE

ALLEENLIK VIR GEBRUIK DEUR HOOF VAN DEPARTEMENT

No. R. 711

11 June 1999

**DETERMINATION OF NATIONAL TRAINING STANDARDS
IN TERMS OF SECTION 64L OF
THE SOUTH AFRICAN POLICE SERVICE ACT, 1995
(ACT NO. 68 OF 1995)**

By virtue of the powers vested in me by section 64L(1) of the South African Police Service Act, 1995 (Act No. 68 of 1995), I, John George Fivaz, National Commissioner of the South African Police Service, hereby determine the national standards with regard to the training of members of municipal police services, in addition to the training prescribed for traffic officers in terms of the Road Traffic Act, 1989 (Act No. 29 of 1989), set out below.

**NATIONAL TRAINING STANDARDS WITH REGARD TO
MUNICIPAL POLICE SERVICES**

1. In order to qualify for appointment as a member of a municipal police service, a person must have successfully completed -
 - (a) the training required for registration as a traffic officer as prescribed in terms of the Road Traffic Act, 1989 (Act No. 29 of 1989) and be registered as a traffic officer; and
 - (b) training at a training institution accredited by the South African Police Service in the following modules accredited by the Service:
 - (i) Criminal law
 - (ii) Law of Criminal Procedure
 - (iii) Law of Evidence
 - (iv) Human Rights
 - (v) Administrative powers
 - (vi) Powers derived from specific legislative provisions
 - (vii) Labour Relations
 - (viii) Basic Concepts of Policing
 - (ix) Community policing
 - (x) Relationship between municipal police services and other law enforcement agencies
 - (xi) Use of force
 - (xii) Selected fire-arm skills
 - (xiii) Practical survival techniques
 - (xiv) Prevention of police brutality
 - (xv) Physical education
 - (xvi) Ethical policing
 - (xvii) Personal Ethics
 - (xviii) Prevention of police corruption
 - (xix) Departmental forms

2. Training in a particular module referred to in paragraph 1(b) (above) will be regarded as having been successfully completed by a person if such person fulfills the evaluation measurements set in accordance with the approved learning program of the National Commissioner: Provided that from promulgation of relevant unit standards set by the relevant Standard Generating Bodies of the South African Qualifications Authority, such training will only be regarded as having been successfully completed if such unit standards are met by such person.
3. A person may apply for the recognition of his or her prior learning and must complete those training modules referred to in paragraph 1(b) (above) in respect of which such recognition is not obtained.
4. Exemption of modules in recognition of prior learning will be awarded in accordance with the prescribed evaluation measurements or unit standards referred to in paragraph 2 (above). Credits in recognition of prior learning will be awarded in accordance with the approved assessment program.
- 5.1 A member of a municipal police service must receive at least two days (16 hours) refresher training per annum in selected fire-arm skills, practical survival techniques and physical education.
- 5.2 Relevant amendments to the law and procedures relating to the exercise by a member of a municipal police service of his or her powers and the performance of his or her functions must be brought to the attention of every member as soon as possible during regular mustering or staff meetings at least once per month.

No. R. 711

11 Junie 1999

**BEPALING VAN NASIONALE OPLEIDING STANDAARDE
KRAGTENS ARTIKEL 64L VAN DIE
SUID-AFRIKAANSE POLISIEDIENS, 1995
(WET NO. 68 VAN 1995)**

Kragtens die bevoegdheid aan my verleen ingevolge artikel 64L(1) van die Wet op die Suid-Afrikaanse Polisie, 1995 (Wet No. 68 van 1995), bepaal ek, John George Fivaz, Nasionale Kommissaris van die Suid-Afrikaanse Polisie, die nasionale standaarde met betrekking tot die opleiding van lede van munisipale polisie, addisioneel tot die opleiding voorgeskryf kragtens die Padverkeerswet, 1989 (Wet No. 29 van 1989), soos hieronder uiteengesit.

**NASIONALE OPLEIDING STANDAARDE MET BETREKKING
TOT MUNISIPALE POLISIEDIENSE**

1. Ten einde te kwalifiseer vir aanstelling as 'n lid van 'n munisipale polisie, moet 'n persoon die volgende opleiding suksesvol voltooi -
 - (a) die vereiste opleiding vir registrasie as verkeersbeampte soos voorgeskryf kragtens die Padverkeerswet, 1989 (Wet No. 29 van 1989) en geregistreer wees as 'n verkeersbeampte; en
 - (b) opleiding by 'n opleidingsinstelling wat geakkrediteer is deur die Suid-Afrikaanse Polisie in die volgende modules wat deur die Diens geakkrediteer is:
 - (i) Strafreë
 - (ii) Strafprosedere
 - (iii) Bewysreë
 - (iv) Menseregte
 - (v) Administratiewe bevoegdhede
 - (vi) Bevoegdhede ontleen aan spesifieke wetgewende bepalings
 - (vii) Arbeidsverhoudinge
 - (viii) Basiese Beginsels van Polisieëring
 - (ix) Gemeenskapspolisieëring
 - (x) Verhoudinge tussen munisipale polisieëre en ander wetstoepassingsagentskappe
 - (xi) Gebruik van geweld
 - (xii) Geselekteerde vuurwapenvaardighede
 - (xiii) Praktiese oorlewingstegnieke
 - (xiv) Voorkoming van polisie brutaliteit
 - (xv) Fisiese opvoeding
 - (xvi) Etiese polisieëring
 - (xvii) Persoonlike Etiek
 - (xviii) Voorkoming van polisie korrupsie
 - (xix) Departementele vorms

2. Opleiding in 'n spesifieke module verwys na in paragraaf 1(b) (hierbo), sal geag word suksesvol deur 'n persoon voltooi te wees indien sodanige persoon voldoen aan die evaluasie maatstawwe bepaal ooreenkomstig die goedgekeurde opleidingsprogram van die Nasionale Kommissaris: Met dien verstande dat, vanaf die promulgering van die relevante eenheidstandaarde bepaal deur die relevante "Standard Generating Bodies of the South African Qualifications Authority", sodanige opleiding slegs suksesvol voltooi geag sal word indien sodanige persoon, aan sodanige eenheidstandaarde, voldoen.
3. 'n Persoon mag slegs aansoek doen vir die erkenning van sy of haar voorafgaande opleiding en moet daardie opleidingsmodules verwys na in paragraaf 1(b) hierbo, ten opsigte waarvan sodanige erkenning nie verkry is nie, voltooi.
4. Vrystelling van modules in erkenning van voorafgaande opleiding sal toegeken word ooreenkomstig die voorgeskrewe evaluasie maatstawwe of eenheidstandaarde verwys na in paragraaf 2 (hierbo). Krediete in erkenning van voorafgaande opleiding sal toegeken word ooreenkomstig die goedgekeurde evalueringsprogram.
- 5.1 'n Lid van 'n munisipale polisie diens moet ten minste twee dae (16 ure) verfrissingsopleiding per jaar in geselekteerde vuurwapen vaardighede, praktiese oorlewings tegnieke en fisiese opvoeding, ontvang.
- 5.2 Relevante wysigings tot wetgewing en prosedures wat verband hou met die uitoefening deur 'n lid van 'n munisipale polisie diens van sy of haar bevoegdhede en die lewering van sy of haar dienste, moet so gou as moontlik onder die aandag van elke lid gebring word gedurende mosteringsparades of personeel vergaderings ten minste eenkeer per maand.

**SOUTH AFRICAN POLICE SERVICE
SUID-AFRIKAANSE POLISIEDIENS****No. R. 712****11 June 1999**

The proposed national policing standards for municipal police services are hereby published in terms of section 64L of the South African Police Service Act, 1995 (Act No. 68 of 1995) by the **National Task Group on proposed Municipal Police Services** appointed by the Minister for Safety and Security for general information and comment from interested parties. Comments must reach the National Task Group **before 5 August 1999** at the following address:

For attention: ADV A BRINK

**The Chairperson
National Task Group
P O Box 5306
PRETORIA
0001**

Fax: (012) 339-1748

**PROPOSED NATIONAL POLICING STANDARDS FOR
MUNICIPAL POLICE SERVICES**

- National Standard:** Arrest and the treatment of an arrested person until such person is handed over to a community service centre commander;
- National Standard:** Crime scenes;
- National Standard:** Department forms;
- National Standard:** Occurrence Book (SAPS 10);
- National Standard:** Pocket Book (SAPS 206); and
- National Standard:** Search and Seizure.

ARREST AND THE TREATMENT OF AN ARRESTED PERSON UNTIL SUCH PERSON IS HANDED OVER TO A COMMUNITY SERVICE CENTRE COMMANDER

1. Background

Arrest constitutes one of the most drastic infringements of the rights of an individual. The rules that have been laid down by the Constitution, 1996 (Act No. 108 of 1996), the Criminal Procedure Act, 1977 (Act No. 51 of 1977), other legislation and this National Standard, concerning the circumstances when a person may be arrested and how such person should be treated, must therefor be strictly adhered to.

There are several legislative provisions authorising the removal and detention of persons without actually arresting such persons, for example, the removal of a child without a warrant in terms of section 12 of the Child Care Act, 1983 (Act No. 74 of 1983) for the purposes of taking such child to a place of safety. Another example is the removal and, in certain specific instances, the detention of a mentally ill person in terms of the Mental Health Act, 1973 (Act No. 18 of 1973). It is important to note that the provisions of this Standard will not be applicable in those circumstances because of the fact that, although the person is being detained, such person has not been arrested by a member of a municipal police service.

2. Definitions

In this standard, unless the context otherwise indicates, -

- (a) "**community service centre commander**" means the member of the South African Police Service who is in charge of a community service centre of the South African Police Service and includes a member of the South African Police Service who is performing the functions of a community service centre commander;
- (b) "**First Schedule**" means the First Schedule to the Criminal Procedure Act, 1977 (Act No. 51 of 1977);
- (c) "**member**" means a member of a municipal police service;
- (d) "**police station**" means a police station under the command and control of the South African Police Service; and
- (e) a reference to "**reasonable suspicion/grounds**" must be interpreted to mean that a person will have "**reasonable suspicion/grounds**" to believe or suspect something or that certain action is necessary if:
 - (i) he or she really 'believes' or 'suspects' it;
 - (ii) his or her belief or suspicion is based on certain facts from which he or she has drawn an inference or conclusion; and
 - (iii) any reasonable person would, in view of those facts, also have drawn the same conclusion.

3. Securing the attendance of an accused at the trial by other means than arrest

- (1) There are various methods by which an accused's attendance at a trial may be secured. Although arrest is one of these methods, it constitutes one of the most drastic infringements of the rights of an individual and a *member* should therefore regard it as a last resort.
- (2) It is impossible to lay down hard and fast rules regarding the manner in which the attendance of an accused at a trial should be secured. Each case must be dealt with according to its own merits. A *member* must always exercise his or her discretion in a proper manner when deciding whether a suspect must be arrested or rather be dealt with as provided for in subparagraph (3) below.
- (3) A *member*, even though authorised by law, should normally refrain from making an arrest if -
 - (a) the attendance of an accused may be secured by means of a summons as provided for in section 54 of the Criminal Procedure Act, 1977; or
 - (b) the *member*, on *reasonable grounds*, believes that a magistrate's court, on convicting such an accused of that offence, will not impose a fine exceeding the amount determined by the Minister from time to time by notice in the *Government Gazette*, in which event such *member* may hand to the accused a written notice [J 534] as a method of securing the attendance of the accused in the magistrate's court in accordance with section 56 of the Criminal Procedure Act, 1977.

4. The object of an arrest

- (1) **General rule**

As a general rule, the object of an arrest must be to secure the attendance of such person at his or her trial. A *member* may not arrest a person in order to punish, scare, or harass such person.
- (2) **Exceptions to the general rule**

There are circumstances where the law permits a *member* to arrest a person although the purpose with the arrest is not solely to take the person to court. These circumstances are outlined below and constitute exceptions to the general rule that the object of an arrest must be to secure the attendance of an accused at his or her trial. These exceptions must be studied carefully and *members* must take special note of the requirements that must be complied with before an arrest in those circumstances will be regarded as lawful.

 - (a) **Arrest for the purpose of further investigation**

If a *member* has a *reasonable suspicion* that a person is guilty of a *First Schedule* offence but realises that further investigation by the South African Police Service will be necessary before it will be possible to determine whether the suspect should be charged, such *member* may arrest the suspect *if the detention of the suspect is necessary to complete such further investigation*. It is thus proper for a *member* to arrest such a person with the purpose of handing him or her to a member of the South African Police Service. The member of the South African Police

Service will conduct a further investigation and, depending on the outcome of such further investigation, charge or release the person. A *member* may only arrest a person for this purpose if such *member* has reasonable grounds to believe that the investigation of the South African Police Service will be hampered should the person not be arrested. This will normally be the case if such *member* has *reasonable grounds* to believe that the person will either abscond, do away with an article required as an exhibit, interfere with a witness or otherwise endeavour to evade or defeat the ends of justice.

(b) Arrest to determine the bodily features of a person

If a person may be arrested in terms of any legislation and it is necessary for the purpose of the investigation of the case against him or her to establish the bodily features of that person, such person may be requested to submit himself or herself to an examination of his or her bodily features for the purposes provided for in section 37 of the Criminal Procedure Act, 1977. If such person refuses to submit himself or herself as aforesaid, such person may be arrested to establish his or her bodily features as provided for in section 37 of the said Act.

(c) Arrest to verify a name and/or address

In the circumstances provided for in section 41(1) of the Criminal Procedure Act, 1977, a *member* may request a person to furnish his or her full name and address. If such a person furnishes a name or address which the *member* reasonably suspects to be false, such *member* may arrest the person and detain him or her for a period of twelve hours in order to verify the name and address.

(d) Arrest in order to prevent the commission of an offence

In terms of section 40(1)(f) of the Criminal Procedure Act, 1977, a *member* may arrest a person whom he or she finds at night in circumstances which afford *reasonable grounds* for believing that such person is about to commit an offence. The purpose with the arrest in these circumstances is to prevent the commission of an offence. Such a person must be handed over to a member of the South African Police Service and may only be detained until the member of the South African Police Service is satisfied that the person will not proceed to commit the offence.

(e) Arrest in order to protect a suspect

If a *member* is authorised by any legislation to arrest a person and such *member* has *reasonable grounds* to believe that such person may be killed or be seriously injured unless he or she is immediately arrested, such *member* may arrest such person in order to protect him or her. (This would normally be the case when the suspect is threatened by the victim of the offence or a mob of people that he or she will be assaulted or be killed.) Such person must be handed over to a member of the South African Police Service and may normally be detained by the South African Police Service until he or she is brought before a court and the court has decided whether he or she should be released or be further detained.

(f) **Arrest in order to end an offence**

If a person may be arrested in terms of any legislation and a failure to arrest the person will result in the person continuing to commit an offence, such person may be arrested to prevent him or her from continuing to commit an offence. (This would for instance be the case where a person trespasses on property and refuses to leave the property. Another important example is the entrance of an illegal immigrant into the Republic which is discussed in subparagraph (g) below.)

(g) **Arrest of persons in terms of Aliens Control Act, 1991 (Act No. 96 of 1991)**

An alien (a person who is not a South African citizen) or a person who is a prohibited person in terms of section 39 of the Aliens Control Act, 1991, who enters the Republic and, irrespective of the circumstances of his or her entry, fails to comply with the provisions of the Aliens Control Act, 1991, is guilty of an offence and may be arrested without a warrant and be detained for purposes of obtaining a warrant issued by the Minister of Home Affairs authorising such person's removal from the Republic.

5. **The requirements for a lawful arrest**

For an arrest to be lawful and for lawful continued detention after arrest, the following four requirements must be complied with:

- (a) **The arrest (with or without a warrant) must have been properly authorised.** There must be a statutory provision authorising the arrest. (See paragraphs 6(1) and (2) below).
- (b) **The *member* who effected the arrest must exercise physical control over the person who has been arrested.** (See paragraphs 7(1) and (2) below).
- (c) **The person who has been arrested must be informed of the reason for his or her arrest and of the rights that he or she has as an arrested person, in terms of section 35(1) of the Constitution, 1996 (Act No. 108 of 1996)** (See paragraph 7(4) below).
- (d) **The person who has been arrested must be brought to the appropriate authorities as soon as possible.** (See paragraph 8(7) below.)

6. **Manner of effecting an arrest**

(1) **General rule - Arrest with a warrant**

- (a) An arrest should preferably be effected only after a warrant for the arrest has been obtained in terms of section 43 of the Criminal Procedure Act, 1977.
- (b) In order to obtain a warrant of arrest a *member* must in writing apply to a magistrate or justice of the peace for the issuing of a warrant in terms of section 43 of the Criminal Procedure Act, 1977. The said section also provides that Directors of Public Prosecutions and public prosecutors may also apply for a warrant of arrest.

- (c) Once a warrant for the arrest of a person has been issued to a *member*, any *member* may execute such warrant. It is accordingly not necessary for the warrant to be executed by a particular *member*.

(2) Arrest without a warrant

- (a) It is only in exceptional circumstances where a *member* is specifically authorised by an Act of Parliament (for example, sections 40 and 41 of the Criminal Procedure Act, 1977) to arrest a person without the authority of a warrant. Any arrest without a warrant, which is not specifically authorised by law, will be unlawful.
- (b) Section 40(2) of the Criminal Procedure Act, 1977, determines that if provision is made in a statute for a *member* to arrest a person without a warrant, subject to certain conditions or to the existence of certain circumstances mentioned in the Criminal Procedure Act, 1977, those conditions must be observed and those circumstances must exist before the arrest is made.
- (c) Section 41 of the Criminal Procedure Act, 1977, provides that a *member* may call upon any person-
 - (i) whom he or she reasonably suspects of having committed any offence or of having attempted to commit any offence; or
 - (ii) who may, in his or her opinion, be able to give evidence in regard to the commission or suspected commission of any offence, to furnish his or her full name and address.
- (d) If the person referred to in subparagraph (d), fails to furnish his or her full name and address, or the *member* reasonably suspects that a false name or address has been given to him or her, the *member* may forthwith arrest him or her.

7. Physical execution of an arrest

(1) Exercise of physical control

The *member* must confine the freedom of movement of the arrested person. Section 39 of the Criminal Procedure Act, 1977, determines that, unless the person who has been arrested submits to custody, an arrest is effected by actually touching his or her person or, if the circumstances so require, by forcibly confining his or her person.

(2) Amount of force which may be used in effecting arrest

- (a) As a rule there should be no need for the use of force, and, in every case where it may be necessary, only such force as is absolutely necessary to overcome resistance to the arrest, may be used. No justification whatsoever exists for unnecessarily beating, kicking or otherwise ill-treating an arrested person and there is no excuse whatsoever for a *member* to act in this manner. Any *member* found guilty of an offence as a result of the use of force while effecting an arrest where the use of such force cannot be justified, must expect to be dealt with severely.

- (b) Section 49 of the Criminal Procedure Act, 1977, provides for circumstances where the use of force by a *member* towards a person who is resisting arrest or fleeing from arrest, may be justified.
- (3) **Entering of premises for the purpose of arrest**
 - (a) Section 48 of the Criminal Procedure Act, 1977, determines that before any premises are entered with the purpose of arresting any person whom a *member* has authority to arrest and who is known or suspected to be in/on such premises, such *member* must first:-
 - (i) audibly demand entry into such premises; and
 - (ii) notify/announce the purpose for which entry is sought.
 - (b) If the *member* fails to gain entry after complying with the requirements stated in subparagraphs (a)(i) and (ii), such *member* may break open, enter and search such premises for the purpose of effecting the arrest.
- (4) **Information that must be furnished to a person upon arrest**
 - (a) In terms of section 35(1) of the Constitution, 1996, the information that must be given to a person at the time of or immediately after his or her arrest is as follows:-
 - (i) the reason for his or her arrest;
 - (ii) that he or she has the right to remain silent and that anything he or she says, may be used as evidence against him or her in a court of law;
 - (iii) that he or she has a right to consult with a legal practitioner of his or her choice or that he or she may, if he or she so prefers, apply to the Legal Aid Board to have a legal practitioner assigned to the case at state expense; and
 - (iv) that he or she has the right to apply to be released on bail.
 - (b) Section 39(2) of the Criminal Procedure Act, 1977, requires that the person who effects an arrest must, at the time of effecting the arrest or immediately thereafter, inform the person who has been arrested of the reason for his or her arrest. It is not necessary to use the actual words of the charge, the main elements are sufficient. If the arrest took place by virtue of a warrant, a copy of the warrant must be handed to the person who has been arrested, upon his or her demand.
 - (c) The information in subparagraph (a) must be given to the arrested person in a language which he or she understands. For this purpose the said information must be printed on the first pages of the Pocket book (SAPS 206) in all eleven official languages. To ensure that a person is fully informed of these rights, the arresting *member* must read this information from the Pocket book (SAPS 206) to the arrested person in a language which the arrested person understands.
 - (d) If a *member* -
 - (i) is unable to establish what language the person understands; or
 - (ii) cannot speak the language that the person understands;the *member* must read this information in English. In such a case, the

member must, upon his or her arrival at the *police station*, inform the *community service centre commander* that the person does not understand English and that steps must be taken by the *community service centre commander* to ascertain what language the person understands in order to convey the information to the person in that language.

- (e) Should a person volunteer any statement on arrest or prior to being formally charged at the community service centre of the South African Police Service, he or she must, once again, be informed of his or her rights as set out in subparagraph (a).

8. Procedure after arrest

(1) Recording of the fact that the arrested person has been informed of his or her rights

- (a) A *member* who arrests a person must, as soon as possible after having given the information as mentioned in paragraph 7(4)(a) above, to the arrested person, record in his or her Pocket book (SAPS 206) the fact that the information was given.
- (b) The *member* must request the arrested person to acknowledge that he or she has been informed of his or her rights and that he or she understands the contents thereof, by signing next to the recording referred to in subparagraph (a), in the Pocket book (SAPS 206).
- (c) If the arrested person refuses to sign in the Pocket book (SAPS 206), a third person (whether a civilian or another *member*) who witnessed the person being informed of his or her rights, must sign next to the recording to certify that he or she has witnessed this and that the arrested person refused to sign. If a third person is not available, the *member* must make a recording in the Pocket book (SAPS 206) to the effect that a third person was not available to certify that the arrested person was informed of his or her rights and that the arrested person refused to sign the Pocket book (SAPS 206).

(2) Presumption of innocence

- (a) An arrested person has a right to be presumed innocent until proven guilty by a court of law. A *member* who arrests a person must therefor, at all times, control himself or herself and must never allow his or her belief in the guilt of the arrested person to move him or her to treat the arrested person in a manner which would "punish" the person for what the *member* believes that the person has done.
- (b) Even though an arrested person must be presumed to be innocent, a *member* must do everything which may legally be done in order to obtain evidence which could be presented in court to prove the guilt of the arrested person. A *member* must also take every precaution necessary in the circumstances to ensure that the person is not allowed any opportunity to escape.

(3) Medical treatment of a person in custody as a result of injuries sustained prior to or during arrest

Upon the arrest of a person, a duty is placed on the *member* involved in the arrest and transport of the arrested person, to ensure the safety of such person. The following provisions must therefore be complied with:

- (a) The *member* concerned must take all reasonable precautions to ensure that the person will not be injured and will not escape before arrival at the *police station*.
- (b) Should the arrested person show any signs that he or she is seriously ill or is seriously injured, irrespective of whether the injury was sustained during the arrest or not, the *member* must -
 - (i) exercise his or her discretion and decide whether the person should be taken for emergency medical treatment even before he or she is taken to the *police station*; and
 - (ii) if the arrested person, in the opinion of the *member* concerned, needs emergency medical treatment, decide whether the person is fit to be transported by police vehicle or should rather be transported by ambulance.
- (c) If a *member* is in doubt as to whether emergency medical attention is needed, he or she should rather take the necessary steps to arrange for such treatment. The Executive Head must issue standing orders informing the *members* under his or her command of the applicable hospitals, ambulances or medical practitioners that may be utilised for this purpose.
- (d) The *member* who effects an arrest which results in the arrested person being injured, must enter particulars of the injuries, as well as the circumstances under which they were sustained/inflicted, as soon as possible in his or her Pocket book (SAPS 206) and in due course submit a full statement to the *community service centre commander* of the *police station* to whom such person is handed over (for the information of the Public Prosecutor) which will accompany the case docket. He or she must also report any injuries which the arrested person sustained prior or during the arrest to the *community service centre commander* upon arrival at the *police station*.

(4) Search of the arrested person

In terms of section 23 of the Criminal Procedure Act, 1977, a *member* may search an arrested person. The purpose of such a search is twofold, namely to find any article that may be in such person's possession and which could be used in evidence, and to find any article which such person could use to injure himself or herself or any other person.

- (a) Every arrested person must always, immediately upon his or her arrest, at least be searched to determine whether he or she has any concealed weapons on him or her.
- (b) The search of an arrested person must be undertaken in a decent manner which displays respect for the inherent dignity of the person as required

by section 29 of the Criminal Procedure Act, 1977, and a person may only be searched by a person of the same gender.

(5) The use of restraining measures

- (1) In order to curb the increasing number of escapes from police custody, any person who has been arrested and who is detained, may be placed in handcuffs and/or leg-irons (the latter depends on the circumstances).
- (2) Irrespective of whether restraining measures are used to secure an arrested person, *members* in charge of arrested persons must always remain alert until such persons are safely handed over to a member of the South African Police Service.

(6) Informing an employer in the case of arresting an employee

If a *member* has to arrest a person while such person is on duty and is in charge of his or her employer's property or business during the latter's absence, the *member* must, if possible, immediately inform his or her employer of the arrest and take reasonable steps to ensure that the employer's interests are safeguarded by someone else.

(7) Transporting the arrested person

- (1) In terms of section 50(1) of the Criminal Procedure Act, 1977, a person who has been arrested must as soon as possible be brought to-
 - (a) a *police station*; or
 - (b) in the case of an arrest by warrant, to the place stipulated in the warrant.
- (2) The *member*, transporting the arrested person must drive carefully and must take the safest and shortest possible route to the *police station* or any other place specified in the warrant.

9. Handing suspect over to the community service centre commander

- (1) Upon arrival at the *police station*, the *member* must hand the arrested person to the *community service centre commander* or the member in charge of the detention facilities at an office under the control of the South African Police Service, and provide such person with the following information:-
 - (a) the name of the *member* who has arrested the person;
 - (b) the name of the person arrested;
 - (c) the reason for the arrest;
 - (d) the date, time and place of arrest; and
 - (e) whether the person sustained any injuries prior to or during the arrest (see paragraph 8(3)(d) above).
- (2) The *member* must also, upon arrival at the *police station*, complete the Arrest Statement (SAPS 3M(i)) referred to in paragraph 10 below.

10. Completion of Arrest Statement (SAPS 3M(i))

The Arrest Statement (SAPS 3M(i)) is intended to ensure that an arrested person was

informed of his or her fundamental rights as soon as possible after arrest, as required in paragraph 7(4) above.

- (1) After a *member* has arrested a person, such person must, in terms of section 64H of the South African Police Service Act, 1995 (Act No. 68 of 1995) as amended by the South African Police Service Amendment Act, 1998 (Act No. 83 of 1998), be brought to a *police station* under the control of the South African Police 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.
- (2) A *member* must, upon his or her arrival at a *police station*, hand the arrested person to the *community service centre commander* or the member in charge of the detention facilities at an office under the control of the South African Police Service and the *member* must complete the Arrest Statement (SAPS 3M(i)).
- (3) Any force used during the arrest to overcome resistance or in order to prevent an escape, which resulted in injuries being sustained by the person who has been arrested, must be recorded in a separate statement made by the *member* who applied the force.
- (4) The instructions, which must be strictly adhered to in completing the Arrest Statement (SAPS 3M(i)), are printed at the beginning of the statement.

CRIME SCENES

1. Background

The crime scene is a valuable source of evidence in the investigating of offences. This source is of a temporary nature, which emphasizes the importance to secure, protect and handle it with extreme care. No hard and fast rules can be laid down as to how one should act on every crime scene, because every crime scene differs from the other.

However, this national standard aims to lay down general guidelines for actions to be taken on crime scenes which will ensure that the scene is approached and handled in a professional manner. The concept of "contingency planning" must not be confused with that of handling of a crime scene. The latter is only part of the contingency plan.

2. Definitions

In this standard, unless the context otherwise indicates, -

- (a) "**Crime Scene Officer (CSO)**" means a member of the South African Police Service, irrespective of his or her rank, that arrives at the crime scene;
- (b) "**Control member**" means the *member* in the municipal police service office, Radio Control Office or Operational Room, who receives the first information on the crime;
- (c) "**Crime Scene Report (CSR)**" means a combined report consisting of various sections (loose pages), which is completed by the various role players on the crime scene (*reaction member, crime scene officer, etc.*); and
- (d) "**Reaction Member**" means the first member of the municipal police service who attends the crime scene on instruction of the commander in charge of the municipal police service office, Radio Control, Operational Room or as a result of a complaint received from the public.

3. Control of the crime scene

Control of the crime scene must be established to ensure-

- (a) that the crime scene will be secured;
- (b) that the integrity and originality of evidence and exhibits are consequently guaranteed;
- (c) that thorough and undisturbed investigation and re-investigation can take place on the crime scene;
- (d) that co-ordinated and maximised collecting of exhibits, leads, evidence, arrests and the use of investigation support resources will be attained;
- (e) that proper recording of facts and events takes place; and
- (f) that the crime scene remains under police protection for the period determined by the investigating officer of the South African Police Service to ensure that the investigation or re-investigation are done thoroughly.

4. Different phases involved in the handling of a crime scene

- (1) The handling of a crime scene is usually done in five (5) phases, namely:
 - (a) Phase 1 : Reporting
 - (b) Phase 2 : Activating

- | | | | |
|-----|---------|---|------------------|
| (c) | Phase 3 | : | Scene management |
| (d) | Phase 4 | : | Evaluation |
| (e) | Phase 5 | : | Debriefing |

- (2) For purposes of this national standard, this document will only refer to Phase 1, Phase 2 and certain parts of Phase 3. The rest of the phases are handled by members of the South African Police Service and will therefore not be discussed in this document.
- (3) Every Executive Head of a municipal police service must have a contingency plan. Such a document must make provision for at least the aforementioned scenarios. Mobilisation will be determined by the nature of the crime scene, and planning will have to take in consideration all such actions which will take place on the crime scene.

5. The Reporting Phase (Phase 1)

- (1) Members on duty in municipal police service offices, Radio Control Stations and Operational Rooms, must be well trained in the management of actions in respect of crimes reported to their offices. The success of the subsequent investigation on the crime scene will, to a large extent, depend on the proficiency of such a member.
- (2) The Executive Head of the municipal police service must ensure that members on duty in municipal police service offices, Radio Control Stations and Operational Rooms are provided with updated telephone lists of at least the following persons or institutions on duty:
- (i) Radio control of the South African Police Service;
 - (ii) All police stations of the South African Police Service within the jurisdiction of the municipality concerned;
 - (iii) Town Engineer for disconnection of water and electricity; and
 - (iv) Emergency Services (eg Fire Brigade, Traffic, Metro Services, Ambulance, etc)

6. Procedure to be followed when receiving a complaint regarding a crime

(1) General

- (a) Crime is normally reported to a police station, municipal police service office or to Radio Control Offices. A member must record information fully and accurately. Since every crime demands its own particular information when it is reported to the police, it is impossible to compile a list for every crime. The undermentioned list (which should be available in every municipal police service office, Radio Control Office of Operational Room) should meet the basic requirements to accommodate all serious crimes.
- (b) The member receiving the call or attending to the complaint must try to determine the language used by the complainant and must, where reasonably possible, hand the phone, or where applicable, the person, over to a person in the office who understands that language so that the necessary information can be taken.

(2) The responsibility of the member receiving the complaint regarding certain information

It is the responsibility of the member, receiving the complaint to, if available, record the information as set out below:

(a) Particulars of the reporter or complainant

The member must record the following information:

- (i) Date and time of report
- (ii) Name and surname of reporter or complainant;
- (iii) Address of reporter or complainant;
- (iv) Age of reporter;
- (v) Telephone numbers of the reporter or complainant (home and work); and
- (vi) Telephone number from where call is made.

(b) Particulars of the crime and the crime scene

The member must request the person to furnish him or her with the following information regarding the crime and crime scene:

- (i) Type of crime committed (e.g. housebreaking, murder);
- (ii) Exact address where crime was committed (street, name of building, number in street, suburb, town etc.);
- (iii) When was the crime committed? (Date and time)
- (iv) Type of premises (eg. business building, flat, house, farm, smallholding, park, lake, etc.)
- (v) Present state of danger on the crime scene (e.g. riots in progress, people firing at each other, hostages being held, possibility of another bomb, poisonous gas etc.).
- (vi) Is there an immediate danger of fire?
- (vii) How many people are at, or near, the crime scene?
- (viii) Contact person at or near the scene (eg telephone number, cell phone number, radio call-sign, channel, etc.)

(c) Particulars of the victim(s)

The member must request the person to furnish him or her with the following information regarding the victim(s):

- (i) Number of persons killed or injured;
- (ii) Name and address of victim(s) (if available);
- (iii) Condition of injured (slightly or seriously injured, dead of unconscious);
- (iv) Is first aid being applied?
- (v) Is it necessary to notify an ambulance/fire brigade/traffic department or emergency services, if they are not already on the scene;
- (vi) Have the injured already been removed and if so, to where?
- (vii) Who is presently on the crime scene?

(d) Particulars of the suspect(s)

The member must request the person to furnish him or her with the following information regarding the suspect(s):

- (i) Is it known who apparently committed the crime?
- (ii) Name(s) and address(es) of the possible suspects(s) and place where he or she/they could be found?
- (iii) Description and attire of suspect(s);

- (iv) Are the suspects armed and if possible the type of weapon;
 - (v) Are they on the crime scene?
 - (vi) Description of the vehicle(s) that was used by the suspect(s)'s;
 - (vii) Are any people being held hostage?
- (e) The member who received the complaint must then immediately dial the number from where the telephone call was received in order to ascertain whether or not it is a false alarm.

7. Activating phase (Phase 2)

(1) Preliminary activation

- (a) The member who receives the complaint must, if justified by the circumstances, immediately alert Radio Control of the South African Police Service, who will set the contingency plan in motion.
- (b) If an armed suspect is hiding in a building at the crime scene, the *member* must immediately inform the South African Police Service to enable them to activate their members immediately.
- (c) Where a suspect or hostage is hiding in a building, efforts should first be made to obtain a plan of the particular building. A member must never storm a building blindly and must not attempt to arrest a suspect in a building if such a member is not trained to do so.
- (d) The member who received the complaint must notify the patrol vehicle nearest to the crime scene (referred to as the "*reaction member*"). The time at which the *reaction member* has been notified, must be recorded by the member who received the complaint.
- (e) No vehicle may proceed to the crime scene without being ordered to do so. Duty officers must act very strictly against such members, because they may trample the crime scene and obstruct the official activities on the scene.
- (f) The *reaction member* must immediately inform the South African Police Service, in the event of hostages being held, and the South African Police Service will then alert trained Hostage Negotiators.
- (g) Only the number of police vehicles which are absolutely necessary under the circumstances, must then be despatched to the crime scene to give assistance.

(2) Who must be activated

- (a) The member who receives the first information of crime, must assess the situation and decide who must be activated at this point in time (In the absence of sufficient information, he must wait for the situation report from the *reaction member*).
- (i) In the event of injured people or a fire threat, emergency services (ambulance, fire brigade and others) must be activated.

- (ii) In the event of many injured people, (e.g. a disaster), the relevant hospital staff must be alerted beforehand, to expect injured people.
 - (iii) In the event of an active crime scene (e.g. riots, violence and crime, all which take place simultaneously such as attacks on and from hostels, on police stations, schools, hospitals, mass burials, etc.) the member must notify the South African Police Service.
 - (iv) In the event of a potential crime scene (e.g. an apparent peaceful march, a strike or gathering of people which may suddenly change into criminal conduct), the South African Police Service must be notified immediately.
 - (b) All the available information must be recorded in the Occurrence Book. The reference numbers are very important during the marking of exhibits on the crime scene. This action ensures the continuity of possession.
 - (c) The *reaction member* and other members who are so instructed, must move swiftly, but with care, along the shortest route to the crime scene, without exposing themselves to unnecessary road accidents and dangers on the crime scene. On their way to the crime scene they must keep a lookout for the suspects. A member must always be wary of traps.
- (3) **Quick reaction time**
A quick reaction time is essential because:
- (a) The suspects may still be on the crime scene;
 - (b) Injured victims may be in dire need of assistance;
 - (c) Witnesses may still be on the crime scene; or
 - (d) Weather changes and other factors may destroy or change physical evidence.
- (4) **Duties of the reaction member**
It is the responsibility of the *reaction member* to:
- (a) Record particulars of the message in his or her pocket book;
 - (b) Be on the lookout for the suspect and/or his or her vehicle; and
 - (c) Approach the crime scene with care to avoid damage to, or the moving of, possible exhibits and leads. For that purpose one "route" must be used on the crime scene.
- (5) **Handling of injured persons**
The *reaction member* must further:
- (a) Mark the positions where persons who had been injured, were found.
 - (b) Record the names, addresses and telephone numbers of the injured persons, if possible.
 - (c) Record the names of the ambulance driver(s), the ambulance number and the name of the hospital to where the injured are taken.
- (6) **General**
- (a) Bodies of people who are dead, must be left as they were found. Where corpses are found in public view, it must be covered by linen sheets (not

blankets). They should preferably be left intact.

- (b) The suspect(s), if present, must be arrested in accordance with the arrest procedures as set out in the National Standard regarding the arrest of a person.
- (c) The *reaction member* must evaluate the situation (crime, complainant, emergency services on the scene, size of the crowd, danger on the scene etc.). He or she must then make a full and complete situation report to Radio Control because the successful handling of the crime scene, will totally depend on the comprehensiveness and accuracy of the situation report.

(7) Safeguarding of the crime scene

- (a) Until a member of the South African Police Service arrives, the *reaction member* must act as the *crime scene officer*. The *reaction member* and other members who have arrived on the crime scene, secure the scene until Phase 2 can be implemented. This includes the following:
 - (i) Keep relatives away from the deceased.
 - (ii) Keep all inquisitive people away from the scene.
 - (iii) Erect chevron tape around the crime scene.
 - (iv) Do not allow anybody within the cordon, irrespective of rank (except emergency services) until handing over of the scene to the *crime scene officer (CSO)*.
 - (v) Record full particulars of all witnesses on the crime scene.
 - (vi) Submit a full report to the *crime scene officer (CSO)* when he or she arrives on the crime scene and assist him or her with the completion of Part I of the *crime scene report*.
- (b) Leave the crime scene with the permission of the *crime scene report (CSO)*.

(8) Final activation

After the *reaction member* submitted a full and complete situation report to Radio Control as required in subparagraph 6(c) above, Radio Control should be fully aware of the full particulars of the crime and the situation on the crime scene. Radio Control must decide whom to alert. For this purpose they will be guided by the nature of the crime and the prevailing circumstances on the crime scene.

(9) Alert all persons concerned

- (a) In the event of passive crime scenes (i.e. a crime scene left behind by a criminal eg. a murder scene, etc.) Radio Control of the South African Police Service must immediately be alerted.
- (b) From this point in time, the channels on the police radio will probably be heavily engaged. Unless special provision is made for communication pertaining to the crime scene, radio silence must be enforced by Control for all other users of the channel until further notice.

8. Management of the crime scene (Phase 3)

- (1) As already mentioned in paragraph 7(7) above, the *reaction member* acts as the *crime scene officer (CSO)* until the first member of the South African Police Service arrives on the crime scene. The member of the South African Police Service takes charge of the crime scene upon his or her arrival on the crime scene and is responsible for the further management of the crime scene.
- (2) It is the duty of members of municipal police services to render such assistance to the *crime scene officer* as requested by him or her which may inter alia include:
 - (a) assisting him or her with the completion of Part I of the *crime scene report*;
 - (b) securing the crime scene until investigation on the crime scene is completed;
 - (c) exercising control of the crowd, if necessary;
 - (d) securing neighbouring areas by intensive visible policing, in order to prevent any further crime, riots or unrest situations which may arise; and
 - (e) securing the proper flow of traffic.

DEPARTMENTAL FORMS

1. Background

The use of certain standardized departmental forms by municipal police services are essential to facilitate the exchange of information between the South African Police Service and municipal police services.

2. Applicable departmental forms

The following departmental forms must be utilized by municipal police services:

- (a) Pocket book (SAPS 206)
- (b) Occurrence Book (SAPS 10)
- (c) Arrest Statement (SAPS 3M(h) and (i))
- (d) Computer circulation of stolen, lost or found property (SAPS 11)
- (e) Property Acknowledgement of Receipt (SAPS 13(b))
- (f) Search Register (SAPS 13(c))
- (g) Application for a warrant to search and seize (SAPS 13(d))
- (h) Circulation of particulars of persons (SAPS 55)
- (i) Circulation: missing/unidentified persons (SAPS 55(a))

3. Acquisition of applicable departmental forms

- (1) A municipal police service must make a need assessment annually with reference to the applicable departmental forms and must submit such need assessment, together with a request for the acquisition thereof, to the Head: Logistics, South African Police Service.
- (2) After receipt of the need assessment and the request by a municipal police service, as referred to in subparagraph (1), the Head: Logistics, South African Police Service, must submit such a request to the Government Printer.
- (3) Delivery of the requested departmental forms will take place by the South African Police Service to the municipal police service concerned: Provided that the municipal police service concerned, is directly responsible to the Government Printer, for the payment of the requested departmental forms.

OCCURRENCE BOOK (SAPS 10)

1. Background

The occurrence book (SAPS 10) is a very important register as it contains a complete record of noteworthy occurrences at the police office and serves as the control register from which all other registers used at the office may be checked. It contains an accurate and truthful record of all crime and other matters of public interest requiring attention by the municipal police service, as well as of the duties performed by the *members* at the office.

2. Definitions

In this standard, unless the context otherwise indicates, -

- (a) "**commander**" means the *member* in charge of the municipal police service office; and
- (b) "**member**" means a *member* of the municipal police service.

3. Completion of an occurrence book (SAPS 10)

(1) General rules

- (a) All entries in the occurrence book (SAPS 10) must be made by the *commander*, or a *member* designated by him or her for that purpose.
- (b) The day of the week and date must be written in the space provided at the top of each page and every event must be recorded as soon as reasonably possible after its occurrence.
- (c) Entries must, without detracting from clarity, be as brief as possible. Only the substance of a report or occurrence must be recorded in the occurrence book (SAPS 10) in a case where the details of the report or occurrence are recorded in another register. (eg in the SAPS 55, SAPS 55(a) or SAPS 11).
- (d) At the end of every day, a line in red ink must be drawn across the page after the last entry at midnight and the day of the week and the date must be inserted on the next line.
- (e) Each entry must be numbered consecutively and at midnight on the last day of the month a new series of numbers must commence. At the end of each entry, one line must be left blank.

(2) The content of an entry

- (a) Every entry must have a brief heading containing keywords which gives an indication of the subject matter that will be dealt with in the entry. The heading must be underlined.
- (b) The following are examples of keywords which must be used:

Absent without Leave
Admission of Guilt
Arrest
Beat duty On/Off
Charge Accepted/Refused
Collision
Complaint
Court
Escape
Escort
Extraneous Duties
Fire
Handing Over to South African Police Service
Information of Crime
Injury
Lost/Found Property
Missing/Found Persons
Relief on/off Duty
Sick Leave
Sick Report
Summons
Supplies
Transfer
Unnatural Death
Vacation Leave

(3) Cross reference in the occurrence book (SAPS 10)

- (a) When information is recorded in the occurrence book (SAPS 10) which is also recorded in another register (eg a search undertaken which will be reflected in the search register), cross reference to such other register must be made in the occurrence book (SAPS 10).
- (b) If an entry is made regarding a matter which has already formed the subject of a previous entry in the occurrence book (SAPS 10), it must be connected by cross-reference. This is done by endorsing in red ink the number of the previous entry (eg 50) above the new entry (eg 65); thus "50/65", and the number of the new entry (eg 65) below the previous entry (eg 50), thus "50/65". Only one reference to a previous or a subsequent entry should be made.
- (c) If it is necessary to refer to an entry, before the previous one, the latter should indicate it, eg "39/50"; or to the next subsequent entry, relating to the case, the latter will indicate it, eg "65/77".
- (d) An entry referring to both a previous and subsequent entry, must be indicated, eg. "50/65/97". If it is necessary to refer to an entry in a previous month or year, or a subsequent month or year, the number of the

month and year should be added to the number given as reference, eg: - "124/12/98"; or - "221/01/99". (The first figure representing the entry, the second the month and the third the year.)

- (4) **Recording of particulars of *members* when reporting on duty and off duty**
- (a) Entries that concerns a *member*, must state the rank and surname of the *member*, provided that the *member* is easily identifiable. The number of a municipal police service animal or vehicle, as well as the name of the rider or driver, must be entered.
 - (b) Proper record must be kept of *members* reporting on or off duty so as to facilitate the determination of who was on duty at any particular time.
 - (c) An entry must be made whenever it is discovered that a *member* is absent without leave or permission, or if his or her absence cannot be otherwise accounted for.
- (5) **Late entries**
- (a) When an entry cannot be made immediately after it occurred, the necessary entry must be recorded as soon as possible.
 - (b) Where an entry has been omitted, the error must be rectified as soon as it is discovered, by recording an entry that clearly states that it is a late entry.
- (6) **Inspection of occurrence book (SAPS 10)**
- (a) The *commander* must inspect the occurrence book (SAPS 10) daily and must make the necessary arrangements concerning recordings that need further attention. This must be highlighted by a personal recording by the *commander* which he or she must sign personally.
 - (b) If any *member* of the municipal police service or a member of the South African Police Service inspects or visits an office, he or her must make an entry in the occurrence book (SAPS 10), stating the time or period spent on the work or inspection and sign it.

POCKET BOOK (SAPS 206)

1. Background

All occurrences noteworthy while a *member* is on duty must be recorded in the pocket book (SAPS 206), as completely and accurately as possible, to reflect the extent of the *member's* work and the measure of his or her diligence. The pocket book (SAPS 206) serves a dual purpose, namely a personal duty record and an assignment record, viz to show all work done by a *member*.

2. Definitions

In this standard, unless the context otherwise indicates, -

- (a) "**commander**" means the *member* in charge of the municipal police service office; and
- (b) "**member**" means a *member* of the municipal police service.

3. The content of the pocket book (SAPS 206)

The information contained in section 35(1) of the Constitution, 1996 (Act No. 108 of 1996) must be printed in all eleven official languages on the first page of the pocket book (SAPS 206).

4. Completion of a pocket book (SAPS 206)

- (1) Every *member* must keep an official pocket book (SAPS 206) which he or she must always have in his or her possession while on duty.
- (2) All entries must be recorded at the time of the occurrence or as soon as is reasonably possible thereafter.
- (3) All entries must be recorded consecutively, in the order in which they occur. No blank spaces must be left between entries.
- (4) Every page of the official pocket book (SAPS 206) has a left-hand margin of about 12 mm, in which the time of each occurrence must be recorded.
- (5) As a personal duty record, the day and date must be recorded across the page at the commencement of each day and, in the margin, the time that a *member* reports for, and off duty.
- (6) If entries of the same day exceed one page, the day and date must be recorded at the top of each page referring to that day.
- (7) An entry which is recorded in the occurrence book (SAPS 10) or other record, must not be repeated in the pocket book (SAPS 206).

5. The use of a pocket book (SAPS 206)

(1) Information regarding policing functions

- (a) The nature of all occurrences during patrol or other duty, including the exact place and time, such as the arrival at and departure from a place, a person visited, statement taken, exhibits seized, delay or misadventure with a vehicle, must be recorded in the pocket book (SAPS 206).
- (b) The *member* must record making of points, leaving the beat or duty area, or a deviation from duty or patrol instructions, with reasons, in the pocket book (SAPS 206).
- (c) The pocket book (SAPS 206) must indicate all SAPS 55's SAPS 55(a)'s, SAPS 11's, process, enquiries, extraneous duties, that is the responsibility of the *member*, except where the information is recorded in another register.
- (d) The *member* must also record the service of process, enquiries made, visits to vacant houses, description of suspects noticed, particulars of collisions, fires, particulars of witnesses and found property or of any information relating to occurrences which are likely to form the subject of subsequent enquiries.

(2) Procedure after arrest

- (a) As soon as a *member* effected an arrest, he or she must inform the arrested person of his or her constitutional rights as contained in section 35(1) of the Constitution, 1996. This must be done by reading the rights to the arrested person from the pocket book (SAPS 206) in the official language that the arrested person understands. (See paragraph 3 above).
- (b) A *member* who arrests a person must, as soon as possible after having given the information to the arrested person, record in his or her pocket book (SAPS 206) the fact that the arrested person was informed of his or her constitutional rights. (For information on the procedure after arrest, see paragraph 8 of the national standard regarding arrest).
- (c) The *member* must request the arrested person to acknowledge that he or she has been informed of his or her rights and that he or she understands the contents thereof, by signing next to the recording referred to in subparagraph (b), in the pocket book (SAPS 206).
- (d) If the arrested person refuses to sign in the pocket book (SAPS 206), a third person (Whether a civilian or another *member*) who witnessed the person being informed of his or her rights, must sign next to the recording and certify that he or she has witnessed this and that the arrested person refused to sign. If a third person is not available, the *member* must make a recording in the pocket book (SAPS 206) to the effect that a third person was not available to certify that the arrested person was informed of his or her rights and that the arrested person refused to sign the pocket book (SAPS 206).

(3) Information regarding crime prevention

- (a) Every *member* must record the particulars of every action resulting in the prevention of crime, such as the name and address of a person reprimanded or warned by the *member* for a minor offence, stating the reasons for his or her actions.
- (b) In the case of fires, floods or when dangerous animals threaten the safety of the public, the *member* must record this in the pocket book (SAPS 206). Where aid was given, a complete entry of the particulars of the person aided must be recorded.
- (c) Descriptions obtained from information of -
 - (i) persons sought; and
 - (ii) lost or stolen propertymust be recorded on the last pages of the pocket book (SAPS 206).
- (d) The *commander* or a *member* designated by him or her, must decide which descriptions should be written in the pocket book (SAPS 206).
- (e) Where circumstances require it, the *commander* may authorise the keeping of a separate pocket book (SAPS 206) for this purpose.

(4) Information regarding a collision

When a *member* attends the scene of a collision and one of the parties concerned desires the services of a break-down to tow his or her vehicle away, the *member* must record the following particulars in his or her pocket book (SAPS 206):

- (a) the particulars of the party requiring the break-down service;
- (b) full particulars of the vehicle which are to be towed away;
- (c) the name of the break-down service which must be summoned; and
- (d) the signature of the party requiring the break-down service.

(5) Testify in a court

- (a) A *member* may refresh his or her memory when testifying in court, by referring to any entry recorded of an occurrence in his or her pocket book (SAPS 206).
- (b) The entries in the pocket book (SAPS 206) from which the *member* refreshes his or her memory may, at their request, be disclosed to the defence and the court. The *member* may also be subjected to cross-examination as to the circumstances under which such an entry was recorded. It is therefore imperative that all entries are a true account of the facts, as the evidence of the *member* concerning the occurrence may be rejected, if inconsistencies arise between recorded evidence and that testified to in court.

6. The duty of the *commanders*

- (1) The *commanders* must record all work performed by him or her, except routine office work in his or her pocket book (SAPS 206). He or she must also record every reprimand and reprieve of a *member* administered by him or her in the pocket book (SAPS 206).
- (2) Other *members*, acting in a supervisory capacity, must similarly make appropriate entries in their pocket books (SAPS 206).

7. Completion of a pocket book (SAPS 206)

- (1) At the end of each month, or when a *member* is transferred to another office, the *member* must make a summary of his or her work, in accordance with the following example, in his or her pocket book (SAPS 206) and sign it: (Only the numerals need to be repeated.):
SUMMARY OF WORK DONE (quote month and year);
 1. Number of complaints/cases attended to;
 2. Number of collisions attended to;
 3. Number of cases in which dependence producing drugs were seized:
 - 3.1. Dagga
 - 3.2. Other
 4. Number of arrests
 5. Number of persons reprimanded for minor offences;
 6. Total number of hours worked, over and above normal working hours (eg at road-blocks, crime prevention).
- (2) Only the headings under which particulars are to be recorded, must be recorded in this summary. (For inspection, see paragraph 6 below).
- (3) A pocket book (SAPS 206) which has been completed must be handed to the *commander* and replaced by a new pocket book (SAPS 206).
- (4) The completed pocket books (SAPS 206) must be kept under lock and key at the office. Every *member's* books must be kept separately and bound together in sequence.
- (5) Before transferring to another office, a *member* must hand over his or her current pocket book (SAPS 206) to his or her present *commander*, in exchange for a new book.

8. Inspection of a pocket book (SAPS 206)

- (1) The pocket book (SAPS 206) must be presented to the *commander* or a *member* designated by him or her, for inspection, at least once a week.
- (2) A inspecting *member* must inspect all pocket books (SAPS 206) and ensure that all *members* are performing their duties.

- (3) The inspecting *member* must satisfy himself or herself of the correctness of the summary of work done by the *member* concerned, countersign the summary and make the required entry in the report of the *member*.
- (4) If a senior *member* is of the opinion that a *member* is not performing his or her duties properly, or is not doing his or her best, it should be brought to the *member's* attention in his or her pocket book (SAPS 206), to give the *member* the opportunity to improve. Such entries are of a confidential nature and the *commander* must ensure that only those *members* whose duty it is to inspect the pocket books (SAPS 206), or to make entries therein, may have access to pocket books (SAPS 206) handed in at the office for inspection.
- (5) If possible, an entry relating to disciplinary steps taken against a subordinate, must be made in his or her pocket book (SAPS 206), instead of in the occurrence book (SAPS 10).
- (6) A register must be maintained by the *commander* or responsible *member*, in which particulars are recorded of all pocket books (SAPS 206) issued to *members* at the office.

SEARCH AND SEIZURE

1. Background

The Constitution, 1996 (Act No. 108 of 1996) protects the right to privacy of all individuals. The right to privacy includes the right not to have one's person or home *searched*, one's property *searched*, one's possessions seized, or the privacy of one's communications infringed. The powers to *search* and seize conferred by the Criminal Procedure Act, 1977 (Act No. 51 of 1977), however, limit this right. *Members* must exercise these powers strictly within the limits of the applicable provisions of the legislation to ensure that the constitutional right to privacy is not violated beyond that which is sanctioned by the legislation.

This national standard is issued to ensure that *members* will be acting in accordance with the provisions of the empowering legislation when they conduct *searches*. This national standard must be read together with the relevant provisions of the empowering legislation and the applicable sections of the constitution. If a *member* does not adhere to the empowering legislation, it may result in such *member* being found guilty of an offence or a civil claim may be instituted against the *member* and the municipality. Furthermore, the court may exclude the evidence obtained during the *search* and/or seizure.

2. Definitions and interpretation of terms

- (1) In this standard, unless the context otherwise indicates -
 - (a) "**commissioned officer**" means a member who holds the rank of captain or a higher rank of the South African Police Service, but excludes all members of the municipal police service;
 - (b) "**member**" means a member of the municipal police service;
 - (c) "**premises**" includes land, any building or structure, or any vehicle, conveyance, ship, boat or aircraft; and
 - (d) "**search**" means any act whereby a person, container or premises is visually or physically examined with the object of establishing whether an article is in, on or upon such person, container or premises.
- (2)
 - (a) A reference to "**reasonable grounds to believe**" must be interpreted to mean that a person will have "**reasonable grounds to believe**" something or that certain action is necessary if:
 - (i) he or she *really* believes it;
 - (ii) his or her belief or suspicion is based on *certain facts* or *grounds* from which he or she has drawn an inference or conclusion; and
 - (iii) any reasonable person would, in view of those facts, also have drawn the same conclusion.
 - (b) A reference to "grounds" in paragraph (a)(above) should be interpreted to mean "facts". This can only be established by the use of at least one of a person's five senses, i.e. sight, hearing, smelling, touching and tasting. A "gut feeling" or "hunch" is not a fact, and will, in the absence of facts supporting the belief, never constitute reasonable grounds for a belief. The facts does not have to be

admissible in a court of law, but may consist of trustworthy information received from another person such as an informer (i.e. hearsay). Where the belief is based on information received from another person, a *member* may later be required to explain why he or she had relied on that information (eg. the informer had often (before that) supplied information that proved to be correct). If it is reasonably possible in the circumstances, a *member* must verify the correctness of information received from another person.

- (c) The *member* must form his or her own belief on account of the facts and must actually believe it at the time when he or she conducts the *search*. A *search* where no belief on reasonable grounds existed prior to it being conducted, will not become lawful on the ground of facts discovered as a result of such a *search*. If a *member* doubts whether a certain state of affairs exists, such *member* must obtain further information until he or she actually believes that this is the case.
- (d) The mere fact that a *member* believes that a certain state of affairs exists, is not sufficient. The *member* must also be satisfied that any *reasonable member* would have formed the same belief. This will be the case if the average *member* who has received the same training and has more or less the same experience as the *member* who formed the belief, would also have formed such a belief in the circumstances.
- (e) In the case of *searches* and seizures, the law not only requires that a *member* has a reasonable belief that the article is on certain *premises* but also requires that the *member* believes on reasonable grounds *that the specific article was involved in or may afford evidence of the commission of an offence or that it will be used in the commission of an offence*.

3. A search and seizure must be conducted in terms of the law

- (1) A *member* may only conduct a *search* and seize an article when empowered by law to do so. A *member* must also strictly adhere to the restrictions of the empowering legislation to ensure that a *search* and seizure is in fact conducted legally. (On the consequence of an unlawful search, see paragraph 11 below).
- (2) The primary act regulating the power of a *member* to *search* and seize, is the Criminal Procedure Act, 1977. This act clearly indicates the requirements that must be complied with before a *search* may be conducted or an article seized. The Criminal Procedure Act, 1977, also addresses the disposal of seized articles before and after finalization of a criminal case. Where other legislation do not specify the manner in which a *search* must be conducted, an article must be seized or a seized article must be disposed of, the provisions of the Criminal Procedure Act, 1977, must be followed.
- (3) If a *member* has any doubt about the interpretation of empowering legislation, he or she must consult another competent *member* before the *search* is conducted or an article is seized.

4. Only articles related to offences may be seized (section 20 of the Criminal Procedure Act, 1977)

(1) Articles which may be seized

Section 20 of the Criminal Procedure Act, 1977, states that an article means '*anything*'. The types of articles subject to seizure are therefore unlimited and may include documents and money. Depending on the circumstances of a specific case, where sufficient evidence has already been obtained and no need exists to seize an additional article, further articles must not be seized, unless the mere possession of such articles is unlawful.

(2) Categories of articles which may be seized

(a) Articles which have been concerned or are on reasonable grounds believed to be concerned in the commission or suspected commission of an offence, irrespective of where the said offence was committed

In addition to being concerned in the commission of an offence, the article may only be seized under this category if it is:

- (i) reasonably necessary to prove the offence, or
- (ii) if it is an article which will probably be declared forfeited to the state.

In so far as articles seized under this category may also be used to prove that a crime has been committed, it overlaps with the second category. As the courts have shown a tendency to interpret the first category restrictively, the second category must also be relied upon when any doubt exists whether the first will be applicable.

(b) Articles which may afford evidence of the commission or suspected commission of an offence, irrespective of where the said offence was committed

Here the mere possession of the article may be a crime, or the article may serve as evidence of the commission of a crime.

(c) Articles which are intended to be used or on reasonable grounds believed to be intended to be used in the commission of an offence, provided that the said offence is intended to be committed within the Republic of South Africa.

This category refers to those articles which were not used in the commission of a crime and the possession of which do not constitute a crime, but in respect of which there are reasonable grounds to believe that they will be used during the commission of a crime. In so far as this category also provides for the seizure of articles in order to prove that the crime of attempt to commit a crime has been committed, it overlaps with the second category. If there is any doubt, both categories must be cited as the reason for the seizure.

(3) Privileged documents

Privileged documents in respect of which the holder of the privilege has not yet relinquished his or her privilege, may not be seized. Documents subject to legal privilege between a legal representative and his client therefore form an exception to the rule that *members* may seize '*anything*'.

5. Search with a warrant (section 21 of the Criminal Procedure Act, 1977)

(1) General rule

- (a) Whenever it is practically possible, a *search* and seizure must only be conducted after a *search* warrant has been obtained. A *member* may only deviate from this rule when all the requirements laid down in legislation regarding a *search* without a warrant, are complied with.
- (b) In all instances where an application for a *search* warrant is made, it must be done on the SAPS 13(d)-form, and must be addressed to a magistrate or justice of the peace.
- (c) A *member* may apply for a *search* warrant at any time. The Executive Head must liaise with the local magistrates to obtain an after-hour standby list of magistrates for these and other purposes, e.g. confessions.

(2) Application for a search warrant addressed to a magistrate

A *search* warrant must preferably be obtained from a magistrate. The *member* who applies for the *search* warrant must ensure that the *premises* to be *searched* is within the magistrate's area of jurisdiction.

(3) Application for a search warrant addressed to a *commissioned officer*

- (a) In circumstances where no magistrate is reasonably available, a *member* may approach a *commissioned officer*. All *commissioned officers* are justices of the peace, and are as such, authorized to issue *search* warrants. A *commissioned officer* may issue a *search* warrant on a SAPS 13(e)-form.
- (b) In the interest of impartiality, and in order to enhance credibility, the *commissioned officer* issuing the *search* warrant must, unless there are compelling reasons, not be directly involved in the particular investigation. The jurisdiction of *commissioned officers* are not confined to an area and *commissioned officers* may issue *search* warrants which may be executed in any area within the Republic.
- (c) A *commissioned officer* is not prohibited from issuing a *search* warrant where a magistrate had refused to do so, as long as the *commissioned officer* is convinced that the requirements, set out in section 21(1)(a) of the Criminal Procedure Act, 1977, are met.

(4) The content of an application for a search warrant

(a) Information on oath

The application must contain information on oath indicating *reasonable grounds for believing* that an article mentioned in section 20 of the Criminal Procedure Act, 1977, is in the possession or under the control of any person or upon or at any *premises* within the area of jurisdiction of the official to whom the application is addressed.

(b) Address of premises

Where the address of *premises* is available, this must be mentioned in the application for the *search* warrant. This would normally be sufficient to convince the magistrate that the *premises* is situated in his or her area of jurisdiction. Should there be no address available (e.g. in the case of a shack in a squatter camp) the *premises* (shack) must be described and its location mentioned (e.g. the third shack from the west in the second row from the north in a particular squatter camp) so that the magistrate will be able to satisfy himself or herself that the *premises* is situated in his or her area of jurisdiction. The description of the *premises* (shack) must be sufficient so that there will be no doubt as to which *premises* (shack) the warrant refers to.

(c) Object of search

It must appear from such information that *reasonable grounds* exist for *believing* that:

- an offence was committed or is about to be committed;
- certain articles have been concerned in the commission of the offence or will be concerned in the commission of the intended offence, or may afford evidence as to the commission thereof; and
- such articles are in the possession or under the control of a certain person or upon or at a certain *premises*.

The information need not be sufficient to institute a prosecution. The purpose of the *search* is to find an article which is necessary to prove a criminal case. For this reason hearsay evidence (information supplied by a person who is not present) may be included as information in the sworn statement, as long as such evidence is believed to be true by the person providing the information on oath (to whom it was provided) as well as by the magistrate or justice of the peace issuing the *search* warrant. The information only has to be objectively speaking sufficient to enable the magistrate or justice of the peace to exercise his or her discretion reasonably.

(d) Identify members to conduct the search

The Criminal Procedure Act, 1977, does not explicitly require the identification of the *member(s)* conducting the *search*, but section 21(2) refers to a "*police official*" which could be interpreted as meaning a specific *member*. It has become customary to identify the *member(s)* authorized to conduct a *search* and this must be continued. In terms of section 13(5) of the South African Police Service Act, 1995 (Act No. 68 of 1995), if a *search* warrant authorises a specific *member(s)* to conduct the *search*, any other *member* may conduct the *search* or may assist in doing so.

(5) The execution of a search warrant

(a) Search must be conducted by members

The *search* and seizure may only be conducted by *members*. In a case where the assistance of an expert is required to identify or get hold of certain articles, such expert must be a *member*. Where, for example, computers contain the information to be seized, a police expert must be used to retrieve such

information without removing such computers. If, however, no police experts are readily available, the computers should first be seized, whereafter an expert must be contacted to retrieve the information needed.

(b) Search of a person identified in the search warrant

A *search* warrant obtained to *search* a specific person must explicitly authorize the *member(s)* to *search* the person identified in the warrant. Such person need not be identified by mentioning his or her name, as long as an accurate description is furnished which will enable identification - e.g. by describing the office he or she holds.

If the warrant is obtained for *searching* a person, the *premises* where such person is found cannot be *searched* by virtue of such a *search* warrant. A *search* of the *premises* may only be conducted without a warrant provided that the prescribed requirements for a warrantless *search* are met (see paragraph 6 below).

(c) Search of a premises

A *search* warrant authorizing the *search* of a *premises* must authorize the *member(s)* to enter and *search* the identified *premises*, and also to *search* all persons on or at the specific *premises*. As far as possible, only persons linked to the activities on the *premises* must be *searched*. Persons who are clearly identifiable as accidental bystanders may not be *searched*.

(d) Seizure of articles

A *search* warrant must require the *member(s)* to seize particular articles mentioned in section 20 of the Criminal Procedure Act, 1977, and which are specified in the warrant. The *search* warrant must provide clarity on the crime suspected as well as on the articles or class thereof which should be *searched* for. A detailed description of each and every article to be *searched* for, is not required. However, a warrant which is too wide and vague may be set aside or a court may declare parts thereof invalid.

(e) Procedure to be followed when an article which are not mentioned in the *search* warrant, is found

Where articles, which are not mentioned in the warrant, but which relate to the same crime the warrant was obtained for, are found, special care must be taken by the *member(s)* present. Unless the circumstances are such that the articles may be seized without a warrant in terms of section 22 of the Criminal Procedure Act, 1977, an additional *search* warrant for those articles must first be obtained to prevent the seizure from being illegal.

Although the *search* is legally allowed in terms of the original *search* warrant, the seizure of articles not covered by that warrant amounts to an unlawful extension of the *search* warrant. If enough *members* are present during the *search*, some must secure the particular articles on the *premises* while a *member* leaves to obtain the additional *search* warrant. Should someone attempt to remove the articles before the arrival of the additional *search* warrant, the articles must be

seized without the warrant. In such a case the delay brought about by the waiting for the additional warrant will defeat the object of the *search*. Seizure of the articles without a warrant will, in such a case, be justified.

A similar approach must be followed where other articles mentioned in section 20 of the Criminal Procedure Act, 1977, and which have no relation to the particular investigation, are found during the *search*.

(f) Only search in places where article may be found

Unless articles are found in plain view, a *search* warrant only entitles a *member* to *search* in places where articles covered by the warrant, may possibly be found. A *member* may not *search* in places where it is impossible to find the articles described in the warrant.

(g) Time of execution

Section 21(3)(a) of the Criminal Procedure Act, 1977, states that a *search* conducted by virtue of a *search* warrant must take place during the day - thus between sunrise and sunset.

The *search* may only be conducted by night if it is so authorized by the person who issued the *search* warrant. Such authorization must be requested when applying for the *search* warrant and must appear in writing on the warrant. (The SAPS 13(d)-form makes provision for this and must be used in such cases).

(h) Search of a business premises

When conducting a *search*, infringements of a private person's rights must be kept to a minimum. The effect of the *search* must be weighed up against the nature and seriousness of the offence as well as the urgency of the *search*. Therefore, where the *premises* of a business needs to be *searched*, the *search* must be conducted in a way which will disturb the business activity as little as possible, provided that it will not adversely affect the object of the *search*.

(i) Hand over of a copy of the search warrant

According to section 21(4) of the Criminal Procedure Act, 1977, any person whose rights have been affected by the execution of a *search* warrant, is entitled to a copy thereof. A person's rights will be affected, if the person himself or herself was *searched*, if his or her *premises* was *searched* or if something belonging to him or her was seized.

A *member* executing a *search* warrant must make copies thereof beforehand. A copy of a *search* warrant must be handed to every person whose rights have clearly been affected by a *search* and seizure.

Where nobody was present during the *search* and seizure, a copy of the warrant must be left at a prominent place, eg. on the outside door of a building or beneath the wiper of a vehicle.

Although a person whose rights have been affected by the *search* and seizure is

only entitled to a copy of the warrant *after* the original *search*, the *search* warrant must be shown to him or her before commencing with the *search* if he or she is available at the time.

(6) Expiration of a search warrant

A *search* warrant does not expire automatically but can only be used once. Section 21(3)(b) of the Criminal Procedure Act, 1977, provides that a *search* warrant shall be of force until it is executed or cancelled by the person who issued it. If that person is not available, the *search* warrant may be cancelled by a person with the same authority as the person who issued it. A warrant which is no longer necessary for the investigation of the case, must be cancelled.

6. Search without a warrant (section 22(b) of the Criminal Procedure Act, 1977)

(1) Exception to the general rule of a search warrant

- (a) Section 22(b) constitutes an exception to the rule that a *search* warrant is required before a *search* and seizure may be conducted. The object of the exception is to enable *members* to obtain evidence when such evidence will be lost if the *search* is not conducted immediately. As a search and seizure constitutes a serious limitation of a person's right to privacy, the rule that a warrant is required is an important legal safeguard. It requires that the available facts must first be considered by an objective and responsible person who has to decide whether the *member's* belief that a *search* and seizure is justifiable, is reasonable. This safeguard is, however, avoided when a *search* is conducted without a warrant, and therefore the court will require that the facts strictly justify such a *search*, and that it was not practicable to first obtain a *search* warrant.
- (b) For the purpose of seizing any article mentioned in section 20 of the Criminal Procedure Act, 1977, a *member* who on reasonable grounds believes that a *search* warrant will be issued to him or her if he or she applies for such warrant, but believes that the delay in obtaining the warrant would defeat the object of the *search*, may *search* any person, container or *premises* without a warrant.
- (c) The *member* must thus have trustworthy information, which he or she believes to be true, clearly indicating that an offence has been committed or is about to be committed. The information must also indicate that there are certain articles which have been concerned in the commission of the offence, may afford evidence as to the commission thereof, or which are intended to be used in the commission of an offence, and that these articles are in the possession or under the control of a certain person, or upon or at a certain *premises*.
- (d) Where anonymous information is received that section 20 articles are on a certain *premises* and that they will shortly be removed from there to an unknown destination, such information cannot be regarded as sufficiently trustworthy to constitute reasonable grounds for a *search* without a warrant. This does not mean that anonymous information is useless, but only that it cannot be used on its own to conduct a *search* and seizure. It may be used to obtain further

information, for example to keep the *premises* under observation, or, depending on the circumstances, to try to obtain the consent of the person in control to *search* the *premises*.

- (e) If a *member* conducts a *search* without a *search* warrant, such *member* must be able to give reasons for his or her failure to obtain a warrant. If the reason provided by a *member* does not justify action without a warrant, the *search* will be regarded as unlawful. (On the consequence of such action, see paragraph 11 below).
- (f) Once the *member* is satisfied that the facts are sufficient to necessitate a *search* and seizure, he or she must have further reasonable grounds to believe that the facts of the situation are such that if the *search* is not conducted forthwith, the delay to obtain a *search* warrant would defeat the object of the *search*.

(2) Empowering legislation

Apart from the provisions contained in section 22(b) of the Criminal Procedure Act, 1977, *searches* without a warrant are also authorised by:

- (a) section 23 of the Criminal Procedure Act, 1977, regarding the *search* of an arrested person (see paragraph 8 below);
- (b) section 13 of the South African Police Service Act, 1995, regarding the *search* of vehicles, persons and *premises*; and
- (c) other specific legislation, such as the Arms and Ammunition Act, 1969 (Act No. 75 of 1969) and the Drugs and Drug Trafficking Act, 1992 (Act No. 140 of 1992).

In the specific circumstances set out in the above-mentioned legislation, the *search* and seizure must be conducted in terms thereof, and not by virtue of section 22(b) of the Criminal Procedure Act, 1977. The relevant provisions in these acts are specifically formulated to relate to the unique circumstances addressed in that particular legislation, and these provisions explicitly state that no warrant is required when a *search* and seizure is conducted in terms thereof. It should also be noted that according to section 19 of the Criminal Procedure Act, 1977, the provisions regarding *search* and seizure contained in the said act shall not derogate from any power conferred by any other law to enter a *premises* or to *search* a person, container or a *premises* or to seize any article.

7. Search with consent (section 22(a) of the Criminal Procedure Act, 1977)

(1) General

A *member* may in terms of section 22(a) *search* any person, container or *premises* without a *search* warrant for the purpose of seizing any article referred to in section 20 of the Criminal Procedure Act, 1977, if the person concerned consents to such *search* for and the seizure of the article in question. The person concerned is the person who is about to be *searched* or the person in control of the specific *premises* or in possession of the container to be *searched*.

(2) The requirements for valid consent

- (a) The consent must have been given voluntarily. Consent which is obtained by threats or violence will not be valid. A *member* may not threaten or assault a person in order to gain his or her consent to conduct a *search* and seizure. If a *member* believes on reasonable grounds that a *search* warrant will be issued to him or her if he or she applies for it, such *member* may inform the person that, unless he or she consents to the *search*, a *search* warrant will be obtained and the *search* will be conducted without his or her consent. Consent given in such circumstances will still be valid consent, provided that the *member* is able to persuade the court that he or she did entertain such reasonable belief. If the *member* is unable to do so, his or her conduct will be regarded as unlawful and the consent invalid. (See paragraph 11 below)
- (b) The consent may be given explicit or by implication. Consent may be given in writing, verbally or by way of other gestures. Mere submission to a *search* and seizure (paragraph (f) below), however, does not constitute valid consent.
- (c) The consent must be given before the *search* and seizure is conducted, and may be withdrawn at any time before the *search* and seizure has been completed. Consent given after a *search* and seizure has commenced, will not be valid. If the consent is withdrawn after the *search* has commenced, the *member* may only continue if entitled to do so in terms of section 22(b) (see paragraph 6 above). This means that at the time when the consent is withdrawn, the *member* must have reasonable grounds to believe that a *search* warrant will be issued to him or her if he or she applies for such a warrant, but that the delay in obtaining the warrant would defeat the object of the *search*.
- (d) The person giving the consent must be capable of understanding what he or she consents to. A mentally ill, sleeping, unconscious or drunk person cannot give valid consent for a *search* and seizure. As far as children are concerned, there is no legal age at which a child is considered capable of giving valid consent. The *member* will have to prove, if necessary, that the person was able to understand what he or she consented to and understood the nature of a *search* and seizure.
- (e) The person giving the consent must know what he or she is consenting to. The person who gives consent must understand the implications of what he or she is consenting to, i.e. the *member* will look through his or her clothing or property in order to obtain evidence of an offence. The *member* must be sure that the person knows what the consent is given for at the time when permission to conduct a *search* and seizure is requested. Furthermore, the *member* may only act within the limits of what was consented to. If a person consents to his or her garage being *searched*, the *member* may not without further ado *search* the house as well, unless this may in any event be done in terms of section 22. (see paragraph 6 above)
- (f) The mere fact that a person submits to a *search* and seizure being conducted or simply does not object to it being conducted, does not necessarily mean that the person consents thereto. The *member* must ensure that the person actually

consents before the *search* is conducted, and does not merely allow it because he or she feels threatened or intimidated.

- (g) In principle, the consent must be given by the person who will be the subject of the *search* or whose rights will be infringed. A person who is not the owner or lessee, or who does not have the legal right to consent, may not give consent for a *search* and seizure. The *member* must ensure that the person who gives consent has the legal right to do so. If any doubt exists, the *search* and seizure must not be conducted without a *search* warrant on the ground of such consent.

(3) Onus on *member*

A *member* who alleges that the *search* and seizure was conducted with the consent of the person concerned, will have to prove that valid consent was indeed given. This provision must therefore be used with circumspection. It does, however, have great value where a *member* is conducting routine crime prevention duties and encounters a suspicious person at a place or under circumstances where sufficient grounds for a *search* do not exist. In these circumstances a *member* may request such person's permission to *search* him or her. A mere refusal to be *searched*, however, will not necessarily constitute sufficient grounds to *search* such person without a warrant or to form a certain belief, although it may contribute thereto.

(4) Consent to *search* and seize

A *member* need not always obtain consent both to *search*, as well as to seize. A *member* who obtained consent to *search* and who finds an article *which is clearly an article mentioned in section 20 of the Criminal Procedure Act, 1977*, may seize such article forthwith. However, if the article found *may possibly be* one mentioned in section 20, but the *member* does not have a reasonable belief to that effect, the *member* must also obtain consent to seize the article.

8. Search of arrested person and seizure of articles (section 23 of the Criminal Procedure Act, 1977)

(1) General

Section 23 of the Criminal Procedure Act, 1977, confers certain powers to *search* and seize on a person making an arrest. A *member* who arrests a person, must, as soon as possible, *search* such person and seize any article mentioned in section 20 of the Criminal Procedure Act, 1977, which is in the possession of or in the custody or under the control of the arrested person. No *search* warrant or consent is required for such a *search* and seizure.

(2) Articles which may be searched for

The phrase "in the possession of or in the custody or under the control of" includes far more than what is on the person of the arrested person or in the pockets of his or her clothing. Articles in such person's home or motor vehicle are also under his or her control, although he or she may not be personally present at or in these places when the arrest is made. Such places may, however, only be *searched* if the *search* will reasonably relate to the suspected crime(s) for which the person has been arrested. Furthermore, the *search* must be conducted as soon as reasonably possible after the

arrest. When an article is in the physical possession of someone else, but the arrested person is entitled to claim it, it is still considered to be under the control of the arrested person.

(3) Object of search

- (a) In the interest of the safety of the *member* and any other person in the vicinity, a *member* conducting the *search* of an arrested person must also place any object found on such person and which may be used to cause bodily harm to such person or to others, into safe custody. Various persons are protected against potential harm, including the person who performed the arrest, the arrested person and other persons in the immediate vicinity of the arrested person.
- (b) Such objects (personal property), if it is not articles mentioned in section 20 of the Criminal Procedure Act, 1977, remains the property of the arrested person and must be handed to the member of the South African Police Service when such person is handed to a member of the Service. The property of the arrested person must then be recorded in the SAPS 22-register and must be returned to such person upon his or her release.

9. Entering of *premises* for purposes of obtaining evidence (section 26 of the Criminal Procedure Act, 1977)

(1) General

A *member* who is making enquiries regarding an offence or alleged offence and who reasonably suspects that a person who may provide information regarding such offence is on a certain *premises*, may enter such *premises* without a warrant.

(2) Object of Search

- (a) The purpose of an entry in terms of section 26 of the Criminal Procedure Act, 1977, must be distinguished from situations where the purpose is to search and seize. In terms of this section the purpose of entering a *premises* is to obtain information regarding an offence from a person, and not to conduct a *search*. The person who may provide information regarding an offence referred to in section 26, may be either a witness or a person of whom it is suspected that he or she was involved in the commission of the said offence.
- (b) Where the person is a suspect, the *member* will only act in terms of this section if such *member* does not intend to lawfully arrest the suspect. Should the *member* decide that a lawful arrest can be made, such *member* may, if necessary in order to effect such arrest, act in terms of section 48 of the Criminal Procedure Act, 1977. This section authorizes a *member* to break open, enter and *search* the *premises* for the purpose of effecting the arrest, after such *member* had first audibly requested entry to the *premises*, indicated the purpose of seeking entrance, and failed to gain entrance to the *premises*.
- (c) A *member* who enters a *premises* in terms of section 26 to conduct an interview with a person, is not entitled by the said section to *search* such *premises*. Should it become necessary during the *member's* presence on the *premises*, a *search*

and seizure may be conducted in terms of section 21 or 22 of the Criminal Procedure Act, 1977 (see Paragraphs 5, 6 and 7 above.)

(3) Exception applicable to a private dwelling

- (a) A distinction is drawn between a private dwelling and other *premises*: lawful entry into a private dwelling requires the consent of the occupier thereof. Where no consent can be obtained, a *member* is not allowed to enter such private dwelling.
- (b) If the person who may consent to the entry of the *member* into a private dwelling, refuses the *member* entry, such *member* may not enter the *premises* but may request the director of public prosecution or public prosecutor that a subpoena in terms of section 205 of the Criminal Procedure Act, 1977, be issued. Such *member* may then serve the subpoena on the person suspected of having the information at his or her disposal which will then compel the person to appear before a magistrate and be questioned concerning his or her knowledge regarding the offence.

(4) Refusal to answer questions satisfactory

If the person who may provide information refuses to answer the *member's* questions satisfactorily, the matter must be discussed with the public prosecutor in order to obtain a subpoena in terms of section 205 of the Criminal Procedure Act, 1977, for the public prosecutor to question the person before a magistrate.

10. Resistance against lawful entry, search and seizure (Section 27 of the Criminal Procedure Act, 1977)

(1) Use of force when conducting a lawful search

Section 27 of the Criminal Procedure Act, 1977, in principle authorizes the use of force by *members* to overcome any resistance against lawful *searching* or entering of a *premises* under section 26 of the Criminal Procedure Act, 1977. According to section 27 a *member* may use such force as may be reasonably necessary to overcome any resistance against a lawful *search* or entering of a *premises*, including the breaking open of a door or window.

(2) Minimum force

- (a) According to section 13(3)(b) of Police Service Act, 1995 a *member* who is authorized by law to use force when performing an official duty, may use only the minimum force which is reasonable in the circumstances. It requires that the force used be proportional to the nature and seriousness of the crime involved, the resistance offered and the urgency with which the *search* has to be conducted. Before resorting to the use of force, the *member* must consider all the surrounding circumstances and must choose the alternative which will ensure that the object of the *search* is accomplished in a way which will have the least impact on the rights of persons affected thereby.
- (b) A *member* is only allowed to use force after admission to the *premises* was audibly demanded by such *member*, and the purpose for which entry is sought, was notified. *Members* must demand admission in a loud voice to make it easier to find witnesses should it be alleged that this requirement was not met.

(3) Object of Search

A *member* may lawfully search -

- (a) a person or *premises* (including the persons upon it) identified in a *search* warrant under section 21 of the Criminal Procedure Act, 1977 (see paragraph 5 above);
- (b) a person or *premises* without a *search* warrant under section 22 of the Criminal Procedure Act, 1977 (see paragraph 6 and 7 above);
- (c) an arrested person under section 23 of the Criminal Procedure Act, 1977 (see paragraph 8 above); and
- (d) a person or *premises* in terms of other legislation (such as the Arms and Ammunition Act or the Drugs and Drug Trafficking Act).

(4) Search of a private dwelling

It should be emphasized that, in terms of section 26 of the Criminal Procedure Act, 1977, (paragraph 9 above), a private dwelling cannot be entered without the consent of the occupier thereof. Where a *member* enters a *premises* for the purposes of obtaining information from a person, such a *member* is not allowed to use force to gain entry to a private dwelling if the occupier thereof refuses to allow him or her entry. Force may, however, be used where entrance is sought into *premises* which is not a private dwelling, or such part of a *premises* which does not form part of a private dwelling, e.g. to get into a vehicle or to enter a *premises* where the gate is locked. As the term *private dwelling* is a legal technical term, legal advice must be obtained if any doubt exists in this regard.

(5) "No-knock Clause"

(a) Section 27(2) of the Criminal Procedure Act, 1977, provides that, if a *member* is on reasonable grounds of the opinion that the article which is the subject of the *search* may be destroyed or disposed of if entry is first audibly demanded, it is not necessary to demand such entry. The reasonable grounds required, only have to exist in the opinion of the *member* concerned. This clause is of particular importance when the police deal with small objects which may be swallowed, flushed down a toilet or otherwise be destroyed or disposed of if the person in possession thereof is 'warned' that the police have arrived.

(b) If any doubt exists on the use of force to conduct a *search* or entering a *premises* in terms of section 26, legal advice must first be obtained.

11. Consequence of unlawful search and seizure**(1) General**

A *member* executing a *search* warrant, or conducting a *search* without a *search* warrant must at all times comply with the applicable legal rules, as serious consequences will follow upon unlawful conduct. If a *member* at any time doubts whether a specific action which he or she intends to carry out, will conform to the applicable legal rules, legal advice must first be obtained before the intended *search* and seizure is carried out.

(2) Wrongful search is an offence and damages may be awarded

- (a) Section 28 of the Criminal Procedure Act, 1977, states that a *member* who acts contrary to the authorization in a *search* warrant, or who conducts an unlawful *search*, or seizes an article without being authorized thereto by law, is guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding six months.
- (b) A *member* who conducts an illegal *search* or seizure may be ordered to pay damages to any person who was a victim of such wrongful *search* and seizure. If a *member* had provided false information under oath in respect of which a *search* warrant was issued, and is in consequence thereof convicted of perjury, the court convicting such *member* may also order him or her to pay damages as compensation to the person who suffered damages as a consequence of unlawful entry, *search* or seizure, as the case may be.
- (c) Section 28(1) of the Criminal Procedure Act, 1977, does not include the whole spectrum of possible charges against a *member* who conducts an unlawful *search* and seizure. Such *member* may also be charged with common law crimes such as *crimen injuria*, assault, malicious damage to property, theft and even housebreaking with the intent to commit an offence.

(3) Exclusion of evidence

Should the court either find that the facts were insufficient to necessitate a search, or that a warrant could have been obtained before the *search* was conducted or that the person who was searched did not legally consent to the search, the court may exclude evidence of articles found during the *search* and seizure, and declare the *search* illegal. Such a situation may then result in the acquittal of the accused due to a lack of evidence. Furthermore, the person whose rights were violated, will have a civil claim against the relevant *member* and the municipality concerned. *Members* must therefore carefully consider the facts before conducting a *search* and seizure, especially when the *member* is not in possession of a search warrant.

**12. A search must be conducted in a decent and orderly manner
(section 29 of the Criminal Procedure Act, 1977)**

- (1) A *member* must conduct a *search* of any person or *premises* with strict regard to decency and order. A person may only be *searched* by a person of the same sex. A *member* may not *search* a person of the opposite sex, even though such person may have consented thereto. If no *member* of the same sex as the person to be *searched* is available, a private person of the required sex may be utilised to perform the *search*.
- (2) A *member* who *searches* a *premises* must conduct the *search* in an orderly fashion. Due respect for the belongings of other persons must be shown at all times. Although a *search* must be thoroughly conducted, a *member* must not cause unnecessary disorder or damage. A *member* should always treat the possession of others like he or she wants others to treat his or her possessions.

13. Issuing of receipt when an article was seized

- (1) When a *member* seized any article, as authorised in this national standard, he or she must complete the property acknowledgment of receipt register (SAPS 13(b)). A receipt of the SAPS13(b) must be handed to the person from whom the articles was seized. Such person must sign on the receipt indicating that the property which was seized, was recorded completely on the SAPS 13(b).
- (2) If the person to whom the articles belong, is not on the *premises*, the receipt must be handed to the person in charge of the *premises*. If nobody is present during the seizure, the receipt must be left at a prominent place on the *premises*. The *member* must in such a case make a recording in his or her pocket book.

14. Recording of searches (search register)

- (1) A *search* register must be kept at every municipal police office and particulars concerning all *searches* conducted by *members* attached to that office must be recorded in the register.
- (2) The following information must be recorded in this register:
 - (a) monthly reference number;
 - (b) date and time when the *search* was conducted;
 - (c) particulars of the *member(s)* who conducted the *search* (number, rank and name);
 - (d) grounds for conducting the *search*. (If the *search* was authorized by a warrant, it must be stated as such and the person who issued the warrant must be identified. If a warrant was not obtained, the reason for *searching* without a warrant must be recorded. In all instances reference must be made to the applicable section and act in terms of which the *search* was conducted.)
 - (e) particulars of the *premises searched* (address or registration number of vehicle);
 - (f) particulars of other persons (civilians) present during the *search*, including their capacity with relation to the *premises searched*;
 - (g) if force was used, the reasons for the use thereof and any injuries or damage caused in the process;
 - (h) SAPS 13(b)-reference number;
 - (i) office and SAPS 13 number where articles were handed in; and
 - (j) particulars and signature of *member* making the entry.
- (3) In the case of a roadblock, only one entry is required (paragraph (2)(a) above). Only the registration numbers of vehicles from which articles were seized, must be recorded, although the total number of vehicles *searched* must be indicated (paragraph (2)(e) above). The information required in paragraph (f) shall only be applicable to the vehicles identified in paragraph (e).
- (4) The required information must be recorded in the *search* register after the *premises* have been *searched* and the responsible *member* has returned to the office. The *search* register must not be taken to the scene of a *search* but must be completed in the office. The *member* who conducted the *search* must complete the *search* register. Where more than one *member* were involved in a *search*, the *member* in charge of the *search* is responsible for completing the *search* register.
- (5) The *search* register must be inspected at least once a week by the commander of the

office, to ensure compliance with the standard on *search* and seizure contained in this standard. The inspecting *member* must select at least two entries of *searches* without warrants per week and interview the *members* involved in these *searches* to verify the reasons for these *searches* and why no warrants were obtained and must, during such interviews also give guidance to such *members* on how to act in similar circumstances in future where it appears that they did not act strictly within the bounds of the relevant legislation.

- (6) These inspections and interviews are intended to assist *members* to better understand the legal principles involved in *searches* and seizures and inspecting *members* should only institute disciplinary proceedings against *members* in those instances where it appears from the inquiries that the *member(s)* involved acted knowingly in disregard of this standard or the applicable legislation.
- (7) A failure by a *member* to make an entry in the *search* register within a reasonable period after he or she has conducted a *search*, constitutes misconduct.

No. R. 712

11 Junie 1999

Die voorgestelde nasionale polisiëringstandaarde vir munisipale polisie dienste word hiermee kragtens artikels 64L van die Wet op die Suid-Afrikaanse Polisie diens, 1995 (Wet No. 68 van 1995) deur die **Nasionale Taak Groep op voorgestelde Munisipale Polisie dienste** aangestel deur die Minister van Veiligheid en Sekuriteit vir algemene inligting en kommentaar van belangstellende partye gepubliseer. Kommentaar moet die Nasionale Taak Groep bereik voor **5 Augustus 1999** by die volgende adres:

Vir aandag: ADV A BRINK

**Die Voorsitter
Nasionale Taak Groep
Posbus 5306
PRETORIA
0001**

Faks: (012) 339-1748

**VOORGESTELDE NASIONALE POLISIËRINGSTANDAARDE VIR
MUNISIPALE POLISIEDIENSTE**

Nasionale Standaard: Arrestasie en die behandeling van die persoon totdat sodanige persoon aan 'n gemeenskapsdienssentrum bevelvoerder oorhandig word;

Nasionale Standaard: Misdaad tonele;

Nasionale Standaard: Departementele vorms;

Nasionale Standaard: Voorvalle Boek (SAPD 10);

Nasionale Standaard: Sakboek (SAPD 206); en

Nasionale Standaard: Deursoeking en Beslaglegging.

ARRESTASIE EN DIE BEHANDELING VAN 'N GEARRESTEERDE PERSOON TOTDAT SODANIGE PERSOON AAN 'N GEMEENSKAPSDIENSSSENTRUMBEVELVOORDER OORHANDIG WORD

1. Agtergrond

Arrestasie kom neer op een van die mees drastiese inbreukmakings op die regte van 'n individu. Die reëls wat deur die Grondwet, 1996 (Wet No. 108 van 1996), die Strafproseswet, 1977 (Wet No. 51 van 1977), ander wetgewing en hierdie Nasionale Standaard neergelê is, rakende die omstandighede wanneer 'n persoon gearresteer mag word en hoe so 'n persoon behandel moet word, moet derhalwe streng nagekom word.

Daar is verskeie wetgewende bepalings wat die verwydering en aanhouding van persone magtig, sonder dat sulke persone in werklikheid gearresteer word, byvoorbeeld, die verwydering van 'n kind sonder 'n lasbrief ingevolge artikel 12 van die Wet op Kindersorg, 1983 (Wet No. 74 van 1983) om so kind na 'n plek van veilige bewaring te neem. 'n Ander voorbeeld is die verwydering en, in sekere spesifieke gevalle, die aanhouding van 'n geestesongestelde persoon ingevolge die Wet op Geestesgesondheid, 1973 (Wet No. 18 van 1973). Dit is belangrik om daarop te let dat die bepalings van hierdie Standaard nie toepaslik sal wees in daardie omstandighede nie, weens die feit dat, hoewel die persoon aangehou word, sodanige persoon nie deur 'n lid van 'n munisipale polisie diens gearresteer is nie.

2. Definisies

In hierdie standaard, tensy die konteks anders aandui, -

- (a) **"Bylae Een"** beteken die Eerste Bylae tot die Strafproseswet, 1977 (Wet No. 51 van 1977);
- (b) **"lid"** beteken 'n lid van 'n munisipale polisie diens;
- (c) **"polisie stasie"** beteken 'n polisie stasie onder die bevel en beheer van die Suid-Afrikaanse Polisie diens; en
- (d) 'n verwysing van **"redelike vermoede/gronde"** moet geïnterpreteer word om te beteken dat 'n persoon **"redelike vermoede/gronde"** sal hê om iets te glo of te vermoed of dat sekere optrede nodig is wanneer:
 - (i) hy of sy dit werklike "glo" of "vermoed";
 - (ii) sy of haar geloof of vermoede baseer is op sekere feite waarvan hy of sy 'n afleiding of gevolgtrekking gemaak het; en
 - (iii) enige redelike persoon sou, in die lig van daardie feite, ook dieselfde gevolgtrekking gemaak het.

3. Versekering die teenwoordigheid van 'n beskuldigde by die verhoor op ander wyses as arrestasie

- (1) Daar is verskeie metodes waarop 'n beskuldigde se teenwoordigheid by 'n verhoor verseker kan word. Hoewel arrestasie een van hierdie metodes is, kom

dit op een van die mees drastiese inbreukmaking op die regte van 'n individu neer, en moet 'n *lid* dit derhalwe as 'n laaste uitweg beskou.

- (2) Dit is onmoontlik om vaste reëls, rakende die wyse waarop die teenwoordigheid van 'n beskuldigde by 'n verhoor verseker moet word, neer te lê. Elke geval moet volgens eie meriete hanteer word. 'n *Lid* moet altyd sy of haar diskresie op 'n behoorlike wyse uitoefen wanneer besluit word of 'n verdagte gearresteer moet word of eerder, soos bepaal in subparagraaf (3) hieronder, hanteer moet word.
- (3) 'n *Lid* moet, hoewel regstens gemagtig, hom of haar normaalweg daarvan weerhou om 'n arrestasie uit te voer indien -
- (a) die teenwoordigheid van 'n beskuldigde verseker kan word deur 'n dagvaarding soos voorsien in artikel 54 van die Strafproseswet, 1977; of
 - (b) die *lid*, op *redelike gronde*, glo dat 'n landdroshof, na die skuldigbevinding van so 'n beskuldigde aan daardie misdryf, nie 'n boete sal opleë wat die bedrag, soos van tyd tot tyd deur die Minister deur kennisgewing in die Staatskoerant bepaal, sal oortref nie, in welke geval sodanige *lid* 'n skriftelike kennisgewing [J 534] aan die beskuldigde kan oorhandig as 'n metode om die teenwoordigheid van die beskuldigde in die landdroshof ooreenkomstig artikel 56 van die Strafproseswet, 1977, te verseker.

4. Die doel van 'n arrestasie

(1) **Algemene reël**

As 'n algemene reël is die doel van 'n arrestasie om die teenwoordigheid van sodanige persoon by sy of haar verhoor te verseker. 'n *Lid* mag nie 'n persoon arresteer om sodanige persoon te straf, bang te maak of te teister nie.

(2) **Uitsonderings op die algemene reël**

Daar is omstanighede waar die reg 'n *lid* toelaat om 'n persoon te arresteer hoewel die doel van die arrestasie nie uitsluitlik is om die persoon hof toe te neem nie. Hierdie omstandighede word hieronder uiteengesit en kom neer op uitsonderings op die algemene reël dat die doel van arrestasie is om die teenwoordigheid van 'n beskuldigde by sy of haar verhoor te verseker. Hierdie uitsonderings moet versigtig bestudeer word en *lede* moet spesiaal kennis neem van die vereistes wat nagekom moet word voordat 'n arrestasie in daardie omstandighede as regmatig beskou sal word.

(a) **Arrestasie vir doeleindes van verdere ondersoek**

As 'n *lid* 'n *redelike vermoede* het dat 'n persoon skuldig is aan 'n *Bylae Een* misdryf, maar besef dat verdere ondersoek deur die Suid-Afrikaanse Polisiediens nodig sal wees alvorens dit moontlik sal wees om te bepaal of die verdagte aangekla behoort te word, mag so 'n *lid* die verdagte arresteer *indien die aanhouding van die verdagte nodig is om sodanige verdere ondersoek af te handel*. Dit is dus in orde vir 'n *lid* om so 'n persoon te arresteer met die doel om hom of haar aan 'n *lid* van die Suid-Afrikaanse Polisiediens te oorhandig. Die *lid* van die Suid-Afrikaanse Polisiediens sal verdere ondersoek doen en, afhangende van die uitslag van sodanige verdere ondersoek, die persoon aankla of vrylaat. 'n *Lid* mag net 'n persoon arresteer vir hierdie doel as sodanige *lid* *redelike gronde* het om te glo dat die ondersoek van die Suid-Afrikaanse

Polisiediens belemmer sal word indien die persoon nie gearresteer word nie. Normaalweg sal dit die geval wees indien so *lid redelike gronde* het om te glo dat die persoon of sal vlug, 'n artikel wat as 'n bewysstuk benodig word, wegmaak, inmeng met 'n getuie, of andersins probeer om te ontvlug of die regspleging te verydel.

- (b) **Arrestasie om die liggaamlike kenmerke van 'n persoon te bepaal**
Indien 'n persoon ingevolge enige wetgewing gearresteer mag word en dit nodig is vir doeleindes van die ondersoek van die saak teen hom of haar, om die liggaamlike kenmerke van daardie persoon te bepaal, mag sodanige persoon versoek word om homself of haarself te onderwerp aan 'n ondersoek van sy of haar liggaamlike kenmerke vir die doeleindes soos voorsien in artikel 37 van die Strafproseswet, 1977. As so persoon weier om homself of haarself soos vermeld te onderwerp, mag sodanige persoon gearresteer word om sy of haar liggaamlike kenmerke, soos voorsien in artikel 37 van die vermelde Wet, te bepaal.
- (c) **Arrestasie om 'n naam en/of adres na te gaan**
In die omstandighede soos voorsien in artikel 41(1) van die Strafproseswet, 1977, mag 'n *lid* 'n persoon versoek om sy of haar volle naam en adres te verstrek. As sodanige persoon 'n naam of adres verstrek wat die *lid* redelikerwys vermoed vals is, mag sodanige *lid* die persoon arresteer en hom of haar vir 'n tydperk van twaalf ure aanhou om die naam en adres na te gaan.
- (d) **Arrestasie om die pleging van 'n misdryf te voorkom**
Ingevolge artikel 40(1)(f) van die Strafproseswet, 1977, mag 'n *lid* 'n persoon arresteer wat hy of sy in die nag in omstandighede vind wat *redelike gronde* verskaf om te glo dat sodanige persoon op die punt staan om 'n misdryf te pleeg. Die doel met die arrestasie in hierdie omstandighede is om die pleging van 'n misdryf te verhoed. So 'n persoon moet aan 'n lid van die Suid-Afrikaanse Polisiediens oorhandig word en mag net aangehou word totdat die lid van die Suid-Afrikaanse Polisiediens tevrede is dat die persoon nie sal voortgaan om die misdryf te pleeg nie.
- (e) **Arrestasie om 'n verdagte te beskerm**
Indien 'n *lid* deur enige wetgewing gemagtig is om 'n persoon te arresteer en so *lid* het *redelike gronde* om te glo dat sodanige persoon doodgemaak of ernstig beseer kan word, tensy hy of sy onmiddellik gearresteer word, mag so *lid* sodanige persoon arresteer om hom of haar te beskerm. (Dit sal normaalweg die geval wees wanneer die verdagte gedreig word deur die slagoffer van die misdryf of 'n skare mense dat hy of sy aangerand of doodgemaak sal word.) So 'n persoon moet aan 'n lid van die Suid-Afrikaanse Polisiediens oorhandig word en mag normaalweg deur die Suid-Afrikaanse Polisiediens aangehou word totdat hy of sy voor 'n hof gebring word en die hof beslis het of hy of sy vrygelaat, of verder aangehou moet word.

(f) Arrestasie om 'n misdryf te beeindig

Indien 'n persoon gearresteer mag word ingevolge enige wetgewing en 'n versuim om die persoon te arresteer tot gevolg sal hê dat die persoon voortgaan om 'n misdryf te pleeg, mag sodanige persoon gearresteer word om hom of haar te verhinder om voort te gaan om 'n misdryf te pleeg. (Dit sal byvoorbeeld die geval wees waar 'n persoon eiendom betree en weier om die eiendom te verlaat. 'n Ander belangrike voorbeeld is die binnekoms van 'n onwettige immigrant in die Republiek wat bespreek word in subparagraaf (g) hieronder.)

(g) Arrestasie van persone ingevolge die Wet op Vreemdelingbeheer, 1991 (Wet No. 96 van 1991)

'n Vreemdeling ('n persoon wat nie 'n Suid-Afrikaanse burger is nie) of 'n persoon wat 'n verbode persoon is in terme van artikel 39 van die Wet op Vreemdelingbeheer, 1991, wat die Republiek binnekoms en, ongeag die omstandighede van sy of haar binnekoms, versuim om die bepalings van die Wet op Vreemdelingbeheer, 1991, na te kom, is skuldig aan 'n misdryf en mag sonder 'n lasbrief gearresteer en aangehou word ten einde 'n lasbrief uitgereik deur die Minister van Binnelandse Sake wat sodanige persoon se verwydering uit die Republiek magtig, te verkry.

5. Die vereistes van 'n regmatige arrestasie

Vir 'n arrestasie om regmatig te wees en vir regmatige opvolgende aanhouding na arrestasie, moet die volgende vier vereistes nagekom word:

- (a) Die arrestasie (met of sonder 'n lasbrief) moet behoorlik gemagtig wees.**
Daar moet 'n statutêre bepaling wees wat die arrestasie magtig. (Sien paragraaf 6(1) en (2) hieronder).
- (b) Die *lid* wat die arrestasie uitgevoer het, moet fisiese beheer oor die persoon wat gearresteer is, uitoefen.**
(Sien paragraaf 7(1) en (2) hieronder).
- (c) Die persoon wat gearresteer is, moet ingelig word van die rede vir sy of haar arrestasie en van die regte wat hy of sy as 'n gearresteerde persoon het, in terme van artikel 35(1) van die Grondwet, 1996 (Wet No. 108 van 1996)**
(Sien paragraaf 7(4) hieronder).
- (d) Die persoon wat gearresteer is moet so gou as moontlik voor die toepaslike owerhede gebring word.**
(Sien paragraaf 8(7) hieronder.)

6. Wyse om 'n arrestasie uit te voer**(1) Algemene reël - Arrestasie met 'n lasbrief**

- (a)** 'n Arrestasie moet verkieslik alleenlik uitgevoer word, na 'n lasbrief vir die arrestasie ingevolge artikel 43 van die Strafproseswet, 1977, verkry is.
- (b)** Ten einde 'n lasbrief vir arrestasie te verkry, moet 'n *lid* skriftelik by 'n landdros of vredesregter, ingevolge artikel 43 van die Strafproseswet, 1977, aansoek doen vir die uitreiking van 'n lasbrief vir arrestasie. Die vermelde artikel maak ook voorsiening dat die Direkteur van Openbare Vervolging en staatsaanklaers aansoek mag doen vir 'n arrestasielasbrief.
- (c)** Wanneer 'n lasbrief vir die arrestasie van 'n persoon aan 'n *lid* uitgereik

is, mag enige *lid* sodanig lasbrief uitvoer. Dit is gevolglik onnodig dat die lasbrief deur 'n spesifieke *lid* uitgevoer moet word.

(2) Arrestasie sonder 'n lasbrief

- (a) Dit is alleenlik in uitsonderlike omstandighede waar 'n *lid* spesifiek deur 'n Parlements-wet (byvoorbeeld artikels 40 en 41 van die Strafbepalingswet, 1977) gemagtig is om 'n persoon sonder 'n lasbrief te arresteer. Enige arrestasie sonder 'n lasbrief, wat nie spesifiek deur die reg gemagtig is nie, sal onregmatig wees.
- (b) Artikel 40(2) van die Strafbepalingswet, 1977, bepaal dat, indien in 'n wet voorsiening gemaak is vir 'n *lid* om 'n persoon sonder 'n lasbrief te arresteer, onderhewig aan sekere voorwaardes of aan die bestaan van sekere omstandighede vermeld in die Strafbepalingswet, 1977, moet daardie voorwaardes nagekom, en daardie omstandighede bestaan voordat die arrestasie uitgevoer mag word.
- (c) Artikel 41 van die Strafbepalingswet, 1977, voorsien dat 'n *lid* enige persoon mag versoek -
 - (i) wat hy of sy redelikerwys vermoed enige misdryf gepleeg het, of gepoog het om enige misdryf te pleeg; of
 - (ii) wat, na sy of haar mening, in staat mag wees om getuie te word betreffende die pleging of vermeende pleging van enige misdryf, af te lê, om sy of haar volle name en adres te verskaf.
- (d) Indien die persoon verwys na in subparagraaf (d), versuim om sy of haar volle name en adres te verskaf, of die *lid* redelikerwys vermoed dat 'n vals naam of adres aan hom of haar verskaf is, mag die *lid* hom of haar onverwylde arresteer.

7. Fisiese uitvoering van 'n arrestasie

(1) Uitoefening van fisiese beheer

Die *lid* moet die vryheid van beweging van die gearresteerde persoon inperk. Artikel 39 van die Strafbepalingswet, 1977, bepaal dat, tensy die persoon wat gearresteer is, hom of haar onderwerp aan bewaring, word 'n arrestasie uitgevoer deur die werklike aanraking van sy of haar persoon of, as die omstandighede so vereis, deur die geweldadige inperking van sy of haar persoon.

(2) Hoeveelheid geweld wat gebruik mag word in die uitvoering van arrestasie

- (a) As 'n reël behoort dit onnodig te wees om geweld te gebruik en, in elke geval wat dit nodig mag wees, mag net sodanige geweld wat absoluut noodsaaklik is om die teenstand te oorkom, gebruik word. Daar bestaan hoegenaamd geen regverdiging vir die onnodige slaan, skop of enige ander mishandeling van 'n gearresteerde persoon nie en daar is hoegenaamd geen verskoning vir 'n *lid* om op hierdie wyse op te tree nie. Enige *lid* wat skuldig bevind word aan 'n misdryf as gevolg van die gebruik van geweld ten tye van die uitvoering van 'n arrestasie waar die

gebruik van sodanige geweld nie regverdig kan word nie, moet streng optrede verwag.

- (b) Artikel 49 van die Strafproseswet, 1977, voorsien omstandighede waar die gebruik van geweld deur 'n *lid* teen 'n persoon wat teen arrestasie verset of vlug van arrestasie, regverdig kan wees.

(3) Binnegaan van perseel vir doeleindes van arrestasie

- (a) Artikel 48 van die Strafproseswet, 1977, bepaal dat, voordat enige perseel binnegegaan word met die doel om 'n persoon te arresteer wat 'n *lid* gemagtig is om te arresteer en wat, of redelikerwys vermoed in/op die perseel is, moet sodanige *lid* eers:-
 - (i) hoorbaar toegang tot so perseel eis; en
 - (ii) die doel waarvoor toegang gesoek word aankondig/bekendmaak.
- (b) Indien die *lid* misluk om toegang te verkry nadat die vereistes vermeld in subparagrafe (a)(i) en (ii) nagekom is, mag sodanige *lid* so perseel oopbreek, binnegaan en deursoek ten einde 'n arrestasie uit te voer.

(4) Inligting wat aan 'n persoon tydens arrestasie verskaf moet word

- (a) Ingevolge artikel 35(1) van die Grondwet, 1996, is die inligting wat ten tye van, of onmiddellik na sy of haar arrestasie aan 'n persoon verskaf moet word, soos volg:-
 - (i) die rede vir sy of haar arrestasie;
 - (ii) dat hy of sy die reg het om te swyg en dat enigiets wat hy of sy sê, as getuigenis in 'n hof teen hom of haar gebruik kan word;
 - (iii) dat hy of sy die reg het om met 'n regspraktisyn van sy of haar keuse te konsulteer of dat hy of sy, as hy of sy so verkies, aansoek kan doen by die Regshulpraad dat 'n regspraktisyn op staatskoste aan die saak toegewys word; en
 - (iv) dat hy of sy die reg het om aansoek te doen om op borgtog vrygelaat te word.
- (b) Artikel 39(2) van die Strafproseswet, 1977, vereis dat die persoon wat die arrestasie uitvoer, ten tye van die uitvoering van die arrestasie of onmiddellik daarna, die persoon wat gearresteer is van die rede van sy of haar arrestasie moet inlig. Dit is nie nodig om die korrekte woorde van die klagte te gebruik nie, die hoofelemente is voldoende. Indien die arrestasie kragtens 'n lasbrief uitgevoer is, moet 'n afskrif van die lasbrief, op sy of haar versoek, aan die persoon wat gearresteer is, oorhandig word.
- (c) Die inligting in subparagraaf (a) moet aan die gearresteerde persoon oorgedra word in 'n taal wat hy of sy verstaan. Vir hierdie doeleindes moet die vermelde inligting op die eerste bladsye van die Sakboek (SAPD 206) in al elf amptelike tale gedruk word. Om te verseker dat 'n persoon ten volle van hierdie regte ingelig is, moet die arresterende *lid* hierdie inligting uit die Sakboek (SAPD 206) aan die gearresteerde persoon in 'n taal wat die gearresteerde persoon verstaan, lees.

- (d) Indien 'n *lid* -
- (i) nie in staat is om vas te stel watter taal die persoon verstaan; of
 - (ii) nie die taal wat die persoon verstaan, kan praat nie;
- moet die *lid* hierdie inligting in Engels lees. In so geval moet die *lid*, by sy of haar aankoms by die *polisiestasie*, die gemeenskapsdienssentrumbevelvoerder inlig dat die persoon nie Engels verstaan nie en dat stappe deur die gemeenskapsdienssentrumbevelvoerder geneem moet word om vas te stel watter taal die persoon verstaan, ten einde die inligting in daardie taal aan die persoon oor te dra.
- (e) Indien 'n persoon vrywillig enige verklaring tydens arrestasie of voordat hy of sy by die gemeenskapsdienssentrum van die Suid-Afrikaanse Polisie diens formeel aangekla is, aanbied, moet hy of sy weer eens van sy of haar regte soos uiteengesit in subparagraaf (a), ingelig word.

8. Prosedure na arrestasie

(1) Aantekening van die feit dat die gearresteerde persoon ingelig is van sy of haar regte

- (a) 'n *Lid* wat 'n persoon arresteer moet, so gou as moontlik na die verskaffing van inligting aan die gearresteerde persoon, soos vermeld in paragraaf 7(4)(a) hierbo, die feit dat die inligting verskaf is, in sy of haar Sakboek (SAPD 206) aanteken.
- (b) Die *lid* moet die gearresteerde persoon versoek om te erken dat hy of sy ingelig is van sy of haar regte en dat hy of sy die inhoud daarvan begryp, deur langsaan die aantekening verwys na in subparagraaf (a) in die Sakboek (SAPD 206) te teken.
- (c) Indien die gearresteerde persoon weier om die Sakboek (SAPD 206) te teken, moet 'n derde persoon (ongeg 'n burgerlike of ander *lid*) wat teenwoordig was toe die persoon van sy of haar regte ingelig is, langs die aantekening teken om te getuig dat hy of sy 'n getuie hiervan was en dat die gearresteerde persoon geweier het om te teken. Indien 'n derde persoon nie beskikbaar is nie, moet die *lid* 'n aantekening in die Sakboek (SAPD 206) maak tot die effek dat 'n derde persoon nie beskikbaar was om te sertifiseer dat die gearresteerde persoon ingelig is van sy of haar regte nie, en dat die gearresteerde persoon geweier het om in die Sakboek (SAPD 206) te teken.

(2) Vermoede van onskuld

- (a) 'n Gearresteerde persoon het die reg om onskuldig vermoed te wees tot skuldig in 'n hof bewys. 'n *Lid* wat 'n persoon arresteer moet derhalwe, ten alle tye homself of haarself beheer en moet nooit toelaat dat sy of haar geloof in die skuld van die gearresteerde persoon hom of haar oorhaal om die gearresteerde persoon op 'n wyse te behandel wat die persoon sou "straf" vir wat die *lid* glo die persoon gedoen het nie.
- (b) Hoewel 'n gearresteerde persoon vermoed word om onskuldig te wees, moet 'n *lid* alles doen wat wettig is om getuienis te bekom wat in die hof

aangebied kan word om die skuld van die gearresteerde persoon te bewys. 'n *Lid* moet ook elke nodige voorsorgmaatreël in die omstandighede tref, om te verseker dat die persoon nie die geleentheid gegee word om te vlug nie.

(3) Mediese behandeling van 'n persoon in aanhouding as gevolg van beserings opgedoen voor of tydens arrestasie

Tydens die arrestasie van 'n persoon word 'n verpligting op die *lid*, betrokke in die arrestasie en die vervoer van die gearresteerde persoon, geplaas om die veiligheid van so persoon te verseker. Die volgende bepalings moet derhalwe nagekom word:

- (a) Die betrokke *lid* moet alle moontlike voorsorgmaatreëls tref om te verseker dat die persoon nie beseer sal word nie en nie voor aankoms by die *polisiestasie*, sal vlug nie.
- (b) Indien die gearresteerde persoon enige teken toon dat hy of sy ernstig siek of beseer is, ongeag of die besering opgedoen is tydens die arrestasie of nie, moet die *lid* -
 - (i) sy of haar diskresie uitoefen en besluit of die persoon vir dringende mediese behandeling geneem moet word, voordat hy of sy na die *polisiestasie* geneem word; en
 - (ii) indien die gearresteerde persoon, na die mening van die betrokke *lid*, dringende mediese behandeling benodig, besluit of die persoon geskik is om deur 'n polisievoertuig vervoer te word of eerder deur 'n ambulans vervoer moet word.
- (c) Indien 'n *lid* twyfel of dringende mediese behandeling benodig word, moet hy of sy eerder die nodige stappe neem om sulke behandeling te reël. Die Uitvoerende Hoof moet staande orders uitvaardig wat die *lede* onder sy of haar bevel inlig van die toepaslike hospitale, ambulans of mediese praktisyns wat vir hierdie doel gebruik kan word.
- (d) Die *lid* wat 'n arrestasie uitvoer, wat tot gevolg het dat die gearresteerde persoon beseer is, moet die besonderhede van die beserings, asook die omstandighede waaronder dit opgedoen/toegedien is, so gou as moontlik in sy of haar Sakboek (SAPD 206) aanteken en mettertyd 'n volledige verklaring aan die gemeenskapsdienssentrumbevelvoerder van die *polisiestasie* aan wie sodanige persoon oorhandig is, voorlê (vir die inligting van die Direkteur van Openbare Vervolging) wat die saakdossier vergesel. Hy of sy moet ook enige besering wat die gearresteerde persoon voor of tydens die arrestasie opgedoen het aan die gemeenskapsdienssentrumbevelvoerder by aankoms by die *polisiestasie*, rapporteer.

(4) Deursoeking van die gearresteerde persoon

Ingevolge artikel 23 of the Strafbepalingswet, 1977, mag 'n *lid* 'n gearresteerde persoon deursoek. Die doel van so 'n deursoeking is tweevoudig, naamlik om enige artikel wat in so 'n persoon se besit mag wees en wat as getuigenis gebruik kan word, te vind, en om enige artikel wat so persoon kan gebruik om homself of haarself, of enige ander persoon, te beseer, te vind.

- (a) Elke gearreesteerde persoon moet altyd, onmiddellik na sy of haar arrestasie, ten minste deursoek word om te bepaal of hy of sy enige versteekte wapens aan hom of haar het.
 - (b) Die deursoeking van 'n gearreesteerde persoon moet op 'n welvoeglike wyse onderneem word wat dui op respek vir die inherente menswaardigheid van die persoon soos vereis deur artikel 29 van die Strafproseswet, 1977, en 'n persoon mag net deursoek word deur 'n persoon van dieselfde geslag.
- (5) Die gebruik van bedwingingsmaatreëls**
- (1) Om die toenemende aantal ontvlugtings uit polisieaanhouding aan bande te lê, mag enige persoon wat gearreesteer en in aanhouding is, in handboeie en/of voetboeie (laasgenoemde hang van die omstandighede af) geplaas word.
 - (2) Ongeag of bedwingingsmaatreëls gebruik word om 'n gearreesteerde persoon te beveilig, moet *lede* in beheer van gearreesteerde persone altyd paraat bly totdat sodanige persone veilig aan 'n lid van die Suid-Afrikaanse Polisie diens oorhandig is.
- (6) Inlig van 'n werkgewer in die geval van arrestasie van 'n werknemer**
- Indien 'n *lid* 'n persoon moet arresteer terwyl sodanige persoon aan diens en in beheer van sy of haar werkgewer se eiendom of besigheid tydens laasgenoemde se afwezigheid is, moet die *lid*, indien moontlik, onmiddellik sy of haar werkgewer inlig van die arrestasie en redelike stappe neem om te verseker dat die werkgewer se belange deur iemand anders beveilig word.
- (7) Vervoer die gearreesteerde persoon**
- (1) In terme van artikel 50(1) of the Strafproseswet, 1977, moet 'n persoon wat gearreesteer is, so gou moontlik geneem word na-
 - (a) 'n *polisiestasie*; of
 - (b) in die geval van 'n arrestasie deur 'n lasbrief, na die plek vermeld in die lasbrief.
 - (2) Die *lid*, wat die gearreesteerde persoon vervoer, moet versigtig bestuur en die veiligste en kortste moontlike roete na die *polisiestasie* of enige ander plek gespesifiseer in die lasbrief, neem.

9. Oorhandig verdagte aan die gemeenskapsdienssentrum-bevelvoerder

- (1) By aankoms by die *polisiestasie*, moet die *lid* die gearreesteerde persoon aan die gemeenskapsdienssentrumbevelvoerder of die lid in beheer van die aanhoudingsfasiliteite by 'n kantoor onder die beheer van die Suid-Afrikaanse Polisie diens, oorhandig en sodanige persoon van die volgende inligting voorsien:-
 - (a) die naam van die *lid* wat die persoon gearreesteer het;
 - (b) die naam van die persoon wat gearreesteer is;
 - (c) die rede vir die arrestasie;
 - (d) die datum, tyd en plek van arrestasie, en
 - (e) of die persoon enige besering voor of tydens die arrestasie opgedoen het (sien paragraaf 8(3)(d) hierbo).

- (2) Die *lid* moet ook, by aankoms by die *polisiestasie*, 'n Arrestasieverklaring (SAPD 3M(h)) verwys na in paragraaf 10 hieronder, voltooi.

10. Voltooiing van Arrestasieverklaring (SAPD 3M(h))

Die Arrestasieverklaring (SAPD 3M(i)) beoog om te verseker dat 'n gearresteerde persoon, so gou as moontlik na arrestasie, ingelig is van sy of haar fundamentele regte, soos vereis in paragraaf 7(4) hierbo.

- (1) Nadat 'n *lid* 'n persoon gearresteer het, moet sodanige persoon, ingevolge artikel 64H van die Wet op die Suid-Afrikaanse Polisie, 1995 (Wet No. 68 van 1995) gebring word na 'n *polisiestasie* of, in die geval van 'n arrestasie met 'n lasbrief, na enige ander plek wat uitdruklik genoem word in die lasbrief, ten einde mee gehandel te word ingevolge artikel 50 van die Strafproseswet, 1977.
- (2) 'n *Lid* moet, tydens sy of haar aankoms by 'n *polisiestasie*, die gearresteerde persoon aan die gemeenskapsdienssentrumbevelvoerder oorhandig, of, aan die *lid* in beheer van die aanhoudingsfasiliteite by 'n kantoor onder die beheer van die Suid-Afrikaanse Polisie, en die *lid* moet die Arrestasieverklaring (SAPD 3M(h)) voltooi.
- (3) Enige geweld gebruik tydens die arrestasie om verset te voorkom of om ontvlugting te verhoed wat gelei het tot beserings aan die gearresteerde persoon, moet in 'n aparte verklaring deur die *lid* wat die geweld toegepas het, aangeteken word.
- (4) Die instruksies, wat streng nagekom moet word in die voltooiing van die Arrestasieverklaring (SAPD 3M(h)), is aan die begin van die verklaring gedruk.

MISDAADTONELE

1. Agtergrond

Die misdaadtoneel is 'n waardevolle bron van getuienis in die ondersoek van misdade. Hierdie bron is van 'n tydelike aard, wat die belangrikheid om dit te beveilig, te beskerm en met groot omsigtigheid te hanteer, beklemtoon. Geen vaste reëls kan neergelê word oor hoe 'n mens op elke misdaadtoneel behoort op te tree nie, omdat elke misdaadtoneel van 'n ander verskil.

Hierdie nasionale standaard beoog egter om algemene riglyne neer te lê vir optrede wat op misdaadtonele geneem word, wat sal verseker dat die toneel op 'n professionele wyse benader en hanteer word. Die begrip "gebeurlikheidsbeplanning" moet nie met die hantering van die misdaadtoneel verwar word nie. Laasgenoemde is slegs deel van die gebeurlikheidsplan.

2. Definisies

In hierdie standaard, tensy die konteks anders aandui, beteken -

- (a) "**Misdaadtoneeloffisier (MTO)**" 'n lid van die Suid-Afrikaanse Polisiediens, ongeag sy of haar rang, wat by die misdaadtoneel aankom;
- (b) "**Beheerlid**" die lid in die munisipale polisiedienskantoor, radiobeheerkantoor, of operasionele kamer, wat die eerste aangifte van misdaad ontvang;
- (c) "**Misdaadtoneelverslag (MTV)**" 'n gekombineerde verslag bestaande uit verskillende dele (los badsye), wat deur verskillende rolspelers op die misdaadtoneel voltooi word (*reaksielid, misdaadtoneeloffisier, ens.*); en
- (d) "**Reaksielid**" die eerste lid van die munisipale polisiediens wat die misdaadtoneel in opdrag van die bevelvoerder in beheer van die munisipale polisiedienskantoor, radiobeheer, operasionele kamer, of as gevolg van 'n klagte ontvang van die publiek, bywoon.

3. Beheer van 'n misdaadtoneel

Beheer van die misdaadtoneel moet bepaal word om te verseker dat -

- (a) die misdaadtoneel beveilig sal word;
- (b) die integriteit en oorspronklikheid van getuienis en bewysstukke aldus gewaarborg word;
- (c) deeglike en onverstoorte ondersoek en herondersoek van die misdaadtoneel kan plaasvind;
- (d) die insameling van bewysstukke, leidrade, getuienis, arrestasies en die aanwending van ondersoekhulpmiddels gekoördineerd en maksimaal benut word;
- (e) volledige boekstaving van alle feite en gebeure kan plaasvind;
- (f) die misdaadtoneel onder polisiebewaring vir die tydperk bepaal deur die ondersoekbeampte van die Suid-Afrikaanse Polisiediens bly, om deeglike ondersoek of herondersoek te verseker.

4. Verskillende fases betrokke in die hantering van 'n misdaadtoneel

- (1) Die hantering van 'n misdaadtoneel geskied gewoonlik in vyf (5) fases, naamlik:

- | | | | |
|-----|--------|---|---------------|
| (a) | Fase 1 | : | Aanmelding |
| (b) | Fase 2 | : | Aktivering |
| (c) | Fase 3 | : | Toneelbestuur |
| (d) | Fase 4 | : | Evaluering |
| (e) | Fase 5 | : | Nabetragting |

- (2) Vir doeleindes van hierdie nasionale standaard, sal hierdie dokument net na Fase 1, Fase 2 en sekere dele van Fase 3 verwys. Die res van die fases word deur lede van die Suid-Afrikaanse Polisie diens hanteer en sal derhalwe nie in hierdie dokument bespreek word nie.
- (3) Elke Uitvoerende Hoof van 'n munisipale polisie diens moet 'n gebeurlikheidsplan hê. So 'n dokument moet minstens vir die voorafvermelde scenario's voorsiening maak. Mobilisasie sal deur die aard van die misdade toneel bepaal word en beplanning sal alle sodanige optrede wat op die misdade toneel plaasvind, in ag moet neem.

5. Die aanmeldingsfase (Fase 1)

- (1) Lede op diens in munisipale polisie diens kantore, radiobehoerstasies en operasionele kamers moet goed opgelei wees in die bestuur van aksies rondom die aanmelding van misdade by hul kantore. Die sukses van die daaropvolgende ondersoek op die misdade toneel sal tot 'n groot mate van die vaardigheid van so 'n lid afhang.
- (2) Die Uitvoerende Hoof van die munisipale polisie diens moet verseker dat lede op diens in munisipale polisie diens kantore, radiobehoerstasies en operasionele kamers van telefoonlys te wat op datum is, van minstens die volgende persone of instansies op diens, voorsien is:
- (i) Radiobehoer van die Suid-Afrikaanse Polisie diens;
 - (ii) Alle polisie stasies van die Suid-Afrikaanse Polisie diens binne die jurisdiksie van die betrokke munisipaliteit;
 - (iii) Stadsingenieur vir afskakel van water en elektrisiteit; en
 - (iv) Nooddiens (bv brandweer, verkeer, metro diens, ambulans, ens.)

6. Prosedure wat gevolg moet word wanneer 'n klagte rakende 'n misdaad ontvang word

(1) Algemeen

- (a) Misdaad word gewoonlik by 'n polisie stasie, munisipale polisie diens kantoor of by radiobehoer kantore aangemeld. 'n Lid moet inligting volledig en akkuraat aanteken. Aangesien elke misdaad sy eiesoortige inligting by aanmelding by die polisie vereis, is dit onmoontlik om 'n lys vir elke misdaad saam te stel. Die ondervermelde lys (wat in elke munisipale polisie diens kantoor, radiobehoer kantoor of operasionele kamer beskikbaar behoort te wees) behoort aan die basiese vereistes om alle ernstige misdade te akkommodeer, voldoen.
- (b) Die lid wat die oproep ontvang of die klagte bywoon, moet probeer om die taal wat die klaer gebruik, te bepaal en moet, waar redelik moontlik, die

telefoon, of waar van toepassing, die persoon, aan 'n persoon in die kantoor wat daardie taal verstaan, oorhandig sodat die nodige inligting afgeneem kan word.

(2) Die verantwoordelikheid van die lid wat die klagte ontvang rakende sekere inligting

Dit is die verantwoordelikheid van die lid wat die klagte ontvang, om indien moontlik, die inligting, soos hieronder uiteengesit, aan te teken:

(a) Besonderhede van die aanmelder of klaer

Die lid moet die volgende inligting aanteken:

- (i) Datum en tyd van aanmelding;
- (ii) Naam en van, van aanmelder of klaer;
- (iii) Adres van aanmelder of klaer;
- (iv) Ouderdom van aanmelder;
- (v) Telefoonnommers van die aanmelder of klaer (werk en woning); en
- (vi) Telefoonnommer vanwaar oproep gemaak is.

(b) Besonderhede van misdaad en die misdaadtoneel

Die lid moet die persoon versoek om hom of haar van die volgende inligting rakende die misdaad en die misdaadtoneel te voorsien:

- (i) Soort misdaad wat gepleeg is (bv. huisbraak, moord);
- (ii) Presiese adres waar misdaad gepleeg is (straat, naam van gebou, straatnommer, voorstad, stad ens.);
- (iii) Wanneer is die misdaad gepleeg? (Datum en tyd)
- (iv) Tipe perseel (bv. besigheidsgebou, woonstel, huis, plaas, plot, park, meer, ens.)
- (v) Huidige gevaarsituasie op die misdaadtoneel (bv. onluste aan die gang, mense skiet op mekaar, gyselaars aangehou, moontlikheid van nog 'n bom, gifgasse ens.)
- (vi) Bestaan daar 'n onmiddellike brandgevaar?
- (vii) Hoveel mense is op of naby die misdaadtoneel?
- (viii) Kontakpersoon by of naby die toneel (bv telefoonnommer, selfoonnommer, radioroepsein, kanaal, ens.)

(c) Besonderhede van die slagoffer(s)

Die lid moet die persoon versoek om hom of haar van die volgende inligting rakende die slagoffer(s) te voorsien:

- (i) Aantal persone gedood of beseer;
- (ii) Naam en adres van slagoffer(s) (indien beskikbaar);
- (iii) Toestand van beseerdes (lig of ernstig beseer, dood of bewusteloos);
- (iv) Word noodhulp toegepas?
- (v) Word die ambulans/brandweer/verkeersdepartement of nooddienste benodig, indien hulle nie reeds op die toneel is nie;
- (vi) Is die beseerdes reeds verwyder en, indien wel, waarheen?
- (vii) Wie is tans op die misdaadtoneel?

(d) Besonderhede van die verdagte(s)

Die lid moet die persoon versoek om hom of haar van die volgende inligting rakende die verdagte(s) te voorsien:

- (i) Is dit bekend wie skynbaar die misdaad gepleeg het?

- (ii) Naam(e) en adres(se) van die moontlike verdagte(s) en die plek waar hy of sy/hulle gevind kan word?
 - (iii) Beskrywing en kleredrag van verdagte(s);
 - (iv) Is die verdagtes gewapen en indien moontlik die tipe wapen;
 - (v) Is hulle op die misdaadtoneel?
 - (vi) Beskrywing van die voertuig(e) wat deur die verdagte(s) gebruik is;
 - (vii) Word enige mens as gyselaar aangehou?
- (e) Die lid wat die klagte ontvang, moet dan onmiddellik die nommer vanwaar die oproep ontvang is, skakel, om vas te stel of dit moontlik 'n vals alarm is.

7. Aktiveringsfase (Fase 2)

(1) Voorlopige aktivering

- (a) Die lid wat die klagte ontvang, moet, indien die omstandighede dit regverdig, onmiddellik radiobeheer van die Suid-Afrikaanse Polisiediens in kennis stel, wat die gebeurlikheidsplan in werking sal stel.
- (b) Indien 'n gewapende verdagte in 'n gebou op die misdaadtoneel skuil, moet die lid onmiddellik die Suid-Afrikaanse Polisiediens in kennis stel, om hulle in staat te stel om onmiddellik hul lede te aktiveer.
- (c) Waar 'n verdagte of gyselaar in 'n gebou skuil, moet eers probeer word om 'n plan van die spesifieke gebou te verkry. 'n Lid moet nooit 'n gebou blindelings storm en moet nie probeer om 'n verdagte in 'n gebou te arresteer as sodanige lid nie opgelei is om dit te doen nie.
- (d) Die lid wat die klagte ontvang, moet die patrollievoertuig wat die naaste aan die misdaadtoneel is, (verwys na as die "*reaksielid*") in kennis stel. Die tyd wanneer die *reaksielid* in kennis gestel is, moet deur die lid wat die klagte ontvang het, aangeteken word.
- (e) Geen voertuig mag na die misdaadtoneel beweeg, sonder opdrag om dit te doen nie. Diensoffisiere moet streng teen sodanige lede optree, aangesien hulle die misdaadtoneel vertrap en amptelike aktiwiteite op die toneel kan belemmer.
- (f) Die *reaksielid* moet onmiddellik die Suid-Afrikaanse Polisiediens in die geval waar gylers aangehou word, inlig, en die Suid-Afrikaanse Polisiediens sal dan opgeleide gyselaaronderhandelaars inlig.
- (g) Net die aantal polisievoertuie wat onder die omstandighede absoluut noodsaaklik is, moet dan na die misdaadtoneel gestuur word om bystand te verleen.

(2) Wie moet geaktiveer word

- (a) Die lid wat die eerste aangifte van misdaad ontvang, moet die situasie evalueer en besluit wie op hierdie stadium geaktiveer moet word (In die afwesigheid van genoegsame inligting, moet hy of sy eers wag vir die situasierapport van die *reaksielid*).

- (i) In die geval van beseerdes of 'n brandgevaar, moet nooddienste (ambulans, brandweer en ander) geaktiveer word.
- (ii) In die geval van groot getalle beseerdes, (bv 'n natuurramp), moet die relevante hospitaalpersoneel vroegtydig ingelig word om beseerdes te verwag.
- (iii) In die geval van 'n aktiewe misdaadtoneel (bv onluste, geweld en misdaad wat gelyktydig plaasvind, soos aanvalle op en van hostelle, op polisiestasies, skole, hospitale, massabegravnisse, ens.) moet die lid die Suid-Afrikaanse Polisiediens in kennis stel.
- (iv) In die geval van 'n potensiële misdaadtoneel (bv. 'n oënskynlik vreedsame optog, 'n staking of samedromming van mense wat skielik in kriminele gedrag kan verander), moet die Suid-Afrikaanse Polisiediens onmiddellik in kennis gestel word.

- (b) Alle beskikbare inligting moet in die voorvalleboek aangeteken word. Die verwysingsnommers is baie belangrik tydens die merk van bewysstukke op die misdaadtoneel. Dit verseker besitskontinuiteit.
- (c) Die *reaksielid* en ander lede wat opdrag ontvang het, moet so gou as moontlik, maar versigtig, met die kortste roete na die misdaadtoneel beweeg, sonder om hulself aan onnodige mototongelukke en gevare op die misdaadtoneel bloot te stel. Oppad na die misdaadtoneel moet hulle op die uitkyk wees vir verdagtes. 'n Lid moet altyd bedag wees op lokvalle.

(3) Vinnige reaksietyd

'n Vinnige reaksietyd is essensieël aangesien:

- (a) Die verdagte steeds op die misdaadtoneel kan wees;
- (b) Beseerde slagoffers dringend hulp nodig mag hê;
- (c) Getuies steeds op die misdaadtoneel kan wees; of
- (d) Weersomstandighede en ander faktore fisiese getuienis mag vernietig, of verander.

(4) Pligte van die reaksielid

Dit is die verantwoordelikheid van die *reaksielid* om:

- (a) Besonderhede van die berig in sy of haar sakboek aan te teken;
- (b) Op die uitkyk te wees vir die verdagte en/of sy of haar voertuig; en
- (c) Die misdaadtoneel versigtig te betree om skade aan, of die versteuring van moontlike bewysstukke en leidrade te vermy. Vir daardie doel moet een "roete" op die misdaadtoneel gebruik word.

(5) Hantering van beseerde persone

Die *reaksielid* moet verder:

- (a) Die posisies waar beseerde persone gevind is, merk.
- (b) Die name, adresse en telefoonnommers van die beseerde persone, indien moontlik, aanteken.
- (c) Die names van die ambulansbestuurder(s), die ambulansnommer en die naam van die hospitaal waarheen die beseerdes geneem is, aanteken.

(6) Algemeen

- (a) Liggame van persone wat dood is, moet gelaat word soos dit gevind is. Waar die lyke in die openbaar lê, moet dit met lakens bedek word (nie komberse nie). Dit moet verkieslik onaangeroer gelaat word.
- (b) Die verdagte(s), indien teenwoordig, moet ooreenkomstig die arrestasieprosedure soos uiteengesit in die nasionale standaard rakende die arrestasie van 'n persoon, gearresteer word.
- (c) Die *reaksielid* moet die situasie (misdaad, klaer, nooddienste op die toneel, grootte van skare, gevaar op toneel ens.) evalueer. Hy of sy moet dan 'n volledige situasierapport aan radiobeheer gee, aangesien die suksesvolle hantering van die misdaadtoneel sal geheel en al van die volledigheid en akkuraatheid van die situasierapport afhang.

(7) Beveiliging van die misdaadtoneel

- (a) Totdat 'n lid van die Suid-Afrikaanse Polisie diens arriveer, moet die *reaksielid* as die *misdaadtoneeloffisier* optree. Die *reaksielid* en ander lede wat op die misdaadtoneel aangekom het, moet die toneel beveilig totdat Fase 2 implementeer kan word. Dit sluit die volgende in:
 - (i) Hou familieleden weg van die oorledenes.
 - (ii) Hou alle nuuskierige mense weg van die toneel.
 - (iii) Span riskeerband rondom die misdaadtoneel.
 - (iv) Moet niemand binne die kordon toelaat nie, ongeag van rang (behalwe nooddienste) totdat die toneel aan die *misdaadtoneeloffisier (MTO)* oorhandig word.
 - (v) Teken volledige besonderhede van alle getuies op die misdaadtoneel aan.
 - (vi) Lê 'n volledige verslag aan die *misdaadtoneeloffisier (MTO)* voor, wanneer hy of sy op die misdaadtoneel aankom en staan hom of haar by met die afhandeling van Deel I van die *misdaadtoneelverslag*.
- (b) Verlaat die misdaadtoneel met die toestemming van die *misdaadtoneeloffisier (MTO)*.

(8) Finale aktivering

Nadat die *reaksielid* 'n volledige situasierapport aan radiobeheer, soos vereis in subparagraaf 6(c) hierbo, voorgelê het, behoort radiobeheer deeglik bewus te wees van die volle besonderhede van die misdaad en die situasie op die misdaadtoneel. Radiobeheer moet besluit wie gekontak moet word. Vir hierdie doel sal hulle gelei word deur die aard van die misdaad en die heersende omstandighede op die misdaadtoneel.

(9) Aktiveer alle belanghebbendes

- (a) In die geval van passiewe misdaadtonele (dit wil sê, 'n misdaadtoneel deur 'n krimineel agtergelaat bv. 'n moordtoneel, ens.) moet radiobeheer van die Suid-Afrikaanse Polisie diens onmiddellik gekontak word.
- (b) Vanaf hierdie oomblik sal die kanale op die polisieradio waarskynlik baie besig wees. Tensy spesiaal voorsiening gemaak is vir kommunikasies

rakende die misdaadtoneel, moet radiostilte op alle ander gebruikers van die kanaal tot verdere kennisgewing, deur beheer afgedwing word.

8. Bestuur van die misdaadtoneel (Fase 3)

- (1) Soos reeds vermeld in paragraaf 7(7) hierbo, tree die *reaksielid* as die *misdadtoneeloffisier* (MTO) op, totdat die eerste lid van die Suid-Afrikaanse Polisie diens op die misdaadtoneel aankom. Die lid van die Suid-Afrikaanse Polisie diens neem beheer van die misdaadtoneel oor by sy of haar aankoms op die misdaadtoneel en is verantwoordelik vir die verdere bestuur van die misdaadtoneel.
- (2) Dit is die plig van lede van die munisipale polisie diens om sodanige bystand aan die *misdadtoneeloffisier* te verleen, soos deur hom of haar versoek, wat onder andere kan insluit-
 - (a) hom of haar bystand in die afhandeling van Deel I van die *misdadtoneelverslag*;
 - (b) beveiliging van die misdaadtoneel totdat ondersoek op die misdaadtoneel afgehandel is;
 - (c) beheer op die skare uitoefen, indien nodig;
 - (d) beveilig naburige areas deur intensiewe openbare polisieëring, om enige verdere misdaad, oproerigheid, of onrusituasies wat kan ontstaan, te voorkom; en
 - (e) verseker die behoorlike vloei van verkeer.

DEPARTEMENTELE VORMS

1. Agtergrond

Die gebruik van sekere gestandaardiseerde departementele vorms deur munisipale polisdienste is essensieel ten einde die uitruiling van inligting tussen die Suid-Afrikaanse Polisdienste en munisipale polisdienste te fasiliteer.

2. Toepaslike departementele vorms

Die volgende departementele vorms moet deur munisipale polisdienste gebruik word:

- (a) Sakboek (SAPD 206)
- (b) Voorvalleboek (SAPD 10)
- (c) Arrestasieverklaring (SAPD 3M(h) en 3M(i))
- (d) Rekenaarsirkulasie van gesteelde, verlore of gevonde eiendom (SAPD 11)
- (e) Eiendomsontvangserkenning (SAPD 13(b))
- (f) Deursoekingsregister (SAPD 13(c))
- (g) Aansoek om Visenteringslasbrief (SAPD 13(d))
- (h) Sirkulering van besonderhede van gesoekte persone (SAPD 55)
- (i) Sirkulasie: vermiste/ongeïdentifiseerde persone (SAPD 55(a))

3. Verkryging van toepaslike departementele vorms

- (1) 'n Munisipale polisdienst moet jaarliks 'n behoeftebepaling ten opsigte van die toepaslike departementele vorms, maak en sodanige behoeftebepaling, tesame met 'n versoek om die verkryging daarvan, moet met die Hoof: Logistiek, Suid-Afrikaanse Polisdienst, bevorder word.
- (2) Na ontvangs van die behoeftebepaling en versoek van 'n munisipale polisdienst, soos verwys na in subparagraaf (1), moet die Hoof: Logistiek, Suid-Afrikaanse Polisdienst, sodanige versoek met die Staatsdrukker bevorder.
- (3) Lewering van die aangevraagde departementele vorms geskied deur die Suid-Afrikaanse Polisdienst aan die betrokke munisipale polisdienst: Met dien verstande dat die betrokke munisipale polisdienst direk teenoor die Staatsdrukker verantwoordelik is vir die betaling van die aangevraagde departementele vorms.

VOORVALLEBOEK (SAPD 10)

1. Agtergrond

Die voorvalleboek is 'n baie belangrike register, aangesien dit 'n volledige rekord van noemenswaardige gebeurtenisse by die polisiekantoor bevat en dien as 'n kontrole register waaraan alle ander registers in die kantoor gebruik, kontroleer kan word. Die bevat 'n akkurate en betroubare rekord van alle misdade en ander aangeleenthede van openbare belang wat aandag deur die munisipale polisie diens vereis, asook van die pligte uitgevoer deur *lede* by die kantoor.

2. Definisies

In hierdie standaard, tensy die konteks anders aandui, beteken -

- (a) **"bevelvoerder"** die *lid* in beheer van die munisipale polisie diens kantoor; en
- (b) **"lid"** 'n lid van die munisipale polisie diens;

3. Voltooiing van 'n voorvalleboek (SAPD 10)

(1) Algemene reëls

- (a) Alle inskrywings in die voorvalleboek (SAPD 10) moet deur die *bevelvoerder* of 'n *lid* deur hom of haar vir daardie doel aangewys, gemaak word.
- (b) Die dag van die week en datum moet in die spasie voorsien bo-aan elke bladsy geskryf word en elke gebeurtenis moet so spoedig as redelik moontlik na die gebeurtenis daarvan, aangeteken word.
- (c) Inskrywings moet, sonder om aan die duidelikheid daarvan afbreuk te maak, so kort as moontlik wees. Slegs die kern van 'n verslag of gebeurtenis moet in die voorvalleboek (SAPD 10) aangeteken word in die geval waar die detail van die verslag of gebeurtenis in 'n ander register aangeteken is. (bv in die SAPD 55, SAPD 55(a) of SAPD 11).
- (d) Aan die einde van elke dag moet 'n lyn met rooi ink na die laaste inskrywing om midderdag regoor die bladsy getrek word, en die dag van die week en die datum moet op die volgende lyn ingevoeg word.
- (e) Elke inskrywing moet opeenvolgend genummer word en om middernag op die laaste dag van die maand moet 'n nuwe reeks nommers begin. Aan die einde van elke inskrywing moet een lyn oopgelaat word.

(2) Die inhoud van 'n inskrywing

- (a) Elke inskrywing moet 'n kort opskrif hê wat sleutelwoorde bevat wat 'n aanduiding gee van die onderwerp wat hanteer sal word in die inskrywing. Die opskrif moet onderstreep word.
- (b) Die volgende is voorbeelde van sleutelwoorde wat gebruik moet word:

Aangifte van misdaad
Aanklag aangeneem/geweier
Aflossing aan/van diens
Afwesig sonder verlof
Arrestasie
Besering
Botsing
Brand
Buite-departementele dienste
Dagvaarding
Geleide
Hof
Klagte
Lewensansiers
Onnatuurlike dood
Ontsnapping
Oorhandig aan Suid-Afrikaanse Polisie diens
Rondtediens aan/van
Siekte gerapporteer
Siekteverlof
Skulderkenning
Vakansieverlof
Verlore/Gevonde eiendom
Vermiste/Gevonde persone
Verplasing

(3) Kruisverwysing in die voorvalleboek (SAPD 10)

- (a) Wanneer inligting in die voorvalleboek (SAPD 10) aangeteken word, wat ook in 'n ander register aangeteken is (bv 'n deursoeking onderneem sal ook in die deursoekingsregister weerspieël wees), moet kruisverwysing na sodanige ander register in die voorvalleboek (SAPD 10) gemaak word.
- (b) Indien 'n inskrywing gemaak word rakende 'n aangeleentheid wat reeds die onderwerp van 'n vorige inskrywing in die voorvalleboek (SAPD 10) gevorm het, moet dit deur kruisverwysing verbind word. Dit word gedoen deur in rooi ink die nommer van die vorige inskrywing (bv 50) bokant die nuwe inskrywing (bv 65); dus "50/65" te maak, en die nommer van die nuwe inskrywing (bv 65) onder die vorige inskrywing (bv 50), dus "50/65". Slegs een verwysing na 'n vorige of latere inskrywing moet gemaak word.
- (c) Indien dit nodig is om na 'n inskrywing voor die een wat die laaste inskrywing voorafgaan, te verwys, moet laasgenoemde inskrywing dit aandui, bv "39/50"; of na die een wat op die voorlaaste inskrywing volg rakende die geval, sal laasgenoemde dit aandui, bv "65/77".
- (d) 'n Inskrywing wat na 'n vorige en latere inskrywing verwys, moet aangedui word, bv. "50/65/97". Indien dit nodig is om na 'n inskrywing in 'n vorige

maand of jaar, of 'n volgende maand of jaar te verwys, moet die nommer van die maand en jaar by die nommer wat as verwysing aangedui is, gevoeg word, bv - "124/12/98"; of - "221/01/99". (Die eerste syfer verteenwoordig die inskrywing, die tweede die maand en die derde die jaar.)

(4) Aantekening van besonderhede van *lede* wanneer aan diens en van diens meld

- (a) Inskrywings rakende 'n *lid* moet die rang en van van die *lid* vermeld, mits die *lid* maklik identifiseerbaar is. Die nommer van 'n munisipale polisiediensdier of -voertuig, asook die naam van die ruiter of bestuurder moet aangeteken word.
- (b) Behoorlike rekord moet van alle *lede* wat aan, en van diens meld, gehou word om te bepaal wie op enige spesifieke tyd op diens is.
- (c) 'n Inskrywing moet gemaak word sodra ontdek word dat 'n *lid* sonder verlof of toestemming afwesig is, of as sy of haar afwesigheid nie andersins verduidelik kan word nie.

(5) Laat inskrywings

- (a) Wanneer 'n inskrywing nie onmiddellik nadat dit plaasgevind het, gemaak kan word nie, moet die nodige inskrywing so spoedig as moontlik gemaak word.
- (b) Waar 'n inskrywing uitgelaat is, moet die fout so spoedig as wat dit ontdek word, reggestel word deur 'n aantekening te maak wat duidelik vermeld dat dit 'n laat inskrywing is.

(6) Inspeksie van voorvalleboek (SAPD 10)

- (a) Die *bevelvoerder* moet die voorvalleboek (SAPD 10) daaglik inspekteer en die nodige reëlins tref rakende inskrywings wat verdere aandag vereis. Dit moet beklemtoon word deur 'n persoonlike inskrywing deur die *bevelvoerder* wat hy of sy persoonlik moet onderteken.
- (b) Indien enige *lid* van die munisipale polisiediens of 'n lid van die Suid-Afrikaanse Polisiediens 'n kantoor inspekteer of besoek, moet hy of sy 'n inskrywing in die voorvalleboek (SAPD 10) maak, die tyd en tydperk op die werk of inspeksie betree, vermeld, en dit onderteken.

SAKBOEK (SAPD 206)

1. Agtergrond

Alle noemenswaardige gebeurtenisse terwyl 'n *lid* op diens is, moet in die sakboek (SAPD 206) so volledig en akkuraat as moontlik aangeteken word, om die omvang van die *lid* se werk en sy of haar werkywer te weerspieël. Die sakboek (SAPD 206) dien 'n tweevoudige doel, naamlik as 'n persoonlike diensrekord en 'n taakrekord om alle polisiewerk wat 'n *lid* gedoen het, aan te dui.

2. Definisies

In hierdie standaard, tensy die konteks anders aandui, beteken -

- (a) "**bevelvoerder**" die *lid* in beheer van die munisipale polisie dienskantoor; en
- (b) "**lid**" 'n lid van die munisipale polisie diens.

3. Die inhoud van die sakboek (SAPD 206)

Die inhoud vervat in artikel 35(1) van die Grondwet, 1996 (Wet No. 108 van 1996) moet op die eerste bladsy van die sakboek (SAPD 206) in al elf amptelike tale gedruk word.

4. Voltooiing van 'n sakboek (SAPD 206)

- (1) Elke *lid* moet 'n amptelike sakboek (SAPD 206), wat hy of sy altyd in sy of haar besit het terwyl op diens, byhou.
- (2) Alle inskrywings moet tydens die gebeurtenis of so spoedig as wat redelik moontlik is daarna, aangeteken word.
- (3) Alle inskrywings moet opeenvolgend, in die volgorde waarin dit plaasgevind het, aangeteken word. Geen oop spasies moet tussen inskrywings gelaat word nie.
- (4) Elke bladsy van die amptelike sakboek (SAPD 206) het 'n linkerkant kantlyn van ongeveer 12 mm waarin die tyd van elke gebeurtenis aangeteken moet word.
- (5) As 'n persoonlike diensrekord, moet die dag en datum aan die begin van elke dag dwarsoor die bladsy aangeteken word en in die kantlyn, die tyd wat die lid vir, en van diens, aanmeld.
- (6) Indien inskrywings van dieselfde dag meer as een bladsy beslaan, moet die dag en datum bo-aan elke bladsy wat op die dag betrekking het, aangeteken word.
- (7) 'n Inskrywing wat in die voorvalleboek (SAPD 10) of ander rekord aangeteken word, moet nie in die sakboek (SAPD 206) herhaal word nie.

5. Die gebruik van 'n sakboek (SAPD 206)

(1) Inligting rakende polisiëring funksies

- (a) Die aard van alle gebeurtenisse tydens patrollie of ander diens, insluitende die akkurate plek en tyd, soos die aankoms by en vertrek van

'n plek, 'n persoon besoek, verklaring afgeneem, beslaglegging op bewysstukke, oponthoud of teëspoed met 'n voertuig, moet in die sakboek (SAPD 206) aangeteken word.

- (b) Die *lid* moet die bereiking van punte, verlating van 'n rondte of dienswyk, of enige afwyking van diens- of patrollie-opdragte, met redes, in die sakboek (SAPD 206) aanteken.
- (c) Die sakboek (SAPD 206) moet alle SAPD 55's SAPD 55(a)'s, SAPD11's, prosesstukke, navrae, en buitdepartementele dienste wat die verantwoordelikheid van die *lid* is, behalwe waar die inligting in 'n ander register gehou word, aandui.
- (d) Die *lid* moet ook betekening van 'n prosesstuk, navrae gedoen, besoeke aan leë huise, beskrywing van verdagtes opgemerk, besonderhede van botsings, brande, besonderhede van getuies en gevonde eiendom, of enige inligting rakende gebeurtenisse wat waarskynlik die onderwerp van opvolgende navrae sal vorm, aanteken.

(2) Prosedure na arrestasie

- (a) So spoedig as wat 'n *lid* 'n arrestasie uitvoer, moet hy of sy die gearreesteerde persoon van sy of haar grondwetlike regte, soos vervat in artikel 35(1) van die Grondwet, 1996, inlig. Dit moet gedoen word deur die regte van die gearreesteerde persoon uit die sakboek (SAPD 206) in die amptelike taal wat die gearreesteerde persoon verstaan, te lees. (Sien paragraaf 3 hierbo).
- (b) 'n *Lid* wat 'n persoon arresteer moet so spoedig as moontlik na die inligting aan die persoon gegee is, die feit dat die gearreesteerde persoon van sy of haar regte ingelig is, in sy of haar sakboek (SAPD 206) aanteken. (Vir inligting rakende die prosedure na arrestasie, sien paragraaf 8 van die nasionale standaard rakende arrestasie).
- (c) Die *lid* moet die gearreesteerde persoon versoek om te erken dat hy of sy ingelig is van sy of haar regte en dat hy of sy die inhoud daarvan verstaan deur by die aantekening verwys na in subparagraaf (b), in die sakboek (SAPD 206) te teken.
- (d) Indien die gearreesteerde persoon weier om die sakboek (SAPD 206) te teken, moet 'n derde persoon (ongeach 'n burgerlike of 'n ander *lid*) wat gesien het dat die persoon van sy of haar regte ingelig is, langs die aantekening teken en sertifiseer dat hy of sy dit gesien het en dat die gearreesteerde persoon geweier het om te teken. Indien 'n derde persoon nie beskikbaar is nie, moet die *lid* 'n aantekening in die sakboek (SAPD 206) maak tot die effek dat 'n derde persoon nie beskikbaar was om te sertifiseer dat die gearreesteerde persoon ingelig is van sy of haar regte nie en dat die gearreesteerde persoon geweier het om die sakboek (SAPD 206) te teken.

(3) Inligting rakende misdaadvoorkoming

- (a) Elke *lid* moet die besonderhede van elke aksie wat tot die voorkoming van misdaad lei, soos die naam en adres van 'n persoon wat deur 'n *lid* vir 'n geringe misdryf vermaan of tereggewys is, en die redes vir sy of haar optrede, vermeld.
- (b) In die geval van brande, oorstromings of wanneer gevaarlike diere die veiligheid van die publiek bedreig, moet die *lid* dit in sy of haar sakboek (SAPD 206) aanteken. Waar hulp verleen is, moet 'n volledige aantekening van die besonderhede van die persoon wat gehelp is, gemaak word.
- (c) Beskrywings verkry uit inligting van -
 - (i) persone wat gesoek word; en
 - (ii) verlore of gesteelde eiendommoet op die laaste bladsy van die sakboek (SAPD 206) aangeteken word.
- (d) Die *bevelvoerder* of 'n *lid* deur hom or haar aangewys, moet besluit watter beskrywings in die sakboek (SAPD 206) geskryf moet word.
- (e) Waar omstandighede dit vereis, mag die *bevelvoerder* beveel dat 'n aparte sakboek (SAPD 206) vir hierdie doel bygehou word.

(4) Inligting rakende 'n botsing

Wanneer 'n *lid* 'n botsingstoneel bywoon en een van die betrokke partye verlang die dienste van 'n insleepdiens om sy of haar voertuig weg te sleep, moet die *lid* die volgende besonderhede in sy of haar sakboek (SAPD 206) aanteken:

- (a) die besonderhede van die party wat die insleepdiens verlang;
- (b) die volle besonderhede van die voertuig wat ingesleep moet word;
- (c) die naam van die insleepdiens wat ontbied moet word; en
- (d) die handtekening van die party wat die insleepdiens verlang.

(5) Getuig in 'n hof

- (a) 'n *Lid* mag, wanneer in die hof getuig word, sy of haar geheue verfris deur na enige aantekening van 'n gebeurtenis in sy of haar sakboek (SAPD 206) te verwys.
- (b) Die inskrywings van die sakboek (SAPD 206) waarvan die *lid* sy of haar geheue verfris, mag, op hul versoek, aan die verdediging en die hof openbaar word. Die *lid* mag ook oor die omstandighede waaronder sodanige inskrywing gemaak is, kruisondervra word. Dit is derhalwe noodsaaklik dat alle inskrywings 'n ware weergawe van die feite is, aangesien die getuienis van die *lid* rakende die gebeurtenis verwerp kan word indien teenstrydighede tussen die aangetekende getuienis en dit wat in die hof getuig is, ontstaan.

6. Die plig van die bevelvoerders

- (1) Die *bevelvoerder* moet alle werk deur hom of haar uitgevoer, uitgesonderd roetine kantoorwerk, in sy of haar sakboek (SAPD 206) aanteken. Hy of sy moet ook elke vermaning en teregwyding van 'n *lid* deur hom of haar, in die sakboek (SAPD 206) aanteken.
- (2) Ander *lede* wat in 'n toesighoudene hoedanigheid optree, moet soortgelyk gepaste aantekeninge in hul sakboeke (SAPD 206) maak.

7. Afhandeling van 'n sakboek (SAPD 206)

- (1) Aan die einde van elke maand of wanneer 'n *lid* verplaas word na 'n ander kantoor, moet die *lid* 'n opsomming van sy of haar werk ooreenkomstig die volgende voorbeeld, in sy of haar sakboek (SAPD 206) maak, en dit onderteken: (Slegs die syfers moet herhaal word):
OPSOMMING VAN WERK GEDOEN (haal maand en jaar aan);
 1. Aantal van klagtes/sake aandag gegee;
 2. Aantal botsings bygewoon;
 3. Getal gevalle waarop afhanklikheidsvormende middels beslaggelê is:
 - 3.1. Dagga
 - 3.2. Ander
 4. Aantal arrestasies uitgevoer;
 5. Aantal persone tereggewys of gewaarsku vir geringe oortredinge;
 6. Totale aantal ure gewerk bo en behalwe normale werksure (bv padblokkades, misdaadvoorkoming).
- (2) Slegs die opskrifte waaronder gegewens aangeteken moet word, moet in die opsomming aangeteken word. (Vir inspeksie, sien paragraaf 6 hieronder).
- (3) 'n Sakboek (SAPD 206) wat voltooi is, moet aan die *bevelvoerder* oorhandig, en met 'n nuwe sakboek (SAPD 206) vervang word.
- (4) Die voltooide sakboeke (SAPD 206) moet by die kantoor toegesluit word. Elke *lid* se boeke moet afsonderlik gehou en in volgorde saamgebind word.
- (5) Voor verplasing na 'n ander kantoor, moet 'n *lid* sy of haar bestaande sakboek (SAPD 206) aan sy of haar bestaande *bevelvoerder* oorhandig in ruil vir 'n nuwe boek.

8. Inspeksie van 'n sakboek (SAPD 206)

- (1) Die sakboek (SAPD 206) moet aan die *bevelvoerder* of 'n *lid* aangewys deur hom of haar, minstens een maal per week vir inspeksie oorhandig word.
- (2) 'n Inspekterende *lid* moet alle sakboeke (SAPD 206) inspekteer en verseker dat alle *lede* hul pligte uitvoer.
- (3) Die inspekterende *lid* moet homself of haarself vergewis van die korrektheid van die opsomming van werk gedoen deur die betrokke *lid*, die opsomming mede-onderteken en die nodige inskrywing op die *lid* se verslag maak.
- (4) Indien 'n senior *lid* van mening is dat 'n *lid* nie sy of haar pligte behoorlik uitvoer nie, of nie sy of haar beste lewer nie, moet dit tot die *lid* se aandag gebring word in die sakboek (SAPD 206), om die *lid* die geleentheid te gee om te verbeter. Sulke inskrywings is van 'n vertroulike aard en die *bevelvoerder* moet verseker dat slegs daardie *lede* wie se plig dit is om die sakboeke (SAPD 206) te inspekteer, of om inskrywings daarin te maak, toegang het tot die sakboeke (SAPD 206) wat by die kantoor vir inspeksie ingehandig word.
- (5) Indien moontlik, moet 'n inskrywing rakende dissipline stappe geneem teen 'n ondergeskikte in sy of haar sakboek (SAPD 206) gemaak word, in plaas van in die voorvalleboek (SAPD 10).
- (6) 'n Register moet deur die *bevelvoerder* of verantwoordelike *lid* bygehou word waarin die besonderhede van alle sakboeke (SAPD 206) uitgereik aan *lede* in die kantoor, aangeteken word.

DEURSOEKING EN BESLAGLEGGING

1. Agtergrond

Die doel van die Grondwet, 1996 (Wet No 108 van 1996) beskerm die basiese menseregte van alle individue. Die reg tot privaatheid sluit in die reg om nie 'n mens se persoon of woning, of eiendom te *deursoek*, op 'n mens se besittings beslaggelê te word, of op die privaatheid van 'n mense se kommunikasies inbreuk gemaak te word nie. Die bevoegdhede om te *deursoek* en beslag te lê, verleen deur die Strafproseswet, 1977 (Wet No 51 van 1977), beperk egter hierdie reg. *Lede* moet hierdie bevoegdhede streng binne die toepaslike bepalings van die wetgewing uitoefen, om te verseker dat die grondwetlike reg tot privaatheid nie meer as wat toegelaat word deur die toepaslike magtigende wetgewing geskend word nie.

Hierdie nasionale standaard word uitgereik om te verseker dat *lede* ooreenkomstig die bepalings van die magtigende wetgewing sal optree wanneer hulle *deursoekings* uitvoer. Die nasionale standaard moet saam met die relevante bepalings van die magtigende wetgewing en die toepaslike artikels van die grondwet gelees word. Indien 'n *lid* nie die bepalings van die magtigende wetgewing nakom nie, kan dit daartoe lei dat die *lid* skuldig bevind word aan 'n misdryf of 'n siviele eis teen die *lid* en die munisipaliteit ingestel kan word. Verder kan die hof getuienis gevind tydens die *deursoeking* en/of beslaglegging uitsluit.

2. Definisies en uitleg van terme

(1) In hierdie standaard, tensy die konteks anders aandui, beteken -

- (a) "*offisier*" 'n lid van die Suid-Afrikaanse Polisie diens wat die rang van kaptein of hoër beklee, maar sluit alle lede van die munisipale polisie diens uit;
- (b) "*lid*" 'n lid van die munisipale polisie diens;
- (c) "*perseel*" sluit in grond, enige gebou of struktuur, of enige voertuig, vervoermiddel, skip, boot of vliegtuig; en
- (d) "*deursoeking*" beteken enige handeling waardeur 'n persoon, houer of perseel visueel of fisies ondersoek word om vas te stel of daar 'n artikel in, op of bo-op so persoon, houer of perseel is.

(2) 'n Verwysing van "*redelike gronde om te glo*" moet uitgelê word om te beteken dat 'n persoon *redelike gronde* sal hê om iets *te glo* of dat sekere optrede nodig is wanneer:

- (a)
 - (i) hy of sy dit *werklike* glo;
 - (ii) sy of haar geloof of vermoede baseer is op *sekere feite of gronde* waarvan hy of sy 'n afleiding of gevolgtrekking gemaak het; en
 - (iii) enige redelike persoon sou, in die lig van daardie feite, ook dieselfde gevolgtrekking gemaak het.
- (b) 'n Verwysing na "gronde" in paragraaf (a) (hierbo) moet uitgelê word om "feite" te beteken. Dit kan net vasgestel word deur die gebruik van minstens een van 'n persoon se sintuie, naamlik sig, gehoor, reuk, gevoel en smaak. 'n Voorgevoel of suspisie is nie 'n feit nie, en sal, in die afwesigheid van feite wat die geloof

steun, nooit op redelike gronde vir 'n geloof neerkom nie. Die feite hoef nie toelaatbaar te wees in 'n hof nie, maar kan bestaan uit betroubare inligting ontvang van 'n ander persoon soos 'n informant (byvoorbeeld hoorsê). Waar die geloof baseer is op inligting ontvang van 'n ander persoon, kan daar later van 'n *lid* verwag word om te verduidelik waarom hy of sy op daardie inligting gesteun het (byvoorbeeld die informant het dikwels (voorheen) inligting verskaf wat geblyk het waar te wees). As dit redelik moontlik is in die omstandighede, moet die *lid* die korrektheid van die inligting wat ontvang is van 'n ander persoon, bevestig.

- (c) Die *lid* moet sy of haar eie geloof in die lig van die feite vorm en moet dit werklik op die stadium wat hy of sy die *deursoeking* uitvoer, glo. 'n *Deursoeking* waar geen geloof op redelike gronde bestaan voordat dit uitgevoer is nie, sal nie regmatig word op grond van die feite wat weens sodanige *deursoeking* ontdek is nie. As 'n *lid* twyfel of 'n sekere toestand bestaan, moet sodanige *lid* verdere inligting insamel totdat hy of sy werklik glo dat dit wel die geval is.
- (d) Die blote feit dat 'n *lid* glo dat 'n sekere toestand bestaan, is nie voldoende nie. Die *lid* moet ook tevrede wees dat enige *redelike lid* dieselfde mening sou huldig. Dit sal die geval wees as die gemiddelde *lid* wat dieselfde opleiding ontvang het en min-of-meer dieselfde ondervinding het as die *lid* wat die mening huldig, ook in die omstandighede so mening sou huldig.
- (e) In die geval van *deursoekings* en beslagleggings, vereis die reg nie net dat 'n *lid* 'n redelike geloof het dat die artikel op 'n sekere *perseel* is nie, maar ook dat die *lid* op redelike gronde glo dat die spesifieke artikel betrokke was in, of bewys kan verskaf van die pleging van 'n misdryf of dat dit gebruik sal word in die pleging van 'n misdryf.

3. 'n *Deursoeking* en beslaglegging moet ingevolge die reg uitgevoer word

- (1) 'n *Lid* mag slegs 'n *deursoeking* en beslaglegging van 'n artikel uitvoer, indien regtens daartoe gemagtig. 'n *Lid* moet die beperkings van die magtigende wet streng nakom, om te verseker dat 'n *deursoeking* en beslaglegging inderdaad wettig uitgevoer word. (Rakende die gevolge van 'n onregmatige *deursoeking*, sien paragraaf 11 hieronder)
- (2) Die primêre wet wat die bevoegdheid van 'n *lid* om te *deursoek* en beslag te lê, reguleer, is die Strafproseswet, 1977. Hierdie wet dui duidelik die vereistes wat nagekom moet word voordat 'n *deursoeking* uitgevoer, of op 'n artikel beslaggelê mag word, aan. Die Strafproseswet, 1977, spreek ook die beskikking van beslaggelegde artikels, voor en na afhandeling van die strafsak, aan. Waar ander wetgewing nie die wyse waarop 'n *deursoeking* uitgevoer, 'n artikel op beslaggelê, of oor 'n beslaggelegde artikel beskik moet word, spesifiseer nie, moet die bepalings van die Strafproseswet, 1977, gevolg word.
- (3) As 'n *lid* enigsins twyfel oor die uitleg van die magtigende wetgewing moet hy of sy 'n ander bevoegde *lid* raadpleeg voordat 'n *deursoeking* uitgevoer, of op 'n artikel beslaggelê word.

4. Slegs artikels betrokke by misdade mag op beslaggelê word (Artikel 20 van die Strafproseswet, 1977)

(1) Artikels waarop beslaggelê mag word

Artikel 20 van die Strafproseswet, 1977, bepaal dat 'n artikel "*enigiets*" beteken. Die tipe artikels onderhewig aan beslaglegging is derhalwe onbeperk en kan dokumente en geld insluit. Afhangende van die omstandighede van 'n spesifieke geval, waar genoegsame getuienis reeds verkry is en geen behoefte bestaan om op 'n addisionele artikel beslag te lê nie, moet daar nie op verdere artikels beslaggelê word nie, tensy die blote besit van sulke artikels onregmatig is.

(2) Kategorieë artikels waarop beslaggelê mag word

(a) Artikels wat betrokke is of op redelike gronde vermoed betrokke te wees by die pleging of vermeende pleging van 'n misdryf, ongeag waar die genoemde misdryf gepleeg is

Benewens betrokkenheid in die pleging van 'n misdryf, mag daar slegs op die artikel ingevolge hierdie kategorie beslaggelê word, as dit:

- (i) redelikerwys nodig is om die misdryf te bewys; of
- (ii) as dit 'n artikel is wat waarskynlik aan die staat verbeurd verklaar sal word.

In soverre artikels waarop beslaggelê is ingevolge hierdie kategorie ook gebruik kan word om die pleging van 'n misdryf te bewys, oorvleuel dit met die tweede kategorie. Aangesien howe geneig is om die eerste kategorie beperkend uit te lê, moet op die tweede kategorie ook gesteun word wanneer enige twyfel bestaan of die eerste toepaslik sal wees.

(b) Artikels wat tot bewys kan strek van die pleging of vermeende pleging van 'n misdryf, ongeag waar die genoemde misdryf gepleeg is

Hier kan die blote besit van die artikel 'n misdryf wees, of die artikel kan as bewys van die pleging van 'n misdryf dien.

(c) Artikels wat bestem is om of op redelike gronde vermoed te word bestem te wees vir gebruik in die pleging van 'n misdryf, mits die genoemde misdryf bestem is binne die Republiek van Suid-Afrika gepleeg te word.

Hierdie kategorie verwys na daardie artikels wat nie gebruik is in die pleging van 'n misdryf nie en waarvan die besit daarvan nie op 'n misdryf neerkom nie, maar ten aansien waarvan daar redelike gronde bestaan om te glo dat dit tydens die pleging van 'n misdryf gebruik sal word. In soverre hierdie kategorie ook voorsiening maak vir die beslaglegging van artikels om te bewys dat die misdryf van poging gepleeg is, oorvleuel dit met die tweede kategorie. As daar enige twyfel bestaan, moet beide kategorieë as rede vir die beslaglegging aangevoer word.

(3) Geprivilegeerde dokumente

Geprivilegeerde dokumente ten aansien waarvan die houer van die privilegie nog nie van sy of haar privilegie afstand gedoen het nie, mag nie op beslaggelê word nie. Dokumente onderhewig aan regsprivilegie tussen 'n regsverteenwoordiger en sy kliënt vorm derhalwe 'n uitsondering op die reël dat *lede* op "*enigiets*" beslag mag lê.

5. *Deursoeking met 'n lasbrief (artikel 21 van die Strafproseswet, 1977)*

(1) Algemene reël

- (a) Wanneer dit ook al prakties moontlik is, moet 'n *deursoeking* en beslaglegging alleenlik nadat 'n *deursoekingslasbrief* verkry is, uitgevoer word. 'n *Lid* mag slegs van hierdie reël afwyk wanneer al die vereistes bepaal in wetgewing rakende 'n *deursoeking* sonder 'n *lasbrief* nagekom word.
- (b) In alle gevalle waar 'n aansoek vir 'n *deursoekingslasbrief* gedoen word, moet dit op die SAPD 13(d)-vorm gedoen word en moet aan 'n landdros or vredesregter geadresseer wees.
- (c) 'n *Lid* mag enige tyd vir 'n *deursoekingslasbrief* aansoek doen. Die Uitvoerende Hoof moet met die plaaslike landdroste skakel om 'n na-ure bystandsllys van landdroste vir hierdie en ander doeleindes, byvoorbeeld bekentenisse, te verkry.

(2) Aansoek vir 'n *deursoekingslasbrief* gerig aan 'n landdros

'n *Deursoekingslasbrief* moet verkieslik van 'n landdros verkry word. Die lid wat vir die *deursoekingslasbrief* aansoek doen, moet verseker dat die *perseel* wat *deursoek* moet word, binne die landdros se jurisdiksie is.

(3) Aansoek vir 'n *deursoekingslasbrief* gerig aan 'n *offisier*

- (a) In omstandighede waar geen landdros gereadik beskikbaar is nie, mag 'n *lid* 'n *offisier* nader. Alle *offisiere* is vredesregters en is derhalwe gemagtig om *deursoekingslasbriewe* uit te reik. 'n *Offisier* kan 'n *deursoekingslasbrief* op 'n SAPD 13(e)-vorm uitreik.
- (b) In die belang van onpartydigheid en om geloofwaardigheid te verhoog, moet die *offisier* wat die *deursoekingslasbrief* uitreik, nie direk in die spesifieke ondersoek betrokke wees nie, tensy daar noodsaaklike redes bestaan. Die jurisdiksie van *offisiere* is nie beperk tot 'n area nie en *offisiere* mag *deursoekingslasbriewe* uitreik wat in enige area binne die Republiek uitgevoer word.
- (c) 'n *Offisier* word nie verbied om 'n *deursoekingslasbrief* uit te reik waar 'n landdros geweier het om dit te doen nie, solank die *offisier* oortuig is dat die vereistes, uiteengesit in artikel 21(1)(a) van die Strafproseswet, 1977, nagekom is.

(4) Die inhoud van 'n aansoek vir 'n *deursoekingslasbrief*

(a) Inligting onder eed

Die aansoek moet inligting onder eed bevat wat dui op *redelike gronde om te glo* dat 'n artikel vermeld in artikel 20 van die Strafproseswet, 1977, in die besit of onder die beheer van enige persoon of op of by enige *perseel* binne die jurisdiksie van die persoon aan wie die aansoek gerig is, is.

(b) Adres van *perseel*

Waar die adres van die *perseel* beskikbaar is, moet dit in die aansoek van 'n *deursoekingslasbrief* vermeld word. Dit sal normaalweg voldoende wees om die landdros te oortuig dat die *perseel* binne sy of haar jurisdiksie geleë is. Indien daar geen adres beskikbaar is nie (byvoorbeeld in die geval van 'n hut in 'n

plakkerskamp), moet die *perseel* (hut) beskryf, en sy ligging vermeld word (byvoorbeeld die derde hut aan die westekant in die tweede ry van die noordekant in 'n spesifieke plakkerskamp), sodat die landdros in staat sal wees om homself of haarself tevrede te stel dat die *perseel* binne sy of haar jurisdiksie geleë is. Die beskrywing van die *perseel* (hut) moet voldoende wees sodat daar geen twyfel bestaan na watter *perseel* (hut) die lasbrief verwys nie.

(c) **Doel van *deursoeking***

Dit moet uit sodanige inligting blyk dat *redelike gronde bestaan om te glo* dat:

- 'n misdryf gepleeg is, of gepleeg gaan word;
- sekere artikels betrokke was in die pleging van die misdryf of bestemde misdryf, of as getuienis kan dien vir die pleging daarvan; en
- sodanige artikels in die besit of onder die beheer van 'n sekere persoon, of op of by 'n sekere *perseel*, is.

Die inligting hoef nie voldoende te wees om 'n vervolging in te stel nie. Die doel van die *deursoeking* is om 'n artikel wat nodig is om 'n strafregtelike saak te bewys, te vind. Vir hierdie rede kan hoorsê-getuienis (inligting voorsien deur 'n persoon wat nie teenwoordig is nie) as inligting in 'n beëdigde verklaring ingesluit word, solank sodanige getuienis deur die persoon wat die inligting onder eed (aan wie dit voorsien is) verklaar, asook deur die landdros of vredesregter wat die *deursoekingslasbrief* uitreik, vermoed waar te wees. Die inligting moet net objektief gesproke voldoende wees om die landdros of vredesregter in staat te stel om sy of haar diskresie redelik uit te voer.

(d) **Identifiseer *lede* wat die *deursoeking* uitvoer**

Die Strafproseswet, 1977, vereis nie uitdruklik die identifikasie van die *lid/lede* wat die *deursoeking* uitvoer nie, maar artikel 21(2) verwys na 'n "*polisiebeampte*" wat uitgelê kan word as om 'n spesifieke *lid* te beteken. Dit het gebruiklik geword om die *lid/lede* wat gemagtig is om die *deursoeking* uit te voer, te identifiseer, en hierdie gebruik moet voorgesit word. Ingevolge artikel 13(5) van die Wet op die Suid-Afrikaanse Polisiediens, 1995 (Wet No. 68 van 1995), as 'n *deursoekingslasbrief* 'n spesifieke *lid/lede* magtig om die *deursoeking* uit te voer, mag enige ander *lid* die *deursoeking* uitvoer of bystand verleen daartoe.

(5) **Die uitvoering van 'n *deursoekingslasbrief***

(a) ***Deursoeking* moet deur *lede* uitgevoer word**

Die *deursoeking* en beslaglegging mag net deur *lede* uitgevoer word. In 'n geval waar die hulp van 'n deskundige vereis word om sekere artikels te identifiseer of te bekom, moet sodanige deskundige 'n *lid* wees. Waar, byvoorbeeld, rekenaars met inligting daarop beslaggeneem moet word, moet 'n polisiedeskundige gebruik word om sodanige inligting te herwin sonder verwydering van sodanige rekenaars. As daar egter geen polisiedeskundige gereedlik beskikbaar is nie, moet eers op die rekenaars beslaggelê word, waarna 'n deskundige gekontak moet word om die nodige inligting te herwin.

(b) ***Deursoeking* van 'n persoon geïdentifiseer in die *deursoekingslasbrief***
'n *Deursoekingslasbrief* verkry om 'n spesifieke persoon te *deursoek*, moet die

lid/lede uitdruklik magtig om die persoon wat in die lasbrief geïdentifiseer is, te *deursoek*. Sodanige persoon hoef nie geïdentifiseer te word deur sy of haar naam te vermeld nie, solank 'n akkurate beskrywing wat identifikasie moontlik sal maak, voorsien word, byvoorbeeld deur die amp wat hy of sy beklee.

As 'n lasbrief verkry is om 'n persoon te *deursoek*, kan die *perseel* waarop die persoon gevind word nie kragtens so 'n *deursoekingslasbrief deursoek* word nie. *Deursoeking* van 'n *perseel* kan net geskied sonder 'n lasbrief, mits die voorgeskrewe vereistes vir 'n *deursoeking* sonder 'n lasbrief nagekom is (sien paragraaf 6 hieronder).

(c) *Deursoeking* van 'n *perseel*

'n *Deursoekingslasbrief* wat die *deursoeking* van 'n *perseel* magtig moet die *lid/lede* magtig om die geïdentifiseerde *perseel* te betree en te *deursoek*, en ook om alle persone op of by die spesifieke *perseel* te *deursoek*. Sover as moontlik moet net persone verbind aan die aktiwiteite op die *perseel*, *deursoek* word. Persone wat duidelik as toevallige bystaanders identifiseerbaar is, mag nie *deursoek* word nie.

(d) Beslaglegging op artikels

'n *Deursoekingslasbrief* moet vereis dat die *lid/lede* op spesifieke artikels, vermeld in artikel 20 van die Strafproseswet, 1977, en wat in die lasbrief gespesifiseer is, beslaglê. Die *deursoekingslasbrief* moet duidelikheid verskaf oor die misdryf wat vermoed word, asook oor die artikels of klas daarvan waarna gesoek moet word. 'n Detaillêre beskrywing van elke artikel waarvoor gesoek word, word nie vereis nie. Maar 'n lasbrief wat te wyd en vaag is, kan ter syde gestel word of die hof kan gedeeltes daarvan ongeldig verklaar.

(e) Prosedure wat gevolg moet word wanneer 'n artikels wat nie in die *deursoekingslasbrief* vermeld word nie, gevind word

Waar artikels, wat nie in die lasbrief genoem word nie, maar wat verband hou met dieselfde misdryf waarvoor die lasbrief verkry is, word gevind, moet spesiale sorg deur die *lid/lede* teenwoordig, geneem word. Tensy die omstandighede sodanig is dat daar op die artikels beslaggelê kan word sonder 'n lasbrief ingevolge artikel 22 van die Strafproseswet, 1977, moet 'n addisionele lasbrief vir daardie artikels eers verkry word om te voorkom dat die beslaglegging onwettig is.

Hoewel die *deursoeking* wettig toegelaat word in terme van die oorspronklike lasbrief, kom die beslaglegging op artikels wat nie deur die lasbrief gedek word nie, op 'n onregmatige uitbreiding van die *deursoekingslasbrief* neer. Indien voldoende *lede* tydens die *deursoeking* teenwoordig is, moet sommige die spesifieke artikels op die *perseel* beveilig, terwyl 'n *lid* vertrek om 'n addisionele *deursoekingslasbrief* te verkry. Indien iemand sou poog om die artikels te verwyder voor die addisionele lasbrief daar aankom, moet op die artikels beslaggelê word sonder 'n lasbrief. In so 'n geval sal die vertraging weens die gewag vir die addisionele lasbrief die doel van die *deursoeking* veryd. Beslaglegging op die artikels sonder 'n lasbrief sal in so geval geregverdig wees.

'n Soortgelyke benadering moet gevolg word waar ander artikels vermeld in artikel

20 van die Strafproseswet, 1977, en wat geen verband met die spesifieke ondersoek het nie, tydens die *deursoeking* gevind word.

(f) **Deursoek slegs plekke waar artikel gevind kan word**

Tensy artikels wat openlik sigbaar is, gevind word, magtig 'n *deursoekingslasbrief* 'n *lid* net om plekke te *deursoek* waar die artikels gedek deur die lasbrief, moontlik gevind kan word. 'n *Lid* mag nie plekke waar dit onmoontlik is om die artikels omskryf in die lasbrief te vind nie, *deursoek*.

(g) **Tyd van uitvoering**

Artikel 21(3)(a) van die Strafproseswet, 1977, bepaal dat 'n *deursoeking* uitgevoer kragtens 'n *deursoekingslasbrief* gedurende die dag moet plaasvind - dus tussen sonsopkoms en sonsondergang.

Die *deursoeking* mag net in die nag uitgevoer word, indien dit so deur die persoon wat die *deursoekingslasbrief* uitgereik het, gemagtig is. So magtiging moet versoek word wanneer aansoek gedoen word vir die *deursoekingslasbrief* en moet skriftelik op die lasbrief verskyn. (Die SAPD 13(d)-vorm maak hiervoor voorsiening en moet in sulke gevalle gebruik word.)

(h) **Deursoeking van 'n besigheidsperseel**

Wanneer 'n *deursoeking* uitgevoer word, moet inbreukmakings op 'n private persoon se regte tot die minimum beperk word. Die gevolge van die *deursoeking* moet teen die aard en erns van die misdryf asook die dringendheid van die *deursoeking* opgeweeg word. Derhalwe, waar die *perseel* van 'n besigheid *deursoek* moet word, moet die *deursoeking* op so 'n wyse geskied dat die besigheidsaktiwiteit so min moontlik versteur word, mits dit nie die doel van die *deursoeking* nadelig sal affekteer nie.

(i) **Oorhandig 'n afskrif van die deursoekingslasbrief**

Volgens artikel 21(4) van die Strafproseswet, 1977, is enige persoon wie se regte deur die uitvoering van die *deursoekingslasbrief* geraak word, geregtig op 'n afskrif daarvan. 'n Persoon se regte sal geraak word, as die persoon self *deursoek* is, as sy of haar *perseel deursoek* is of as op iets wat aan hom of haar behoort, beslaggelê is.

'n *Lid* wat die *deursoekingslasbrief* uitvoer, moet vooraf afskrifte daarvan maak. 'n Afskrif van die *deursoekingslasbrief* moet aan elke persoon wie se regte duidelik geraak is deur 'n *deursoeking* en beslaglegging, oorhandig word.

Waar niemand teenwoordig was tydens die *deursoeking* en beslaglegging nie, moet 'n afskrif van die lasbrief op 'n prominente plek gelaat word, byvoorbeeld die buite-deur van 'n gebou, of onder die ruitveër van 'n motor.

Hoewel 'n persoon op wie se regte deur die *deursoeking* en beslaglegging inbreuk gemaak is, slegs geregtig is op 'n afskrif van die lasbrief *na* die oorspronklike *deursoeking*, moet die *deursoekingslasbrief* voor die *deursoeking* begin aan hom of haar gewys word, as hy of sy op daardie tydstip beskikbaar is.

(6) Verstryking van 'n *deursoekingslasbrief*

'n *Deursoekingslasbrief* verstryk nie outomaties nie, maar kan net een keer gebruik word. Artikel 21(3)(b) van die Strafproseswet, 1977, voorsien dat 'n *deursoekingslasbrief* geldig sal wees totdat dit uitgevoer of gekanselleer is deur die persoon wat dit uitgereik het. As daardie persoon nie beskikbaar is nie, kan die *deursoekingslasbrief* gekanselleer word deur 'n persoon met dieselfde gesag as 'n persoon wat dit uitgereik het. 'n Lasbrief wat nie langer nodig is vir die ondersoek van die saak nie, moet gekanselleer word.

6. *Deursoeking* sonder 'n lasbrief (artikel 22(b) van die Strafproseswet, 1977)

(1) Uitsondering tot die algemene reël van 'n *deursoekingslasbrief*

(a) Artikel 22(b) kom neer op 'n uitsondering op die reël dat 'n *deursoekingslasbrief* vereis word voordat 'n *deursoeking* en beslaglegging uitgevoer mag word. Die doel van die uitsondering is om *lede* in staat te stel om getuienis te bekom wanneer sulke getuienis verlore sal gaan wanneer die *deursoeking* nie onmiddellik uitgevoer word nie. Aangesien 'n *deursoeking* en beslaglegging 'n ernstige beperking op 'n persoon se reg to privaatheid is, is die reël dat 'n lasbrief vereis word, 'n belangrike wetlike veiligheidsmeganisme. Dit vereis dat die beskikbare feite eers deur 'n objektiewe en verantwoordelike persoon oorweeg moet word wat moet besluit of die *lid* se geloof dat 'n *deursoeking* en beslaglegging regverdig is, redelik is. Hierdie veiligheidsmeganisme word egter vermy wanneer 'n *deursoeking* sonder 'n lasbrief uitgevoer word, en derhalwe sal die hof vereis dat die feite so 'n *deursoeking* streng regverdig en dat dit nie prakties was om eers 'n *deursoekingslasbrief* te bekom nie.

(b) Vir doeleindes van beslaglegging op enige artikel vermeld in artikel 20 van die Strafproseswet, 1977, kan 'n *lid* wat op redelike gronde glo dat 'n *deursoekingslasbrief* aan hom of haar uitgereik sal word, as hy of sy daarvoor aansoek doen, maar glo dat die vertraging in die verkryging van die lasbrief die doel van die *deursoeking* sal belemmer, enige persoon, houer of *perseel* sonder 'n lasbrief *deursoek*.

(c) Die *lid* moet derhalwe oor betroubare inligting wat hy of sy glo waar is, wat duidelik daarop dui dat 'n misdryf gepleeg is of gepleeg gaan word, beskik. Die inligting moet ook daarop dui dat daar sekere artikels wat betrokke was in die pleging van die misdryf, wat bewys kan lewer van die pleging daarvan, of wat beoog word om gebruik te word in die pleging van die misdryf, en dat hierdie artikels in die besit of onder die beheer van 'n sekere persoon is, of op of by 'n sekere *perseel* is.

(d) Waar anonieme inligting ontvang word dat artikel 20-artikels op 'n sekere *perseel* is en dat dit binnekort na 'n onbekende bestemming verwyder sal word, kan sulke inligting nie as betroubaar genoeg beskou word om redelike gronde vir *deursoeking* daar te stel nie. Dit beteken nie dat anonieme inligting nutteloos is nie, maar slegs dat dit nie alleen gebruik kan word om *deursoeking* en beslaglegging uit te voer nie. Dit kan gebruik word om verdere inligting in te samel, byvoorbeeld om die *perseel* dop te hou, of, afhangende van die

omstandighede, om te probeer toestemming van die persoon in beheer van die perseel om die perseel te *deursoek*, te verkry.

- (e) Indien 'n *lid* 'n *deursoeking* sonder 'n *deursoekingslasbrief* uitvoer, moet sodanige *lid* in staat wees om redes te verskaf waarom hy of sy versuim het om 'n lasbrief te verkry. Indien die rede wat die *lid* verskaf, nie die optrede sonder 'n lasbrief regverdig nie, sal die *deursoeking* as onregmatig beskou word. (rakende die gevolge van sodanige optrede, sien paragraaf 11 hieronder)
- (f) Wanneer 'n *lid* tevrede is dat die feite voldoende is om *deursoeking* en beslaglegging te noodsaak, moet hy of sy verder redelike gronde hê om te glo dat die feite van die situasie sodanig is, dat as die *deursoeking* nie onverwyld uitgevoer word nie, die vertraging om 'n *deursoekingslasbrief* te verkry die doel van die *deursoeking* sal verydel.

(2) Magtigende wetgewing

Behalwe vir die bepalings vervat in artikel 22(b) van die Strafproseswet, 1977, word *deursoekings* sonder 'n lasbrief ook gemagtig deur:

- (a) artikel 23 van die Strafproseswet, 1977, rakende die *deursoeking* van 'n gearresterde persoon (sien paragraaf 8 hieronder);
- (b) artikel 13 van die Wet op die Suid-Afrikaanse Polisiediens, 1995 rakende die *deursoeking* van voertuie, persone en persele; en
- (c) ander spesifieke wetgewing, soos die Wet op Wapens en Ammunisie, 1969 (Wet No. 75 van 1969) en die Wet op Dwelmmiddels en Dwelmsmokkelary, 1992 (Wet No. 140 van 1992).

In die spesifieke omstandighede uiteengesit in bogenoemde wetgewing, moet die *deursoeking* en beslaglegging in terme daarvan uitgevoer word, en nie ingevolge artikel 22(b) van die Strafproseswet, 1977, nie. Die relevante bepalings van hierdie wette is spesifiek geformuleer om betrekking te hê op die unieke omstandighede wat in daardie spesifieke wetgewing aangespreek word en hierdie bepalings verklaar uitdruklik dat geen lasbrief vereis word wanneer 'n *deursoeking* en beslaglegging in terme daarvan uitgevoer word nie. Daar moet ook gelet word dat volgens artikel 19 van die Strafproseswet, 1977, die bepalings rakende *deursoeking* en beslaglegging vervat in genoemde wet, nie afbreuk sal doen aan enige bevoegdheid verleen deur 'n ander wet om 'n *perseel* te betree of 'n persoon, houer of *perseel* te *deursoek* of om op enige artikel beslag te lê nie.

7. *Deursoeking* met toestemming (artikel 22(a) van die Strafproseswet, 1977)

(1) Algemeen

'n *Lid* kan in terme van artikel 22(a) enige persoon, houer of *perseel* sonder 'n *deursoekingslasbrief* *deursoek* met die doel om op enige artikel verwys na in artikel 20 van die Strafproseswet, 1977, beslag te lê, as die betrokke persoon tot so *deursoeking* van, en die beslaglegging op die betrokke artikel toestem. Die persoon betrokke is die persoon wat *deursoek* gaan word, of die persoon in beheer van die spesifieke *perseel* of in besit van die houer wat *deursoek* gaan word.

(2) **Die vereistes vir geldige toestemming**

- (a) Die toestemming moes vrywillig verleen gewees het. Toestemming wat verkry is deur dreigemente of geweld sal nie geldig wees nie. 'n *Lid* mag nie 'n persoon dreig of aanrand om sy of haar toestemming te verkry om 'n *deursoeking* en beslaglegging uit te voer nie. As 'n *lid* op redelike gronde glo dat 'n *deursoekingslasbrief* aan hom of haar uitgereik sal word, indien hy of sy daarvoor aansoek doen, kan sodanige *lid* die persoon inlig dat, tensy hy of sy tot die *deursoeking* toestem, 'n *deursoekingslasbrief* verkry sal word en die *deursoeking* sonder sy of haar toestemming uitgevoer sal word. Toestemming verleen in sulke omstandighede sal steeds geldige toestemming wees, mits die *lid* in staat is om die hof te oortuig dat hy of sy so redelike geloof gehad het. As 'n *lid* nie in staat is om dit te doen nie, sal sy of haar gedrag as onregmatig beskou word en sal die toestemming ongeldig wees. (Sien paragraaf 11 hieronder)
- (b) Die toestemming kan uitdruklik of stilswyend verleen word. Toestemming kan skriftelik, mondelings of deur ander gebare verleen word. Blote onderwerping aan 'n *deursoeking* en beslaglegging (paragraaf (f) hieronder), kom egter nie op geldige toestemming neer nie.
- (c) Die toestemming moet voordat die *deursoeking* en beslaglegging uitgevoer word, verleen word en kan enige tyd voordat die *deursoeking* en beslaglegging voltooi is, teruggetrek word. Toestemming wat, nadat die *deursoeking* en beslaglegging begin het, verleen is, sal nie geldig wees nie. As die toestemming, nadat die *deursoeking* begin het, teruggetrek word, mag die *lid* slegs voortgaan, indien ingevolge artikel 22(b) (sien paragraaf 6 hierbo) gemagtig. Dit beteken dat, toe toestemming teruggetrek is, moes die *lid* redelike gronde gehad het om te glo dat 'n *deursoekingslasbrief* aan hom of haar uitgereik sou word as hy of sy vir so lasbrief aansoek sou doen, maar dat die vertraging in die verkryging van die lasbrief die doel van die *deursoeking* sou verydel.
- (d) Die persoon wat toestemming verleen, moet in staat wees om te begryp waartoe hy of sy toestem. 'n Geestesongestelde, slapende, bewustelose of dronk persoon kan nie geldige toestemming vir 'n *deursoeking* en beslaglegging verleen nie. Wat kinders aanbetref, bestaan daar geen wetlike ouderdom waarop 'n kind beskou word as bevoeg om geldige toestemming te gee nie. Die *lid* sal moet bewys, indien nodig, dat die persoon in staat was om te begryp waartoe hy of sy toegestem het en die aard van die *deursoeking* en beslaglegging begryp het.
- (e) Die persoon wat toestemming verleen, moet weet waartoe dat hy of sy toestem. Die persoon wat toestemming verleen, moet die implikasies van dit waartoe hy of sy toestem, besef, dit wil sê, die *lid* sal deur sy of haar klere of eiendom kyk om getuienis van 'n misdryf te bekom. Die *lid* moet seker wees dat die persoon weet waarvoor toestemming verleen is op die tydstip wat toestemming om te *deursoek* en beslag te lê, versoek is. Verder mag die *lid* slegs binne die grense waartoe toestemming verleen is, optree. As 'n persoon toestem dat sy of haar garage *deursoek* word, mag die *lid* nie sondermeer die huis ook *deursoek* nie, tensy dit in elk geval ingevolge artikel 22 gedoen mag word. (sien paragraaf 6 hierbo)
- (f) Die blote feit dat 'n persoon homself of haarself aan 'n *deursoeking* en

beslaglegging onderwerp of eenvoudig nie beswaar daarteen maak nie, beteken nie noodwendig dat die persoon daartoe toestem nie. Die *lid* moet verseker dat die persoon inderdaad toestem voordat die *deursoeking* uitgevoer word en dit nie bloot toelaat omdat hy of sy daardeur bedreig of geïntimideer word nie.

- (g) In beginsel moet die toestemming deur die persoon wat die onderwerp van die *deursoeking* sal wees of wie se regte geskend sal word, verleen word. 'n Persoon wat nie die eienaar of huurder is, of wat nie 'n wettige reg het om toe te stem nie, kan nie toestemming vir 'n *deursoeking* en beslaglegging gee nie. Die *lid* moet verseker dat die persoon wat toestemming gee, wel die wettig reg het om dit te doen. As enige twyfel bestaan, moet die *deursoeking* en beslaglegging nie sonder 'n *deursoekingslasbrief* op grond van sodanige toestemming, uitgevoer word nie.
- (3) **Onus op *lid***
 'n *Lid* wat beweer dat die *deursoeking* en beslaglegging met die toestemming van die betrokke persoon, uitgevoer is, sal moet bewys dat geldige toestemming wel verleen is. Hierdie bepaling moet derhalwe met omsigtigheid gebruik word. Dit het egter groot waarde waar 'n *lid* roetine misdaadvoorkomingspligte uitvoer en 'n verdagte persoon op 'n plek of onder omstandighede waar daar nie voldoende gronde vir 'n *deursoeking* bestaan nie, teëkom. In hierdie omstandighede mag 'n *lid* sodanige persoon versoek om toe te stem tot *deursoeking*. Blote weiering om *deursoek* te word, sal opsigself nie noodwendig voldoende gronde wees om so persoon sonder 'n lasbrief te *deursoek* of 'n sekere geloof te vorm, hoewel dit daartoe kan bydra.
- (4) **Toestemming om te *deursoek* en beslag te lê**
 'n *Lid* hoef nie altyd toestemming tot beide *deursoeking* en beslaglegging te verkry nie. 'n *Lid* wat toestemming tot *deursoeking* verkry en wat 'n artikel vind wat duidelik 'n artikel 20 van die *Strafproseswet, 1977*, vermeldde artikel is, kan onverwyld op sodanige artikel beslag lê. Indien 'n artikel gevind egter moontlik een vermeld in artikel 20 kan wees, maar die *lid* het nie 'n redelike geloof daartoe nie, moet die *lid* ook toestemming verkry om op die artikel beslag te lê.

8. *Deursoeking* van 'n gearresterde persoon en beslaglegging van artikels (artikel 23 van die *Strafproseswet, 1977*)

- (1) **Algemeen**
 Artikel 23 van die *Strafproseswet, 1977*, verleen sekere bevoegdhede om, wanneer 'n persoon 'n arrestasie uitvoer, te *deursoek* en beslag te lê. 'n *Lid* wat 'n persoon arresteer, moet so spoedig moontlik, sodanige persoon *deursoek* en beslag lê op enige artikel vermeld in artikel 20 van die *Strafproseswet, 1977*, wat in die besit of in die bewaring, of onder die beheer van die gearresterde persoon is. Geen *deursoekingslasbrief* of toestemming word vir so *deursoeking* en beslaglegging vereis nie.
- (2) **Artikels waarvoor *deursoek* mag word**
 Die frase "in die besit of in die bewaring of onder die beheer van" sluit baie meer as wat op die persoon van die gearresterde persoon of in die sakke van sy of haar kleres is, in. Artikels in so persoon se woning of motorvoertuig is ook onder hy of haar beheer,

hoewel hy of sy nie persoonlik teenwoordig is op of in daardie plekke wanneer die arrestasie gemaak word nie. Sulke plekke mag egter net *deursoek* word as die *deursoeking* redelikerwys aan die vermoedelike misdryf(we) waarvoor die persoon gearrester is, verbind is. Verder moet die *deursoeking* so vinnig as wat redelikerwys moontlik is na die arrestasie, uitgevoer word. Wanneer 'n artikel in die fisiese besit van iemand anders is, maar die arresteerde persoon is geregtig om dit te eis, word dit steeds as onder die beheer van die arresteerde persoon beskou.

(3) Doel van *deursoeking*

- (a) In die belang van die veiligheid van die *lid* en enige ander persoon in die omgewing, moet die *lid* wat die *deursoeking* van die arresteerde persoon uitvoer, ook enige voorwerp aan so persoon gevind en wat gebruik kan word om liggaamlike skade aan so persoon of aan 'n ander veroorsaak, in veilige bewaring neem. Verskillende persone word teen potensiële skade beskerm, insluitende die persoon wat die arrestasie uitvoer, die gearresterde persoon en ander persone in die onmiddellike omgewing van die gearresterde persoon.
- (b) Sodanige voorwerpe (persoonlike eiendom), as dit nie artikel 20 van die Strafproseswet, 1977 vermelde artikels is nie, bly die eiendom van die gearresterde persoon en moet aan die lid van die Suid-Afrikaanse Polisie diens oorhandig word tydens sodanige persoon se oorhandiging aan 'n lid van die Diens. Die besittings van die gearresterde persoon moet dan in die SAPD 22-register aangeteken word en moet aan so persoon by sy of haar vrylating terugbesorg word.

9. Betreding van 'n *perseel* om getuienis te verkry (artikel 26 van die Strafproseswet, 1977)

(1) Algemeen

'n *Lid* wat navrae rakende 'n misdryf of beweerde misdryf doen en wat redelikerwys vermoed dat 'n persoon wat inligting oor so 'n misdryf kan verstrek, op 'n *perseel* is, kan so 'n *perseel* sonder 'n lasbrief betree.

(2) Doel van *deursoeking*

- (a) Die doel van die betreding ingevolge artikel 26 van die Strafproseswet, 1977, moet onderskei word van situasies waar die doel *deursoeking* en beslaglegging is. Ingevolge hierdie artikel is die doel vir betreding van die *perseel* om inligting van 'n persoon rakende 'n misdryf te bekom, en nie om 'n *deursoeking* uit te voer nie. Die persoon wat inligting kan verskaf rakende 'n misdryf verwys na in artikel 26, kan 'n getuie of persoon wees wat vermoedelik betrokke was in die pleging van die genoemde misdryf.
- (b) Waar die persoon 'n verdagte is, kan die *lid* net ingevolge hierdie artikel optree as so *lid* nie beoog om die verdagte regmatig te arresteer nie. Indien die *lid* besluit dat 'n regmatige arrestasie uitgevoer kan word, kan so *lid*, indien nodig, ingevolge artikel 48 van die Strafproseswet, 1977, optree om die arrestasie uit te voer. Hierdie artikel magtig 'n *lid* om oop te breek, binne te gaan en 'n *perseel* te *deursoek* met die doel om 'n arrestasie uit te voer, nadat so *lid* eers hoorbaar toegang tot die *perseel* geëis het, die doel waarvoor toegang gesoek word, bekend gemaak het, en misluk het om toegang tot die *perseel* te verkry.

- (c) 'n *Lid* wat 'n *perseel* ingevolge artikel 26 betree om 'n onderhoud met 'n persoon te voer, is nie ingevolge die genoemde artikel gemagtig om die *perseel* te *deursoek* nie. Indien dit tydens die *lid* se teenwoordigheid op die *perseel* nodig word, kan 'n *deursoeking* en beslaglegging ingevolge artikel 21 of 22 van die Strafproseswet, 1977, (sien paragraaf 5, 6 en 7 hierbo) uitgevoer word.
- (3) **Uitsondering van toepassing op 'n private perseel**
- (a) Onderskeid moet getref word tussen 'n private woning en ander *persele*: regmatige betreding van 'n private *perseel* vereis die toestemming van die bewoner daarvan. Waar geen toestemming verkry kan word nie, is 'n *lid* nie geregtig om so private woning te betree nie.
- (b) As die persoon wat kan toestem tot die *lid* se betreding van 'n private woning, weier dat die *lid* die *perseel* betree, mag sodanige *lid* nie die *perseel* betree nie, maar kan die direkteur van openbare vervolging of staatsaanklaer versoek word om 'n dagvaarding ingevolge artikel 205 uitgereik word. So *lid* kan dan die dagvaarding op die persoon wat vermoedelik inligting tot sy of haar beskikking het, beteken, wat dan die persoon sal verplig om voor 'n landdros te verskyn en oor sy of haar kennis van die misdryf ondervra te word.
- (4) **Weiering om vrae bevredigend te beantwoord**
As 'n persoon wat inligting kan verskaf, weier om die *lid* se vrae bevredigend te beantwoord, moet die kwessie met die staatsaanklaer bespreek word om 'n dagvaarding ingevolge artikel 205 van die Strafproseswet, 1977, te bekom, sodat die staatsaanklaer die persoon voor 'n landdros kan ondervra.

10. Verset teen regmatige betreding, *deursoeking* of beslaglegging (artikel 27 van die Strafproseswet, 1977)

- (1) **Gebruik van geweld wanneer 'n regmatige *deursoeking* uitgevoer word**
Artikel 27 van die Strafproseswet, 1977, magtig in beginsel die gebruik van geweld deur *lede* om enige verset teen regmatige *deursoeking*, of betreding van 'n *perseel* ingevolge artikel 26 van die Strafproseswet, 1977, te oorbrug. Ingevolge die bepalings van artikel 27 kan 'n *lid* sodanige geweld gebruik wat redelikerwys nodig is om enige verset teen 'n regmatige *deursoeking* of betreding van 'n *perseel*, insluitende die oopbreek van 'n deur of venster, te bowe te kom.
- (2) **Mimumum geweld**
- (a) Volgens artikel 13(3)(b) van die Wet op die Suid-Afrikaanse Polisiediens, 1995, mag 'n *lid* wat regtens gemagtig is om geweld te gebruik in die uitvoering van 'n amptelike plig, net die minimum geweld wat redelik in die omstandighede is, gebruik. Die geweld moet proporsioneel wees tot die aard en erns van die betrokke misdryf, die weerstand gebied en die dringendheid waarmee die *deursoeking* uitgevoer moet word. Voordat geweld gebruik word, moet die *lid* al die omringende omstandighede oorweeg en die alternatief kies wat sal verseker dat die doel van die *deursoeking* op 'n wyse wat die minste invloed sal hê op die regte van die betrokke persone, bereik word.

- (b) 'n *Lid* mag slegs geweld gebruik nadat toegang tot die *perseel* hoorbaar deur sodanige *lid* geëis is, en die doel waarvoor toegang gesoek word, bekend gemaak is. *Lede* moet op toegang in 'n harde stem aandring om dit makliker te maak om getuies te vind, as daar beweer word dat die vereiste nie nagekom is nie.

(3) Doel van *deursoeking*

'n *Lid* kan-

- (a) 'n persoon of *perseel* (insluitende die persone daarop) geïdentifiseer in die *deursoekingslasbrief* ingevolge artikel 21 van die Strafproseswet, 1977 (sien paragraaf 5 hierbo);
- (b) 'n persoon of *perseel* sonder 'n *deursoekingslasbrief* ingevolge artikel 22 van die Strafproseswet, 1977 (sien paragraaf 6 en 7 hierbo);
- (c) 'n gearresteerde persoon ingevolge artikel 23 van die Strafproseswet, 1977 (sien paragraaf 8 hierbo); en
- (d) 'n persoon of *perseel* ingevolge ander wetgewing (soos die Wet op Wapens en Ammunisie of die Wet op Dwelmmiddels en Dwelmsmokkelary.) regmatig *deursoek*.

(4) *Deursoeking* van private *perseel*

Dit moet beklemtoon word dat, ingevolge artikel 26 van die Strafproseswet, 1977, (paragraaf 9 hierbo), 'n private woning nie betree kan word sonder die toestemming van die bewoner daarvan nie. Waar 'n *lid* 'n *perseel* betree vir doeleindes van verkryging van inligting van 'n persoon, mag sodanige *lid* nie geweld gebruik om toegang tot 'n private woning te verkry as die bewoner daarvan weier om hom of haar toegang te verleen nie. Geweld kan egter gebruik word waar toegang op 'n *perseel* wat nie 'n private woning is nie, verlang word of so gedeelte van 'n *perseel* wat nie deel vorm van 'n private woning nie, byvoorbeeld om in 'n voertuig te klim of om 'n *perseel* te betree waar die hek gesluit is. Aangesien die term *private woning* 'n regstegniese term is, moet regsadvies verkry word indien enige twyfel hieroor bestaan.

(5) "No-knock" klousule

- (a) Artikel 27(2) van die Strafproseswet, 1977, voorsien dat, as 'n *lid* op redelike gronde van mening is dat die artikel wat die onderwerp van die *deursoeking* is, vernietig of verwyder kan word as toegang eers hoorbaar geëis word, is dit nie nodig om sodanige toegang te eis nie. Die redelike gronde wat vereis word, moes net volgens die mening van die betrokke *lid* bestaan het. Hierdie bepaling is van spesifieke belang wanneer die polisie handel met klein voorwerpe wat ingesluk, in die toilet weggespoel, of andersins vernietig of verwyder kan word as die persoon in besit daarvan 'gewaarsku' word dat die polisie opgedaag het.
- (b) As enige twyfel bestaan oor die gebruik van geweld om 'n *deursoeking* of betreding van 'n *perseel* ingevolge artikel 26 van die Strafproseswet, 1977, uit te voer, moet regsadvies eers verkry word.

11. Gevolge van onregmatige *deursoeking* en beslaglegging

(1) Algemeen

'n *Lid* wat 'n *deursoekingslasbrief* uitvoer, of sonder 'n *deursoekingslasbrief* *deursoek*,

moet te alle tye die toepaslike regsreëls nakom, aangesien ernstige gevolge volg op onregmatige optrede. As 'n *lid* te enige tyd twyfel of 'n spesifieke optrede wat hy of sy beoog om uit te voer, die toepaslike regsreëls sal nakom, moet moet regsadvies voordat die beoogde *deursoeking* of beslaglegging uitgevoer word, verkry word.

(2) **Onregmatige *deursoeking* is 'n misdryf en skadevergoeding kan toegeken word**

- (a) Artikel 28 van die Strafproseswet, 1977, bepaal dat 'n *lid* wat strydig met die magtiging van 'n *deursoekingslasbrief* optree, of wat 'n onregmatige *deursoeking* uitvoer of beslag lê op 'n artikel sonder regtens daartoe gemagtig, is skuldig aan 'n misdryf en by skuldigbevinding strafbaar met 'n boete of gevangenisstraf vir 'n tydperk van hoogstens ses maande.
- (b) 'n *Lid* wat 'n onwettige *deursoeking* of beslaglegging uitvoer, kan beveel word om aan enige persoon wat 'n slagoffer van sodanige onregmatige *deursoeking* of beslaglegging was, skadevergoeding te betaal. As 'n *lid* onder eed vals inligting, waarop 'n *deursoekingslasbrief* uitgereik is, verskaf het, en as gevolg daarvan aan meened skuldig bevind word, kan die hof wat so *lid* skuldig bevind ook beveel dat hy of sy skadevergoeding moet betaal as vergoeding aan die persoon wat weens die, afhangende van die geval, onregmatige toegang, *deursoeking* of beslaglegging, skade gely het.
- (c) Artikel 28(1) van die Strafproseswet, 1977, sluit nie die hele spektrum van moontlike klagtes teen 'n *lid* wat 'n onregmatige *deursoeking* en beslaglegging uitgevoer het, in nie. So *lid* kan ook aangekla word van gemeenregtelike misdade soos *crimen injuria*, aanranding, kwaadwillige saakbeskadiging, diefstal en selfs huisbraak met die opset om 'n misdryf te pleeg.

(3) **Uitsluiting van getuienis**

Indien die hof vind dat die feite onvoldoende was om 'n *deursoeking* te noodsaak, of dat 'n lasbrief verkry kon word voordat die *deursoeking* uitgevoer is, of dat die persoon wat *deursoek* is, nie regtens toegestem het tot die *deursoeking* nie, kan die hof getuienis van artikels gevind tydens die *deursoeking* en beslaglegging uitsluit, en die *deursoeking* onwettig verklaar. So 'n situasie kan dan tot vryspraak van die beskuldigde lei weens 'n gebrek aan getuienis. Verder sal die persoon wie se regte geskend is, oor 'n siviele eis teen die relevante *lid* en die betrokke munisipaliteit beskik. Lede moet derhalwe die feite versigtig oorweeg voordat 'n *deursoeking* en beslaglegging sonder 'n lasbrief uitgevoer word veral as die *lid* nie 'n lasbrief besit nie.

12. *Deursoeking* moet op 'n welvoeglike en ordelike wyse geskied (artikel 29 van die Strafproseswet, 1977)

- (1) 'n *Lid* moet 'n *deursoeking* van enige persoon of *perseel* met streng behoud van welvoeglikheid en orde uitvoer. 'n Persoon mag net deur 'n persoon van dieselfde geslag *deursoek* word. 'n *Lid* moet nie 'n persoon van die teenoorgestelde geslag *deursoek* nie, selfs wanneer sodanige persoon daartoe toegestem het. As geen *lid* van dieselfde geslag as die persoon wat *deursoek* moet word beskikbaar is nie, moet 'n private persoon van die vereiste geslag aangewys word om die *deursoeking* uit te voer.
- (2) 'n *Lid* wat 'n *perseel deursoek* moet die *deursoeking* op 'n ordelike wyse uitvoer.

Gepaste respek vir die besittings van ander persone moet te alle tye getoon word. Hoewel 'n *deursoeking* deeglik uitgevoer moet word, moet 'n *lid* nie onnodige wanorde of skade veroorsaak nie. Sodanige *lid* moet altyd die besittings van ander hanteer soos hy of sy wil hê ander sy of haar besittings hanteer.

13. Uitreiking van 'n kwitansie wanneer op 'n artikel beslaggelê word

- (a) Wanneer 'n *lid* beslagelê op enige artikel, soos gemagtig in hierdie nasionale standaard, moet hy of sy die eiendomsontvangserkenningsregister (SAPD 13(b)) voltooi. 'n Kwitansie van die SAPD 13(b) moet aan die persoon van wie die artikels op beslaggeneem is, oorhandig word. Sodanige persoon moet op die kwitansie teken dat die eiendom waarop beslaggelê is, volledig in die SAPD 13(b) aangeteken is.
- (b) Indien die persoon aan wie die artikels waarop beslaggelê word, nie op die *perseel* teenwoordig is nie, moet die kwitansie aan die persoon in beheer van die *perseel* oorhandig word. Wanneer daar niemand tydens die beslaglegging teenwoordig is nie, moet die kwitansie op 'n prominente plek op die *perseel* gelaat word. Die *lid* moet in hierdie geval 'n aantekening in sy of haar sakboek maak.

14. Aantekening van *deursoekings* (*deursoekingsregister*)

- (1) 'n *Deursoekingsregister* moet by elke munisipale polisie kantoor bygehou word en besonderhede rakende alle *deursoekings* uitgevoer deur *lede* verbonde aan daardie kantoor moet in die register aangeteken word.
- (2) Die volgende inligting moet aangeteken word in die register:
 - (a) maandelikse verwysingsnommer;
 - (b) datum en tyd waarop *deursoeking* uitgevoer is;
 - (c) besonderhede van die *lid/lede* wat die *deursoeking* uitgevoer het (nommer, rang en naam);
 - (d) gronde vir uitvoering van *deursoeking* (Indien die *deursoeking* gemagtig is deur 'n lasbrief moet dit as sodanig aangeteken word en die persoon wat die lasbrief uitgereik het, moet identifiseer word. As 'n lasbrief nie verkry is nie, moet die rede vir *deursoeking* sonder 'n lasbrief aangeteken word. In alle gevalle moet verwys word na die toepaslike artikel en wet in terme waarvan die *deursoeking* uitgevoer is);
 - (e) besonderhede van die *perseel* wat *deursoek* is (adres of registrasienommer van die voertuig);
 - (f) besonderhede van ander persone (burgerlikes) teenwoordig tydens die *deursoeking*, insluitend hulle hoedanigheid rakende die *deursoekte perseel*;
 - (g) of geweld gebruik is, die rede vir die gebruik daarvan en enige besering of skade aangerig in die proses;
 - (h) SAPD 13(b)- verwysingsnommer;
 - (i) stasie en SAPD 13-nommer waar artikels ingehandig is; en
 - (j) besonderhede en handtekening van *lid* wat die inskrywing maak.
- (3) In die geval van 'n padblokkade word slegs een inskrywing vereis (paragraaf (2)(a) hierbo). Slegs die registrasienommers van voertuie waaruit die artikel beslaggelê word, moet aangeteken word, hoewel die totale aantal voertuie *deursoek* aangedui moet word (paragraaf (2)(e) hierbo). Die inligting vereis in paragraaf (f) sal net toepaslik wees op voertuie geïdentifiseer in paragraaf (e).

- (4) Die vereiste inligting moet in die *deursoekings*register aangeteken word nadat die voertuig of *perseel deursoek* is en die verantwoordelike *lid* na die kantoor teruggekeer het. Die *deursoekings*register moet nie na die toneel van die *deursoeking* geneem word nie, maar moet in die kantoor voltooi word. Die *lid* wat die *deursoeking* uitvoer moet die *deursoeking*register voltooi. Waar meer as een *lid* betrokke was in die *deursoeking*, is die *lid* in beheer van die *deursoeking* verantwoordelik vir die voltooiing van die *deursoekings*register.
- (5) Die *deursoekings*register moet minstens een keer per week deur die bevelvoerder van die kantoor inspekteer word om te verseker dat die standaard rakende *deursoeking* en beslaglegging nagekom word. Die inspekterende *lid* moet minstens twee inskrywing van *deursoekings* sonder lasbriewe per week uitkies en met die *lede* betrokke in hierdie *deursoekings* 'n onderhoud voer om die redes vir hierdie *deursoekings* te bevestig en waarom geen lasbrief verkry is nie en moet, tydens sodanige onderhoud ook leiding gee aan sulke *lede* oor hoe om in die toekoms in soortgelyke omstandighede op te tree waar dit blyk dat hulle nie streng binne die grense van die relevante wetgewing opgetree het nie.
- (6) Hierdie inspeksie en onderhoude is daarop gemik om *lede* by te staan om beter begrip te hê vir die regsbeginsele betrokke in *deursoeking* en beslaglegging en inspekterende *lede* moet slegs dissiplinêre maatreëls teen *lede* instel in daardie gevalle waar dit uit die ondersoek blyk dat die *lid/lede* betrokke, in growwe verontagsaming van hierdie standaard of toepaslike wetgewing opgetree het.
- (7) Versuim deur 'n *lid* om 'n inskrywing te maak in die *deursoekings*register binne 'n redelike tyd nadat hy of sy die *deursoeking* uitgevoer het, kom neer op wangedrag.

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