

**MEMORANDUM OF UNDERSTANDING**

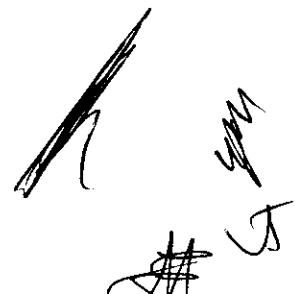
**BETWEEN**

***WESTERN CAPE DEPARTMENT OF HEALTH***

**AND**

***SOUTH AFRICAN POLICE SERVICE  
(WESTERN CAPE)***

August 2009

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## 1. PREAMBLE

- 1.1. For the past 30 years or more the South African Police Service (SAPS) has been responsible for the custody of the corpses presumed to have died from unnatural causes. South African Police Service was responsible for the 'medico-legal mortuaries' and for the transportation of corpses to these facilities. The provincial health departments have provided the medical expertise of pathologists and doctors for the 'medico-legal investigation of death'. In terms of section 25(2) of the Health Act, 2003, the rendering of the medical component of the Service is transferred to the provincial Departments of Health. This excludes the Forensic Science Laboratories (FSL) (which is a national responsibility).
- 1.2. This is the culmination of a Cabinet decision on 29<sup>th</sup> April 1998 to transfer the medico-legal mortuaries from South African Police Service to Health. The actual transfer took place on 1 April 2006. However, for the successful functioning of the Service, both the South African Police Service and the Western Cape Department of Health need to work in close cooperation.
- 1.3. In order to ensure a fully integrated Service in future, various roles and responsibilities of the South African Police Service and the Western Cape Department of Health need to be defined and agreed. This document sets out the agreement between the two parties for this purpose.

## 2. DEFINITIONS

- 2.1. "Service" means the Forensic Pathology Service in the Western Cape, providing medico-legal investigation of death due to natural or unnatural causes.
- 2.2. "Forensic Pathology Laboratory" means a medico-legal facility managed by the Forensic Pathology Service, Western Cape, specially designed for purposes of storing bodies and where applicable, to perform post mortem examinations and autopsies
- 2.3. "Forensic Medical Practitioner" means a doctor employed by the Western Cape Forensic Pathology Service.
- 2.4. "Department" means the Western Cape Department of Health.
- 2.5. "Police" means the South African Police Service.
- 2.6. "DoPP" means the Director of Public Prosecutions

### 3. OBJECTIVES OF THE MEMORANDUM OF UNDERSTANDING

- 3.1. To ensure the full cooperation between the South African Police Service and the Western Cape Department of Health in the management of all stages of the investigation process to ensure the development of a just Society.
- 3.2. To ensure that all the documentation provided to the SAPS or DoPP is complete, comprehensive and accurate;
- 3.3. To outline and regulate the roles and responsibilities of the South African Police Service and the Western Cape Department of Health in the management of all stages of the investigation process.
- 3.4. To manage the scene of death and to ensure that both parties obtain the necessary evidence and provide mutual support;

### SERVICE AGREEMENT

#### 4. SCENES OF DEATH

- 4.1. The Service will attend the scene of death as soon as possible, or at least within 1 (one) hour of receipt of call out from the South African Police Service or Emergency Medical Services Call Centre within the Metro District and within 2 (two) hours within the rural Districts.
- 4.2. The level of attendance at a scene of death will be at least 1 (one) Forensic Pathology vehicle with a capacity to carry 4 (four) bodies and 1 (one) member of the Service, unless a request for a greater level of response is received by the Service from the South African Police Service or Emergency Medical Service;
- 4.3. In the following circumstances, the South African Police Service should inform/notify via the Service the Forensic Medical Practitioner of the scene of death. Whenever there may be uncertainty as to the cause or manner of death, it is advisable that the designated Forensic Medical Practitioner should be consulted.
  - 4.3.1. Any aircraft accident or incident that involve the Civil Aviation Authority;
  - 4.3.2. Any incident with the deaths of persons involved in a mass disaster, as defined by the local and provincial coordinated services for mass disasters in that region;
  - 4.3.3. Any case which is known to be 'high profile':

- 4.3.4. Where any member of the South African Police Service was possibly involved in the causation of death. (The Independent Complaints Directorate must be notified by South African Police Service in these cases);
- 4.3.5. The presumed homicidal death of any member of the SANDF and SAPS;
- 4.3.6. Any death in Police custody. (The Independent Complaints Directorate must be notified by South African Police Service in these cases);
- 4.3.7. Fatalities where sexual assault is suspected;
- 4.3.8. The death of a person while attending a traditional initiation school
- 4.3.9. The suspected unnatural death of any resident or patient in State or private institution, which includes but is not limited to:
- psychiatric facilities;
  - places of safety;
  - drug and addiction rehabilitation facilities;
  - refugee facilities;
  - older persons care facilities;
  - facilities for the physically and mentally challenged;
- 4.3.10 Firearm related deaths – if indicated, or requested by a special unit such as the ballistics unit;
- 4.3.11 Skeletal;
- 4.3.12 Acts of terrorism;
- 4.3.13 Sudden, unexpected death in infants (SUDI) and children, including suspected Sudden Infant Death Syndrome (SIDS) cases and suspected non-accidental injury or neglect.
- 4.3.14 The death of a person in a scuba-related diving incident and aircraft accidents;
- 4.4 The Service will ensure that a Forensic Medical Practitioner is available at all times for consultation and/or death scene attendance.
- 4.5 The Service will ensure adequate consultation between the Forensic Medical Practitioner and the Regional Forensic Pathologist as to where and when the autopsy will be performed.
- 4.6 A duty list with the Doctor's names and numbers will be available at the relevant Forensic Pathology Laboratory and only via the duly authorized person;

- 4.7 The scenes of death will be attended at the discretion of the Forensic Medical Practitioner after telephonic consultation with the Investigating Officer on the scene / Investigating Officer in charge of the case and the Forensic Investigators;
- 4.8 At instances where there are concerns with regard to the safety of the scene and to ensure the safety of the staff members of the Service, the South African Police Service will arrange to meet the Forensic Pathology Service member(s) at a safe location and escort them to the scene of death;
- 4.9 Where there is any possible risk of danger to the members of the Forensic Pathology Service the South African Police Service will ensure that a member remains at the scene of death until the Service has collected the necessary evidence and has loaded the body/ bodies and moved out of the danger area;
- 4.10 The Forensic Medical Practitioner who attends a death or death scene will give an estimation of time of death if possible, the most probable cause of death and the possible weapon used and record in report.
- 4.11 The Forensic Medical Practitioner will examine the body at the relevant Forensic Pathology Service Laboratory if the scene of death is unsafe or if adequate lighting is not available at the scene.
- 4.12 Where only one member of the Service responds to a call from the South African Police Service, or whenever necessary, members of the South African Police Service will assist the member of the Service to retrieve and load the body into the vehicle;
- 4.13 If the scene of death is on a road or highway, the South African Police Service will assist the Service to ensure that the vehicle of the Service is parked so as not to pose a danger to the members of the Service or to the general public;
- 4.14 In the event that a body or bodies need to be recovered (e.g. from a dam, mountain, etc) it will be the responsibility of the South African Police Service to recover the body if within their mandate and transport it to a safe and accessible site from which the Service can receive the body.
- 4.15 Where applicable, in such situations, the South African Police Service will make available to the Service on request, copies of all photographs of the actual scene of death as well as a statement as to the presence or absence of any other evidentiary material at the scene which could throw light on the circumstances or cause of death;
- 4.16 At any scene of death, the South African Police Service will designate a member who will provide the Forensic Pathology Service member(s) with all relevant information known at the time regarding the circumstances of the death;

- 4.17 The South African Police Service agrees that the body / bodies, will not be handled at all, unless extraordinary circumstances such as drowning, inaccessible terrain or hostile or life-threatening situations demand it, until the Forensic Pathology Service member(s) has/have completed the gathering of information at the scene;
- 4.18 Members of the Service will place the body in a sealed body bag to preserve all trace evidence that might be present on the body. Where necessary the hands may be swabbed by the relevant South African Police Service personnel for gunshot residue, before the hands are bagged by either Health or the South African Police Service and the body is removed;
- 4.19 The South African Police Service agrees that the body / bodies will be covered whilst waiting for the Service to respond to the scene of death.
- 4.20 The clothing of the deceased should not be removed at the scene of death. Alternatively, where clothing has been removed by Emergency Medical Services, such clothing must be secured by the South African Police Service and the necessary information (by way of witness statements or copy of Emergency Medical Services report) be provided to the Forensic Pathology Service;
- 4.21 The South African Police Service will be responsible for the collection and safe keeping of valuables found on the scene and not on the deceased. The Service will record all valuables at the scene and the South African Police Service will record that the Service has taken receipt of these items. Where such items which might possibly provide valuable information as to e.g. the identity of the deceased, or which may in any other way be relevant to the medico legal investigation of that death, such information shall be placed at the disposal of the Forensic Pathology Service without delay;
- 4.22 Both parties agree to share information on cases as far as is practically possible.
- 4.23 Neither the clothes nor any ligatures, gags, resuscitation equipment, or other paraphernalia should be removed from the body at the scene by the police.
- 4.24 A sexual assault crime kit will be compiled by the Forensic Pathology Service during the post mortem examination and will be handed over to the Investigating Officer, together with the relevant exhibits (ligatures, clothing, valuables etc). The South African Police Service will provide the Service with the relevant sexual assault crime kits.

- 4.25 In general, the South African Police Service will take all photo's and videos at death scenes and will make such evidence available to the relevant member or doctor of the Forensic Pathology Service. The Forensic Pathology Service will take all additional photos required by them for hardcopy printing, before and during the autopsies. Digital photographs will be taken by the Forensic Pathology Service and made available in digital format to the relevant South African Police Service Investigating Officers.
- 4.26 The SAP 180 and the relevant Department of Health forms must be completed and signed by the South African Police Service member on scene / Investigating Officer at the scene of death, before the body/bodies may be removed from the death scene and taken to the relevant Forensic Pathology Laboratory.
- 4.27 The South African Police Service will, at the scene of death provide the Service with the CAS number. The South African Police Service Liaison officer will provide the relevant Forensic Pathology Service member with the name and contact details of the Investigating Officer and confirmed CAS no, and submit this information, which must be added to the SAP 180 and the relevant Department of Health form;
- 4.28 The South African Police Service will appoint dedicated liaisons persons who will act as liaison between the South African Police Service and the Service.
- 4.29 The Liaison officer's functions will include but not be limited to the following:
- Preliminary Investigation and Registration of Unexpected Natural / Unattended Unnatural deaths.
    - Interview and obtain statements from the next of kin of unexpected natural deaths.
    - In cases of unexpected natural death being determined as unnatural, gather information and open CAS docket.
    - Gather information on Unattended Unnatural deaths.
    - Obtain statements and necessary documentation.
    - Open CAS docket in cases of Unattended Unnatural Deaths.
    - Relay such information to relevant Crime Investigation branch.

- Deal with enquiries, Information, and Reference Numbers between SAPS and the Service.
  - Attending to enquiries from SAPS departments.
  - Acquire Reference numbers, Corpse numbers for SAPS and CAS numbers for Forensic Pathology Service.
  - Obtain information on individual cases for Crime Investigation branches.
  - Gather statistics for SAPS Crime Prevention.
  - Obtain information for SAPS Media liaison.
  - Receive subpoenas for Forensic Pathology Staff.
  - Record and serve subpoenas on Forensic Pathology responsible person.
  
- Co-ordination of Evidence Exhibits, Specimens, etc, to SAPS for further analysis and investigation.
  - Receive Evidence Exhibits, Specimens, etc from Forensic Pathologist on behalf of Investigating Officers unable to attend Post Mortems.
  - Record, Control, and keep safe such evidence.
  - Dispose of such evidence to Crime Investigation branches and maintain the chain of evidence.
  - Dispose of such evidence to Forensic Science Laboratory, and or Ballistics, maintaining the chain of evidence.

4.30 The Investigating Officer will be contacted via the Liaison officer by the relevant Forensic Pathology Service Laboratory to provide additional information and arrange attendance of the autopsy, on request of the attending Pathologist before the post mortem examination commences;

4.31 The Department of Health is responsible for the taking of fingerprints from unidentified bodies within 7 days, for Criminal Record Centre classification and identification purposes. Sets of prints will be submitted to the National Criminal Record Centre, Local Criminal Record Centre.

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- 4.32 The South African Police Service Liaison Officer will on receipt of negative reports also contact the Missing persons Bureau. The South African Police Service will be responsible for informing the next of kin of the death and for arranging for identification of the body, unless Forensic Pathology staff communicate with next of kin on scene and schedule appointment for such identification.
- 4.33 The removal and burial or cremation of unidentified bodies by contracted Undertakers will take place after 30 days, unless alternative arrangements are made between South African Police Service and the relevant Forensic Pathology Service Laboratory Manager; The South African Police Service must issue an affidavit that all reasonable measures were exhausted before the body is released.
- 4.34 The Service and the Provincial Head Detectives will provide each other with contact details of all the Forensic Pathology Service Managers, Forensic Pathology Laboratories, South African Police Service Station Commissioners and Detective Commanders on a quarterly basis, or whenever changes occur;

## 5. POST MORTEM EXAMINATIONS

- 5.1. The Forensic Medical Practitioners will, as far as possible, conduct post mortem examinations on the bodies on as soon as possible unless an autopsy is conducted after-hours for religious reasons or on compassionate grounds;
- 5.2. Under normal circumstances, the South African Police Service will ensure that the relevant personnel attend the post mortem examination in all cases of suspected homicide or suicide. This would include:
- 5.2.1. The Investigating Officer who attended the scene of death, and/or
- 5.2.2. The Investigating Officer responsible for the continued investigation of the case;
- 5.2.3 The Service will contact the Investigating Office either directly or via the South African Police Service Liaison Officer
- 5.2.4 The South African Police Service must ensure that if the Investigating Officer who attended the scene of death is not able to attend the post mortem examination, that he/she has ensured that the Investigating Officer responsible for the case is provided with all the facts from the scene of death; if the Investigating Officer is unable to attend consultation process must be in place prior to the post mortem examination.

- 5.3 The post mortem examinations must be attended by the Investigating Officers whether or not the scene of death was attended by a Forensic Medical Practitioner;
- 5.4 The South African Police Service must ensure that if the Investigating Officer who attended the scene of death is not able to attend the post mortem examination, he/she must ensure that the Investigating Officer responsible for the continued investigation of the case, is provided with all the facts and information regarding the scene of death;
- 5.4.1 The Investigating Officer responsible for the continued investigation of the case should provide any crime kit that is needed for the relevant case, including evidence bags for exhibits; These crime kits must be obtained by the South African Police Service Liaison Officer where such is in place.
- 5.4.2 The Forensic Pathology Service will take digital photographs of post mortems, as indicated. The South African Police Service may request these photographs and will be provided with the digital photographic information. The conversion of such images to "hard copy" will be the responsibility of the Investigating Officer;
- 5.4.3 The South African Police Service will inform the Forensic Pathology Service of all successful identifications;
- 5.4.4 Skeletal remains received by the Forensic Medical Practitioners will be referred for further Forensic Anthropological/odontological evaluation if indicated.
- 5.4.5 The remains will be referred the either Department(s) of Anatomy or Dental Faculties for further Forensic Anthropological/odontological
- 5.4.6 Once the Anthropological/odontological analysis and report have been completed, the Anthropological/odontological report will be made available to the relevant Forensic Pathology Service Laboratory;
- 5.5 It is the responsibility of the FPS to inform the relevant branch commander to confirm the date and time of the post mortem examination with the appropriate Forensic Pathology Laboratory;
- 5.6
- 5.6.1 The after-hour post mortems will be performed at the discretion of the Forensic Pathology Laboratory manager and the Forensic Medical Practitioner on call;
- 6.6.2 After-hour post mortem examinations will be conducted only if all the medico-legal requirements have been met. Where it is not possible to obtain an adequate history at the time of the post mortem, or where the Investigating

Officer is not able to attend the post mortem, the case will be postponed until such medico-legal requirements have been fulfilled. This is of particular importance in all suspected homicidal and suicidal cases as the lack of relevant history can severely hamper the medico-legal investigation and thus obstruct the ends of Justice;

- 5.7 The Forensic Medical Practitioner will take all necessary specimens during the autopsy if additional investigations, e.g. histology or toxicology are required. Once all the medico-legal investigations have been completed and laboratory results finalised, a detailed post mortem report will be issued. The post mortem report must be collected by the Investigating Officer for the specific precinct or dedicated at the mortuary and he/she will be expected to sign for the report. Positive identification will be required.
- 5.8 Post Mortem reports will not be made available unless exhibits of the specific case are collected.
- 5.9 A post mortem report will be issued by the Forensic Medical Practitioner in uncomplicated cases within 2 to 4 weeks. In cases where tissues for histology are taken, a post mortem report will be issued within 4 - 6 weeks, depending on the availability of laboratory recourses. In cases where samples were taken for alcohol concentrations, carbon monoxide levels, toxicological investigations or DNA analyses, an interim report may be issued at the discretion the Forensic Medical Practitioner and the final report will be issued as soon as results are available from the relevant Laboratories;
- 5.10 Family members who require a copy of the post mortem report must be referred to Investigating Officer who will provide such a report according to said procedure;
- 5.11 Evidence collected by the Forensic Medical Practitioner for processing by the Forensic Science Laboratory must be collected at the mortuary by the Investigating Officer on the day of the autopsy. It is the responsibility of the South African Police Service to continue with the chain of custody and the hand over of the specimens / exhibits to the appropriate institutions for further forensic investigations. Evidence collected by the Forensic Medical Practitioner for processing by the Forensic Chemistry Laboratory is the responsibility of the Forensic Pathology Service.
- 5.12 In the event that a duplicate copy of a post mortem report is required by the Provincial Head: Detective Services, this will be provided on receipt of a written request and payment of required fee. Such report must be marked as a duplicate.

## 6. MANAGEMENT AND ADMINISTRATION

### 6.1 Management Meetings:

6.1.1 The parties record and agree that management meetings shall be held at such times and places as the parties may from time to time determine.

6.1.2 The management meetings will be attended by the representatives of the parties and will deal with, *inter alia*, the following matters:-

Report by Forensic Pathology Services on Services delivered during the period under review;

Report by the Forensic Pathology Services on the perceived quality, efficiency and effectiveness of Service delivery received from the SAPS

Report by the SAPS on the perceived quality, efficiency and effectiveness of Service delivery received from the SAPS;

Such other management and administrative matters as the parties may determine.

### 6.2 Training

6.2.1 The parties record and agree that training programs and interventions shall be held at such times and places as the parties may from time to time determine.

## 7. AMENDMENTS

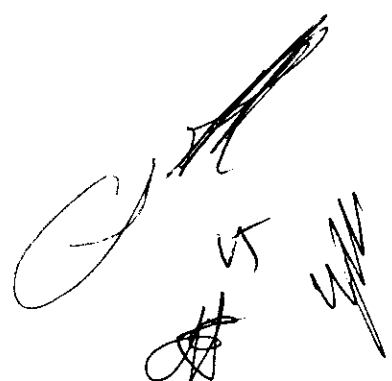
Any aspect of this agreement may be amended at any time provided that such an amendment has been reduced to writing and signed by an authorized representative from each party.

## 8. DOMICILIUM

8.1 For the purposes of this agreement, the South African Police Service will be contactable at the following address:

25 Alfred Street

Green Point, 8001



8.2 For the purposes of this agreement, the Western Cape Department of Health can be contacted at the following address:

Room 17/01A  
4 Dorp Street  
Cape Town, 8001

## 9. DURATION AND TERMINATION

- 9.1 The agreement will come into effect on the date of the last signature to the agreement and will be in full force and effect for a period of 3 (three) years.
- 9.2 The agreement may be renewed for further periods of 3 (three) years by the agreement of both parties.
- 9.3 Either party may, by giving three months' written notice to the other party, terminate this agreement.

## 10. DISPUTE RESOLUTION

- 10.1 In the event of a dispute arising, which cannot be resolved, the matter shall be referred to the State Attorney for arbitration.

## 11. LIABILITY

- 11.1 Each party to this agreement will be fully responsible for the costs of the provision of its obligations in terms of the agreement.
- 11.2 Each party will be liable for any damages incurred by its own members in the application of this agreement.

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SIGNED AT Cape Town ..... on the 11<sup>th</sup> day of August ..... 2009

.....  
*Engelbrecht*

f/Prof KC HOUSEHAM Dr Engelbrecht

Acting HEAD: WC DEPT OF HEALTH

Witness

.....  
*W. Martin*  
W. MARTIN

Witness

.....  
*[Signature]*

SIGNED AT Cape Town ..... on the 11<sup>th</sup> day of August ..... 2009

.....  
*[Signature]*

Provincial Commissioner: Western Cape

M PETROS

Witness

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M. PETROS

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