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**OFFICE OF THE DPCI JUDGE  
REPUBLIC OF SOUTH AFRICA**

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**SUBMISSION**

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|----------------|---|
| <b>TO</b>      | <b>MR. AP RAPEA: SECRETARY OF POLICE</b>  |
| <b>FROM</b>    | <b>MR EDWARD RASIWELA: DEPUTY DIRECTOR INVESTIGATIONS<br/>OFFICE OF THE DPCI JUDGE</b>      |
| <b>DATE</b>    | <b>10 APRIL 2017</b>  |
| <b>SUBJECT</b> | <b>REQUEST TO AMEND SECTION 17L OF SOUTH AFRICAN POLICE<br/>SERVICE ACT, NO: 68 OF 1995</b> |

**1. PURPOSE**

The purpose of this submission is to request the Secretary for Police Service to assist the Office of the DPCI Judge to amend Section 17L of SAPS Act, No: 68 of 1995.

**2. BACKGROUND AND MOTIVATION**

2.1 The Office of the DPCI Judge has been established in terms of Section 17L of the South African Police Service Act No: 68 of 1995 as amended (SAPS Act), to provide oversight over the investigations conducted by the Directorate for Priority Crime Investigations (DPCI) commonly known as the HAWKS.

2.2. This section of the act provides the Minister of Police to after consultation with the Minister of Justice and the Chief Justice appoint a retired Judge that will investigate the following types of complaints:

- **Category 1**

Section 17L (4) (a) of SAPS Act deals with complaints from the any member of the public who can provide evidence of a serious and unlawful infringement of his or her rights caused by an investigation by the Directorate (HAWKS).

- **Category 2**

Section 17L (4) (b) of SAPS Act deals with complaints from any member of the HAWKS who can provide evidence of any improper influence or interference, whether of a political or any other nature, exerted upon him or her regarding the conducting of an investigation.

2.3. During the briefing of the Portfolio Committee on Police of our Annual Performance Report for the financial year 2015/16, the office informed the Portfolio Committee of the structural shortcomings which impact negatively on the efficiency and effectiveness of the office. The Portfolio Committee advised the office to specifically make a formal request to the Secretary for Police Service for the amendment of Section 17L of SAPS Act. The structural shortcomings that were identified by the office are as follows:

(a) Firstly, we are a statutorily body that does not have enforcement powers. Unlike a constitutional structure whose recommendations are enforceable if its findings and recommendations are not challenged <sup>or</sup> reviewed; (Remedial and/or redress powers);

(b) Secondly, we do not have original powers to institute an investigation without receiving a formal complaint from a complainant, whether a member of the public or a member of the HAWKS; and

(c) Thirdly, the law places an onus on the complainant to produce evidence, in the case of members of the public of a serious and unlawful infringement of his or her rights caused by the HAWKS and, in the case of members of the

HAWKS, of any improper influence or interference, whether of a political or any other nature, exerted upon him or her.

- (d) Fourthly, the law only empowers the Office of the DPCI Judge to enter and obtain information and documents under the control of the police, we are not empowered to gather evidence from the private individuals or private institutions.
- (e) Fifthly, a third party cannot lodge a complaint on behalf of the Complainant unless there is authority from the Complainant.

**3. FINANCIAL IMPLICATIONS**

None

**4. RECOMMENDATION**

We formally request the Secretary for Police Service to assist the Office of the DPCI Judge for the amendment of Section 17L of SAPS Act, No: 68 of 1995.

**Compiler**

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**Mr Edward Rasiwela**  
**Deputy Director Investigations**  
**Office of the DPCI Judge**  
**Date:**

Supported/Not Supported

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Mr NM Ntwana

Director: Legislation Unit

Civilian Secretariat for Police Service

Date:

Supported/Not Supported

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Adv Dawn Bell

Chief Director: Legislation Unit

Civilian Secretariat for Police Service

Date:

Approved/Not approved

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Mr A.P Rapea

Secretary for Police Service

Date: