

AN ANALYSIS OF HUMAN RIGHTS TRAINING IN SAPS: A CASE STUDY

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DECLARATION

Student number: **33914060**

I Joseph Lukele, declare that this dissertation: **AN ANALYSIS OF HUMAN RIGHTS TRAINING IN SAPS: A CASE STUDY** is my own work and that all the sources that I have quoted have been mentioned and acknowledged by means of complete references.

A handwritten signature in blue ink, appearing to read 'J. LUKELE', with a large, stylized initial 'J' on the left.

2018-02-28

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Editor's declaration

DECLARATION

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21 February 2018

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ABSTRACT

In this study the researcher's focus was on the analysis of human rights training in SAPS, a case study in Gauteng. The whole study is covered by over seven chapters. In chapter one, the introduction to human rights is discussed and the reason that motivated the researcher to pursue the study under the topic. Most importantly the aim and objectives of the study are outlined. Chapter two main focuses is on the regulatory frameworks of human rights training and programmes. In chapter three the attention is on the international best practice for police training in human rights, as any police training is benched marked internationally. Chapter four the researcher explains the research methodology used in this study, as it is important for the reader to have an understanding. Chapter five discusses the data that is collected and the analysis thereof by using nine themes to analyze data. In chapter six the discussion is based on the finding of data analysis from chapter five. Finally the researcher in chapter seven gives the summary of the study, the recommendations and conclusion on how to improve the training of human rights in the SAPS.

INGQIKITHI YOCWANINGO

Kulolu cwaningo, umcwaningi ugxile ekuhlaziyeni uqeqesho kwezamalungelo abantu kwa-SAPS, kubhekwa kabanzi okwenzeka eGauteng. Ucwaningo oluphelele lwethulwa ezahlukweni eziyisikhombisa. Kwisahluko sokuqala, kwethulwa ingxoxo ngamalungelo abantu kuphinde kunikezwe izizathu ezigqogquzele umcwaningi ukuba enze lolu cwaningo ngaphansi kwalesi sihloko. Okubaluleke kakhulu, injongo nezinhloso zocwaningo kubaluliwe. Isahluko sesibili sigxile kakhulu ezinhlakeni ezilawulayo zoqeqesho kwezamalungelo abantu kanye nezinhlelo. Esahlukweni sesithathu, kubhekwa kakhulu indlela eyimpumelelo amanye amazwe enza ngayo maqondana nokuqeqeshwa kwamaphoyisa kwezamalungelo abantu, njengoba kubhekwa ngokuqhathanisa nanoma yiluphi uqeqesho lwamaphoyisa emazweni omhlaba. Kwisahluko sesine, umcwaningi uchaza indlela yokucwaninga esetshenziswa kulolu cwaningo, njengoba kubalulekile ukuba ofundayo akuqonde akufundayo. Isahluko sesihlanu sidingida imininingwane eqoqiwe kanye nokuhlaziywa kwayo ngokusebenzisa izingqikithi eziyisishiyagalolunye zokuhlaziya imininingwane. Kwisahluko sesithupha, ingxoxo incike kulokho okutholakele uma kuhlaziywa imininingwane esahlukweni sesihlanu. Okokugcina, kwisahluko sesikhombisa, umcwaningi unikeza isifinyezo socwaningo, izincomo kanye nesiphetho maqondana nendlela okungathuthukiswa ngayo uqeqesho kwezamalungelo abantu kwa-SAPS.

ISISHWANKATHELO

Kwesi sifundo umphandi ugxininise kuhlalutyo loqeqesho ngamalungelo oluntu, qeqesho olo lwenziwa kumalungu eSAPS, ngesifundo samava eGauteng. Isifundo esi sisonke siqulethe izahluko ezingaphaya kwesixhenxe. Kwisahluko sokuqala, kuxoxwa ngokwaziswa kwamalungelo oluntu nesizathu esiqhubele ekubeni umphandi alandele isifundo phantsi kwesi sahluko. Okona kubaluleke kakhulu kukuchazwa kweenjongo neziphumo ezibonakalayo zesi sifundo. Isahluko sesibini sigxininisa kwisakhelo solawulo loqeqesho neenkqubo zamalungelo oluntu. Kwisahluko sesithathu kuqwalaselwa kweyona ndlela ingcono kulo lonke ihlabathi, kuqeqesho lwamapolisa malunga namalungelo oluntu, njengoko naluphi na uqeqesho lwamapolisa lusekelwa kwindlela ekwenziwa ngayo kwihlabathi liphela. Kwisahluko sesine umphandi ucacisa indlela yophando ayisebenzisileyo kwesi sifundo, kuba oku kubalulekile ekuqondeni komfundi. Isahluko sesihlanu sixoxa ngeenkukacha zolwazi eziqokelelweyo ukuze zihlalutywe ngokusebenzisa imixholo emihlanu yokuhlalutya iinkukacha zolwazi. Kwisahluko sesithandathu ingxoxo isekelwe kokufunyaniswe kuhlalutyo lweenkukacha zolwazi olwenziwe kwisahluko sesihlanu. Ekugqibeleni, kwisahluko sesixhenxe umphandi unika isishwankathelo sesifundo, iingcebiso nezigqibo malunga nendlela ekunokuphuculwa ngayo uqeqesho malunga namalungelo oluntu kwiSAPS.

KEY TERMS

Human rights, trainees, Constitution, South African Police Service, basic training, Academies, law enforcement officers, police officer, government.

LIST OF ACRONYMS

ACHPR – African Commission on Human and People’s Rights

CEDAW – Convention on the Elimination of All Forms of Discrimination against Women

CEI – Center for Education Innovation

CJC – Criminal Justice System

CSC – Community Service Centre

ECHR – European Convention on the Protection of Human Rights and Fundamental Freedoms

HELAA - Higher Education Laws Amendment Act

HRDC – Human Resource Development Centre

IPID – Independent Police Investigative Directorate

ISS – Institute for Security Studies

NI – National Instruction

NQF – National Qualification Framework

OBE – Outcomes-Based Education

OHCHR – Office of High Commissioner for Human Rights Centre

OSCE – Organization for Security and Co-operation in Europe

POP – Public Order Policing

RPL – Recognition of Prior Learning

SADC – Southern African Development Community

SAPS – South African Police Service

SAQA – South African Qualification

UN – United Nations

UNCRC – United Nations Convention of the Rights of the Children

UNDHR – United Nations Declaration of Human Rights

UNICEF – United Nations International Children’s Fund

UNISA – University of South Africa

TABLE OF CONTENTS **PAGE NO**

CORYRIGHT.....(i)

DECLARATION.....(ii)

EDITORS DECLARATION.....(iv)

ACKNOWLEDGEMENT.....(v)

ABSTRACT.....(vi)

KEY TERMS.....(vii)

LIST OF ACRONYMS.....(viii)

APPENDICES.....(xiv)

CHAPTER 1: INTRODUCTION AND MOTIVATION FOR RESEARCH

1.1 Introduction..... 1

1.2 Description of human rights.....1

1.3 The need to protect human rights.....2

1.4 Motivation for the research.....6

1.5 The aim and objectives of the study.....16

1.6 Summary.....16

CHAPTER 2: THE REGULATORY FRAMEWORK OF HUMAN RIGHTS TRAINING

2.1 Introduction.....17

2.2 Objective of human rights training programmes..... 17

2.3 Overview of the South African Constitution 19

2.4. South African Police Service Act 68/1995.....22

2.4.1 Duties and powers of the SAPS..... 24

2.4.2 Material sources of the South African Law.....26

2.4.3 Responsibility of the SAPS in respect of the Criminal law.....27

2.5 The National Qualification Framework (NQF) prescriptions on human rights training.....	30
2.6 SAPS basic training guidelines on human rights training.....	32
2.7 Summary.....	49

CHAPTER 3: INTERNATIONAL BEST PRACTICE FOR POLICE TRAINING IN HUMAN RIGHTS

3.1 Introduction	50
3.2 Background on Human Rights in Policing	50
3.3 Overall Processes and Goals	54
3.3.1 The Human Rights-Based Approach in Programmes	55
3.3.2 The Human Rights-Based Approach in Educational Institutions	55
3.4 Core Competencies	57
3.5 Curricula	59
3.6 Training and Learning Process	60
3.7 Evaluation	61
3.8 Summary	66

CHAPTER 4: RESEARCH METHODOLOGY

4.1 Introduction	67
4.2 Research design.....	67
4.3 Population and sampling technique	68
4.4 Data collection	76
4.5 Data analysis	77
4.6 Bracketing of the Research	79
4.7 The ethical dimension of the study	79
4.8 Measures to ensure trustworthiness of the data	80
4.9 Summary	82

CHAPTER 5: DATA ANALYSIS

5.1 Introduction	83
5.2 The nine themes from the analysis	83
5.2.1 The reason for becoming SAPS official	83
5.2.2 Training in Human Rights	84
5.2.3 Defining Human Rights	88
5.2.4 The origin of human rights	89
5.2.5 The importance of respecting human rights by law enforcement	90
5.2.6 The human rights as a barrier for SAPS members to perform duties.....	90
5.2.7 Application of human rights when attending to complaints	92
5.2.8 Specific training of police official	93
5.2.9 Training received in Domestic Violence	95
5.2.10 The Scenarios	99
5.3 Summary	107

Chapter 6: INTERPRETATION OF THE FINDINGS

6.1 Introduction	108
6.2 The reason for becoming SAPS official	108
6.3 Training in human rights	110
6.4 Defining human rights	113
6.5 The origin of human rights	114
6.6 The importance of respecting human rights by law enforcement	116
6.7 Human rights as a barrier for SAPS members to perform duties	117
6.8 Application of human rights when attending to complaints	118
6.9 Specific training of police official	119
6.10 Training received in Domestic Violence	122
6.11 The scenarios	124
6.12 Summary	132

**CHAPTER 7: SUMMARY, RECOMMENDATIONS AND CONCLUSION OF
IMPROVING THE TRAINING OF HUMAN RIGHTS IN THE SAPS**

7.1 Summary133
7.2 Recommendations135
7.3 Conclusion140

APPENDICES

Appendix 1	Application letter to SAPS Provincial Commissioner
Appendix 2	Approval letter from SAPS Provincial Commissioner
Appendix 3	UNISA Research ethics clearance certificate
Appendix 4	Interview schedule
Appendix 5	Informed consent form
Appendix 6	Legislations in the Constitution (Act 108 of 1996)
Appendix 7	SAPS Basic Training Qualification Unit Standard
Appendix 8	List of Participants

CHAPTER 1: INTRODUCTION AND MOTIVATION FOR THE RESEARCH

1.1 Introduction

In this chapter the researcher gives a brief description of human rights by identifying important facts about human rights; explaining the need to protect human rights, and subsequently provides the motivation for this research, as human rights are enforced by the Constitution of the Republic of South Africa, 1996. The aim of the research is to analyze the human rights training in the South African Police Service by means of a case study. Furthermore, the objectives of the study are outlined to provide reasons how to achieve the main aim of the study.

1.2 Description of human rights

The United Nations (UN) High Commissioner for Human Rights describes human rights as universal legal guarantees protecting individuals and groups against actions by governments that interfere with fundamental freedoms and human dignity and above all human rights law obliges governments to do something and prevents them from doing others. Some of the most frequently cited characteristics of human rights are the following: these rights are internationally guaranteed, legally protected, with focus on the dignity of the human being, to protect individuals and actors, they cannot be waived or taken away, and are equal and interdependent and universal (United Nations, 2002). On the other hand, the Commonwealth states that there are many descriptions of human rights and people may well differ and argue about the relevant importance of the different particular rights. In dealing with human rights it will be important to examine the different views on the nature, source and effect of human rights; in other words human rights can be described in various ways. It can be described as generally accepted principles of fairness and justice inherent in every individual by virtue of their humanity, or moral rights that belong equally to all people simply because they are human beings (Commonwealth, 2006).

Furthermore, the Commonwealth states that Article 1 of the Universal Declaration on Human Rights explains that all human beings are born free and equal in dignity and rights. This means that human rights encourage the spirit of brotherhood. The following are the qualities applicable to human rights namely, inherent-human beings are born free and equal in dignity and rights, worldwide-human rights are generally accepted doctrines that apply in the same way to all human beings wherever they live; inalienable-human rights cannot be ignored or taken away, they are absolute, and indivisible-human rights are based on the value of respect for human dignity. Furthermore, they are fundamental human rights form the basis of every human being; apply equally-human beings have the right to equal protection of their rights; absolute-certain fundamental rights create duty that are absolute and cannot be limited; create duties on others - it is a basic quality of a right that it has a co-relative and a duty corresponding to the right (Commonwealth, 2006).

Mubangizi (2004) argues that human rights are usually referred to by various names and phrases: these include fundamental rights, basic rights, natural rights and common rights. However, not to confuse these phrases, fundamental and basic rights are those rights which must not be taken away by any legislation or act of the state and are set out in the fundamental law of the country while natural and common rights are rights seen as belonging to all men and women by virtue of their human nature and are shared by both men and women. The explanation further states that human rights are understood as rights which belong to an individual, in other words human rights are those rights one possesses by virtue of being human. One need not possess any other qualification to enjoy human rights other than the fact that he or she is a human being (Mubangizi, 2004:2).

1.3 The need to protect human rights

A meeting was held from April 28 to May 12 2014 by the African Commission on Human and People's Rights (ACHPR) at its 55th Ordinary Session in Luanda, Angola. At this meeting the Commission recalled its mandate to promote and protect human and people's rights under the African Charter on Human and People's Rights (African

Charter) It also recalled Resolution 228 on the Need to Develop Guidelines on Conditions of Police Custody and Pre-trial Detention in Africa adopted at its 52nd Ordinary Session in October 2012, recognizing the mandate provided to the Special Rapporteur on Prisons and Conditions of Detention in Resolution 228 on the Need to Develop Guidelines on Conditions of Police Custody and Pre-trial Detention in Africa adopted at its 52nd Ordinary Session in October 2012, as well as recalled Resolution 100 on the adoption of the Lilongwe Declaration on Accessing Legal Aid in the Criminal Justice System adopted at its 40th ordinary session in November 2006, and noted Articles 2, 3, 4, 5, 6, 7 and 26 of the African Charter on Human and People's Rights on the rights to life, dignity, security, fair trial and the independence of the judiciary (ACHPR, 2014).

The ACHPR (2014) furthermore noted its mandate under Article 45(1)(b) of the African Charter on Human and People's Rights to formulate and lay down principles and rules aimed at solving legal problems relating to human and people's rights and fundamental freedoms upon which African Governments may base their legislation. The ACHPR is concerned by the indiscriminate, excessive, and at times abusive recourse to police custody and pre-trial detention prevalent in several states parties to the ACHPR which are characterized by weak criminal justice systems. The ACHPR acknowledged the vast differences between states in terms of legal systems, political and historic influences on the use and conditions of detention, socio-economic and geographical conditions and also acknowledged that individuals in police custody and pre-trial detainees in many African countries experience subjective limitations on their rights, poor health conditions, and are subject to torture, inhumane and degrading treatment or punishment (ACHPR, 2014).

The ACHPR (2014) further noted that pre-trial detention unduly impacts the vulnerable and marginalized who are unlikely to have the means to afford legal representation and assistance or comply with conditions of police bail or bond, and who in some cases may be detained through the justice system in psychiatric hospital, departments or institutions both inside and outside of prisons and detention Centre's.

It recognized that police custody and remand facilities in many African countries lack appropriate infrastructure, adequate budget and provisions to provide for the essential needs of detainees during custody. It also recognized arrest, detention and conditions of police custody in many African countries are categorized by lack of accountability, poorly paid and under-resourced police, malfunctioning of administration of justice, including the lack of independence of the judicial service system, excessive and disproportionate use of force by the police, lack of registration and monitoring systems for keeping track of police detention, systemic corruption and lack of resources, all of which contribute to the absence of the rule of law. The ACHPR is disturbed by the lack of effective and/or appropriate monitoring mechanisms and independent policing oversight agencies and it recognizes the need to formulate and lay down principles and guidelines to further strengthen the criminal justice system in States Parties with regards to police custody and pre-trial detention, to ensure compliance with international norms and principles by the police and other law enforcement agencies and thereby adopt the following guidelines on the use and conditions of police custody and pre-trial detention in Africa (ACHPR, 2014).

The respect of human rights by law enforcement officials starts with the understanding of reasons why human rights need to be protected by law enforcement officials. The Organization for Security and Cooperation in Europe (OSCE) (2008:12) reminds us that human rights are derived from the inherent dignity and worth of the human person, are universal, inalienable and equal. Furthermore it states that the principle of respect for human dignity is the foundation of any national or international text on the protection of fundamental rights. Human dignity is inviolable: there can be no exception, nor can any limit be imposed, even where law and order is concerned. The possession of human dignity carries certain immutable moral obligations. These concern the treatment of all other human beings, the duty to preserve life, liberty and the security of persons. To preserve peace and stability in their respective states and to gain trust and support from the citizens, the police must respect, protect and promote human rights (OSCE, 2008:12).

Police behaviour must be legal, necessary and proportionate to best protect the rights and freedom of citizens. Citizens in a democratic society must be treated fairly and be protected by the police, and in the case of criminal acts, treated by the police as suspects, not as criminals. The primary function of police is the protection of human rights by maintaining social order so that all human rights of every category can be enjoyed (OSCE, 2008:12). Mabangizi (2004:8) supports the OSCE by stating that human rights are a necessary component of any democratic society; therefore the protection of human rights is necessary for democracy. There are three important views of democracy in the protection of human rights that must be understood by all citizens: firstly, democracy is a form of government in which all adult citizens have shares through their elected representatives; secondly, in a democratic society, all citizens treat one another as an equal without any discrimination and lastly democracy means a form of government which encourages, allows, promotes and protects the rights of its citizens. Thirdly, for the protection of human rights to be a success, the society has to take ownership of their human rights and the government must understand that it should be a government for the people (Mabangizi, 2004:8).

South Africa is a member state of the United Nations (UN) and the African Union (AU) and has complied with the directives received from both bodies. Policing in a democracy involves the duty of protecting and preserving human rights and the lives and properties of everyone in the Republic of South Africa (RSA). The introduction and acceptance of the Constitution of the Republic of South Africa, 1996. The Constitution brought a complete change in the field of policing in the RSA. In the Constitution there is one important provision that makes it clear that it is the supreme law of the Republic and therefore any law or conduct that is contrary to the Constitution is in direct violation of the Constitution and therefore invalid. Chapter 2 of the Constitution, the Bill of Rights affords and reinforces the basic human rights of all citizens of the Republic, irrespective of race, sex, creed or age. This concept was never included in the history of policing in South Africa (SAPS, 2011).

Prior to 1996, before the Constitution was adopted, the police were accustomed to abusing the human rights of the citizens of the Republic, such as the torture of suspects during interrogation and detention, arresting and detention of suspects without reasonable justification, searching of premises and seizure of items and properties without any warrant, using of lethal force to take the lives of suspects even if there was no imminent life-threatening danger to themselves or others and employing unorthodox methods to get evidence from suspects and members of the public. All these acts of misconduct by police officers are now prohibited by the Constitution of the Republic of South Africa, 1996. The South African Police Services (SAPS) is now faced with the challenges of keeping up with the constant changing legal environment. During the Apartheid regime training in human rights and how they must be protected by police officers in the execution of their duties did not form part of the basic training of the SAPS (SAPS, 2011). The researcher will explore the link between the SAPS Basic Training by using Tshwane SAPS Academy and the respect of human rights by police officers.

1.4 Motivation for the research

Amnesty International (2002) argues that human rights are under attack every day in countries in Southern and Eastern Africa. These countries are under pressure to deal harshly with rising levels of crime or political manipulation. Police inflict torture and ill-treat those suspected of having committed crime or are regarded as political activists. Excessive or unjustified lethal force is used to suppress peaceful protests. Government opponents are indiscriminately detained. Despite endeavours by some governments to raise standards of policing, others flagrantly misuse the police to hold on to power. In many countries officials and officers responsible for abuses are accountable to no one. At the same time law enforcement agencies are often denied necessary personnel, basic equipment and training, and face risks to their own lives. Yet providing police with professional skills, appropriate equipment and adequate resources are among the most effective ways to tackle crime and, in turn, to respond to the needs of victims of crime. Law-breaking by the police does not secure victims' rights (Amnesty International, 2002).

Furthermore, the Commonwealth (2006) argues that the system starts with good training to build a culture of respect for human rights because human rights considerations are increasingly becoming more important for police officers all over the world, as the police are the protectors of human rights (Commonwealth, 2006).

The considerations of human rights are very important for the police worldwide. Police are the protectors of human rights, and have to ensure that the rights of the entire population are protected. On the other hand, the police occupy a position in society where abuse of human rights can take place readily, if there are no systems of accountability. These systems start with good training to build a culture of respect for human rights

The view of Amnesty International in the report is that protecting and promoting human rights are compatible with effective policing. The report also highlights failures and provides initiatives to render policing more effective and responsive to the community's needs. Amnesty International encouraged the Southern African Development Community (SADC) governments and structures to implement and promote measures to develop policing services that are lawful, impartial, and humane and that can deal effectively with the legitimate demands of communities for their safety and security. The international community has a role to play in the SADC region, which has suffered years of armed and civil conflict and pressures on its economic resources, by increasing its efforts to assist this transformation process (Amnesty International, 2002). Furthermore, in support of Amnesty International, Gawanas (2009) argues that the African Union (AU) made human rights an explicit part of its mandate, as embodied in its Constitutive Act 2000 to align human rights in all its activities and programmes. Gawanas (2009) acknowledges that the current methodologies require strengthening a view to develop a holistic, comprehensive and integrated approach to ensure that all human rights are respected (Gawanas, 2009).

The researcher was motivated to investigate this specific topic because SAPS has become notorious, not only in South Africa, but also across the continent and the world. The SAPS is in the spotlight because of the conduct of members when performing their

duties. Newspapers, television and, social media daily portray stories, pictures and videos clips which expose the incompetence and embarrassment of the SAPS management because of the conduct of SAPS members. These aspects will be discussed below.

1.4.1 Police brutality

Police brutality occurs all over the world. The UN News Centre (2016) officially spoke out against the violence in the United States (US) which has left several people dead. The UN expressed both outrage and condemnation over the killings of two African-American men who were shot dead by the US police in the state of Minnesota and Louisiana. This was one of many incidents of police brutality in the US and this highlighted the need for more to be done to fight discrimination. These incidents resulted in the sniper killing five police officers in the city of Dallas as retaliation for the killing of two African-Americans. The sniper was also killed and three others were arrested. Furthermore, according to the UN the killings demonstrated a high level of structural and institutional racism as the US is far from recognizing the same rights for all its citizens. The UN human rights expert argued that the existing measures to address racist crimes motivated by prejudice are insufficient and have failed to stop the killings. The US Government should strongly assert that black lives matter and prevent any further killings as a matter of national priority (UN News Centre, 2016). The article by Smith of the Guardian reported that police brutalities in South Africa had climbed by 313% in a decade, yet only one in 100 cases against officers results in a conviction (The Guardian, 2013).

The Commonwealth (2006) points out that with regards to police brutality and discrimination, police who exercise lawful authority to act are in the position to abuse their authority. The Commonwealth defines police brutality as unnecessary, excessive and unreasonable physical and mental force, which occurs especially during arrests, detention and interrogation. Police brutality is, however, not limited to arrests, detention and interrogation, but includes all forms of physical and mental force where police officers are involved, as well as, incidents where a police officer displays an attitude of

rudeness, arrogance, hostility and bossiness, or searches a person or their property with impropriety (Commonwealth, 2006). The Commonwealth highlights that police discrimination is the form of police brutality which occurs frequently in communities with different cultural diversities. A police officer discriminates if he/she decides to apply the law on the grounds of race, colour, religious conviction or any other quality other than individual merit. The Commonwealth emphasizes a very important point that both brutality and discrimination may occur within the police itself where bullying and harassment take place, or where individual members are disadvantaged or mistreated only because of their race, ethnicity, religion, language group or gender (Commonwealth, 2006).

A series of high-profile cases, including the shooting of striking mineworkers at Marikana and the killing of a Mozambican taxi driver dragged behind a van, have left the reputation of the police service in tatters and cases of police brutality jumped from 416 during 2001-2002 to 1 722 cases by 2011-2012. The Institute for Security Studies (ISS) governance, crime and justice division states that a total of 11 880 criminal cases were opened with the Independent Police Investigative Directorate (IPID) during the five years from 2011-12. This resulted in 2 576 prosecutions and 129 convictions which means that only 1% of criminal cases opened against police officials ends in a conviction. Furthermore, no police officer has been arrested in connection with the massacre of 34 workers at the Marikana Platinum mine, even though workers injured in the incident are still facing criminal charges (The Guardian, 2013).

The article by Nicolson of Daily Maverick, states the key findings and recommendations by the commission regarding the Marikana incident. The commission recommended that inquiries into the fitness of police leaders like the then National Police Commissioner General Riah Phiyega and the North West Police Commissioner (Lieutenant General) Zukiswa Mbombo should be held. The leadership of the police, on the highest level, appears to have taken decisions not to give the true version of how it came about that the tactical option was implemented on the afternoon of 16 August. They concealed the fact that the plan to be implemented was hastily put together without Public Order Policing (POP) inputs or evaluations and the report does not

implicate General Phiyega in the killings. The report further states that the SAPS failed to use sufficient non-lethal weapons and when they did, the teargas and water cannons had the effect of further pushing the miners towards the Tactical Response Team (TRT) (Daily Maverick, 2015). The article by Mashego of City Press reports that the board of inquiry into the fitness to hold office by suspended National Commissioner Riah Phiyega, headed by Judge Cornelis Claassen found that the Commissioner was not fit to hold office and should be dismissed. Furthermore, the board of inquiry also found that Phiyega lied to the Marikana Commission of inquiry. The report was submitted to President Jacob Zuma on 15 December 2016 (City Press, 2016).

The Marikana report further points out that there were four people among those who were killed who clearly presented no threat to the officers who opened fire with live ammunition because they surmised a reasonable risk to their lives. The commission was not convinced by the SAPS scenario of what might have happened at scene two because the SAPS failed to provide details of what happened with regards to the deaths of most of the deceased at scene 2. In the commission's view the SAPS version does not bear scrutiny when weighed up against the objective evidence. The commission, for the purpose of the investigation, recommended that a team be appointed, headed by a senior state advocate, together with independent experts in the reconstruction of crime scenes, expert ballistic and forensic pathologist practitioners and senior investigators from IPID, and any such further experts as may be deemed necessary. Furthermore, the commission recommended a full investigation under the direction of the Director for Public Prosecution (DPP), with a view to ascertaining criminal liability on the part of all members of the SAPS who were involved in the events at scene 1 and 2 (Daily Maverick, 2015). The Human Rights Watch report (2016) on police conduct in South Africa indicates that 2015 highlighted a number of incidents with regards to police brutality and the use of excessive and disproportionate force. The report further states that in November 2015 eight police officers were sentenced to 15 years in prison for the murder of Mido Macia a Mozambican taxi driver killed in 2013. Earlier that year in August, Khuthatzile Mbedu was allegedly assaulted in Tembisa SAPS.

One of his legs leg was broken during the incident and he died in police custody 4 days later. Ten police officers were subsequently arrested and charged with torturing and murder (Human Rights Watch Report, 2016).

1.4.2 Death in police custody

The ACHPR (2014) gives the general provisions for detention in police custody by stating that such detention shall be an exceptional measure, meaning that detention in police custody must be used as a last action to be taken by the police. The legislation, policies, training and standard operating procedure promote the use of alternatives to police custody, which allows the use of court summons, court bail or police bail to secure the attendance of the person in court. It furthermore states that the governments should establish measures to promote transparency with regards to police custody by allowing inspections by the judicial authority, independent bodies, local community representative and the health department (ACHPR, 2014).

The procedure for serious violation of human rights in police custody and pre-trial detention as given by the ACHPR (2014) stated that it is the state responsibility to account for death and serious injuries in police custody and pre-trial detention, because the state exercises control over persons held in police custody and pre-trial detention and the state shall provide a sound explanation as well as supplying information on the circumstances surrounding custody or detention in every case of death or serious injury of persons who are dispossessed of their rights. In case of death in police custody or pre-trial detention, the following applies:

- If a person under arrest in police custody, pre-trial detention or in the process of transfer dies, an impartial and independent inquiry into the cause of death shall be undertaken by a judicial authority. The purpose of the investigation shall be to establish the cause, manner and the time of death, the person responsible and any pattern or practice which may have brought about that death. The investigation authority shall have access to all necessary information and persons to conduct thorough impartial and independent inquiry.

- The next of kin of detainee shall be informed of death, be provided with regular updates by the authority investigating the death and have access to information about the detainee and the investigative process in accordance with the principles set out in the ACHPR.
- On completion of all examinations essential to the investigation, the body of the deceased shall be returned to the family in a manner that is respectful of the dignity of the deceased so that funeral or customary procedures can be conducted with the least possible delay. The death certificate and personal belongings of the deceased must be handed over to the next of kin as soon as possible.

The IPID Annual Report (2016/2017) intake as per section 28(1)(a) and (b) indicates that it is obvious enough that deaths as the result of police action have contributed more to the total number of incidents of death. The researcher will replicate the IPID table below to indicate the following; namely, death in police custody and as result of police action, death in police custody and death as a result of police action. The tables below show the number of incidents of death in police custody and death as a result of police action reported per province for the period under 2016/2017 financial year, as well as the percentage contribution. It is apparent that deaths as a result of police action have contributed more to the total number of incidents of death. The report shows that Gauteng has the largest number with 115 (29%) cases, followed by KwaZulu-Natal with 110 (28%) cases and Eastern Cape with 67 (17%) cases related to deaths as a result of police action.

Table 1.4.2.1 (2016/2017)

Deaths in police custody and as the result of police action						
Province	Death in police custody		Death as result of police action		Total incidents	
Eastern Cape	36	12%	67	17%	103	15%
Free State	47	16%	17	4%	64	9%
Gauteng	48	16%	115	29%	163	23%

KwaZulu-Natal	74	24%	110	28%	184	26%
Limpopo	25	8%	15	4%	40	6%
Mpumalanga	28	9%	22	6%	50	7%
North-West	21	7%	13	3%	34	5%
Northern Cape	3	1%	10	3%	13	2%
Western Cape	20	7%	25	6%	45	7%
Total	302	100%	394	100%	694	100%

Table 1.4.2.2 (2015/2016)

Deaths in police custody and as the result of police action						
Province	Death in police custody		Death as result of police action		Total incidents	
Eastern Cape	29	13%	40	11%	69	12%
Free State	17	8%	11	3%	28	5%
Gauteng	44	20%	97	27%	141	24%
KwaZulu-Natal	37	17%	98	27%	135	23%
Limpopo	21	10%	18	5%	39	7%
Mpumalanga	27	13%	42	11%	69	12%
North-West	9	4%	16	4%	25	4%
Northern Cape	5	2%	5	1%	10	2%
Western Cape	27	13%	39	11%	66	11%
Total	216	100%	366	100%	582	100%

The IPID, when comparing the number of incidents of death in police custody reported during the period 2016/2017 financial year to the same period in the previous financial year 2015/2016 found that most provinces experienced an increase in the deaths in police custody, except in the Northern Cape and Western Cape, which experienced a decrease of 40% and 26% respectively. The IPID nationally experienced an increase of 40% because most provinces recorded an increase in cases related to deaths as a result of police action, except for Limpopo, Mpumalanga, North West and Western Cape (IPID Annual Report, 2016/2017).

1.4.5 Professionalization of SAPS

The ACHPR (2014) outlines the standards of individuals for officials by stating that the state should have in place known laws, policies and standard operating procedures to set enforceable standards of conduct for police officers, prison officials and other law enforcement or judicial officers that are consistent with internationally recognized standards of conduct for law enforcement personnel and officials responsible for the care or supervision of persons who are in conflict with the law and deprived of their freedom. Furthermore, non-compliance with any of the codes of conduct for police officers should be deemed a disciplinary offence and where appropriate, criminal proceedings should be instituted in accordance with international law and standards on procedural fairness (ACHPR, 2014).

ACHPR (2014) argues that the state should ensure that all officials who are involved in law enforcement are properly trained in relation to the provisions of the guidelines and other relevant prescriptions developed by the African Commission, supported by the African Charter. These must be incorporated into the curricula of all basic and in-service training of all law enforcement officers. Furthermore, the training should be extended to management and personnel of private security organizations dealing with detentions and arrest so that they are properly trained with regard to the provisions and implementation of these guidelines (ACHPR, 2014).

In support of the ACHPR (2014), the SAPS Annual Report (2016/2017) by the accounting officer (Acting National Commissioner) Lieutenant General LJ Mothiba emphasized that the National Development Plan (NDP) envisions that by 2030, all people living in South Africa would be and feel safe, enjoying a community life, free of fear, especially the vulnerable groups, such as women, children, elderly persons and persons with disabilities. The accounting officer pointed out that this can be achieved, as the 2015/2016 financial year heralded the introduction of the Back-to-Basic approach which advocates that every police employee was to simply do the right things every time (SAPS Annual Report, 2016/2017).

Furthermore, this report pointed out that the 2014/2015 financial year report outlined the professionalization of the service to realize the vision for 2030 as described in the National Development Plan (NDP), by stating that a professional police service is supreme to building safer communities. The following interventions will be implemented:

- Establishment of relations with Research and Academic Institutions, including the capacitation of the SAPS Research Institute.
- The recently opened Paarl Police University accepted its first intake during 2014 and ensured adherence to international standards through partnerships with an internationally-accredited and distinguished tertiary institution, the University of South Africa, which will assist the organization in implementing internationally accredited programmes. The partnership between SAPS and University of South Africa (UNISA) was dissolved in 2017.
- Development of change and transformation programmes.
- Inclusion of the Code of Conduct in the disciplinary regulations, performance appraisals and the basic training programme.
- Modernizing the issue of dealing with disciplinary cases.
- Marketing campaigns to attract young graduates to the Police Service.
- Launching of a community- based recruitment and selection strategy.

The NDP emphasizes the need for demilitarizing and transforming the SAPS, with a clear goal of putting the community at the focal point of its service delivery. To achieve this, the following interventions will be implemented; namely, development of self-discipline and leadership programmes, appropriate training and equipment to deal with public order policing, public order policing re-capacitation and new fit-for-purpose equipment, developing change and transformation programmes; and finally developing change and transformation programmes (SAPS Annual Report, 2016/2017). On the other hand, in realization of achieving professionalism, the SAPS Annual Report (2015/2016) vote 23 makes it clear to police officials that there is a Constitutional mandate as well as a legislative mandate.

The Constitutional mandate is derived from section 205 of the Constitution and the legislative mandate is the responsibility of the Minister of Police to determine the National Policing Policy (section 206 of the Constitution of the Republic of South Africa, 1996) and overall execution of the department mandate of the police in the community. Furthermore, the SAPS is responsible for preventing, combating and investigating any crime. In the execution of its constitutional mandate, the SAPS derive its powers and functions from the key legislations. The correct execution of the mentioned laws of general application on appendix 6 will lead to the respect and protection of human rights by the police officials in the Republic of South Africa.

1.5 The aim and objectives of the study

The citizens of South Africa, having been exposed to many incidences of perceived human rights abuses, started to question the way the police are trained at their academies. This gave rise to the research question: “Are police officials in the SAPS properly trained to adhere to the principles regarding the protection of human rights?”. The aim of the study is to conduct an analysis of human rights training in the SAPS. To achieve this, the following objectives will guide the study: To

- Determine the scope of human rights training in the SAPS;
- Identify international best practices in human rights training;
- Ascertain best practices for human rights training in the SAPS;
- Recommend ways to improve human rights training in the SAPS

1.6 Summary

In this chapter the researcher gave an introduction to the role of the police in our community. Human rights are explained with reference to the UN; and the need and importance of protecting human rights by the police and the community is discussed. The motivation to conduct this research is explicated. The objectives of the research, the code of ethics for researchers and the dimensions of the study are explained, as well as steps taken to protect the trustworthiness of the data. In the following chapter the researcher will discuss the regulatory framework of human rights training.

CHAPTER 2: THE REGULATORY FRAMEWORK OF HUMAN RIGHTS TRAINING

2.1 Introduction

The training of human rights must be based on legal principles. According to Amnesty International (2002), the application of international human rights treaties, in which international human rights agreements can have the force of law in national powers. Some Constitutions allow direct application upon ratification by states, while others may require incorporation through national legislation. Furthermore, the international obligations of countries may be directly enforceable in national courts from the moment they are ratified. The Constitutions of South Africa, Namibia and Angola allow national courts to apply international law directly in their rulings, while in other countries, legislation may need to be passed to give international obligations the force of law, which can result in delays in applying international standards and may hamper international scrutiny of countries conduct (Amnesty International, 2002). On the other hand, under the Zimbabwean Constitution, an act of parliament is required to incorporate international standards into national law (Amnesty International, 2002).

In this chapter on the regulatory framework of human rights training, the following aspects will be discussed: an overview of the South African Constitution, the SAPS Act 68/1995, and the National Qualification Framework (NQF) prescription on human rights training and the SAPS basic training guidelines on human rights training. The information contained in this chapter the gives an overview of the modules and the registered and non-registered unit standards presented to the trainees at the SAPS basic training academies.

2.2 Objective of human rights training programmes

The UN Office of the High Commissioner for Human Rights Centre (OHCHRC) (UN, 2000) states that the human rights training should be grounded in clearly articulated objectives. The High Commissioner gives the following three basic objectives that should form part of the foundation of the learning programme and reflect the needs of the participants. The objectives are explained as follows:

- **To receive information and knowledge** of what human rights and humanitarian standards are and what they mean for the work of the trainees in their professions.
- **To acquire or reinforce skills** so that the functions and duties of the professional group can be fulfilled effectively with due respect and regard for human rights. The OHCHR argues that simple knowledge of standards is not enough to enable trainees to transfer these rules into appropriate professional behaviour. The achievement of skills should be viewed as a process whereby skills are perfected through practice and application, and the process may need to be continued in line with the training needs identified in specific areas of the participants' work, and it must be done through proper tailored follow-up programmes.
- **To become sensitized by undergoing a change in negative attitudes, to reinforce positive attitudes and behaviour**, so that the participants accept or continue to accept the need to promote and protect human rights through their work and in the rest of their profession (UN, 2000).

In addition, Sloman (1999:225) states that training objectives serve to assist staff in maintaining high standards of professional and technical competencies and to keep them updated on knowledge and information necessary for the successful execution of their jobs. Furthermore, Phillip (1996:65) states that training can be divided into four categories. Firstly, basic knowledge is the training that is intended to make a long-term contribution to a workers' standard of life and this type of training often deals with subjects that seem far away from immediate work problems. Secondly, applied training usually involves learning skills and knowledge that are immediately applicable to an employee's current function. Thirdly, workshops are the short-term practical learning that is immediately applicable to the work place and lastly, seminars are used to allow people from different spheres to come together and share information with the aim of getting solutions.

The above sources clearly indicate that a training objective is the process that entails entrenching knowledge and skills by the trainer to the trainees, as they are less familiar with the relevant requirements (Phillip 1996:65).

2.3 Overview of the South African Constitution

South Africa did not have a Constitution prior to 1994, which left room for the multiple human rights abuses that characterized the Apartheid era. Relief was brought by the Constitution of the Republic of South Africa, 1996, incorporating the Interim Constitution (Act 200 of 1993), which brought with it a new democratic order. Chapter 2 of the Constitution contains the Bill of Rights which has made significant impacts on human rights and policing in South Africa. Moodley is supported by Currie and De Waal (2005:2) that the interim Constitution came into effect 27 April 1994. It brought a number of fundamental changes, linked administrative and public rights given to all citizens of the country irrespective of their race and gender. It also brought to an end the racially-qualified constitutional order that had accompanied 300 years of colonialism, segregation and apartheid.

Mubangizi (2004:50) states that the word Constitution is used in two different settings according to the 1996 South African Constitution, by describing the word 'constitution' in an abstract context that refers to the system of law, customs and conventions which define the composition and the authority of organs of the state and facilitates the relations of the various state organs to one another and the members of the public. Furthermore, the word 'constitution' in a concrete context refers to a document which sets out the distribution of powers between the principal functions of government state organs (Mubangizi 2004:50). Longman supports this by adding that a Constitution is a set of basic laws and principles by which a country or organization is governed (Longman, 2009).

Internationally, a Constitution can be a written formal document of laws or unwritten with no formal laws, but based on customs, tradition and conventions. Great Britain has an unwritten constitution which includes a diversity of well-established customs and treaties

by which the country is governed. On the other hand, South Africa and other nations use a printed constitution which lays down, in the form of a written representation, which are the most important laws of a country. South Africa sets out the following in the Constitution: social values that the people of the country have faith in, structures of government, powers and authority of the government and its organs, rights of the people, relationship between government and residents and some aspects of the affairs between residents (Mubangizi, 2004:50).

The ACHPR (2014) gives directives that for the rights of an arrested person, he/she shall be afforded the following rights: (a) the right to be free from torture, cruelty, inhuman treatment, degrading treatment and punishment, (b) the right to be informed of the reasons for his/her arrest and any charges against him/her (c) the right to silence and freedom from self-incrimination and (d) the right of access, without delay, to a lawyer of his/ her choice, or if the person cannot afford a lawyer, to a lawyer or other legal service provider, provided by the state or non-state institutions (ACHPR, 2014). This is supported by the Constitution of the Republic of South Africa, 1996, as it guarantees and protects the rights of the arrested, detained and accused persons under section 35(1)-(3) (Constitution of the RSA, 1996:16). The researcher focused on section 35(1) and 35(2), and the rights mentioned below:

35(1) everyone who is arrested for allegedly committing an offence has the right:-

- (a) To remain silent
- (b) To be informed to remain silent, and (i) of the right to remain silent, (ii) of the consequence of not remaining silent
- (c) Not to be compelled to make any confession or admission that could be used in evidence against that person
- (d) To be brought before a court as soon as reasonably possible, but not later than-(i) 48 hours after the arrest, (ii) the end of the first court expires of the 48 hours, if the 48 hours expires outside ordinary court hours or on a day which is not an ordinary court day

- (e) At the first court appearance after being arrested, to be charged or to be informed of the reason for the detention to continue or be released
- (f) To be released from detention if the interests of justice permit, subject to reasonable conditions.

The ACHPR (2014) furthermore provides guidelines on the conditions and rights under which detained person(s) must be kept in police custody. Detained person(s) have the following rights:

- The right to humane and hygienic conditions during the arrest period, including adequate water, food, sanitation, accommodation and rest, as appropriate, considering the time spent in police custody.
- The right to contact and access to a family member or another person of their choice, and if relevant, consular authorities or an embassy.
- The right to urgent medical assistance, to request and receive a medical examination and to obtain access to existing medical facilities.
- The right to information in accessible formats, and the right to an interpreter.
- The right to apply for release on bail or bond pending investigation or questioning by an investigating authority and/or appearance in court.
- The right to challenge promptly the lawfulness of their arrest before a competent judicial authority.
- The right to freely access complaints and oversight mechanisms.
- The right to reasonable accommodation which ensures equal access to substantive and procedural rights for persons with disabilities.

South Africa as a member state of the African Union has an obligation in the Constitution of the Republic of South Africa, 1996 to support the AU. Chapter 2 of the Constitution under section 35(2) states that everyone who is detained, including every sentenced prisoner, shall have the following rights:

- (a) To be informed promptly of the reason for being detained*
- (b) To choose, and to consult with, a legal practitioner, and to be informed of this right promptly*
- (c) To have a legal practitioner assigned to the detained person by the state and at state expense, if substantial injustice would otherwise result, and to be informed of this right promptly*
- (d) To challenge the lawfulness of the detention in person before a court and, if the detention is unlawful, to be released*
- (e) To conditions of detention that are consistent with human dignity, including at least exercise and the provision, at state expense, of adequate accommodation, nutrition, reading material and medical treatment*
- (f) To communicate with, and be visited by, that person's (i) spouse or partner, (ii) next of kin, (iii) chosen religious counselor and (iv) chosen medical practitioner.*

South Africa is one of the countries on the African Continent which has a liberated Constitution. South Africa is the only country on the African Continent where ordinary South Africans can challenge the Constitution through the Constitutional Court, should they feel that any of their constitutional rights have been violated by anyone (Constitution of the Republic of South Africa, 1996).

2.4 The South African Police Service Act (Act 68/1995)

The researcher will discuss the SAPS Act 68/1995, as the SAPS Act is the corner stone for SAPS members to be able to perform their duties to the best of their ability, with fairness and without discriminating against any member of the community. The researcher will focus on the following: duties and powers of the SAPS, material sources of the South African law and the responsibilities of the SAPS in respect of criminal law. For one to understand police functions, the preamble of the SAPS Act must be understood correctly. The preamble to SAPS Act 68 of 1995 states: Whereas the Constitution of the Republic of South Africa, 1996, requires national Legislation to

provide for the establishment, powers and functions of the SAPS to function in accordance with national policy and the directions of the Cabinet members responsible for policing: whereas there is a need to provide a police service throughout the national territory to:

- (a) Ensure the safety and security of all persons and property in the national territory*
- (b) Uphold and safeguard the fundamental rights of every person as guaranteed by Chapter 3 of the Constitution*
- (c) Ensure cooperation between the service and the communities it serves in the combating of crime*
- (d) Reflect respect for victims of crime and an understanding of their needs*
- (e) Ensure effective civilian supervision over the service.*

Furthermore whereas there is a need to provide for the Directorate in the service that is dedicated to the prevention, investigation and combating of national priority offences, in particular serious organized and transnational crimes, serious commercial crime and serious corruption, and that enjoys adequate independence to enable it to perform its functions. The source points it out that the above preamble was amended and must be read in conjunction with section 20 of SAPS Act 10 of 2012 (SAPS Act, 68 of 1995).

The Amendment of Preamble to Act 68 of 1995, section 20 of SAPS Amendment Act 10 of 2012 makes it clear that the preamble to the principal Act is hereby amended:

(a) By the substitution for the words preceding paragraph (a) of the following words:

- *WHEREAS [section 214 of) the Constitution of the Republic of South Africa, [1993 (Act 200 or 1993)] 1996, requires national legislation to provide for the establishment of powers and functions [and regulation] of [a] the South African Police Service [which shall be structured at both national and provincial levels and shall function under the direction or the national government as well as the various provincial governments] to function in accordance with national policing policy and the directions of the Cabinet member responsible for policing; [AND)*

WHEREAS there is a need to provide a police service throughout the national territory to, and

(b) By the insertion after paragraph (e) of the following:

- *WHEREAS there is a need to provide for a Directorate in the Service that is dedicated to the prevention, investigation and combating of national priority offences, in particular serious organized and transnational crime, serious commercial crime and serious corruption, and that enjoys adequate independence to enable it to perform its functions.(SAPS Amendment Act 10 of 2012).*

2.4.1 Duties and powers of the SAPS

The Constitution of the Republic of South Africa, 1996 as adopted on 8 May 1996 and amended on 11 October 1996 is the basis/ foundation to all the policies in the Republic of South Africa (RSA). Section 205(3) of the Constitution outlines the primary objectives of the South African Police Services as to prevent crime, combat and investigate crime, to maintain public order, to protect and secure South Africa's inhabitants and their property and uphold and enforce the law. SAPS derive its powers and duties from the law. The law does not only afford powers and duties to the organization or persons, but also prohibits certain kinds of conduct such as murder or theft (Constitution of the Republic of South Africa, 1996).

In order to understand the duties and powers of the police, one must understand the difference between human rights and policing rights. The Constitution outlines the objectives of the SAPS in terms of section 205(3) as the powers of the SAPS. Any rights entrenched in the Bill of Rights must not be violated. All the inhabitants of the country enjoy the rights that are protected under chapter 2 of the Constitution, such as right to equality, right to human dignity, right to life, right to privacy, right to freedom and security, right to freedom of expression. The Bill of Rights confines itself to regulating the vertical relationship between individuals and the state, but the state has more power

than individuals as it has monopoly on the legitimate use of force (Currie & de Waal, 2005:43).

Police powers can limit the rights of any individual as allowed by section 36(1) which states that the rights in the Bill of Rights may be limited only in terms of the law of general application to the extent that the limitation is reasonable and justifiable in an open and democratic society based on human dignity. Furthermore the necessity of the limitation clause is to work as a reminder that the rights enshrined in the Bill of Rights are not absolute (Nel & Bezuidenout, 2003:105). For example, one has a right to freedom of movement but this right can be limited by the police by arresting the person to secure his or her attendance in court, which is allowed by the law of general application which is the Criminal Procedure Act (51 of 1977) section 40, if the person is reasonably suspected of having committed an offence referred to in the First Schedule, other than offence of escaping from lawful custody (Bekker, Geldenhuys, Joubert, Swanepoel, Terblanch, van der Merwe & van Rooyen, 2001:98).

The SAPS (2011) provides the following laws of general applications for police officials in the Constitution that allow officials to perform searches and seizure:

	Criminal Procedure Act 51 of 1977
Sect 22(a)	To search any person, container or premises without a warrant if the relevant person consents to the search.
Sect 22(b)	To search any person, container or premises without a warrant if the member on reasonable grounds believes that a search warrant will be issued and that the delay in obtaining such warrant would defeat the object of the search.
Sect 23	To search an arrested person without a warrant.
Sect 25(3)	To search premises or any person in or upon the premises without a warrant if the member on reasonable grounds believes that a search warrant will be issued and that the delay in obtaining such warrant would defeat the object of the search
	SAPS Act 68 of 1995

Sect 13(a)	To search, without a search warrant, any person, premises, other places, vehicle, vessel or aircraft or any receptacle of whatever nature within 10 kilometers or any reasonable distance from any border between the Republic and any foreign state, or in the territorial waters of the Republic or inside the Republic within 10 kilometers or any reasonable distance from such territorial waters, or at any airport, where it is reasonable necessary for the purpose of control over the illegal movement of people or goods across the border of the Republic.
Sect 13(7)	To search, without a warrant, any person, premises or vehicle, or any receptacle or object of whatever nature within an area cordoned off in accordance with the written authorization of the National or Provincial Commissioner.

There are other laws of general application in the Constitution to be applied by police officials when it comes to searching, namely, Stock Theft Act 57 of 1959 section 9(2); Firearm Control Act 60 of 2000 section 104 and 110; Liquor Act 59 of 2003 section and Drug and Trafficking Act 140 of 1992 section 11(1). The principles of legality, necessity and proportionality should always be taken into consideration when searching any person or premises (SAPS, 2011).

2.4.2 Material sources of the South African Law

The material sources of the South African law consist of the common law, statutory law and case law. Common law is the inherited, unwritten law of South Africa such as the prohibition against killing another human being. The statutory law is embodied in the legal rules that govern the society such as SAPS Act 68/1995 that guides police conduct; for example it will allow the police service to conduct roadblocks and it prevents members from becoming active participants in politics (SAPS, 2010). Case laws concern the decisions of the courts which interpret both common law and statutory law and which may declare certain conduct and/or Acts invalid (SAPS, 2010).

In the national sphere of government, the legislative power of the Republic is vested in Parliament, which means that Parliament is responsible for making and passing laws. The laws passed by Parliament can be interpreted, protected and enforced by different courts in South Africa (SA) of which the Constitutional Court is the highest court of the land. The General of the police can give directives in respect of his/her line-function of responsibilities such as the National Instruction to members of the service, as he/she has the powers to do so. Any conduct outside the mandate of the law is unlawful and may, on the facts available, constitute a crime, misconduct or unethical conduct for the SAPS. The individual member can incur liability in terms of the Disciplinary Regulations (SAPS, 2010).

2.4.3 Responsibility of the SAPS in respect of the Criminal law

Section 199 of the Constitution provides for the establishment of security services of the Republic, including a single police service. This is done in line with the requirements contained in the Constitution that the SAPS be established and be regulated by an Act of Parliament. The former Police Act 1861 was repealed by the new SAPS Act 68 of 1995 (Joubert, 2015:14). Joubert (2015:15) states that there are three important aspects regarding the responsibilities of the SAPS: powers, duties and functions of members, regulations and orders and instructions.

2.4.3.1 Powers, duties and functions of member

Saps Act 68 of 1995 outlines police powers, duties and functions as stated under section 13 of the Act. There are two important aspects to be noted by members of the SAPS: the rights of members as individuals and reasonableness. Section 13(1), under the rights of members, allows police members to execute their duties using all the powers given to them by the Constitution, but it also warns members that in the execution of their duties, it should be done subject to the Constitution and with due regard to the fundamental rights of our citizens. Members applying their powers in the correct manner will be able to minimize the harsh effects of policing powers. Reasonableness, as stated under section 13(3), makes provisions for the reasonable

measure of the action. Under paragraph (a), members must perform official duties with regards to their powers and functions in a manner that is reasonable in the circumstances. Paragraph (b) gives police officials, authorized by law, permission to use only minimum force which is reasonable in the circumstances in performing their official duties (Joubert, 2015:15).

Although police members are given powers to perform their duties and police officers are expected to exercise those powers taking into consideration the human rights of the community they are serving which means that they must act in the least intrusive manner.

2.4.3.2 Regulations

SAPS Act 68 of 1995 gives the Minister of Police the powers under section 24(1) to make regulations regarding various aspects in the organization such as recruitment, promotions and transfers of members, general management of the services, labour relations and discipline. Such regulations will be regarded as an extension of the provisions of the Act (Joubert, 2015:17). Furthermore, according to Chapter 2 part 1(7) of Gazette no 31412, the Minister instructs officers not to violate human rights by regulating the relationship between members and the community. Members should not unfairly discriminate against any member of the public on account of race, gender, ethnic or social origin, colour, sexual orientation, age, disability, religion, political persuasion, conscience, belief, culture or language and should respect and protect the dignity of every person and his/ her rights, as contained in the Constitution when performing their duties (Government printers: Gazette no 31412).

2.4.3.3 National Instructions (NI)

The SAPS Act authorizes the National Police Commissioner under section 25 of the Act to issue National Instructions (NI) and Orders with regards to matters which fall within his/her area of responsibility, or orders that are conducive to ensuring that an impartial, accountable, transparent and efficient police service is maintained, to provide one standard for policing at all levels. The section is also extended to the Provincial

Commissioners to issue provincial orders and instructions that will affect members under their jurisdiction. The orders must be consistent with SAPS Act 68 of 1995 and instructions issued by the General (Joubert, 2015:17).

The researcher is a member of the SAPS and can confirm that there are many national instructions issued by the General to senior and middle management as well as members on the lower level each year. The National Instruction (NI) 7/1999 (Domestic Violence), NI 4/2014 (Crowd management during public gatherings and demonstrations) are specific guidelines to members so that members know what is expected of them in the execution of their duties so that the human rights of the community are not violated. The NI was issued because the majority of the members do not familiarize themselves with the continuous changes or amendments in our Constitution.

2.4.3.4 Code of Conduct for the SAPS

The code of conduct for the SAPS was issued by the Minister of Police, formerly known as the Minister of Safety and Security and published in the Government Gazette in 1997 (SAPS, 2010) further supported by Joubert (2015:17). Every new member, when accepting an appointment in the SAPS under the SAPS Act, must sign the Code of Conduct. According to SAPS (2010) members commit themselves to the following:

To creating a safe and secure environment for all people in South Africa by: participating in endeavours aimed at addressing the cause of crime, preventing all acts which may threaten the safety or security of any community and investigating criminal conduct which endangers the safety or security of the community and bringing the perpetrators to justice. In carrying out this commitment, they shall at all times: uphold the Constitution and the law, take into account the needs of the community, recognize the needs of the SAPS as the employer and cooperate with all interested parties in the community and the government at every level. In order to achieve a safe and secure environment for all the people of RSA they undertake to: act with integrity in rendering an effective service of a high standard which is accessible to everybody, and continuously strive towards improving the service.

To utilizing all available resources responsibly, efficiently and cost-effectively to optimize their use, develop the skills and contribute towards the development of the colleagues to ensure equal opportunities for all and to the contribution to the construction, development of and reconciliation in the country. To uphold and protect the fundamental rights of every person, exercise the powers conferred upon them in a responsible and controlled manner, and work toward preventing any form of corruption and bringing the perpetrator to justice (SAPS, 2010). Note should be taken that all police officials are bound by the provision of the Code of Conduct of SAPS and police officials who contravene the Code of Conduct are guilty of misconduct in terms of Regulation 5(3)(u) of the SAPS Discipline Regulations promulgated by the Minister of Police in 2016-11-01.

The above emphasizes the fact that SAPS Act 68 of 1995 is the cornerstone of the SAPS. Not only is it the cornerstone, but it outlines the mandate, responsibilities, regulations, duties and the powers vested in the officers by the Constitution, so as to ensure that the officers will not claim ignorance of the stipulations laid down in the Constitution.

2.5 The National Qualification Framework (NQF) prescriptions on human rights training

The National Qualification Framework (NQF) is a structure created by law to organize and classify qualifications and standards in South Africa. The idea of a national qualification system did not originate in South Africa and South Africa adopted it from other countries. The competency-based movement and criteria-reference movement came up with the concept of using standards to describe a set of competencies and combining them into a qualification (Van Rooyen, 2004:2).

The aim of the NQF is to accommodate all recognized qualifications in RSA, for those taught at school or university, as well as those acquired through on-the-job training. The concept is based on international support and is considered as a crucial component of the government's post-apartheid reform strategy for the country's education and training

system (Jewison, 2008:9). Furthermore, Van Rooyen (2004:2) states that it is designed to promote easy access for learners, recognize learning achievements through informal and formal means, help people gain nationally recognized and portable (transferable) skills. It helps in identifying capabilities needed to do work, as well in identifying current skills gaps in order to develop training programmes. It provides an overview of capabilities needed in a profession, provides employees with access to a career path, provides better integration of on-the-job and off-the-job learning and improves Recognition of Prior Learning (RPL).

There are certain principles that guide the development of education and training in RSA after 1994, including the needs for RPL, portability of qualifications, equity, quality and improved access to the system. These principles were developed to redress the previous education system that was fragmented by racial and ethnic divisions.

According to Jewison (2008:13) the principles are as follows:

- A central role for the state in the provision of education and training.
- The role for education and training in a comprehensive reconstruction and development programme,
- Provision of incentives to ensure that employers train their workers,
- Democratic participation of stakeholders,
- Provisions for redress for previously disadvantaged groups,
- Horizontal and vertical mobility and access between different types of education and training,
- Setting national standards for certifying learning, including prior learning.
- Education to support the development of democracy and democratic culture.

The SAPS has basic training academies in the country for the training of new recruits. However there are also Provincial Training Centre's in all nine Provinces to train the members beyond the basic training by presenting courses, refresher courses and workshops.

The NQF is overseen by South African Qualification Authority (SAQA) which is in turn overseen by the Ministers of Education and Labour. The SAQA Board consists of 28 members that represent a wide range of stakeholders that report to parliament (Van Rooyen 2004:6). Moodley (2009:77), on the other hand states that SAQA Board consists of 29 members who are appointed by the Minister. The researcher notes that there is a difference in board numbers between Van Rooyen and Moodley. Furthermore SAQA (2000:3) supports Moodley (2009) and further states that the 29 members are appointed for a period of three years. According to the Higher Education Laws Amendment Act 26 of 2010 which came into effect from 7 December 2010 to amend NQF Act 67 of 2008 the SQAQ Board should consist of 12 members, appointed in their personal capacities by the Minister. There are two main functions of SAQA, which are to advance the objectives of the NQF according to paragraph (a) to (n) and to submit, on or before 30 June of each year, an annual report to the Ministerort which includes the financial statements and audit reports (HELA Act, 26 of 2010).

2.6 SAPS basic training guidelines on human rights training

In this section the researcher will look into the unit standards presented at the SAPS Basic Training Academies in the country. The purpose is to determine to what extent basic training prepares the trainees not to violate the human rights of citizens. The unit standards presented at the academy will not be discussed in detail, but only a brief summary will be provided. New recruits at Tshwane SAPS academy are trained in the National Certificate: Policing SAQA Qualification ID 50122 (SAPS, 2009). The purpose and rationale of this qualification is that qualifying learners are capable of using a series of legal and policing skills to protect and serve members of community in accordance with the Constitution of South Africa. This will allow the learners to provide a more effective service that will improve community satisfaction and position them to fulfill their mission of creating a safe and secure environment for all who live in South Africa (SAPS, 2009).

SAQA is supported by UNISA (2014) by stating that qualifications require a certain number of credits, which are broken down into smaller units. Credits are the notional

study hours required for achieving the learning outcomes and notional hours include study time, assignments and examinations. The credit rating system rates 10 notional hours equivalent to one credit. UNISA further gives an example as follows: a Higher Certificate has 120 credits consisting of a 10 x 12 credit modules. A module consisting of 12 credits equates to 120 notional hours and requires at least 8 hours of study per week in a 15-week semester.

The National Certificate in Policing with **SAQA ID 50122** for trainees at SAPS Academies consists of different unit standards which are grouped together according to learning area 1 to learning area 6 as follows:

- Learning area 1: Orientation to SAPS
- Learning area 2: Law
- Learning area 3: Community Services Centre
- Learning area 4: Crime Investigation
- Learning area 5: Crime Prevention
- Learning area 6: Street Survival

The learning areas 1 to 6 cover all the unit standards for the trainees to be found competent for the qualification of SAQA ID 50122 in the National Certificate: Policing.

2.6.1 Learning area 1: Orientation to SAPS

Learning area 1 consists of module 1 to module 5 of orientation to SAPS. Module 1 focuses on professional conduct. The trainee's learner's guide is SAQA Unit Standard (US) **ID 120476** with Unit Standard Title (UST) "Conduct oneself in a professional manner" and SAQA US **ID 119342** with UST "Apply knowledge of ethical principles, standard and professional conduct: Under the US **ID 120476** the specific outcomes are as follows:

- Demonstrate understanding of the culture of the organization.
- Apply customer service principles.
- Demonstrate the ability to execute group marching activity.

- Demonstrate the ability to use physical techniques in order to execute functions.

Under the US ID 119342 the specific outcomes are as follows:

- Explain the core ethical values and standards which apply to the public sector.
- Outline ethical values and standards contained in legislation and codes which are relevant to the conduct of employees in the public sector.
- Describe areas of ethical conflict for public sector employees.
- Explain the importance of ethical values and standards in relation to the public sector workplace.
- Discuss the relevance of established professional ethics and codes of conduct in public sector administration.

Chapter 1 of the module provides the purpose of the module, as it aims at providing trainees with the background knowledge on the regulatory framework that governs behaviour in the SAPS. It further expects that trainees will be sensitized and develop the knowledge, skills and attitudes which will be required for their actions as proud members of the SAPS. Citizens of the country expect to be provided with a professional service by the members of the SAPS because non-professional behaviour by SAPS members detracts from the required service delivery to the nation, and if non-professionalism occurs, the nation experiences the SAPS as an ineffective institution and lose trust in the SAPS. The professional behaviour of SAPS members is prescribed and regulated by the organizational regulatory framework (Constitution of the Republic of South Africa, 1996, the Police Act 68 of 1995, the Police Service Amendment Act 57 of 2008, rules, procedures, National Instruction etc.).

This chapter further states that the behaviour is mandated by the highest law of the country, particularly Chapter 11: Security Services, section 205 (Police Services), section 206 (political responsibility) and section 207 (Control of the Police services), Constitution of the Republic of South Africa 1996 as adopted on 8 May 1996 and amended on 11 October 1996 by the Constitutional Assembly. This Constitution was drafted in terms of Chapter 5 of the interim Constitution Act 200 of 1993 and was first

adopted by the Constitutional Court, delivered on 6 September 1996; and the text was subsequently referred back to the Constitutional Assembly for reconsideration. The text was accordingly amended to comply with the Constitutional Principles contained in Schedule 4 of the interim Constitution, and it was signed into law on 10 December 1996. The responsibilities of SAPS are supported by Section 205 of the Constitution by giving the objectives of the SAPS as follows, namely, to prevent, combat and investigate crime, to maintain public order, to protect and secure the inhabitants of the Republic and their property, and to uphold and enforce the law.

The module further informs the trainees that as the employees of the SAPS they must respect diversity in our community, the people of our country and treat every person with equal respect. In performing their duties, they will always show respect for the cultural and other diversities in the community. They will treat every person with equal respect and honour their rights as inhabitants of South Africa and they will not unlawfully discriminate against any person. Patriotism is not only about the service rendered on national or international level for one's country, but it is about what they know and how much they do, as it goes further than knowledge, it is the respect and passion that a citizen shows toward the national symbols. Socio-economic, political and cultural factors also have an influence on patriotism and the general feeling of inclusion or exclusion from the specific organizational structure. Leaders and management should take this responsibility to ensure that decisions of this nature will not have a negative effect on patriotism.

Trainees are also trained in the avoidance and prevention of corruption. Corruption is defined as the abuse of power for personal gain involving at least two people (SAPS). The abuse of power: members of the SAPS get their "power" from the work they are required to do, and abuse of power occurs when members do the work in irregular or wrong ways, such as doing something wrong: for example, removing of key evidence from the SAPS 13 store (store means a strong room or walk in safe where evidence is kept at the Police Station) or not doing something: for example, allowing a suspect who should have been arrested to flee the scene. Personal gain is when member received something that has monetary value, this could be money, tickets to a sporting events, a

box of chocolates, for not doing something or doing something wrong that will be to the benefit of the person offering the item of monetary value.

The involvement of at least two people is needed for corruption to take place. There is the person abusing the power by doing or not doing something linked to their work. The second person is the person who benefits from the abuse of power and who gives something of value in return. If a case of corruption is opened, both people will be charged in terms of the Prevention and Combating of Corrupt Activities Act and both the corruptee and the corruptor will be charged and face either a fine or a jail sentence or both.

Module 2 does not have registered SAQA ID Unit standard, but only has an organizational standard number 119567. In the unit standard title the trainees are required to perform basic life support and first aid procedures. The purpose of this unit standard is for trainees to assess an emergency situation and provide basic life support and basic first aid to stabilize patients prior to transfer to emergency services. The specific outcomes of unit standard enable the trainees to:

- Demonstrate an understanding of emergency scene management,
- Demonstrate an understanding of elementary anatomy and physiology,
- Assess an emergency situation,
- Apply first aid procedures in a life-threatening situation,
- Treat common injuries.

The general public accepts that police officials will be able to help them in all kinds of situations. This 'help' ranges from crime investigation to trauma councilor and first aider. The public wants members' help, not only to investigate the probable crime, but just as much to care for the injured until qualified assistance arrives. The risk of injury on duty is very real. Note needs to be taken that some risks are higher than others, but all members are at risk. Trainees are trained to provide basic first aid to their colleagues until the Emergency Services (EMS) arrives.

First Aid is the skilled application of acceptable principles of treatment by a trained First Aid officer/person on the occurrence of any injury or sudden illness, using facilities and materials available at the specific time. Trainees are reminded to check for their own safety first and then the safety of the casualty, as an unsafe First Aider is a dead aider. The aim of first aid treatment is to preserve life, to prevent the condition from worsening and to promote recovery.

The responsibilities of the First Aider are very important as they will require a member to do the following steps:

- Assess the situation,
- Identify the disease or condition from which the casualty is suffering (diagnosis),
- Give immediate, appropriate and adequate treatment. One should bear in mind that a casualty may have more than one injury and that some casualties will require more urgent attention than others,
- Arrange, without delay, for the casualty to be taken to a doctor, a hospital or according to the seriousness of the casualty's condition,
- Member must not leave the scene until a report has been made and handed over to whoever is taking charge.

Trainees are reminded that their responsibility only ends when the casualty is handed over to professional help such as a doctor, a nurse or ambulance personnel. The learning area 1 module 3 is Drill, SAQA US ID **120476**, and the US Title adheres to professional conduct and organizational ethics. The purpose of the unit standard is for trainees in an organizational environment which dictates that trainees will be judged by the way and manner in which they act. The specific outcomes of the unit standard are that the trainees will be able to:

- Demonstrate understanding of the culture of the organization,
- Apply customer service principles.
- Demonstrate the ability to execute group marching activities,

- Demonstrate the ability to use physical techniques in order to execute functions.

The purpose of the drill is to develop in each and every police member the sense of instinctive obedience that will assist them at all times to carry out their orders. The foundation of discipline is based on the drill. Good drill, well-rehearsed, closely supervised, demanding the highest precision, is an exercise in obedience and alertness. It sets the standard for the execution of their duties, working as an individual or as the team. It builds that sense of confidence amongst members and their commanders which leads to essential morale boost.

The drill of high standard is not taught on the parade ground rehearsing for ceremonial occasions, but needs to be part of a police member's daily activity. It is the constant duty of those in command to insist on the standard they know to be right under all circumstances, both on and off parade. Once an idle action or bad turnout is allowed to pass, whether during the training stage or later, the standard is lowered and further bad habits will follow. The researcher believes that it is the responsibility of all members to observe the protocol without being monitored by commanders. The objective of drill contributes positively towards: introducing trainees to police culture, developing a sense of pride in wearing uniform in a professional manner, to promote the SAPS within the community, awareness of expectations and demands of the highest standard of precision by the SAPS and awareness that the highest standard of obedience and alertness is not negotiable in the SAPS.

It is of utmost importance that the new recruits be given the theoretical and practical orientation to the SAPS so that the recruits can understand the culture of the organization and that is where discipline starts. The salute and complements in all spheres of ranks in the SAPS is a top priority to members to display respect.

2.6.2 Learning area 2: Law

Learning area 2 consists of module 1 to module 4 of law within the criminal justice systems. Module 1 focuses on the functioning of the criminal justice system and has no

registered SAQA unit standard number. Chapter 1 teaches the recruits about the functioning and responsibilities of role players within the Criminal Justice System (CJC) and the departments within the systems. The role of the police is to open a criminal case for investigation when a crime has been committed and the arrest of the suspect to appear in a court of law to answer to the allegations against him/her. The role of the Department of Justice is to study the docket once the investigation has been completed by the police, and then decide if there will be any prosecution of the accused, based on the evidence presented to the court. Once the accused is found guilty by a competent court and is sentenced, he/she is now a prisoner and, is sent to the Department of Correctional Services (DCS) where he/she is incarcerated and may undergo a rehabilitation programme for prisoners. Other role players in the CJS such as the Department of Health (medical practitioners for suspects' examinations or examination of victims in sexual assault cases), the Department of Social Development (DSD) in cases of child offenders or where a child was the victim of a crime, and private institutions for further assistance if the government needs help in any other matter.

Module 2 study unit 1 focuses on the introduction to South African Criminal Law with no registered SAQA unit standard number. This study unit teaches recruits that criminal law consists of all legal rules which stipulate what human conduct is punishable by the state, and the form the punishment should take. The purpose is to ensure the peaceful co-existence of all citizens. It also informs the recruits that there are four elements of crime, namely legality, which means that the act committed must have been prohibited by law at the time of being committed; a criminal act must have been performed by a human being; unlawfulness states that an act must be unlawful and if it contravenes a statutory provision or a common law rule, or if it conflicts with the general public's legal convictions; and culpability also known as "mens rea" which refers to the blameworthy state of mind, where the suspect action is unlawful and he/she is fully aware of that fact but carries through with the act.

Study unit 2 focuses on the introduction to specific crimes with **SAQA US ID 120484**. The recruits are trained to demonstrate understanding of the principles in common law

and statutory law offences, where the trainees must be able to determine whether a crime has been committed using the four elements of crime.

Study unit 3 focuses on Domestic Violence (DV) with **SAQA US ID 120488**. The trainees are expected to attend to and handle a DV Incident in line with the requirements as set out in the DV Act 116 of 1998. Module 3 has no registration SAQA unit standard ID and focuses on the role of the Constitution and the Bill of Human Rights. The trainees are trained on the Constitution of the country, its background history and the purpose of the Constitution, as well as the importance of applying the law of general application, namely the Criminal Procedure Act 51 of 1977 when applying the limitation clause. Module 4, also with no registration SAQA US ID number focuses on the law of evidence, and the trainees are trained the provisions of the Constitution, case laws, principles of effective testifying in court, guidelines on improving the relationship between the investigating officer and visible policing, refreshing of memory during trial, the witness's role in court and cross-examination during trial.

The trainees at the academies are also being trained in sexual offences legislation, in which they are taught about the objectives of the act, sexual offences such as rape and compelled rape, sexual offences against children such as consensual sexual act with certain children and sexual offences against people who are mentally disabled. The trainees are also trained in the services for victims and Human Immunodeficiency Virus (HIV) testing of offenders and are also informed about the National Register for sex offenders. The trainees are also provided with the National Instruction 3/2008 for sexual offences as a guideline when performing their duties.

The researcher believes that no one can call oneself a law enforcement officer if one does not know the law. Learning area 2 is very important to the trainees at the academies as they will be enforcing the law. Sound knowledge of the law is essential to enforce it.

2.6.3 Learning area 3: Community Service Centre (CSC)

The trainees in this learning area are trained about the CSC. A brief summary of the following unit standard ID no: 120482, 120485 and 120478 follows. US ID no: **120482** is aimed at learners in the field of law enforcement who manage a CSC in a policing environment so that they know what their duties are in the CSC. The CSC is normally known as the heart of the SAPS because in the majority of instances the first contact the community will have with the SAPS members is in the CSC, as community members are entitled to professional service, as commanded by the Constitution.

The purpose of US ID no: **120485** is for learners in the law enforcement environment to know how to receive and handle complaints and improve services delivery which is a high priority of the SAPS. The public deserves the best service that the police can offer. The SAPS has to deal with the public professionally and efficiently. A person visiting the CSC may want information or report a crime. Learners are not given any specific guidelines on how to deal with a complainant when laying a complaint, but important guidelines on how to deal with complainants and complaints they will encounter while on duty are given.

The purpose of US ID no: **120478** is for learners in the law enforcement environment to learn to manage the apprehension and detention of person in custody in a policing environment after being arrested by the police or a private person who subsequently handed the suspect to the police. The suspect will be under direct control of the SAPS.

There are procedures to be followed relating to people in police custody. The procedures are laid down in the Acts and SAPS National Instruction, regulations, standing orders (G) and organizational standard. If a member fails to comply with the procedures, the criminal case against an offender can be jeopardized and the member can be charged departmental or criminally or both, because such failure may result in a civil claim being instituted against the SAPS and the member concerned. All the procedures must be in line with section 35 of the Constitution.

The researcher also perused the source book given to trainees at the academies, which contain all the different forms and registers that must be available in the CSC, namely SAPS 10 (Occurrence book), SAPS 5 (Investigation dairy), SAPS 70 (Medical treatment of an arrested person), SAPS 14A (Constitutional rights), SAPS 14 (Custody register), SAPS 13 (Exhibit register), SAPS 76 (Fingerprint form), SAPS 132(b) (Vehicle register), SAPS 206 (Pocket book). There are many more registers that are used in the SAPS. The CSC is known as the heart of SAPS, and when one works in the CSC one must familiarize oneself with the registers that are used in the organization so that t the CSC can operate efficiently.

2.6.4 Learning Area 4: Crime Investigations.

Learning area 4 deals with crime investigation at the crime scene. It consists of six modules and it has registered unit standards with SAQA US ID no: **120483 and 11990**. In US ID no: 120483 trainees are introduced to conducting preliminary investigations at the crime scene. US ID no: 11990 trains them to take fingerprints, and/or palm and sole prints of persons for identification purposes. The US ID no: 120483 deals with four of the modules (1 to 4). Trainees, on the completion of Module 1 are expected to explain the principles of crime investigation, apply observation skills at the scene of crime, cordon off a crime scene, identify relevant methods to secure, control and protect the scene, record relevant information that can be used as evidence, record relevant information about persons at the crime scene, identify clues at the crime scene, identify the nature of the crime scene, identify methods to secure the crime scene, secure exhibits at the crime scene, identify role-players at the scene of crime, explain the purpose of interviewing role-players at the scene of the crime, deal with persons at the crime scene, search a crime scene, evaluate information obtained at the crime scene, explain the guarding of the crime scene, implement crime scene processes and take precautionary steps when handling bodies at crime scene.

The researcher believes that this is the most important learning area, as all members of the SAPS are expected to conduct preliminary investigations on arrival at any crime scene so that valuable clues and evidence can be protected by them.

In Module 2 the trainees are trained in victim empowerment and trainees are expected to that, at the successful completion of the module to be equipped with the knowledge, skills and attitude to apply victim support to persons on the scene of the crime.

According to the researcher it is important that the trainees are properly trained to be able to interact with the victims of crime so that they will be sensitive towards the victims.

Module 3 introduces the trainees to interviewing and statement taking from persons. Trainees are trained that interviewing assists in the unlocking of a person's memory in an attempt to obtain information. The memory is retained on different levels in a person's mind and traumatic incidents result in shock which can result in temporary memory loss. Incidents experienced by an individual are stored in the long-term memory and this information can be retrieved through specialized cognitive interviewing skills and techniques.

For trainees to apply these techniques correctly, they must first be able to interact with the victims of crime through victim empowerment, because the trainee will be able to know that on arrival at the scene, the first thing is that the needs of the victim must be addressed before she or he can be interviewed or give information thereof. This interaction will lead to effective statement taking of the trainee from the victim.

Module 4 trains them in docket administration and trainees are expected to open a case docket, record information in the investigation diary, keep the complainant informed of progress of the case, know the difference between evidential and non-evidential documentation to determine where it must be filed in the docket and file/record information under the correct clip of a case docket. The researcher believes that for better docket administration the trainees need to understand the importance of the documents they are working with in the CSC.

Module 5 (US ID no: 11990) deals with taking of fingerprints. In the unit standard the trainees are expected to explain the legislation relating to the taking of fingerprints, like taking fingerprints using an ink metal sheet and the inked cushion methods, identifying

the offences for which palm prints are required, completing the fingerprint form and cleaning equipment after taking fingerprints. At police stations fingerprints are taken at the following offices: detectives, firearm permit office and Professional Driving Permit (PrDP) office. Trainees must be placed in those offices during their field training to learn the techniques of taking fingerprints.

Module 6 is not a registered SAQA US ID and the trainees are trained about the role of crime intelligence and tracking techniques. In this module the trainees are expected to explain the resources for tracing suspects, explain the role of crime intelligence, to follow the procedures when a missing person is reported and to identify the categories of informers. Module 6 supplies trainees with background knowledge about crime intelligence and its significant role in the investigation and resolving of crime. For the trainee to have practical experience, his/her will have to work in Division Crime Intelligence first. It is difficult for trainees to get practical experience whilst still under training, because Division Crime Intelligence requires that members be vetted first and get security clearance before touching any of their files.

The researcher understands that many the cases are lost in a court of law by the SAPS, resulting in criminal cases against the accused being withdrawn or without the accused being prosecuted, which amounts to injustice to the victims of crime. It happens when police officials, because of lack of knowledge and skills. Often contaminate or tamper with crime scenes, resulting in loss of evidence or clues that link the suspect to the crime. Learning area 4 is of high importance to the trainees, as it teaches them basic crime investigation at any crime scene and to be able to protect those clues and evidence until the relevant units arrive to assist.

2.6.5 Learning Area 5: Crime Prevention.

Learning area 5 focuses on crime prevention and is registered with SAQA US ID number **120480**. The title implies a thorough understanding of crime prevention. Learning area 5 consists of four modules all under the same unit standard number.

Module 1 focuses on the introduction to crime prevention for trainees. It provides the trainees with a sound foundation of the individual mandate, obligation and policing authority to exert individual policing duties pro-actively. The crime prevention concept is defined for trainees and it analyses the elements of the crime phenomenon in a very practical way. A shared definition of crime prevention amongst law enforcement officers will ensure the effective operationalization of crime prevention. It equips the trainees with knowledge and skills on different approaches, methods and techniques to address crime problems in communities.

The trainees are given the following definitions: Crime is an anti-social or unlawful act entailing a threat to and a breach or violation of the stability and security of a community and its individual members. A criminal is defined as any person who commits or has a desire to commit a crime, whether found guilty or not, or can be regarded as a criminal. Trainees are informed that this definition is contrary to juridical definitions, as it refers to a person who has a desire to commit a crime. The word desire is added deliberately so that it refers to a potential criminal. A victim can be defined as any person, including the society as a whole, directly or indirectly affected by crime, or who is at risk of being affected by crime (potential victim).

Module 2 is registered with SAQA US ID no: **120479** and the focus is attention on community policing. Provision for community policing is made in chapter 7 of the SAPS Act 1995, and it requires the implementation of community policing and the establishment of Community Police Forums (CPF) and boards on different levels.

The principles of community policing serves as criteria for police officials to ensure that the policing styles and tactics they use are not in conflict with the philosophy (a way of thinking) and strategy (a way to carry out the philosophy). The community policing philosophy rests on the belief that people should have a say in the policing process in exchange for their participation and support. The CPF is defined as a group of people from the police and different communities who meet to discuss problems. It is a place to communicate and solve problems. A CPF is also a way to ensure police accountability, transparency and effectiveness in the community.

In Module 3 the participants are taught about Sector Policing (SP) under the unit standard no: 120479, as SP forms an integral part of community policing. Sector policing refers to policing that focuses on small manageable sectors of a police station area. Sector policing is a method that is primarily aimed at providing a more effective and person-centered service to the community; furthermore it is primarily a crime prevention technique.

Module 4 introduces the participants to crime prevention approaches and techniques. There are three levels of approach to crime prevention namely, primary, secondary and tertiary prevention. Primary prevention identifies conditions of the physical and social environment that provides opportunities for or precipitates criminal acts; secondary prevention engages in early identification of potential offenders and seeks to intervene prior to commission of criminal activity; and tertiary prevention deals with actual offenders and involves intervention in such a fashion that they will not commit further offences.

It is important for participants to understand this entire learning area, as they will be expected to execute their duties alone during their shifts, and this learning area will enable them to think on the spot and be able to anticipate the criminals' next move.

2.6.6 Learning Area 6: Street Survival

This learning area consists of seven modules with different topics that the trainees are taken through, namely: first responder to crowd gatherings, physical fitness, use of force, tactical and street survival techniques, tactical procedure, seven survival principles and basic combat for law enforcement.

Module 1 is not a registered SAQA Unit standard and in this module the trainees are taught about being the first responder to crowd gatherings in the community. The aim of this module is to share subject knowledge for effective crowd management with station personnel or any other member responding first to a scene of a spontaneous gathering. It also provides first responders with sufficient knowledge and skills to contain the situation until trained personnel arrive from Public Order Policing.

Module 2 is not a registered SAQA Unit standard with organizational standard number 432 and organizational standard title: Apply the SAPS wellness and physical fitness concept in a policing environment. The trainees are taught that wellness is an approach to health that comprises personal responsibility, a balanced lifestyle, environment and social awareness and spiritual growth. The emphasis is on a positive lifestyle that encourages people to reach their full potential of optimal wellbeing. This is largely achieved and maintained by properly managing their own lifestyle. Attention must be given to aspects such as physical fitness, adequate nutrition, stress management, control of alcohol intake, avoiding drugs, to stop smoking and weight control management which could all contribute to well-being.

Module 3 focuses on the use of force and it is a registered SAQA unit standard no: **120494**. Trainees are trained to be able to demonstrate understanding of proportionality force. The principle -based approach is the model provided to trainees in the use of force and safety for the day-to-day operational tasks of the police. The principles are, namely, to be alert by adapting a culture of awareness, anticipation and action planning, to follow a safe procedure when approaching, searching or arresting a suspect, to use tactical communication to avoid the need for physical force option, to correctly and effectively use appropriate equipment, to make use of force decisions that comply with constitutional, legal and policy requirements and to function as a member of a cohesive team and ensure structured teamwork in applying tactics and techniques.

Module 4 is a registered unit standard with SAQA ID no: **120477** and focuses on the tactical and street survival techniques where the trainees are expected to demonstrate tactical and street survival techniques skills. In this module the trainees are expected to understand the fundamental principles of tactical and street survival techniques, namely, basic principles, fundamental aspects of tactical movement and the principles of tactical movement.

Module 5 is also registered under SAQA ID no: **120477** in which trainees are expected to demonstrate tactical and street survival techniques. In this module the trainees are trained in different aspects, such as attending to complaints. Trainees are taught that

they must analyze complaints, follow the correct procedure with regards to complaints, the procedure for attending to the complaints and how to withdraw from a complaint. In a hostage or suicide situation they are trained about the responsibilities of the section commander, control of a hostage or suicide situation and tactical considerations.

In dealing with a suspect vehicle the trainees are taught that they must do the profiling of the suspect vehicle, vehicle circulation, identify a suitable area for stopping the vehicle, the suspect vehicle to be approached tactically, to search the suspect vehicle and how to withdraw tactically from the vehicle. Trainees are also taught about the immediate reaction drill when there is a possible ambush position and be able to do counter ambush drills. They are also trained how to conduct roadblocks together with relevant legislations on roadblocks.

Module 6 is not a registered unit standard with SAQA and the trainees are taught about the seven survival principles based on the acronym word PROTECT. The acronym stands for:

P- To follow prescribed **Procedure** or guidelines.

R- To be **Ready** for any emergency by adapting a culture of awareness, anticipation and action planning.

O- To conduct **Offensive** actions that complies with Constitution, legal and policy requirements.

T- To use **Tactical communication** as a cushion that absorbs the need for physical force options.

E- To correctly and effectively use **Equipment**.

C- To take **Control** by following a safe process for defensive or offensive actions.

T- To apply the principles of **Team movement and tactical technique**.

Module 7 is not a registered unit standard with SAQA and trainees are expected to demonstrate physical, defensive, restraining techniques. The emphasis is placed on physical control of complying and non-complying suspects. The participants are trained on pre-violence indicators and the aim is to provide trainees with the knowledge to identify warning signals that can help to avoid becoming a victim of violence. The trainees are also taught about authoritative presence which is aimed at providing the knowledge and techniques of how to project an authoritative presence through their appearance. Verbal judo is aimed at training the trainees to be able to use verbal judo that can be used to persuade suspects to comply with instructions given to them by a police officer.

The survival of the trainees depends on this learning area because it teaches them about critical aspects of how to assess a situation and be able to react accordingly as required by the specific situation. The researcher firmly believes that trainees must be well conversant with section 49 of the Criminal Procedure Amendment Act 51 of 1977 and the NI 1/2016.

2.7 Summary

In this chapter the researcher gave an overview and summary of the academic content given to the participants at the SAPS Academies in the country. The researcher also provided an interpretation of the learning areas. The researcher emphasized that for training to be effective, the training should be directed at improving the knowledge, skills and attitudes of the participants in order to contribute to appropriate professional behaviour through quality training of new recruits at the SAPS Academies.

CHAPTER 3: INTERNATIONAL BEST PRACTICE FOR POLICE TRAINING IN HUMAN RIGHTS.

3.1. Introduction

International best practice for police training in human rights looks at the internationally accepted standards to be used in the training of new recruits at the police academies with regards to human rights. In the previous chapter an overview of the human rights training at the SAPS Academies as well as the legal frame work of human rights in Republic of South Africa (RSA) and the violation of human rights by members and their impact were discussed.

In this chapter the researcher will discuss the international best practice in human rights training to determine whether the SAPS training in human rights is in line with the international standards. The researcher will replicate the Guidelines on Human Rights Education for Law Enforcement Officials published by the OSCE in 2008, focusing on the following sub-headings: Overall Processes and Goals, Core Competencies, Curricula, Training & Learning Processes, Evaluation and Training, Professional Development and Support for Trainers.

3.2. Background on Human Rights in Policing

The African Union (2003) highlights that the international human rights standards and international human rights treaties and standards should be the basis for developing human rights training programmes, including standards with particular relevance to policing. Training should emphasize the role of police as upholders and protectors of human rights, and efforts should be made to combat the prevalent view that human rights protection and effective crime control are mutually exclusive goals. The protection of human rights is for the benefit of all those with whom the police come into contact, including the victims of crime and not only criminal suspects and detainees, as sometimes mistakenly believed. Whether human rights training is incorporated into all aspects of police training or is treated as a separate subject, it should demonstrate how human rights principles are applied in routine police work and practice.

The core of practical training should be the relationship between law enforcement powers and human rights protection, which will include:

- the obligation to serve and protect all members of the community impartially; the requirements for a lawful arrest and the prohibition of arbitrary arrest,
- the principles of legality, necessity and proportionality in the use of force and firearms,
- the legal rights of a detainee, including the right to be presumed innocent,
- the total prohibition of torture, including the right of a police officer to refuse to obey an order to torture anyone,
- the disciplinary and criminal penalties for violations of human rights. Human rights training should not be contradicted by training given in any other part of police training programs.
- Police skills training and human rights training should complement each other. For example, in order to operate on the basis of minimum and proportionate use of force, police must be taught effective restraint and crowd control techniques.

Amnesty International (2002) stated with regards to police training and human rights that the effective training of all police officers is vital to ensure that the conduct of police conforms to international human rights standards. The effectiveness of training should be aimed at improving knowledge, skills and attitudes of members to contribute to appropriate professional behaviour. Human rights should be taught as core part of the role and functions of the police, not as an optional module to be done. It is also important that officers receive appropriate, high-quality skills training, particularly in criminal investigation, interview techniques and public order policing.

Furthermore, Amnesty International emphasizes that human rights training for police can only be fully effective if recruitment policies demand the achievement of an adequate standard of education and ensure that police are representative of the entire community, including minority groups. In countries where there has been conflict, for example Angola, Amnesty International highlights that former soldiers have been incorporated into the police, which showed that in most cases, their military training,

experience and inadequate standards of education, make them unqualified for policing in a democratic society (Amnesty International, 2002).

Amnesty International (2002) acknowledges that police training programmes in many SADC countries were restructured during the 1990s as part of police reform initiatives. In most cases the new programmes reflected a shift in emphasis from a militaristic style of policing to an approach based on community policing and respect for human rights. Amnesty International (2002) further accedes that since 1995, South Africa has put in place one of the most comprehensive programmes of human rights training in the region, which is aimed at the 102,000 serving police officers, including new recruits. By the end of 2001 approximately 29,000 officers had been trained. The programme included the training of trainers, development of training materials and three-day workshops at provincial level. The same three-day training is provided as part of basic training in all police colleges. The programme has received substantial donor support from the Swedish International Development Cooperation Agency (SIDA), the US Agency for International Development (USAID) and the European Union, as well as from a range of South African businesses (Amnesty International, 2002).

The researcher agrees with Amnesty International that South Africa had a good and complete human rights training programme. However, the growth of the population, cultural diversity, political intolerance and the number of incidents that have taken place in our communities and because of lawlessness amongst the police themselves and police officials violating the human rights of communities in the line of duty, created an opportunity for the government and the SAPS Curriculum Development and Management Office to develop another human rights and policing manual and align it with current situations and the increasing number of police officials in the country.

The Organization for Security and Co-operation in Europe (OSCE) (2008) says the police as an organ of the state are given the responsibility by a democratic government to protect the rights of citizens and enforce the law of the state. Their daily on-the-job decision-making should be based on democratic values, adherence to the rule of law and respect for human rights.

Those values ensure fair and impartial treatment of all individuals, sensitivity to racial, ethnic, sexual, gender and religious factors, with awareness of cultural diversity and discrimination. They reflect a respect for fundamental human rights, integrity and the police code of conduct. These are viewed as values and ethics for police members. Human rights are rights that derived from the inherent dignity and worth of human persons. They are universal, inalienable and equal. The value of respect for human dignity is the foundation of any national or international text on the protection of fundamental rights. Human dignity is a given, as there can be no exception, nor can any limit be imposed, even where law and order is concerned. The control of human dignity brings certain absolute moral duties to the police. These concern the treatment of all human beings, the duty to preserve life, freedom and the security of persons. To preserve peace and stability in their respective countries and to gain the trust and support from the citizens, the police must respect, protect and promote human rights. Police conduct during the execution of their duties must be legal, necessary and fair to best protect the rights and freedom of citizens.

Citizens in a democratic society must be treated fairly and protected by the police, and in the case of criminal acts, treated by the police as suspects, not as criminals. The police role is to protect human rights by maintaining social order so that all human rights of every category can be enjoyed. One of the police duties is the protection of human rights and the requirement is to respect human rights which will affect the ways the police fulfill all their functions (OSCE, 2008).

The role of the police in protecting the liberty of individuals in the communities involves specific challenges (Murdoch & Roche, 2013:10). In upholding the rule of law in a democratic society, the police are assigned the duty of policing society and police members themselves must be subjected to accountability before the law. Police officers are the protectors of human rights on a day-to-day basis, and in order to perform their duties effectively, they often have to interfere with the rights of those who interfere with the rights of others. The problem is identified as officers being able to balance between police powers and individual liberties. It is clear that for police officers to be able to value the human rights of their society in the execution of their duties, they must be held

accountable individually for their own actions during the execution of their duties by the commanders on a daily basis when officers are on duty. This is further supported by the ACHPR (2014) meeting at its 54TH Ordinary Session, held from 22 October to 5 November 2013 in Banjul, The Gambia, which called on State Parties to the Charter to ensure that in the execution of their duties, police fully comply with respect for human rights and the rule of law. It further called on State Parties to the African Charter to take appropriate measures in accordance with the relevant Articles of the African Charter and other regional instruments to ensure that police services respect the dignity inherent in the individual in the discharge of their duties (ACHPR, 2014).

3.3 Overall Processes and Goals.

The OSCE (2008:19) points out that the main aim of the overall processes and goals of human rights education is to ensure that it reflects the human rights-based approach. The human rights-based approach to human rights education involves the integration of human rights principles within all programming cycles which will include planning and design, implementation, monitoring and evaluation, and the expectation that outcomes are explicitly linked with improving the enjoyment of human rights; furthermore it implies that training institutions reflect said principles in their organizational and managerial practices (OSCE, 2008:19). This view point is further supported by the UN High Commissioner (2000), stating that human rights education constitutes an essential contribution to the long-term prevention of human rights abuses and represents an important investment in the endeavour to achieve a just society in which all human rights of all persons are valued and respected. In addition, the UN emphasizes that knowledge of rights and freedoms is considered a fundamental tool to guarantee respect for the rights of all.

The African Union (2003) is of the opinion that essential elements of human rights training alone is not sufficient to ensure that police officers understand human rights and apply human rights principles in their work. To be effective, training needs to be well planned with a well-designed syllabus, appropriate teaching methods and

knowledgeable instructors and to be monitored, evaluated and followed up, including refresher courses.

3.3.1 The Human Rights-Based Approach in Programmes:

UNICEF (2016) defines a human rights–based approach as a conceptual framework for the process of human development that is normatively based on international human rights standards and operationally directed to promoting and protecting human rights, because it seeks to analyze inequalities which lie at the heart of development problems and redress discriminatory practice and unjust distributions of power that impede development progress (UNICEF, 2016). The Scottish Human Rights Commission (SHRC) (2010) defines it in a more understandable way by saying that a human rights-based approach is about empowering people to know and claim their rights and increasing the ability and accountability of individuals and institutions that are responsible for respecting, protecting and fulfilling rights (SHRC, 2010).

The OSCE (2008) is of the view that the programming of the human rights approach refers to the alignment of all training courses for law enforcement officials, such as law, tactics, investigation, the use of firearm and force which provides authority to human rights and gender equality values and norms, the development of skills in discharging the officers obligations without committing human rights violation, and encourage action to fulfill the human rights of all members of the community, including law enforcement officers. Furthermore, the SHRC (2010) believes that in shaping the decisions that impact on people human rights, people must be given greater opportunities to participate and to increase the ability of those with responsibility for fulfilling rights to recognize and know how to respect those rights and make sure they can be held accountable. The SHRC further states that a human rights-based approach is about ensuring that both the standards and principles of human rights are integrated into policymaking as part of the day- to- day running of organizations (SHRC, 2010).

3.3.2 The Human Rights-Based Approach in Educational Institutions:

The OSCE (2008) points out that a human rights based approach applies to how training institutions work. Institutions are expected to promote rights-based principles within their organizational structure, processes and procedures, including non-discrimination and inclusion, dignity and respect, accountability, participation and empowerment of all law enforcement officials under training, as well as all educational personnel. The training delivered by educational institutions fosters participation, self-expression, communication, co-operation and teamwork, and discipline processes that affirm the human dignity of learners and educational personnel. The development of a human rights-based approach to education requires a framework that addresses the right of access to education, the right to quality education and respect for human rights in education (OSCE, 2008). On the other hand, UNICEF (2007:93) makes a very interesting point by pointing out that while the wider educational institutes are vital, it is trainers who have the most impact on the day-to-day experience of learners in an institute. Quality education, in which learners want to take part, is dependent on the commitment, enthusiasm, creativity and skill of trainers. It is trainer's duty to translate national policies into practical action in each institution and to ensure that they embrace a culture that is inclusive and respectful of every learner. Furthermore, UNICEF says to achieve this, the trainer's rights must also be fully acknowledged and respected. An institution needs to help trainers understand their roles and responsibilities and monitor their behaviour. It is important that trainers feel respected and valued, as this will enhance the trainers' capacity and willingness to respect the rights of learners (UNICEF, 2007:93).

Mubangizi (2015), in the article titled *Human Rights Education in South Africa: whose responsibility is it anyway?* argues that in the context of higher education institutions, human rights education (HRE) takes place through various approaches adopted mainly by law schools. These include the integration of human rights into the curriculum such as providing clinical legal education and conducting research. Some universities have established centres for human rights that play important roles in HRE. Mubangizi states that by providing funding to public universities with law schools that offer HRE, the

South African government plays an indirect role in such education. Furthermore, a survey was conducted and results showed that 58 per cent indicated that the government had not done enough to make people aware of the Bill of Rights in the Constitution of the Republic of South African, 1996 (Mubangizi, 2015).

3.4 Core Competencies.

The OSCE (2008) advises top management of law enforcement agencies to ensure that training should cover and strive to develop skills, attitudes and knowledge that will enable the participants to deal with the requirements of formulating human rights-compliant operational procedures and other operating orders. The top management should frequently attend refresher courses in human rights to be able to command and control all aspects related to human rights. The OSCE argues that to determine the core competency of law enforcement officers while on training, the competencies should be focused on the following three headings, namely knowledge and understanding, attitude and values, and skills (OSCE, 2008).

3.4.1 Knowledge and understanding

The view of the OSCE (2008) is that for one to show competency, one must display knowledge and understanding, and therefore the trainee must possess general knowledge of human rights which relates to functions such as, the protection of life, protection of constitutional guarantees, freedom from torture and cruelty, inhuman and degrading treatment, freedom of expression, association and peaceful demonstration, and the rest of the fundamental rights. Trainees must understand the history and values of human rights, the purposes of human rights, the relationship of human rights and the other ethical and moral rights systems, legal and political legitimacy of human rights and the nature of the human rights framework (OSCE, 2008).

On the other hand, the Council of Europe argues that key concepts such as, freedom, justice, equality, human dignity, non-discrimination, democracy, universality, rights, responsibilities, interdependence and solidarity must be fully comprehended. Human

rights provide a framework for negotiating and agreeing modes of behaviour in the family, at school, in the community, and in the wider world. The role of human rights in the past and future dimension will reflect in the life of communities, and in the lives of other people around the world. There is distinction and co-relations between civil / political and social / economic rights. The rights recognised that there are major international instruments that exist to implement the protection of human rights; such as the United Nations Declaration of Human Rights (UDHR), the United Nations Convention of the Rights of the Child (CRC), and the European Convention on the Protection of Human Rights and Fundamental Freedoms (ECHR). Modebu (2015) refers to knowledge as all the facts, theories, principles, generalizations and rules needed to be acquired for students to be certified as competent in a field (Modebu, 2015).

3.4.2 Attitude and values

A trainee must have a sense of responsibility for his/ her own actions, a commitment to personal development and social change, curiosity, an open mind and an appreciation of diversity to recognize the value of human rights. They must display the ability to empathy and solidarity with others and a commitment to support those whose human rights are under threat, a sense of human dignity, of self-worth and of others' worth, irrespective of social, cultural, linguistic or religious differences. They must demonstrate a sense of justice, the desire to work towards the ideals of universal human rights and equality and respect for diversity (Council of Europe, 2002). Additionally, the OSCE (2008) supports the Council and also goes further by saying that alertness to early signs of abusiveness, to desensitization in oneself and in the occupational environment, and the determination to address these are essential elements if one wants to serve society well Innovation Zen (2006) states that attitude involves how people react to certain situations and how they behave in general by being proactive, getting along with other people, being optimistic and being critical towards other people (Innovation Zen, 2006). It is clear that the attitude of the law enforcement officials must be positive at all times, regardless of the situations they may find themselves in; which means that law enforcement officials are expected to perform their duties to an exceptional standard of

professionalism, even when they are being provoked by victims, suspects or even from any member of the community at large. This will be a sign that law enforcement officials have display the ability to right attitude and realise the value of respecting the human rights of others.

3.4.3 Skills

The OSCE (2008) regards active listening and communication, being able to listen to different points of view, to advocate one's own rights and those of other people as essential skills. Another important ability is that of critical thinking: finding relevant information, appraising evidence critically, being aware of preconceptions and biases, recognising forms of manipulation, and making decisions on the basis of reasoned judgement. Other vital skills are:

- The ability to work co-operatively and to address conflict positively,
- The ability to participate in and organise social groups,
- The ability to recognise human rights violations,
- Acting to promote and safeguard human rights both locally and globally.

The researcher understands that when the learner has to apply skills, knowledge and understanding together with the attitude and value are put to the test as the learner must be able to perform duties in line with the human rights standards. While refusing to be under pressure because of prejudice of any type and while you have to use force at the crucial moment, while arresting and detaining the suspects, conducting searches and seizures of properties and while coming into contact with the victims of crimes and the perpetrators of crime. On the other hand Modebu (2015) refers to skills as the ability to expertly use one's entire body in combination with facts in the brain in order to perform a task (Modebu, 2015).

3.5 Curricula.

Curricula can be defined as a total package of learning activities designed to achieve the objectives of the training programme. In a competence-based system, the desired

end is that trainees will acquire the specific knowledge and skills they need to do their jobs. The following are the important aspects in the curriculum: the content to be transmitted, the organization of the structure and the training method.

The OSCE (2008:37) points out that curricula can be used in formal and non-formal teaching and training, taking into account logistics needed, such as classrooms, practical skill- oriented training and extra-curricular opportunities, furthermore training programmes need to combine theory and practice. All officials should have regular access to refresher courses. The curriculum must have lesson plans with practical exercises, as well as theory-based learning activities, handouts, time for revision and a clear means of evaluating learning outcomes. Flinder University (1999) further states that the fundamental purpose of developing a curriculum is to ensure that students receive integrated, coherent learning experience that will contribute to their personal, academic and professional learning and development. Furthermore the development of curriculum must contribute to learner's development qualities and these qualities will be the key reference point to the process. They must be related to the conceptual framework, language and practice of the learner's field of study through quality learning experiences (Flinder University, 1999). Modebu (2015) confirms the above-mentioned by saying that curriculum refers to the planned and unplanned experiences which learners receive in the process of their formal or semi-formal education for the purpose of becoming rounded people who can make meaningful contributions to the betterment of the their society and global environment (Modebu, 2015).

It is evident that the SAPS employ a specific curriculum for their training at all academies in the country. Trainees are assessed according to the assessment criteria for each specific outcome as required by the unit standards. The curriculum is outcomes-based, addressing human rights issues as the trainees are expected to translate theoretical knowledge into practical skills.

3.6 Training and Learning Processes.

Jacobs, Vakalisa and Gawe (2004:175) point out that the intention of outcomes-based education is to organize all learning activities in such a way that learners achieve the learning outcomes. The trainer has to make sure that classroom activities have been brought into line with those outcomes. Furthermore, they state that such alignment promotes the matching of learning outcomes with the training-learning activities. Furthermore, the Center for Education Innovation (CEI) explains that an Outcome Based Education (OBE) curriculum means starting with a clear picture of what is important for students to be able to do, then organizing the curriculum, instruction and assessment to make sure this learning ultimately happens. The CEI provides the following basic principles:

- Clarity of focus: this means that everything teachers do must be clearly focused on what they want students to know, understand and be able to do. The focus should be on the student being helped to develop the knowledge, skills and personalities that will enable trainees to achieve the intended outcomes that have been clearly articulated.
- Designing down: the curricula have to start with a clear definition of intended outcomes that trainees are expected to achieve at the end of the programme, and all instructional decisions are to ensure the achievement of the desired end results.
- High expectations: high and challenging standards must be established by trainers to encourage trainees to engage deeply in what they are learning. This engagement will assist the trainees to achieve high standards, closely linked to the idea that successful learning promotes more successful learning.
- Expanded opportunities: trainers should strive to provide more opportunities for the trainees, as the idea behind this principle is based on the fact that not all trainees can learn something the same way at the same time. Appropriate opportunities will assist the trainee to achieve a high standard of success.

The researcher understands that the trainers play a very important role when it comes to the training of trainees, as trainers are expected to use different learning processes to stimulate the trainees in class so that they will remain interested and motivated during their period of learning at the academies.

3.7 Evaluation.

The main aim of evaluation is to ensure that the assessments of trainees are evaluated to determine the success of achievement of the outcomes to improve the teaching of human rights. The OSCE (2008) gives four evaluations that must be conducted, namely: learner assessments, trainer assessment, programme evaluation and impact assessment. Amnesty International (2002) on monitoring and evaluation argues that the most neglected areas of human rights training, and indeed other forms of police training are follow-ups by monitoring and evaluation. These provide the vital link between training and practice that ensures training is not forgotten or discarded in favour of established habits. Follow-ups may be particularly important for new recruits, as they bring new ideas into a traditional police environment, often hostile to human rights (Amnesty International, 2002).

Amnesty International (2002) points that in Mozambique some attempts were made by the Spanish Civil Guard to follow-up on training by providing technical assistance in police stations where officers had undergone the refresher course. This has been effective in ensuring training is implemented, even though Civil Guard officers were posted to only nine police stations because of financial constraints. Arbitrary arrests and illegal detentions at those stations are now almost non-existent. In other SADC countries, there is little evidence of follow-up on training or support for new recruits (Amnesty International, 2002).

Amnesty International further explains that monitoring and evaluation of both training programmes and their impact are essential to ensure that training is effective and resources not wasted. Lessons learned should be incorporated into the training programme. The Amnesty International (2002) is of the view that the NGO's and civil

society groups can play an important role in this regard, yet very few human rights training programmes in the region include monitoring and evaluation. Several organizations have evaluated training programmes that they have funded, but these evaluations are usually based on the donor's criteria and requirements for information and do not necessarily benefit the police services being evaluated (Amnesty International, 2002).

3.7.1 Learner assessment

The OSCE (2008) indicates that learner assessments are designed to support learning by providing feedback on areas for improvement. Learners are assessed on achievements in gaining knowledge and skill-based competencies. Assessment methods for individual students or groups of trainees must be fair, reliable and transparent to ensure that all learner achievements are recognized and valued. The results must be shared and discussed with trainees to help them acquire the ability to reflect, and admit shortcomings on their work which will help trainees to improve their professional performance (OSCE, 2008). On the other hand, Amnesty International (2002) points out that the assessment of the human rights training should be tailored to the specific problems of the country concerned. Additionally, Amnesty International argues that this training should be based on prior assessment of prevalent patterns of human rights violations by police officers by both police and civil society groups. Several of the training programmes developed as part of police reform processes have been based on needs assessments, which have included some assessment of human rights concerns. However, very few have specifically looked at human rights problems (Amnesty International, 2002).

3.7.2 Trainer assessment

Amnesty International (2002) indicates that knowledgeable trainers and participatory techniques from Southern African Regional Police Chiefs Co-operation Organization (SARPCCO) and recognizing some of the limitations of knowledge among trainers have, to date, organized regional training of trainers initiatives, on an ad hoc basis.

Special training of human rights trainers has been included in human rights training programmes in Malawi, South Africa and Zimbabwe, among others. Several police training colleges in the SADC region have introduced modern, facilitative and participatory teaching methodologies. These are generally recognized as more effective at building skills and changing behaviour than lectures, which only aim at transferring knowledge (Amnesty International, 2002). On the other hand, the UN (2002) points out that it is important that a selection of individuals make presentations to provide other inputs for human rights training courses before being selected as trainers. Trainers should be assessed on the following criteria: expertise in the subject matter, ability to adapt to the methodology of a training programme, credibility and reputation. Furthermore, the panel should consist of practitioners in the policing field (UN, 2002).

However, training of trainers tends not to be a permanent component of police reform programmes, and a particular problem is when skilled trainers are subsequently redeployed. The UK Surrey Police noted this during a review of Malawi's training programme for new recruits in 1998. More than 50 police trainers had been trained as part of a Department for International Development (DfID) supported programme in 1996-1997, but in 1998 less than half were still teaching in the police colleges. The review also found that class sizes were sometimes too large for participatory teaching methods (Amnesty International, 2002). The OSCE (2008) also points out that the trainer assessments are designed to support the learning of trainers and the trainers are assessed on their progress. The assessments, whether formal or informal, must be carried out regularly and feedback or results must be shared and discussed with trainers, because trainers are assessed on achievements in knowledge and skill-based competency prior to them conducting any training. All assessments must be fair, reliable and non-threatening and the achievements must be recognized (OSCE, 2008).

3.7.3 Programme evaluation

The OSCE (2008) states that the purpose of programme evaluation is to scrutinize programme implementation, quality of the curriculum and learning resources, learners' and trainers' achievements and ways to improve human rights education.

The evaluation is done to inform and assist to ensure high quality curricula, teaching resources, instructions, learning processes and trainer preparation (OSCE, 2008). Amnesty International (2002) believes that the evaluation must be done by diverse stake holders, including state agencies, civil society groups, national human rights bodies, academic institutions and local community organizations. The evaluation results are to be circulated and should serve as the basis for public discussion (Amnesty International, 2002). In addition, the UN (2011) states that evaluation provides us with information about the effects of our Human Rights Education (HRE) work, in relation to the goals that we have set out to achieve. This information can help to demonstrate how HRE work is contributing to building a culture of human rights in the societies where we work. Finally, evaluation can provide us with the necessary information for improving the effectiveness of our HRE work, and successful evaluation is based on asking the right questions at the right time to the right people and ensuring that you then act on the answers (UN, 2011).

3.7.4 Impact assessment

The UN (2011:102) states that evaluations of transfer and impact expand the view that human rights educators have of the results of a training session. It gives human rights educators a new image of learners that goes beyond initial reactions and learning to capture the learners actively, applying what they learned in the training session in their original work environment and community (UN, 2011:102). On the other hand, the OSCE (2008) emphasizes that an impact study is the most important aspect of any organization that conduct training. Impact assessment must be done to review whether learner and institutional outcomes are recognized in programme evaluations. The most important purpose for an impact study will be to determine if training has strengthened law enforcement officers' understanding and capacity to respect the rights of others, resulting in increased respect for the rights of the public in general such as the discriminated against the vulnerable. Has it resulted in improvements in the lives of rights holders, has it resulted in increased respect for the rights of law enforcement officials and finally, has it resulted in greater respect and acceptance of the role played

by law enforcement officials, from the public in general such as those affected by crime, violence and injustice (OSCE, 2008).

Furthermore, the Organization for Economic Co-operation and Development (OECD, 2001) makes it clear that the purpose of impact evaluation is to serve both objectives of evaluation lesson-learning and accountability. It states further that a properly designed impact evaluation can answer the question whether the programme is working or not working and hence assist in decisions about scaling up. OECD warns that care must be taken about generalizing from a specific context. A well-designed impact evaluation can also answer questions about programme design and success or not and so provide policy-relevant information for redesign and the design of future programmes (OECD, 2001).

The researcher understands that the professional development and support for trainers must serve as the main purpose in ensuring that trainers and other educational personnel receive periodic, relevant and structured training according to their needs, professional responsibilities and circumstances, and in accordance with the intended learner outcomes of those they train. The OSCE (2008) affirms that to effectively carry out human rights education for law enforcement official trainers' a range of competencies is required.

3.8 Summary.

The researcher has indicated in the beginning of this chapter that the Guidelines on Human Rights Education for Law Enforcement Officials published by the OSCE in 2008 will be replicated and the focus was placed on the following sub-headings: Overall Processes and Goals, Core Competencies, Curricula, Training & Learning Processes, Evaluation and Training, Professional Development and Support for Trainers. It is important that the standard of training of law enforcement officers in the RSA be compared to international standards to determine that the same training is given to law enforcement officials globally.

CHAPTER 4: RESEARCH METHODOLOGY.

4.1 Introduction

The researcher noted that since 2012 up to date the SAPS as an organization has been in the spot light in the media because of what seems to be unprofessional conduct and human rights violation of its members in the line of duty. This situation compelled the researcher to conduct research looking into the training given to new police recruits with regards to human rights training to determine where the problem lies in the SAPS. Conducting research on the topic would allow the researcher to add value to training given to new recruits at SAPS Basic Training Academies and to individual members as well as the organization at large.

In this chapter the researcher introduces the research methodology to explain how the research was conducted. The research design includes the approach used, the population and sampling employed to select the participants, as well as the way the data was collected and analyzed. The code of ethics for the research is encompassed in the ethical dimension of the study lastly the measures put in place ensure the trustworthiness of the data collected is discussed.

4.2 Research design

A research design is the strategic framework for action that serves as a bridge between the research question and the implementation of the research. Research designs are plans that guide the arrangement of conditions for collection and analysis of data in a manner that aims to combine relevance to the research purpose (Terre Blanche, Durrheim & Painter, 2014:33). The researcher used a qualitative research approach. There are four worldviews according to Creswell namely, post positivist, constructivist, transformative and pragmatic worldviews. The researcher adopted a pragmatic worldview to serve as the lens to look at the research problem. Pragmatic means that the research problem is regarded in a realistic way suited the present conditions, rather than obeying fixed theories, ideas or rules.

Creswell (2014) with regards to the pragmatic worldview, argues that there are many forms of this philosophy, but for many, pragmatism as a worldview stems from action, situation and consequences rather than antecedent conditions, as there is concern with the application of what works and solutions to problems. Likewise, instead of focusing on the methods, researchers emphasize the research problem and use all approaches available to understand the problem. He continues by saying that pragmatism provides a philosophical basis for research (Creswell, 2014). Keranen (2013) agrees with Creswell by saying that the problem drives the research rather than the method and that application and solutions are not committed to one philosophical stance, but choice is based on needs, and the truth is relatively contextualized (Keranen, 2013). Creswell and Keranen are further supported by Hogue (2011) who asserts that the knowledge that is gained through research needs to be transferred into a change in practice (Hogue, 2011).

A qualitative approach is defined as a situation activity that locates the observer in the world. It consists of a set of interpretive, material practices that makes the world visible. Qualitative research allows in-depth insight into the research context which will contribute to a deep understanding of the research problem. They turn the world into a series of representations, in the form of field notes, interviews, conversations, photographs, recordings, and memos to the self (Denzin & Lincoln, 2013:3). The purpose of qualitative research is to seek a better understanding of the complex situations that underpin the research problem. The research is sometimes, but not always, exploratory in nature and may use observations to build theory from the ground up (Leedy & Ormrod, 2013:95-96). Braun and Clarke (2013:3) explain that qualitative research uses words as the method of expression for researchers. They argue that the term qualitative research refers to both methods, data collection and data analysis, in other words, to a broader context for conducting research.

4.3 Population and sampling technique

This study has as its aim an analysis of the depth and scope of training of members of SAPS in human rights in the Gauteng Province.

Figure 4.3.1 SOUTH AFRICAN MAP AND PROVINCES



South African History Online. 2011.

SA History Online (2011) explains that South Africa has nine provinces namely, Eastern Cape, Free State, Gauteng, Kwazulu Natal, Limpopo, Mpumalanga, Northern Cape, North West and Western Cape as indicated on the figure above. South Africa is a country on the southernmost tip of the African continent, marked by several distinct ecosystems. Furthermore inland safari destination Kruger National Park is populated by big game. The SA History mention one of the province which is Western Cape as one of the province that offers beaches, lush wine-land around Stellenbosch and Paarl, craggy cliffs at the Cape of Good Hope, forest and lagoons along the Garden Road, and the city of Cape Town, beneath flat-topped Table Mountain. In July 2016 it was estimated that South Africa had a population of 55,908,900, including all immigrants living in the country (SA History Online, 2011). South Africa is famous for its former president, Nelson Mandela, Kruger National Park and a variety of gem stones and minerals. Approximately 50 percent of the world's gold reserves are located in South Africa. South Africa is the largest exporter of coal in the world, and also one of the world's leading

producer of diamonds which includes the rare 25.5 carat blue diamond discovered in 2014 (SA History Online, 2011).

Gauteng¹ is the smallest province in South Africa, but also the richest and most populated with a multi-cultural diversity of people. Gauteng is part of the old Transvaal, first known as the PWV, which stands for Pretoria-Witwatersrand-Vereeniging, and these are the three urban centre's that make up the province. Pretoria is known as South Africa's administrative capital in Gauteng, although it is not the capital city of the province but the capital city of RSA (South Africa.info). According to Crime Statistic SA (2017), the total crimes committed year to year for the past five years in Gauteng are as follows:

Table 4.3.1 Crime Statistics for past 5 years

YEAR	TOTAL CRIME COMMITTED
2011-2012	539 632
2012-2013	588 263
2013-2014	635 441
2014-2015	645 591
2015-2016	622 218
2016-2017	626 749

The above table indicates the crime statistics for the past 5 financial years. In the financial year of 2011-2012 the total number of crimes committed was 593 632, with an increase in the number of crimes reported for the 2012-2013 financial year. There was a huge increase in the 2013-2014 financial year in the number of crimes committed as compared to 2011-2012 and 2012-2013. During 2014-2015 there was an increase in crime committed compared to previous financial years. There was a large decrease in crime committed in the 2015-2016 financial year as compared to the previous year 2014-2015. When compared to the previous financial year 2015-2016, there was an increase in the number of crimes committed in the financial year of 2016-2017.

¹ Gauteng means "place of gold" in Sotho language

Furthermore, 2,129,001 serious crimes were recorded in 2017, which is a slight increase of 0.12% from the 2016/2017 number of 2,126,552. The Minister highlighted that while the number of crimes reported as a result of police action reversed from a decline of 0.3% in 2016/2017, this was still not good enough and he acknowledged that the organization is letting the people of South Africa down (Crime Statistic SA, 2017).

The Institute for Security Studies (ISS) revealed that the reason for the fluctuation in crime by stating that the SAPS released the annual crime statistics for 2015/2016 between the period of April 2015 to March 2016 which revealed a high murder, violence and organized crime problem (ISS, 2017). The numbers do not yet reflect the extensive positive change that has been happening in the SAPS, as it will take time to identify noticeable improvement in policing. The ISS argues that policing is only part of the solution, as most violence takes place between people who know one another or live in the same area and this renders the police helpless, as they must wait until a crime has been committed. This means that the police often respond after a crime has taken place, which is of too late. It is important to understand that any act of violence, whether murder, rape or assault is not something that the police can prevent or reduce on their own (ISS, 2017).

Furthermore, the ISS (2017) argues that things must be done differently by intervening in the factors that contribute to the risk of violence. Greater attention must be given to interventions that are proven to reduce violent behaviour, such as programmes that assist parents to deal with stress and nurture their children. These programmes can be very effective in reducing aggression and other behavioural problems which will require different stakeholders to work together. The police need to play a leading role in tackling crimes committed by repeat offenders, as well as violence linked to organized syndicates or groups. The ongoing increases in aggravated robbery should also be a source of concern to all (ISS, 2017).

Figure 4.3.3 MAP OF CITIES IN GAUTENG PROVINCE



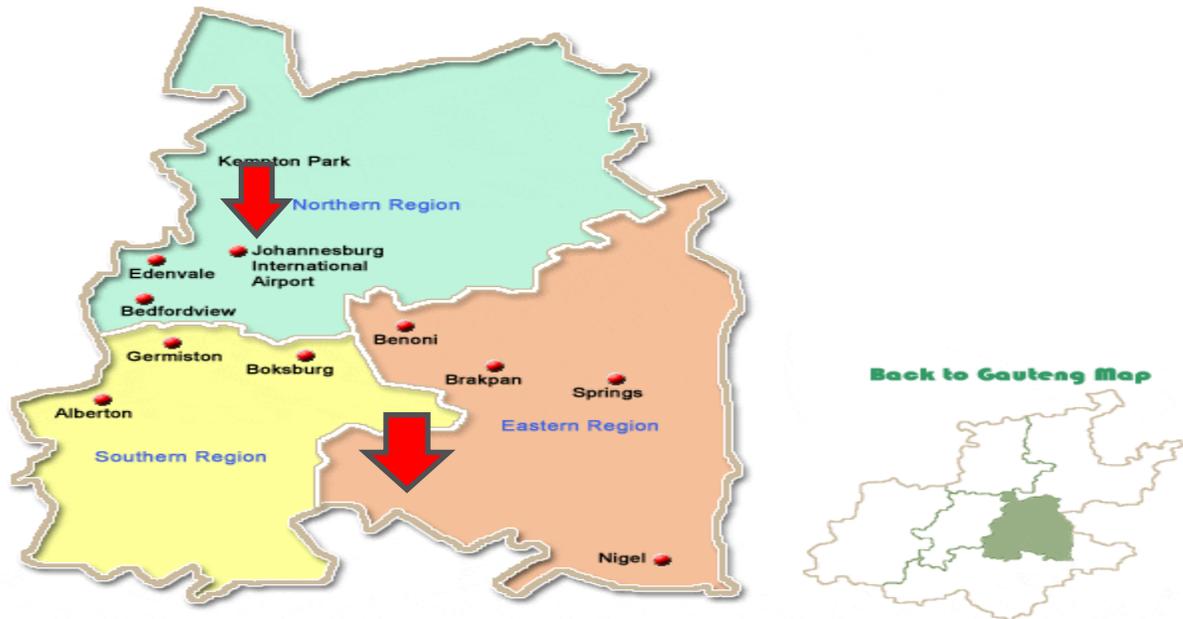
The researcher's area of focus is the North Rand Area which is situated east of Johannesburg². The North Rand Area falls under Ekurhuleni city³ with a population of 3,178,470, with 99,4% of the population living in urban settlements, ranging from informal settlements to elite urban residential suburbs. The North Rand Area consists of two clusters, namely the Tembisa and Benoni clusters. The Tembisa Cluster consists of nine police stations: Edenvale, Ivory park, Kempton park, Norkem park, Olifantsfontein, Rabie Ridge, Sebenza, Tembisa and Tembisa South, with a total number of police officials of 1510 in the cluster. The Benoni Cluster consists of six police stations: Actonville, Benoni, Crystal Park, Daveyton, Etwatwa and Putfontein, with a total number of police officials of 821 in the cluster according to SAPS Gauteng Provincial Head Office HRM confirmation letter. The researcher conducted this research only in the accounting stations in the Tembisa and Benoni clusters, as the accounting stations are the bigger stations with more members and personnel. Note should be taken that Area North-Rand has been changed and merged with Area East-Rand and is now divided

² Johannesburg often called "Egoli" meaning "place of gold" in Zulu language

³ Ekurhuleni means a place of peace in Tsonga language

into Ekurhuleni North, Ekurhuleni Central and Ekurhuleni East (SA History Online, 2011).

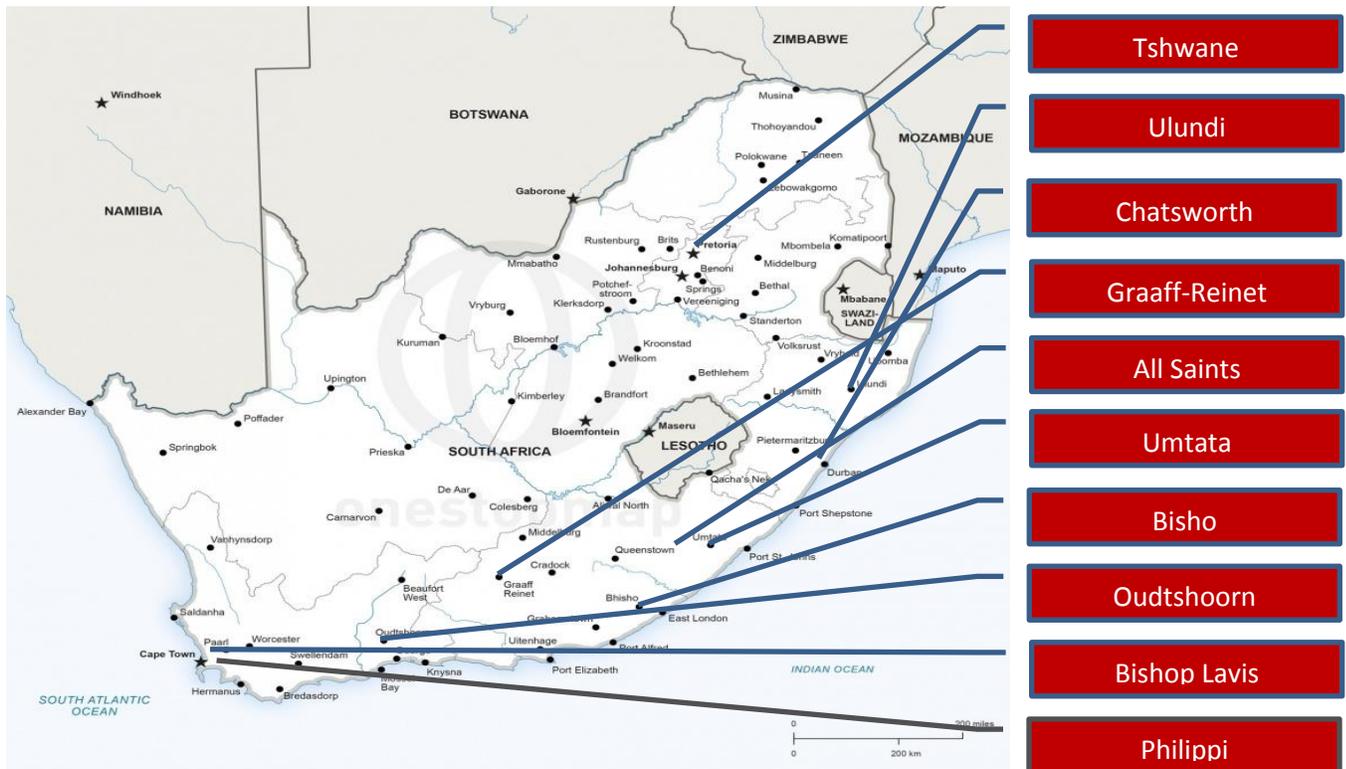
Figure 4.3.4 MAP OF TOWNS IN THE CITY OF EKURHULENI



This study focused on interviews with new recruits at Tshwane SAPS Basic Academy as well as a documents analysis from different sources. At Tshwane SAPS Academy the researcher focused on the unit standard on Human Rights that is offered as part of the basic training of new recruits. The SAPS have ten basic training academies for new recruits: All Saints, Bisho, Bishop Lavis, Chatsworth, Graaff Reinet, Umthatha, Oudtshoorn, Ulundi, Philippi and Tshwane academy. Note should be taken that the SAPS changed some of the basic training academies such as Chatsworth into in-service training and some in-service trainings such as Hammanskraal into a Basic Training Academy. The total number of recruits in 2015 was 5 025 and they were divided between all the academies. A total of 2 060 of recruits were placed at Tshwane Academy, since it is the biggest academy in the country. The researcher used the Tshwane SAPS Academy, since it accommodates a large number of recruits and the researcher was able to travel there daily to conduct interviews. The unit standards at the SAPS Academies were compared with other international unit standards for basic

human rights training of various police organizations. This was done to determine if the basic training in human rights, in line with international best practice to prepare them to execute their duties within the ambit of human rights.

Figure 4.3.5 MAP OF SAPS ACADEMIES IN SOUTH AFRICA



The researcher interacted with the participants by conducting 50 one-on-one semi-structured interviews with the recruits. An interview is defined as a discussion held on a professional level with the aim of getting participants to talk about their experiences and views and to capture language usage and concepts in relation to the topic determined by the researcher (Braun & Clarke, 2013:76). There are different types of interviewing, namely narrative, active, grounded theory and feminist. The researcher chose a narrative approach because the research is focused on information-rich participants with the aim to explore their perceptions. The researcher interviewed the participants face-to-face using an audio recorder to record the interviews. The recruits were selected purposefully, using volunteer sampling, because they are all information-rich individuals at Tshwane SAPS Academy (Tracey, 2013:135).

A purposeful sampling technique was used by the researcher, as it allows the researcher to select individuals and sites for study, because they can purposefully inform an understanding of the research problem and the central phenomenon in the study (Creswell, 2013:156). The value of voluntary sampling is that the researcher was not judgmental in the selection of the sample, as participants volunteered and they are all members of the SAPS. The inherent shortcoming of volunteer sampling is that it may attract participants who regard themselves as highly knowledgeable on the topic, whereas in actual fact they may not be. In this study however, it was found that the participants were equally information-rich. The interviews, based amongst others, on scenarios, were used to determine if the new recruits understood the unit standard on Human Rights and to establish if they are of the opinion that they can act accordingly.

Data was gathered from two groups of 25 participants each by means of the interview schedule. The interviews were extended to Ekurhuleni North and Ekurhuleni Central, formerly known as Area North Rand. The participants were new recruits who had just passed-out at the Academy. They could not be interviewed at the academy because the time was too short for the researcher to interview all 50 participants in one week at the academy. The last week at the Academies is a very busy week as the recruits are rehearsing for the pass-out parade. The researcher replicated the study by using purposive sampling focusing on police officials who just came from basic training (Tracey, 2013:135). The interviews were conducted to determine if participants who have just finished basic training understand what human rights are, whether they know the importance of human rights and are able to execute their duties without violations of these human rights.

The researcher used one instrument, namely an interview schedule to collect data in this research. The researcher applied to the commander of the Tshwane Academy to conduct interviews with the participants. This application was returned and was he informed to direct the application to the head of basic training at Division Training. The researcher subsequently applied to the head of basic training, and permission was granted from the office of Major General Nyalungu. The approval letter to conduct research in the SAPS is included as Appendix 1.

The new recruits were ordered to return to the station where they were placed to do their field training before going to their permanent stations. The situation allowed the researcher to interview the recruits at the station. The researcher was assisted by the Field Training Supervisor and Field Training Officers to ensure access to the trainees. A total of 50 trainees were interviewed and the researcher used 25 interviews of the 50, because the other 25 interviews did not adhere to the required level of richness called for in this study. Some of the participants responded by giving very short answers, and the quality of the sound in the interviews conducted at the station was not good because of external noises. These would not have added value to the research and the other interviews were information rich enough to be used for research.

4.4 Data collection

The researcher conducted semi-structured interviews with the identified participants at the Tshwane SAPS Academy after the close of day at the academy, as well as at the police station, so that the researcher would not interrupt the normal classes at the academy. The researcher used interview schedules as a tool and the same interview schedule was used to collect the data. The interview schedule (Appendix 4) is included. The use of scenarios allowed the researcher to simulate a scenario that is real to test if the participants know some of the procedures applicable. The scenarios formed part of the interview schedule. Participants were expected to explain the procedures and to obtain more information from them. The researcher used an audio digital recorder during the interviews for the transcriptions of the interviews. A pilot interview was conducted to ensure that the intended data will be captured. The process went very smoothly and the supervisor listened to the audio recording, read the transcription and approved it. The average time for the interviews was between 20 minutes to 35 minutes per interview.

The biggest challenge the researcher experienced during the interviews is that researcher could not take notes because of face expression of participants, also because of participants not being at ease in the interview and pursuing the participants to speak loud to the voice recorder.

4.5 Data analysis

Vithal and Jansen (2010) explain that having collected data, it must be analyzed to make sense of the accumulated information. They further state that data analysis includes at least three steps: scanning and cleaning the data, organizing the data and re-presenting the data. These steps can be described as follows:

Scanning and cleaning the data requires the researcher to prepare the raw data for analysis by reading the data, checking for incomplete, inaccurate, inconsistent or irrelevant data and identifying preliminary trends in the scanned data to facilitate the organization of the data into meaningful “chunks”.

Organizing the data allows the researcher to make sense of the information by arranging it in a manageable form. This required the researcher to describe the findings as the descriptions provided an in-depth analytic form, as opposed to journalistic descriptive narratives about a sequence of events, for instance describing how one interacts with others in a work project. The researcher compared responses from different participants on a tested item, and then categorized the responses by identifying patterns of responses on questions from the participants.

The researcher used Tesch’s technique when analyzing the data. According to Creswell (2014:198) there are eight steps in Tesch’s technique. They are:

- Read all the transcriptions carefully.
- Pick one document on the pile and read through it.
- Make a list of all topics and cluster together similar topics.
- Abbreviate the topics as codes and write the codes next to the appropriate segments of the text.
- Get the most descriptive wording for the topics and turn them into categories.
- Make a final decision on the abbreviation for each category and alphabetize these codes.

- Assemble the data material belonging to each category in one place and perform a preliminary analysis.
- If necessary, recode the existing data.

Coding is defined as the process of arranging the data by bracketing chunks and writing a word representing a category in the margins. It includes taking text data or pictures gathered during data collection, segmenting sentences or images into categories, and labeling those categories with a term. Often a term based in the actual words of the participant, as *in vivo* term quotations (Creswell, 2014:198). On the other hand, Braun and Clark (2013:206) define coding as a method of pinpointing pieces of the data that relate to the research question. It is further stated that there are two main techniques when data is coded in pattern-based forms in qualitative research: selective coding and complete coding.

All the interviews were transcribed by the researcher for analysis. The researcher coded the data by firstly transcribing data of 50 interviews, read through all the transcription carefully, picked those 25 transcriptions from the pile that were information-rich and read through them again. The researcher made a list of all topics and clustered together similar topics, abbreviated the topics as codes and wrote the codes next to the appropriate segments of the text. The researcher got the most descriptive wording for the topics and turned them into categories. Decisions were made on the abbreviations for each category and finally the data belonging to each category was assembled in one place. Subsequently the preliminary interpretation of data of the participants' perspectives on their formal training was begun.

Representing the data in different ways often provides meaningful summaries of large amounts of data. These different ways can take several forms, for instance selected quotations. The researcher used selected quotations from direct responses to questions in the interviews conducted (Vithal & Jansen, 2010:27).

It is imperative that the researcher, in analyzing data understand the values of scanning and cleaning the data and organizing the data so that the data makes sense, finally the researcher must be able to re-present the data collected to have meaningful data.

4.6 Bracketing of the researcher

The researcher is a member of the SAPS with more than a decade of service. The researcher has had the privilege of working for different units, such as Personnel Protection Services, Gauteng Flying Squad, POP Unit and Human Resource Development (Training Division) within the SAPS which assisted the researcher with the much-needed experience to conduct this research. The researcher is currently stationed at Head Office HRD SAPS Academy Benoni, working as a training practitioner. Since the researcher has been working in the training environment, he noticed that most of the law enforcement members cannot explain their conduct during and after the execution of their duties. The researcher would ask questions on possible scenarios in class, and the responses would clearly indicate that the majority of the class cannot link their conduct to any section in the Constitution. Although the conduct may be correct, they cannot justify their actions. This became a serious concern to the researcher and the research topic “An analysis of human rights training in the SAPS: a case study” was formulated.

4.7 The ethical dimension of the study

There are guidelines for research which involves human participants. In Unisa’s ethical code for research (UNISA, 2007:9) the emphasis is placed on moral principles and general ethics principles. Under moral principles the emphasis is on four internationally established and accepted ethics: autonomy, beneficence, non-maleficence and justice. Autonomy means that research should respect the freedom, rights and dignity of research participants. Beneficence prescribes that research should make a positive contribution towards the welfare of people. Non-maleficence refers to the fact that the research should not cause harm to the research participants or people in general. Justice means that benefits and risks of the research should be fairly shared among

people (UNISA, 2007:9). Leedy and Ormrod (2013:105) re affirm UNISA's code of research ethics by stating that most ethical issues in research fall into one of the following categories: protection from harm, voluntary and informed participation, right to privacy and lastly honesty with professional colleagues.

All participants were informed that the objective of the research is to gather information about the training of police officers in human rights and to determine their opinion about human rights. The participants' informed consent form to voluntarily participate in the study is enclosed as Appendix 5.

A researcher has a responsibility towards those involved in and affected by the study (UNISA, 2007:4). The researcher took reasonable steps to anticipate and guard against possible undesirable or harmful consequences of this research. Researchers should also take reasonable steps to ensure that their work adds value and is able to be used for future reference.

All the participants were informed of their rights to withdraw from the interviews before the commencement, and this was reflected in the informed consent forms they signed. The researcher requested all the participants to remain anonymous so that they will be able to participate freely and without fear of any form of intimidation. They were informed of the digital recording of the interviews for the purpose of the transcriptions.

The researcher developed an informed consent form (Appendix 5) which was completed by the participants before the commencement of interviews, stating that participation is done voluntarily by participants without any form of or promise of remuneration. Anonymity and confidentiality were two ethical issues that were addressed in the form.

4.8 Measures to ensure trustworthiness of the data

The researcher must ensure that measures for trustworthiness of data are complied with at all times. According to Roller (2011), a qualitative research design can benefit from being grounded in a quality framework, as the frame work will allow researchers to

critique the effectiveness of their research design and build in design features that take full advantage of the usefulness of the various qualitative research methods. There are four components of trustworthiness when conducting research, namely: credibility, transparency, usefulness and analyzability that the researcher must consider (Roller, 2011).

- To ensure credibility and trustworthiness of the outcomes of the research, the researcher consulted different sources from African continent and other International countries. Furthermore, the researcher conducted face-to-face interviews with the participants to ensure that the results of the research are believable.
- Transparency refers to the clarity of the process and the ability to convey specific factors that impact the process. To achieve transparency the researcher insured that data collection, coding and analysis are clearly explained.
- Usefulness refers to the ability to move the research pursuit forward, to take the researcher to the next step. The research focused on an analysis of human rights training in the SAPS, more specifically regarding the training of new recruits at the SAPS Academies. This study allows further research into the topic to investigate the quality and qualification of trainers on the topic of human rights to determine if they are qualified to train members in these subjects.
- Analyzability refers to the ability to achieve outcomes with a high degree of confidence. The researcher collected, transcribed and analyzed the data so that a meaningful, accurate analysis could be achieved.

Creswell (2014:201) explains qualitative validity by saying that it means that the researcher checks for the accuracy of the findings by employing certain procedures. Qualitative reliability indicates that the researcher's approach is consistent across different researchers and different projects. The instrument must have both validity and reliability for its purpose. Validity and reliability of measurement instruments influence the extent to which a researcher can learn something about the phenomenon under investigation, and the extent to which the researcher can draw meaningful conclusions from the data (Leedy & Ormrod, 2013:89).

The researcher triangulated different data sources of information by examining evidence from the sources and used it to build a coherent justification for themes. To claim and ensure the validity of the study, the themes were established based on bringing several sources of data or perspectives from participants (Creswell, 2014:201).

4.9 Summary

In this chapter, an overview was given of the methodology that was utilized in this study. A systematic overview was provided of the research process, from defining the population and sample, to the collection of data and the manner in which the data was analyzed. In ensuring the trustworthiness of data the researcher made sure that the code of ethics for researchers was adhered to at all times to ensure that the research will be regarded as valid.

CHAPTER 5: DATA ANALYSIS.

5.1 Introduction

The purpose of data analysis is to assemble the collected raw data. The aim is to make sense of the information collected, so the research problem is clear. The focus will therefore be on the formal training received, the application thereof in actual policing contexts and its value during their field training. In this chapter the analysis of data that was collected from the interviews conducted by the researcher will be explained. The researcher used focused conversations with the participants, as they allowed participants to process information and reaches their own thoughtful conclusions.

5.2 The nine themes from the analysis

Nine themes emerged from the analysis, which will be systematically presented and the responses to the scenarios given. The nine themes are: the reason(s) for becoming a SAPS official, training in human rights, defining human rights, the origin of human rights, the importance of respecting human rights by law enforcement, human rights as a barrier for SAPS members to perform duties, application of human rights when attending to complaints, specific training of police officials and training received in Domestic Violence.

5.2.1 The reason for becoming a SAPS official

The purpose for this question was to determine the reason and the motivation of the participants why they joined the SAPS. This will assist to determine whether they are committed to be professional in the line of duty. The participants gave different reasons with regards to the question why they joined the SAPS. Approximately two thirds of the participants regard joining the SAPS as a calling as they mentioned that they have a passion for the job, it is their childhood dream, they want to fight crime and corruption and help the community.

The remainder indicated that they took a chance by applying to the SAPS as they needed a job and they were fortunate enough to be hired in the SAPS.

TP1 *“To me I will say joining the SAPS I will call it a calling, judging what is happening in the country the rate of crime, the rate of corruption in the organization itself, so as the new generation in the police, I think I would make change within what is happening in the country due to the crime and corruption”.*

On the other hand, about a third of the participants regard joining the SAPS as an opportunity for a job. They took a chance by applying and they were fortunate enough to be employed by the SAPS. Two of the responses are as follows:

TP5 *“Honestly it is the circumstance that pushes me to join the SAPS it wasn’t my will”.*

TP3 *“What a question, me I will be honest, it started as a job hunting yah procedure, whereby I was coming from school, there are no opportunities for people coming from school with no experience, so I joint in 2008 as a patroller yes a community patroller, so when I started it was to gain experience then at list I must have some kind of experience for a particular job”.*

The question that arises is whether the attitude of one third of the participants may have changed and have they realized that service delivery is more important than money. The researcher raises this question as a concern because if the attitudes of these participants have not changed, it may have serious consequences as they will not have the best interests of the community at heart. This may lead to them violating the human rights of the community by not following the correct procedures when executing their duties, for example, effecting an arrest, conducting a search or communicating with clients.

5.2.2 Training in Human Rights

The researcher clustered all the questions on official training together to provide a holistic overview of the participants' perspective on the training they received. The focus will thus be on the formal training received, their application thereof in actual policing contexts and its value during their field training. The sub-headings are: formal training on the topic of human rights, application of the human rights training in the field and attending to complaints during field training.

5.2.2.1 Formal training on the topic of human rights

Most of the participants confirmed that they received training on human rights and policing at the SAPS Basic College. On the other hand, a few participants said that they were not sure if they received such and only one stated they did not receive training on the topic at all.

TP8 *"Yes we did, because for me I didn't know about human rights truly speaking, I didn't know anything about human rights, when they started presenting about human rights I started to understand human rights, all along I just thought that human rights is just a holiday I didn't know that a person have rights to speech of freedom, movement so I started to understand more about it".*

TP22 *"I can't recall that much they taught us lot of things, about human rights I think yes it can come up in those books laws, I think they taught us but I can't recall that much".*

TP24 *"I don't remember getting that topic".*

It is important to note that only few said they were not sure if they received training, while one said training was never received at all. The question is while the majority agreed they received the training in human rights and policing were the other participants not part of the class at all, or is there a legitimate reason for them not being

trained on the topic of human rights and policing; or did they not recognize the training as focused on human rights?

5.2.2.2 Application of the human rights training in the field.

The participants were asked if they have applied the knowledge gained in human rights and policing training at their respective stations during their field training. The entire group of participants responded in the affirmative, namely that they have applied and utilized the human rights training while they were performing their duties.

TP4 *“Yes I used some especially the right to a dignity. We respected everyone’s dignity when every time we work with a complaint we don’t approach complaints or work with the people in the manner in which will under mind a person because of a rank or gender, we work on the gender equality where everyone is equal and everyone is treated equally regardless of age and the gender”.*

TP14 *“Yes I did for example, I will say human rights are similar to Batho Pele Principle, you apply them when a person come to the CSC introduce yourself who you are, what is it that you offer, how can you help them, somewhere somehow if they don’t understand you explain to them then also you understand their state of mind, if someone comes there for something you put yourself in their shoes and understand where they come from then what is their right, are the rights limited staff like that”.*

Only one of the participants responded that human right training was never applied during his/her field training phase at the station.

TP7 *“Yah that one comes from my own heart cause when it comes to training to go an look the police training its different, in training you are trained, when you are trained they are not, academically they will tell you about laws an all that they are building your knowledge but when you go out, let me say for example around the vicinity you can get punished they will tell you, you will die, why can’t they just put that aside were you are told you will die you’ll do what, the Employee Health*

and Wellness (EHW) will be the best people to report the sad part, cause not everyone, in training you are punished for no apparent reason, I don't know they are still training police officials the way there training those who were, now we are in the service no longer a force so you must try by all means to train people like where they are going to service the people and not fight the people” .

It is not clear to the researcher whether the last participant was not able to apply the knowledge of human rights training during field training because the participant did not remember receiving training on the topic or whether it reflects to participant attitude. It is important for the participants to be able to apply human rights in the field as it forms part of basic training.

5.2.2.3 Attending to complaints during field training.

The majority of the participants attended to crime scenes at their different stations, and the crime scenes ranged from murder, business robbery, rape, house breaking, suicide and arson. The remaining few participants did not attend to crime scenes at the stations and almost all their reasons for not attending were that the station did not have vehicles for them to attend to crime scenes during the crime prevention phase. Participant described the crime scenes attended to as follows:

TP13 *“It was a suicide situation someone shot himself, he saw the blue lights then he shot himself, firstly he started to burn his car and people tried to stop him then finally saw the blue lights and shot himself, he had a fight with his wife and we couldn't see the wife because the situation was bad”.*

TP12 *“Yes I did, it was a business robbery case where three unknown man pushed the wall with a lencher where they took about four thousand, airtimes, tins of beans and fish oils, when we arrived there, the suspects were already gone”.*

The researcher finds it disturbing that not all participants were able to attend to crime scenes because of shortage of resources at the stations. It was crucial for them to do

this part of their practical work under the supervision of the field trainer, so that when they are integrated correctly they will be expected to perform their duties on their own.

TP15 *“I didn’t attend any serious crime scene because of the lack of vehicles and some stuff, most of the time we were spending time in the CSC”.*

TP18 *“I haven’t attended any serious crime scene due to the shortage of transport in the SAPS Tembisa so I didn’t have time or chance to attend to crime scenes”.*

This clearly indicates that the training environment has failed some of the participants, as the participants will not be able to apply the knowledge on human rights training gained at the SAPS Academy correctly at their work stations in the execution of their duties.

5.2.3 Defining human rights

The participants were asked to describe their understanding of human rights and different definitions were received. The researcher noted that the participants used words such as rules, regulation, respect, dignity, equality in their definitions to describe human rights.

TP10 *“Human rights are the rights being written into the Constitution, the rights of every each human being who is living in the world, human rights that are written that you have right to life, no body supposed to take life away from you, the moment the person take life away from you she committing an offence, you have the right to eat, you have the rights to go wherever I want to go, you have the right to ask question if you don’t understand, you have the right guidance to the parent”.*

TP20 *“Human rights are the rights that are given to every individual of this country such as right to privacy, right to dignity and right to housing and all the rights that are mentioned in the Constitution of the country”.*

TP21 *“Human rights are the fundamental rights of the people of South Africa which have started in 1995 were we receive our democracy, so human rights carried a boundary, created boundary whereby if a person have the right to education, meaning that the person have to get that thing for free of charge, if a person have a freedom of movement that simply means that person, his or her freedom of movement must never be infringed but in the constitution if I remember well those rights are not absolute, they can be I don’t know how to put it”.*

The researcher noted that although the participants defined human rights by means of practical examples, none of the participants was able to define it as stated in the Constitution. This means that close attention must be given at the SAPS Academy to the topic of human rights by facilitators to assist the participants to be able to define human rights.

5.2.4 The origin of human rights

In determining if the participants knew where the concept of human rights come from, half of the participants said that human rights come from the Constitution, while a participants said that they come from parliament and government. A few believed human rights come from apartheid.

TP18 *“In my own understanding I think they come from the apartheid times, people had no right to access to things because after democracy they changed the approach of how people must be treated every person must have a say in everything which is happening in the country and such staff”.*

TP21 *“This rights they are coming from, is part of the Constitution which the Constitution was created by parliament which is the government of South Africa”.*

TP25 *“In my understanding this human rights comes from parliament, there are different people there in parliament and they have different views and needs and wants, so they combined their views and they put them as human rights because*

if I have the need I know that other person is also having that need even though is not similar but as we are human being we have needs”.

The participants’ responses reveal an unclear understanding of the origin of human rights in South Africa, which means that participants do not understand that human rights is the foundation of the democracy which commenced in 1994.

5.2.5 The importance of respecting human rights by law enforcement

Participants were asked whether they believed that it is important for SAPS members to respect human rights. All the participants overwhelmingly agreed that it is important that SAPS members respect human rights.

TP16 *“Well as SAPS members we are still part of the community, so if you don’t respect someone right the next thing they will not respect you as well”.*

TP1 *“Yes I do believe, we are police officials, we are here to assist the community but that does not mean that we are above the law in the way that I should say wherever we are attending to complaints, wherever we are helping the community we should always respect their rights”.*

TP20 *“Yes I believe it is important that every member of the SAPS to respect the human rights because if we violate the rights of the member of the community it will mean that we didn’t learn anything at the college, we didn’t learn all those rules and regulations that we must follow, by violating the rights of the individual will mean that we are not abiding by the law”.*

It is clear that participants understand the importance of respecting human rights, so one can conclude that they know what is expected of them when performing their duties. The researcher also noted that participants understand that they form part of the community as SAPS members.

5.2.6 The human rights as a barrier for SAPS members to perform duties.

The researcher wanted to determine if participants believe that respecting human rights makes it difficult for them to perform their duties. Approximately two thirds of the participants said respecting human rights cannot be a barrier when performing duties, in fact human rights assist them in performing their duties. About one third did not agree with this statement.

TP17 *“No it does not, because those rights they don’t destroy anything it is just the guidance of how should a normal person behavior and at the end of the day, if I know my job I don’t think those rights will conflict with my duties”.*

The researcher also determined that approximately one third of the participants agree that respecting human rights when performing duties makes it very difficult for them to execute their duties effectively. The majority said that in the process of investigation human rights makes it difficult to get information, as the suspects have the right to remain silent. The following is the response from the participants:

TP12 *“In some other case yes, we don’t perform our duties as expected because somewhere most of the suspects got the rights were we don’t get the information as we wanted from them because sometime he/she can tell you that she got the right to do this and that while we need information so that we can get what we want so I think somewhere somehow they don’t allow us to perform our duties as expected”.*

TP3 *“Positive because there are some rights that are limiting the rights of the police official to execute their duties, you know when you go into a house then a person tells you must apply for the search warrant, you cannot come into my house, those sort of things then you tell him of section 36 which is limitation rights, limitation of the rights of human being they don’t understand those thing they still want to fight you cause they are in their premises they believe that what they are telling you is in the Constitution, cause the Constitution to my believe I don’t think is the limitation clause I don’t think is there for people to realize okay*

their limitation clause which the police can use to enforce the law the law on us, so it makes it difficult I think they should try make some knowledge to the community to be aware of that”.

When the participants were asked if it is important for them to respect human rights, they all agreed that it is important, but when asked if human rights can be a barrier in the execution of their duties, there were different answers from the participants.

Participants that regarded human rights as a barrier, because they believe that suspects have more rights than the police, seem not to understand that under section 36 of the Constitution the rights of the suspects or community can be limited by the law of general application recognized by the same Constitution.

5.2.7 Application of human rights when attending to complaints

The researcher asked the participants if they thought about the human rights of all the parties involved in a complaint when attending to complaints. Most said they consider the human rights of all parties involved in a dispute, whereas the remainder said that they sometimes think about human rights when attending to complaints.

TP24 *“Yes I consider each right of every complaint or it can be complainant or the respondent we have to consider the rights of those people in solving that complaint”.*

A few participants indicated to the researcher that sometimes they do think about the human rights of all the parties involved in the complaints. This is a concern to the researcher, because thinking about the rights of all involved allows the participants to know which law of general application to apply on arrival at the complaint.

TP8 *“Sometimes we do, sometime we don’t, like it depends with the situation the complaint that you are receiving, for example, if the complainant was robbed during the night, midnight you would ask the complainant where were you going, why did you go there, now you are preventing the right of movements, sometimes you do something you don’t cause you just want to find out what went wrong why the complainant went there yes”.*

TP14 *“I have to say sometimes it works with the situation, sometimes as human being you get carried away by the situation then you forget about other parties’ rights it’s not easy sometimes after a little while you may get back to your senses and do the right thing then when it is control by the situation”.*

The above responses are a source of concern, as it is essential for any SAPS official to think prior to attending to any complaints, as this will indicate preparedness and vigilance. Since the participants had been trained on the topic of human rights and policing, the researcher questions the attitude of the participants towards human rights.

5.2.8 Specific training of police officials

The researcher has clustered the questions on section 35 of the Constitution together to offer a holistic overview of the participants’ perspectives on the formal training they received on section 35 of the Constitution. The focus will thus be on the formal training received on working with a detained person; the procedure to be followed when arresting a person and the rights of the detained person.

5.2.8.1 Formal training received on detained people

The participants were asked if they received training on how to deal with a detained person and approximately two thirds confirmed that they had received training in working with detained persons, which makes it clear that the participants understand what is expected of them, should they be expected to work in the police cells or come across a person who is under police custody.

TP17 *“Yes we did receive training in working with the detained person, those people also got rights they need to be detained according to the SAPS prescribed procedures”.*

Some participants said that they did not receive any training in working with detained persons, which may indicate that the participants were not all in the same platoon.

TP20 *“We did not receive any formal training”.*

TP14 *“I cannot say it was official, it was just basic everything I did it just basic”.*

If the participants were correct that they were not trained, it is a source of alarm, because the researcher believes that all participants should have been trained in section 35 of the Constitution. If the participants are correct, the Academy had failed the participants, but if they are not correct, it will amount to negligence of the participants and their attitude towards their work when at the Academy.

5.2.8.2 The procedure when arresting a person and the rights of the detained person

Looking at the rights of a person suspected to have committed an offence under section 35(1), the participants were asked to mention the procedure that they will follow when arresting a person. One of the participants responded as follows:

TP22 *“When I arrest someone usually what I do I identify myself to him that I’m a police officer and then I tell him I’m arresting him on the following charge that he deed and then I arrest him and handcuff him if necessary, so then I tell him his rights, you have the right to remain silent, you have the right to contact your lawyer, you have the right to be visited, anything you say can prejudice whatever, so that’s how I arrest and take him to the cells I book him in SAPS 10 and I write the SAPS 14A so I read his rights again so that he can sign again so that’s when we detained him”.*

The researcher strongly believes that a clear separation of section 35(1) and section 35(2) of the Constitution in the Bill of Rights must be emphasized when the trainees are at the basic training academies when considering at the response received from TP22 above.

The researcher, on the other hand, received some responses that are in line with the required standard when following the procedure to arrest a person.

TP25 *“When arresting a person you have to introduce yourself first, you greet and introduce yourself who you are with, you ask him his name, then respond*

then you tell him that I'm here to arrest you, mentioned the case number then you read him his rights if the suspect is complying then you handcuff him both hands and both legs, you have put the leg irons, then you put the suspect in the van, if the suspect is the male and we are both females and there is a male in that house may ask him to search the suspect for us, in case he is having a dangerous weapons before we put him in the van”.

TP4 *“The first procedure I have to introduce myself and from introducing myself and my rank if needs be I can show my appointment certificate, if the person needs a proof or surely I'm a police official, then from there I have to arrest the person give that person a reason why am I arresting that person then I must also read or tell him of his rights of arrest”.*

According to the researcher is important for the trainees not only to have knowledge on section 35, but it is of outmost importance to be able to apply this knowledge in their daily duties, so that the whole country would know that human rights are respected by the law enforcement officials.

5.2.9 Training received in Domestic Violence

The Constitution of the Republic of South Africa, 1996 allows for the existence of the Domestic Violence Act 116/1998, because of the commitment made to the United Nations. The commitment is to eliminate all forms of discrimination against women and to protect the rights of children, by ensuring that rights such as the right to equality, freedom and security of a person are protected by the organs of the state. The purpose of the Act is to afford the fullest protection to the victim of domestic violence from all forms of domestic abuse that the law can provide. It introduced measures which seek to ensure that the relevant organs of state give full effect to the provisions of the Act, and thereby to convey that the State is committed to the elimination of domestic violence.

The researcher will combine the questions together which were put forward to the participants under this heading the focus will be on the following sub-headings,

receiving of official training in domestic violence and duties of the police official in domestic violence.

5.2.9.1 Official training received in Domestic Violence.

The participants were asked if they received official training in domestic violence and almost all confirmed that such training has taken place at the Academy and that participants should understand their responsibilities in performing their duties. A few participants informed the researcher that they were not trained in Domestic violence, which is worrisome, as the researcher knows that domestic violence is a serious crime and there is a high rate of domestic violence in the country. Since some participants alleged that they were not trained in domestic violence, they will not be able to execute duties placed upon them by the Domestic Violence Act.

The Commonwealth (2006) highlights some of the international human rights standards and practices applicable when dealing with violence against women:

- The law enforcement official shall exercise due persistence to prevent, investigate and make arrests for all acts of violence against women, whether perpetrated by public officials or private persons, in the home, the community and in official institutions.
- The law enforcement official shall take harsh official action to prevent the victimization of women and shall ensure that re-victimization does not occur as a result of the omissions of police or gender-insensitive enforcement practices.
- The law enforcement official should deal with all the cases of domestic violence in a compassionate way, supporting the victims.
- Violence against women is a crime and must be treated as such, including when it occurs within the family.
- Police officers must refrain from viewing the issue of domestic violence as a private family matter.
- Police officers are required to act upon a complaint of domestic violence as with any other crime occurring within their jurisdiction.

- All cases of domestic violence should be investigated in a proper and professional way if the complainant desires this.
- Victims of domestic violence are often afraid of reprisals should they press charges, and therefore the treatment of the crime may require special measures including protection against further victimization, referral to shelters and for specialized medical care.

5.2.9.2 Duties of a police official in domestic violence.

The participants were requested to enumerate the duties placed upon a police official when dealing with domestic violence. Having scrutinized the responses, the researcher noted that none of the participants responded according to the National Instruction 7/1999; however, the participants displayed some knowledge of what is expected when performing their duties, such as to open a case, check for firearms, never take sides as well as the application of a protection order. In addition, SAPS NI 7/1999 paragraph 5 clearly states that police officials have the following responsibilities placed upon them when dealing with cases of domestic violence in general:

Paragraph 5(1) states that a member who attends a scene of domestic violence must first of all determine whether the complainant is in any danger and take all reasonable steps to secure and to protect the complainant from any danger or further harm; and 5(2) states that once the scene has been secured, the member must-(a) render such assistance to the complainant as may reasonably be required in the circumstances, (b) if it is reasonably possible to do so, hand the notice to the complainant and explain the contents of such notice to the complainant, (c) assist the complainant or make arrangements for the complainant to find a suitable shelter and to obtain medical treatment and (d) investigate the alleged incident of domestic violence and gather all available evidence in respect of any offence which may have been committed during such incident. One of the participants responded as follows:

TP10 *“Before attending to a scene there must be information that must be received such as what happened and how many people involved, is there a*

firearm involved, situation at the scene, any medical assistance required at the scene, are the kids involved at the scene, on arrival at the scene observe first, introduce ourselves and start to interview to get information, separate the parties and take the wife to the safe place and also execute the search as we are not sure if the dangerous weapons are in the premises”.

The above response suggests that the participants were trained and will be able to apply the National Instruction 7/1999 read together with Domestic Violence Act 116/1998 in the performance of their duties.

A few participants responded that they were not trained in Domestic Violence (DV). The participants who indicated that they were not trained are almost the same in number as those who stated that they were trained in DV. One of the participants who denied having received any training responded as follows:

TP9 *“If there is a domestic violence, if the woman comes to report at the CSC then if she has children, you ask her where are the children, is there any safety for the children at home, where is the victim, is still around at home, or is with her, did he apply for the protection order before, did he ever sustain any injuries, if maybe there was a fighting, and then if didn’t apply or do the protection order, then you apply for the protection order and then you fill SAPS 508(a) and 508(b) then you ask the complainant maybe is it safe for her to go back or go anywhere she is feeling safe”.*

Another response reads as follows:

TP20 *“A police official have got the duty to inform the parties that are involved that they got the right to open the case or to apply for the protection order if they don’t want to open a case or to do both, they can apply for the protection order and open a case also if there is a weapon involved there, the police officers they got the right to go to the respondent place to confiscate the firearm because in case of domestic violence if there’s a firearm is not allowed to be kept there because it possess danger to the complainant”.*

The two responses above clearly fall within the perimeters of the N.I 7/1999. It is clear to the researcher that the participants were trained, because they would have not responded in this way. It seems as if they know the responsibilities of officers or else they did not understand the question posed to them.

5.2.10 The Scenarios

Under this section the researcher asked the new recruits questions using practical scenarios. Their responses were analyzed in terms of the Constitution of the Republic of South Africa, 1996. This discussion will be done under the following sub headings: children in conflict with the law, doing stop and search while on duty, attending to domestic violence, police brutality and working with foreign nationals. The scenarios form part of the interview schedule, attached as Appendix 4.

5.2.10.1 Dealing with the child in conflict with the law

Participants were asked how they would deal with a situation in which they discover that a child is the suspect in a complaint. The CJA requires police officers to follow a specific procedure when dealing with a child in conflict with the law. Section 5 of the Act refers to the manner of dealing with an alleged to have committed offences and section 5(1) states that every child under the age of 10, who is alleged to have committed an offence, must be referred to the Probation officer, because such a child is not supposed to be arrested. Furthermore, the Act guides the police specifically in section 9 regarding children under 10 years (SAPS, 2007). A police official must immediately do one of the following:

- Hand the child to the parents or an appropriate adult, or
- If no parent or appropriate adult is available, or
- If in the police official's opinion it is not in the best interest of the child to be handed over to the parent because of any reason such as on arrival the official finds that parents are drunk and violent, the police official must hand over the child to a suitable Child and Youth Care Centre. A Child and Youth Care Centre

is a new notion that replaces what we currently refer to as a children's home, a place of safety, or a secure care facility.

The participants gave the following different responses:

TP4 *"On that one cause according to Criminal Justice Act the child that is under the age of ten cannot be criminally liable because that is still a child so cannot be responsible for such action, so you cannot arrest that child".*

TP20 *"We take the child to the police station but we don't detain the child must be referred to, we've got the F.C. Unit in the SAPS deals with the children also deals with sexual offences and family violence, those people are the once who are going to deal with the child cause we cannot detain that person under the age of ten years so those people are going to refer the child to the social worker to deal with child in the rights way and if the parents are available are going to be contacted by the social worker who would talk to the parents from there, the child would be taken to under the supervisor of the parents".*

It is evident from the above responses, that participants know that children in general are not to be detained, but only as an act of last resort. Some participants, however, are not sure how to handle a situation in which the suspect is child. The following responses were received:

TP9 *"I will arrest the child then I will come with him or her in the police station then I will ask her or him the phone number of his parents then inform their parents what the child have done in the shop cause cant arrest the child is under eighteen years".*

TP15 *"Firstly I'm not sure cause they say this law has changed I'm not sure the child of ten years, you cannot detained that child, the child of less than ten years you cannot detained that child".*

Upon analysis of the responses the researcher realized that there is a great need of in-service training of police officials in the CJA. The researcher acknowledges that the CJA came into effect in April 2010, but up to 2016, when this data was collected, all police officials should have received training.

5.2.10.2 Doing stop and search while on duty

The researcher presented the following scenario to the participants: while on duty they identify a suspicious man who refuses to be searched. They were asked how they would handle the situation. Approximately half of the participants indicated that they would use minimum force to search the suspicious person. The following is one of the responses:

TP14 *“According to section, I forgot the section where it says that the right of the person are limited, I will use limited force since well he says he cannot be searched, I will use minor force and communication, explain to him that I have to search him, I have right to search him cause he looks suspicious and if he continues being aggressive, I will forcefully search that person. You see that is when human rights will tell me I’m wrong to search him then I will forcefully him, I will be doing my job”.*

A few participants said that they have a right to search without a warrant and they would call for assistance as they believed that they can arrest the person. Participants responded in this manner:

TP8 *“I don’t think that when I do patrols I will do it alone, if the man refuses I will ask my members to search but if he refuses but if he refuses again it will be a problem now, so I think I will use force cause the is always force, I will use force because I will be sure that this is the suspicious man”.*

TP12 *“If he or she refuses me to be searched I will search him without a warrant there is a section that allows me to search with or without a warrant so I will tell them section this and that allows me to search you without a warrant cause I*

know most of the people before you can search them or their properties want you to produce the search warrant before you can do that, I will explain the section before search before him or her”.

The responses of the participants clearly indicated that members are not aware that when performing their duties outside the CSC, police officers form part of the community at large, and therefore when police officers perform their duties, the community feels that they are victims of the police. Police officers must know the laws of general application when performing their duties so that they are able to explain those laws of general application when limiting their rights. During such an explanation members of the community get an education on police rights.

5.2.10.3 Attending to domestic violence complaints

The researcher presented a scenario to the participants that they attend to a complaint of domestic violence and discover that the respondent to the complaint is a police official. They had to explain their plan of action. The responses from participants indicated that the participants knew what is expected of them when attending to such a complaint. Most importantly, participants are aware that no one is above the law and are all subjected to the Constitution. Approximately two thirds of the participants said that they will open a case of domestic violence:

TP4 *“On that scenario, you must first hear what the complainant wants to do, the complainant wants to open the case against the wife, it doesn’t matter whether you are a police officer or you are just a normal citizen of South Africa then you have to do what the law says we must do, you have to open that assault case under domestic violence”.*

About a quarter of the participants mentioned that they would also arrest the perpetrator.

TP18 *“We don’t have to say because the woman is the police official we don’t have to arrest that person, every person can be arrested if he or she commits*

crime so assaulting a person is the criminal offence and the person can be arrested”.

A few participants mentioned that they would inform the complainant about his rights and seize the firearm.

TP6 *“The first thing I would do is to disarm the wife to take away the firearm as she is violently abusing the husband and one way or the other has to be detained, she has to be detained and the statement from the husband must be obtained as his the one who wants to open a docket, as an official it does not mean that you the right to threatened another person’s life because as an officer you know the do’s and don’ts that the person should be doing and should be not doing so she will be detained”.*

TP10 *“Exactly I will open the case because the husband wants to open the case and the wife who is the police official. Let me be fair it was me I will call the wife first to speak with the wife is the police official, is the person who knows the rights, is the person who knows you must do this or that is the person who knows that you can be arrested. I will call her and the husband and try to resolve the issue and everything and if it can’t be resolved, the issue wife is still is still angry it won’t be my problem I will have to open the case she will forgive”.*

The above responses are sources of concern, as it is evident that the participants would not perform their duties according to the Constitution. It seems as if they will not be impartial in attending to the complaint, as the respondent in the scenario is a police official.

5.2.10.4 Police brutality

In this scenario the participants were asked what they would do when attending to a complaint and at the scene their partner starts to assault the suspect. Approximately two third of the participants strongly agrees that the partner needs to be stopped from assaulting the suspect. Only a few said that they will open an assault case for the

suspect against the police. Only two participants mentioned that the matter would also be reported to the station commander. One participant said that if there are any injuries sustained by the suspect, the suspect will be taken to the hospital. There were two responses that attracted the attention of the researcher. The participants gave the responses as follows:

TP07 *“My partner doesn’t have any right to assault that person cause maybe I can say I may not be able, a charge must be laid against my partner cause he assaulted the suspect without no apparent reason actually I don’t think when I find the suspect on the scene the suspect, the suspect doesn’t run away, he doesn’t fight you, he is not a danger to you, you just have to take him nicely then put him in the car then will interview the complainant but not assault him, I’ll have to come back to the station if the suspect want to lay a charge against the police officer my partner then we have to do that with pleasure without hesitating”.*

One response was worrisome, because the participant indicated he/she would only come to the rescue of the suspect once the interview has been finished, regardless of the time such an interview would take.

TP8 *“All I can say is when interviewing a person or complainant you just have to interview the person and finished, you don’t have to cut your interview cause sometimes the person forgets what happened, the complainant can change the statement after that saying that I didn’t say I said that, so you can just interview a person once then after that go attended to your partner with the suspect, I think I will just advise my colleuge not to assault the suspect cause the suspect also have his rights”.*

This response is an indication that the participants understand that no one is above the law, including law enforcement officers. The participants recognize the vision of the SAPS and the Code of Conduct to which the SAPS committed itself towards the creation of a safe and secure environment for all people in South Africa. They have committed to participating in endeavours to address the root causes of crime in the

community, preventing action which may threaten the safety or security of any community, investigating criminal conduct which has endangered the safety or security of the community and bringing the perpetrators thereof to justice.

5.2.10.5 Attending to a xenophobia crime scene

In this scenario the researcher asked the participants to explain the steps to take when they are called to attend to a murder scene and the murder has been committed by a foreign national. Members of the community subsequently loot the shop of the foreign national as revenge for the murder committed by this foreign national. The researcher discovered different steps that participants would follow when dealing with crowd management in the line of duty.

From the empirical data the researcher deduces that most of the participants said that they would call for back-up from other members and also call the unit specializing in crowd management, the Public Order Policing (POP) for assistance. Half of the participants mentioned that they would protect the foreign person (suspect) from the community that is violent and less than a quarter of participants also mentioned that the shop must be protected. They would open a case of theft against the community for looting, arrest those who are looting the shop and arrest the suspect for alleged murder. If any injuries had been sustained they call for medical assistance and interview any witnesses when available. One of the responses received from the participant was as follows:

TP25 *“First thing first the community have no right to take the law into their own hands, okay I will stop the community from assaulting the suspect only if they listen to me, if they don't listen, I will call for backup then will remove the suspect from the community, we put him in another vehicle that came for backup then they take him to him to the police station then I will close the shop. I'll ask the suspect first to lock the shop because I don't know where the keys are, lock the shop so that so that these people they stop taking things inside the shop then will take him to the police station I will remain there at scene, secure my scene and*

proceed with the scene looking for witnesses and then take statement everything from the witnesses if they are there, from the complainant if his still available cause sometimes the community when you take away the suspect from them they refusing to give you the information because they are saying we police officers we are protecting the suspects especially about the foreigner they don't take any shit about foreigners, we can even arrive at the scene sometimes they burned him so it is safe for him to be removed on the scene".

The researcher also discovered from the responses of a few participants that they would call for backup but not take any action until the backup arrives. These responses are a matter of concern, because if happens the suspects dies at the hands of the community while the police are at the scene, it may lead to disciplinary action taken against them for failing to perform their legal duty. Members of the community not participating in this criminal act, may observe and see that although the police are at the scene, they do nothing, and may interpret it as if the police condone the act of a foreign national being killed.

TP16 *"If I'm the first member on the scene maybe I'm with my partner and we see that the community is angry and we can see we cannot do anything as we are two will have to call POP in order for them to come and help us to calm the community down before taking anything further, because the community can be angry more especially they can find out that the person who committed the crime is not the local person I will have to call the POP to help calm down the community cause one or two people cannot do anything regardless of who we are".*

The overall responses demonstrate that the participants know and understand that South Africa belongs to all who live in it, united in our diversity as stated in the preamble to the Constitution. The participants also understand the importance of their objectives as mentioned in section 205(3) of the constitution which states that police must protect and secure the inhabitants of the Republic and their properties.

5.3 Summary

In this chapter the researcher analyzed the data collected from all the participants and interpreted the data to provide an overview of how the participants responded to the questions during the interviews. Nine themes were presented and in the next chapter the researcher will discuss the findings.

CHAPTER 6: INTERPRETATION OF THE FINDINGS.

6.1 Introduction

Findings in the field of research are most important, as the researcher has to report and explain what was found during the journey of the research study. In the previous chapter the researcher interpreted the data. The themes that emerged from the analysis in the previous chapter will structure this chapter. The researcher analyzed the nine themes presented in chapter five by relating the themes to the literature review and legal framework.

6.2 The reason for joining SAPS

Chapter 9 of the SAPS Act 68 of 1995 section 27 refers to the filling of posts. Section 27(1) states that the filling of any post in the service whether by appointment, promotion or transfer shall be done in accordance with this Act. Furthermore, section 28 refers to the recruitment and appointment, while section 28(1) states that the National Commissioner shall determine a uniform recruitment procedure for the service. The National Head of the Directorate shall determine a uniform recruitment procedure for the Directorate for Priority Crime Investigation and section 28(2) further states that the National Commissioner may appoint a person to a post in the fixed establishment of the service.

The theme allowed the researcher to obtain the participants' reasons and motivation for joining the SAPS and their commitment to the profession. The results showed that the majority of participants' joined the SAPS because they regard it as a calling, which may refer to their passion for the job, wanting to fight crime and help the community. The remainder of the participants joined SAPS because of scarcity of jobs in the country, which may refer to the fact that participants just took a taking a chance by applying and being fortunate to be hired by the SAPS.

Roufa (2016) points it out that there are five reasons for becoming a law enforcement officer. Law enforcement careers are often taken for their many immaterial benefits, from helping others to serving communities. The five reasons are given as follows: job benefits for police officers, salary for police officers, opportunities for advancement and promotion in the police service, ongoing learning opportunities in the police service careers, working in the law enforcement is fun and most importantly, becoming police officers is a great career choice. With regards to the reasons given by Roufa and the participants the results indicate that one has to meet the recruitment requirements after the application phase.

The SAPS has the following requirements for anyone who wishes to join the SAPS: the applicant must be a SA citizen by birth and be at least 25 but younger than 40 years of age. The applicant's documentary proof must be furnished and he/ she must complete a health questionnaire which is confirmed by a registered medical practitioner. The applicant must be medically, mentally and physically fit to perform duties and be of good and sound character. The applicant must fit the psychometric profile and must successfully complete any other test that may be determined by the National Commissioner. The applicant must be in possession of at least a senior certificate or must have successfully completed a SAQA accredited NQF level 4 qualification, of which documentary proof must be provided. Furthermore, the applicant must be able to speak, read and write at least two official languages and one must be English. Fingerprints and a DNA sample of the applicant will be taken. The applicant must be prepared to undergo such training as may be determined by the National Commissioner. The applicant will be required to take the prescribed oath of office and understand that service may be terminated at the age of 60. The applicant will be required to complete an assessment questionnaire and be vetted or screened. When the applicant is employed, he/ she must supply proof of residential address. The candidate must not have a criminal record or any criminal and departmental case pending and finally the candidate must not have a tattoo which will be visible if the person wears a uniform.

The above mentioned requirements as set out by the SAPS are a clear indication that SAPS does everything in its powers to ensure that the right candidates are appointed. This means that any person being recruited to join the SAPS must firstly have the passion to serve the community and most importantly, the person must have prior embedded knowledge from high school as it will be a minimum requirement. Furthermore, the potential recruit must go for further recruitment procedures to ensure that the person is the right candidate for the job.

6.3 Training in human rights

The questions that are related to the training of human rights theme have been clustered together. The researcher will discuss the following sub-heading themes, namely, formal training on the topic of human rights, application of human rights training in the field and attending to complaints during field training.

6.3.1 Formal training on the topic of human rights

The Office of the High Commissioner for Human Rights Centre (UN 2000) emphasized that human rights training should be grounded in clearly expressed objectives and the objectives are given as follows: to receive information and knowledge, to acquire or reinforce skills and finally to become sensitized. Furthermore, the OSCE (2008:19) states that the main aim of the overall processes and goal of human rights education is to ensure that it reflects the human rights-based approach. This refers to human rights education involving the integration of human rights principles within all programming cycles, which will include planning and design, implementation, monitoring and evaluation and the expectation that outcomes are explicitly linked with improving the enjoyment of human rights (OSCE, 2008:19).

The participants all achieved all the requirements for the qualification National Learners Records Database (NLRD) ID 50122 with a total number of 135 Credits in relation to the National Certificate: Policing NQF Level 5 at the Academy. This points to the fact that the participants have been trained in the variety of modules in the qualification ID 50122 to ensure that the participants are well trained to respect human rights of the community

in general. This is in line with the international standards, as it is a requirement that law enforcement officers must be trained to have knowledge and skills to perform their duties effectively. In the qualification SAQA US ID 120480 the participants are taught that in creating a human rights culture they must never yield to the temptation to betray principles by using unlawful methods to achieve success. The results show that there are similarities between the literature by the UN and OSCE with the formal training that is obtained by the participants on the topic of human rights and policing at the SAPS College, as the training of human rights addresses the objectives of human rights and there is integration of outcomes and practical's.

6.3.2 Application of the human rights in the field

The role of the police in protecting the liberty of individuals in the communities involves specific challenges (Murdoch & Roche, 2013:10). In the previous chapter under paragraph 5.2.2.3 it was not clear to the researcher whether the participants were not able to apply the knowledge of human rights training during field training because the participants did not remember receiving training on the topic, or whether it reflects back to participant attitude, as it is important for participants to be able to apply human rights in the field as it forms part of basic training.

In upholding the rule of law in a democratic society, the police are assigned the duty of policing society and therefore police members themselves must be subjected to accountability before the law. Police officers are the protectors of human rights on a day-to-day basis, and in order to perform their duties effectively, they often have to interfere with the rights of those who interfere with the rights of others. The problem is identified as officers being able to balance between police powers and individual freedom (Murdoch & Roche, 2013:10).

In chapter 2 part 1(7) of Gazette no 31412 the Minister reminds the officers not to violate human rights by regulating the relationship between members and the community: members must not unfairly discriminate against any member of the public because of race, gender, ethnic or social origin, colour, sexual orientation, age,

disability, religion, political persuasion, conscience, belief, culture or language. They should respect and protect the dignity of every person and their rights as contained in the Constitution when performing their duties (South African Gazette, no 31412).

The SAPS Academies are in line with international standards, as trainees at the Academies are trained in unit standard ID 120479. This unit standard requires trainees to demonstrate understanding of community policing which will enable them to apply the principles of human rights correctly in their field of work. The findings indicate that the law enforcement officials can apply human rights principles on a day-to-day basis, and the result shows that the entire group of participants affirmed that they are applying and utilizing the knowledge received in human rights training when performing their duties.

6.3.3 Attending to complaints during field training

The OSCE (2008) states that the police, as an organ of the state is given the responsibility by the democratic government to protect the rights of citizens and enforce the law of the state. Their daily on-the-job decision-making should be based on democratic values, adherence to the rule of law and respect for human rights. Those values ensure fair and impartial treatment of all individuals, sensitivity to racial, ethnic, sexual, gender and religious factors, with awareness of cultural diversity and discrimination.

The SAPS Act 68 of 1995 outlines the police powers, duties and their functions as stated under section 13 of the Act. There are two important aspects to be noted by members of the SAPS, namely rights of members as individuals and reasonableness. Under rights of members, section 13(1) allows police members to execute their duties using all the powers given to them by the Constitution, but it also warns the members that in the execution of their duties, it must be done subject to the Constitution and with due regards to the fundamental rights of our citizens (SAPS Act, 68 of 1995).

The SAPS Academies are in adherence to international standards as the trainees are trained in unit standard ID 120480. In this unit standard the trainees are trained to demonstrate an understanding of crime prevention.

The trainees are also trained in unit standard ID 120483, which teaches the trainees how to conduct a preliminary investigation on arrival at the scene. The two unit standards will enable trainees to attend to complaints in a professional manner. Furthermore, the literature states that law enforcement officials must be able to uphold the values and fair and impartial treatment of all individuals. The results indicate that the participants were exposed to different types of crime scenes, ranging from murder to arson when attending to complaints during the completion of their field training at the different stations. The indication is that they upheld the values of human rights.

The findings above make it clear that the objective of human rights training is to receive information and knowledge, to acquire or reinforce skills and to become sensitized in working with members of the community. Most importantly, members of the community must never be unfairly discriminated against by any law enforcement officer.

6.4 Defining human rights

The Commonwealth highlights that human rights can be described in various ways. It can be described as generally accepted principles of fairness and justice inherent in every individual by virtue of their humanity or moral rights that belong equally to all people simply because they are human beings (Commonwealth 2006). The Commonwealth is further supported by (Mubangizi, 2004) by explaining that human rights are understood as rights which belong to an individual, as human rights are those rights one possesses by virtue of being human. The most important point is that no qualification is required to enjoy human rights other than the fact that they are human beings (Mubangizi, 2004:2; 2013:4).

The sources above clearly indicate that human rights belong to everyone because they are human beings. The findings show that the participants, in defining human rights, were not able to define human rights as stated in the Constitution or by the United Nations. The participants managed to give practical examples for human rights as a means to define human rights to the researcher. The fact that most of the participants were not able to define human rights correctly means that there is a possibility that the

participants will violate the human rights of the community, as they do not have a clear understanding of what human rights entails at the SAPS Academies.

The UN High Commissioner for Human Rights describes human rights as universal legal guarantees protecting individuals and groups against actions by governments that interfere with fundamental freedoms and human dignity. The commissioner mentioned that above all human rights law obliges governments to do something and to prevent them from doing others. Some of the most frequently cited characteristics of human rights are: internationally guaranteed, legally protected, focus on the dignity of the human being, protect individuals and actors, cannot be waived or taken away, equal and interdependent and universal (United Nations, 2002).

The SAPS Academies are in line with international standards as the participants represent the organs of state to ensure that as organs of state they do not interfere with the fundamental freedoms and human dignity of the community. The Academies ensure that the participants are well trained in the different modules to respect human rights. The human rights training at the SAPS Academies must pay special attention to the topic of human rights which will result in trainees being able to define human rights correctly.

6.5 The origin of human rights

In order to understand the origin of human rights, recruits need to understand the birth of the UN. The findings show that the participants did not clearly understand the origin of human rights, since the responses were not satisfactory and none of them mentioned the United Nations. They did not know that the South African democracy, which commenced in 1994 was based on human rights. In chapter one, human rights was defined as universal legal guarantees protecting individuals and groups against actions of the Government that interfere with fundamental freedoms and human dignity and above all human rights law.

University of Minnesota (2015) argues that the idea of human rights emerged stronger after World War II. The killing of over six million Jews, Sinti and Romani, homosexuals

and persons with disabilities by Nazi Germany horrified the world. Trials were held in Nuremberg and Tokyo after World War II. Officials from the defeated countries were punished for committing war crimes, crimes against peace and crimes against humanity. Countries then committed themselves to establishing the UN with the primary goal of encouraging international peace and preventing conflict. People wanted to ensure that never again would anyone be unjustly denied life, freedom, basic needs and nationality. The human rights principles came alive in 1941 when President Franklin Delano Roosevelt. During the state of the Union Address spoke of a world founded on four essential freedoms: freedom of speech and religion, and freedom from want and fear. Around the world calls were made for human rights standards to protect communities from abuses of those living within their borders. These calls played a critical role in the San Francisco meeting that drafted the UN Charter in 1945 (University of Minnesota, 2015, supported by Mubangizi, 2013:7).

The second point is the Universal Declaration of Human Rights by the member states of the UN who pledged to promote respect for the human rights of all. In realizing the goal, the UN established a Commission on Human Rights and entrusted it with the task of drafting a document delineating the meaning of the fundamental rights and freedoms proclaimed in the charter. Eleanor Roosevelt's leadership guided the Commission and captured the world's attention. The UDHR was adopted by 56 members of the UN on 10 December 1948. The vote was unanimous while eight nations chose to abstain.

The UDHR is commonly referred to as the international Magna Carta. The UN Charter was ushered by international law, in which it is stipulated that the way a government treats its citizens has become a matter of legitimate international concern, and not simply a domestic issue. The claim is that all rights are interdependent and indivisible. The preamble of the international law asserts that: *"Recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world"*.

In Europe, the Americas and Africa, regional documents for the protection and promotion of human rights extended the International Bill of Human Rights. The African

states created their own Charter of Human and People's Rights in 1981. Since 1989 the changes in Eastern Europe, Africa and Latin America have powerfully demonstrated a surge in demand for respect of human rights (University of Minnesota, 2015).

South Africa is a member state of the UN and it had an obligation to the UN to create a Constitution that will respect the human rights of its own citizens. The Republic of South Africa is one, sovereign, democratic state founded on the following values: (a) human dignity, the achievement of equality and the advancement of human rights and freedoms, (b) non-racialism and non-sexism, (c) supremacy of the Constitution and the rule of law and (d) universal adult suffrage, a national common voters roll, regular elections and a multi-party system of democratic government, to ensure accountability, responsiveness and openness (the Constitution of the Republic of South Africa, 1996).

6.6 The importance of respecting human rights by law enforcement

Respect for human rights by law enforcement officials starts with an understanding why human rights need to be protected by such officials. The findings show that participants understand that in performing their duties they form part of the community and furthermore they acknowledge the importance of respecting human rights and to act in accordance with any South African legislation in the Constitution. The researcher's findings are aligned with the international benchmark.

The OSCE (2008:12) points out that human rights are derived from the inherent dignity and worth of the human person, and they are universal, inalienable and equal. Furthermore, it states that the principle of respect for human dignity is the foundation of any national or international text on the protection of fundamental rights. Human dignity is inviolable, there can be no exception, nor can any limit be imposed, even where law and order is concerned. The possession of human dignity carries certain immutable moral obligations. These concern the treatment of all other human beings, the duty to preserve life, liberty and the security of persons. To preserve peace and stability in their respective states and to gain trust and support from the citizens, the police must respect, protect and promote human rights (OSCE, 2008:12).

In addition, police behaviour must be legal, necessary and proportionate to best protect the rights and freedoms of citizens. Citizens in a democratic society must be treated fairly and protected by the police, and in the case of criminal acts, treated by the police as suspects, not as criminals. The primary function of police is the protection of human rights by maintaining social order so that all human rights of every category can be enjoyed (OSCE, 2008:12).

The UN (2002:22) furthermore supports the OSCE by stating that respect for human rights will actually enhance law enforcement officials' effectiveness. The police, by respecting human rights will be seen as being moral and legal. In this way public confidence is built with subsequent more community participation, higher rates of legal prosecution in court, and the police will be seen as part of the community. If the police respect human rights, there will be fair administration of justice, more support from the media nationally and internationally, and peaceful resolution of conflicts and complaints. The UN (2002:22) further states that when human rights are respected it will indicate that police officers have developed professionalism in their approach to solving and preventing crime and maintaining public order because law enforcement officers are the first line of cover in the protection of human rights (UN, 2002:22).

6.7 Human rights as a barrier for SAPS member to perform duties

Two questions were investigated, with regards to the theme of human rights as a possible barrier: firstly, do human rights undermine law and order? Secondly, does a concern for human rights hinder effective police work? According to the UN (2002) the message of the protection of human rights is just as clear as it was in 1948 when the Universal Declaration was adopted: without the maintenance of the rule of law there will be a violation of rights. In addition, if there are serious human rights violations, disrespect for the law and public authorities' mounts and open conflict is more likely to happen. Violating human rights cannot contribute to the maintenance of public order and security, but it can only damage and finish it. Violations of human rights by police only exacerbate the already challenging task of law enforcement. When the law enforcer becomes the lawbreaker, the result is an assault on human dignity, on the law

itself and on all institutions of public. It has been seen that police have the tendency to use unnecessary force in controlling demonstrations, physical pressure to get information from detainees or excessive force to secure an arrest. This way of thinking may contribute to perceptions that human rights are deliberately used by lawyers and Non-Government Organization's (NGO) to obstruct police actions in their war against crime.

It must be made clear to participants in the training of human rights that the observation of human rights can never constitute a barrier in the execution of their duties.

Furthermore, there are negative effects when human rights are violated by law enforcement officials, and those negative effects will lead to the following: no more public confidence in the police, a decrease in the prosecution of cases in the court, the isolation of police from the community, suspects walking out of court without a guilty verdict, victims of crimes do not experience that justice was served, police are left with reactive action instead of proactive action in the prevention of crime, the reputations of public institutions are brought into disrepute, high volumes of civil suits, and lastly, human right violations increase public unrest in the community. The literature states unequivocally that observing human rights can never prevent law enforcement officials to execute their duties. The results show that most of the participants did not agree that human rights are a barrier to perform their duties, but stated that human rights assist them to perform their duties to the best of their abilities.

6.8 Application of human rights when attending to complaints

In responding to crime incidents the police should act to protect citizens from harm, arrest those who commit crimes and prevent the incident from spreading to unaffected areas. Uniformed police are often the first responders, responsible at the early stages of an incident for protecting and preserving life, property, evidence and the environment.

This sub-heading focuses on matters related to the first responder at a major incident, both when on and off-duty. These first responders might also include emergency response providers, emergency management, public health, clinical care and public

works personnel, as well as other skilled support personnel such as equipment operators who provide immediate support services during prevention, response and recovery operations. It may deal with how to approach emotionally disturbed or violent people. The results show that the majority of the participants do consider human rights prior to attending to complaints and the remaining number of participants indicated that they only sometimes think about human rights prior to attending to complaints, even though they have been trained on the topic of human rights and policing.

As previously stated in paragraph 3.2, the OSCE (2008) made it clear that the police service is an organ of the state and is given the responsibility by a democratic government to protect the rights of citizens and enforce the law of the state. Their daily on-the-job decision-making should be based on democratic values, adherence to the rule of law and respect for human rights. Those values ensure fair and impartial treatment of all individuals, sensitivity to racial, ethnic, sexual, gender and religious factors, with awareness of cultural diversity and discrimination. They reflect a respect for fundamental human rights, integrity and the police code of conduct. This means that when attending to any incident(s) the onus of respect lies on the person who arrived first on the scene, regardless of the person's job title or status because a split second decision has to be made by the first responder. The researcher's findings are aligned with the focus of this paragraph.

6.9 Specific training of police officials

The researcher clustered the questions that are training related and pertain to detained and arrested people. The following sub-heading themes will be discussed: formal training on the topic of detained people and procedures when arresting a person and the rights of a detained person.

6.9.1 Formal training received on detained people

The Commonwealth (2006) points out that there are basic rights for people in police detention and the law provides authorization for the police to detain persons temporarily pending charges and awaiting a hearing, where it will be determined whether bail can

be granted or not. The International Human Rights Law recognizes the basic international rights of all detained people in which the 1998 Body of Principles applies to people under any form of detention. The basic right enforces the responsibility to the police to respect these rights and to know their duties with regards to affording those to detained people. Furthermore, there are general provisions issued by ACHPR (2014) by firstly pointing out that arrest refers to the act of apprehending a person for the alleged commission of an offence, or to the action of a competent authority to arrest and detain a person as otherwise authorized by law. Likewise, guidelines are given that must be adhered to: everyone has the right to liberty and security of the person. Detention must always be an exceptional measure of last resort. No one shall be subjected to arbitrary or unlawful arrest or detention. Additionally, where appropriate, particularly in cases that involve children in conflict with the law, efforts should be made to divert cases away from the criminal justice system and utilize recognized and effective alternatives that respect applicable international law and standards. Alternatives to arrest and detention should be promoted under a framework that includes reasonable accommodation for persons with disabilities, and a framework that promotes the best interests of children in conflict with the law (ACHPR, 2014).

Section 35(2) of the Constitution of the Republic of South Africa, 1996 refers to people who are being detained, including sentenced prisoners. According to Nel & Bezuidenhout (2003:182) all arrested persons become detainees after the arrest, and there are people (such as mentally disturbed persons) that may be detained by the order of a magistrate and illegal immigrants by order of immigration officials. Likewise, a person who has not yet been yet arrested can be detained prior to the actual arrest and the exception will apply to persons taken to the police station for questioning, such as persons stopped at the roadblock and while police were doing a stop and search. Importantly, those persons must be informed that they are not arrested and they have no obligation to go with the police, only if they wish to do so and should they refuse it may then be necessary for the police to arrest the person (Nel & Bezuidenhout, 2003:182).

The Commonwealth (2006:46) and Nel & Bezuidenhout (2003:182) agree that a person can be detained, but does not necessarily mean that the person has been arrested. The results indicate that most of the participants received training in working with detained people. Participants know what is expected of them when posted to work in the cells. The results also show that the remaining participants did not receive training in working with detained people, which indicates that they would not know what is expected of them, should they be posted to work at the cells.

The training of recruits on section 35(2) of the Constitution at the SAPS Academies is an indication that the SAPS Academies are in line with international standards required for the training of law enforcement officers and to ensure that the police officials respect the rights of detained people.

6.9.2 Procedure when arresting a person and the rights of the detained person

In the past the legal arrest in terms of the Criminal Procedure Act 51 of 1977 comprised of two basic elements, namely, physical deprivation of a person's freedom and informing the person of the reason for the arrest. Furthermore, failure to comply with the requirements would render the arrest unlawful and would mean that a law suit may be instituted by the arrested person against the state for unlawful arrest (Nel & Bezuidenhout 2003:182). This statement is further supported by Joubert (2015:234) who states that arrest is the most drastic method of securing the attendance of an accused to court, as it causes serious violation to the right of individuals and should only be used in instances where there are reasonable grounds for believing that a summons or written notice will be ineffective to ensure the attendance of a person at the trial.

Joubert (2015:236) further states that the general rule is that arrest is the method by which the accused's presence can be secured in court for the purpose of trial, and the purpose of the arrest must therefore be to bring the accused before the court to be tried on the charge(s) that were brought against them and not to punish such a person. The Commonwealth (2006:39) argues that under the purpose of the arrest, no one shall be

deprived of their liberty except on such grounds and in accordance with such procedures as are established by law (ICCPR Article 9.1).

The results demonstrate that participants received training under section 35 of the Constitution, and that the participants are able to explain the procedures to be followed when arresting a person and the rights of the detained person. The results show that participants are not able to differentiate between section 35(1) and 35(2). This means that training of new recruits on section 35 is very important because persons being supervised under this section may be seen as people who do not have any rights because they have violated other people's rights. Recruits should know that even when a person is arrested or under detention that person still has rights.

Training of new recruits on detained people is very important, as it teaches recruits that even detained people in police cells must be treated with respect, as they must not be discriminated against in any way, as they have rights which are protected by international human rights.

6.10 Training received in Domestic Violence

The questions asked during the interviews that are related to training on domestic violence have been clustered together. The following sub-heading themes: formal training on the topic of domestic violence and the duties of a police official in domestic violence will be discussed.

6.10.1 Official training received in domestic violence

Domestic violence is recognized by international law and the UN treaties on domestic violence as a violation of human rights. International treaties only provided protection against domestic violence unreservedly, but during 1990's domestic violence started to get more explicit attention with the passage of the General Comment No. 19 by the Committee on the Elimination of Discrimination Against Women of 1992.

The UN treaties is supported by Declaration of Elimination of Violence Against Women of 1993 (Advocates for human rights, 2012). Furthermore, the UN has made it clear that violence against women is a violation of basic human rights (UN, 2011).

Article 2 of the AU refers to the Elimination of Discrimination against Women (EDAW), in which the AU member states undertake to combat all forms of discrimination against women through appropriate legislative, institutional and other measures. In this regard they shall include these aspects in their national constitutions and other legislative instruments, focusing on the principle of equality between women and men and ensure its effective application. In addition, they will enact and effectively implement appropriate legislative or regulatory measures, including those prohibiting and curbing all forms of discrimination, particularly those harmful practices which endanger the health and general well-being of women (AU, 2003). In Chapter five, paragraph 5.2.9.1 international human rights standards and practices to be embedded in the training of recruits at the SAPS colleges as stipulated by the Commonwealth, have been explained.

South Africa is a member state of the UN and AU. The state has the obligation to implement the legislation, which is Domestic Violence Act 1998 (Act 116 of 1998). The results indicate that that all the participants know what is expected of them under domestic violence as they were trained on the topic. Modules 1-4 of criminal justice systems cover Domestic Violence at the SAPS Academies, SAQA US ID 120488. Trainees are taught how to attend to and handle a domestic violence incident.

6.10.2 Duties of a police official in domestic violence

The Domestic Violence Act 1998 (Act 116 of 1998) in South Africa, in its Preamble states that the purpose of the Act is to afford victims of domestic violence the maximum protection from domestic abuse the law can provide. The Act offers a fast, free remedy to victims, namely, the victims may apply for a protection order at the court, open a criminal case and may apply for both remedies (Joubert, 2015:127).

Joubert's viewpoint is aligned with the Constitution. The researcher has discussed the duties of the police official in relation to Domestic Violence in Chapter five, paragraph 5.2.9.2.

The results show that participants were able to mention the duties placed upon the police official when attending to a complaint of domestic violence. Even those participants who mentioned that they were not trained in the domestic violence, were able to list the duties placed upon law enforcement officers when handling domestic violence.

SAQA US ID 120488 provides a clear indication that all the participants were trained in domestic violence. This means that the impact of this training is a huge step to ensuring that they display professional conduct when handling such cases of domestic violence, as the victims of domestic violence incidents are always the most vulnerable members of the society, namely women and children.

It is evident that SAPS members are well trained in dealing with domestic violence and there are various policy documents to refer to and support them in the execution of their duties. Therefore they are expected to make correct decisions at all times.

6.11 Scenarios

The researcher clustered the questions in the form of scenarios. The rationale for the scenarios was to determine if the new recruits would know what action to take in dealing with similar situations. The following sub-heading themes will be discussed: dealing with children in conflict with the law, doing stop and search while on duty, attending to domestic violence, police brutality and attending to a xenophobia crime scene.

6.11.1 Dealing with the child in conflict with the law

The UNICEF (2016) is mandated by the United Nations General Assembly to advocate for the protection of children's rights. UNICEF is guided by the Convention on the Rights of children and strives to establish children's rights as enduring ethical principles and

international standards of behavior towards children. Furthermore, UNICEF maintains that the survival, protection and development of children are universal development imperatives that are integral to human progress. UNICEF committed itself to ensuring special protection for disadvantaged children, victims of war, disasters, extreme poverty, violence and exploitation and children with disabilities in over 158 countries and territories by taking a preventative approach against the abuse and exploitation of children by supporting governments to create a protective environment for all children (UNICEF, 2016).

One of the mandates of UNICEF is juvenile justice in which children in conflict with the law are protected by the UN Convention on the Rights of the Children. Juvenile justice is part of UNICEF's overall commitments to Child Protection, an area which addresses prevention and response to violence, abuse and exploitation of children, as well as the particular rights of children not in the care of their families (UNICEF, 2016). South Africa, as part of the UN treaties committed itself to honouring international obligations towards children globally by ratifying the UN Convention on the Rights of the child (CRC) in the country on 16 June 1995 as required by Article 40 of the CRC.

The SAPS (2007) points out that Article 40 of the CRC states that state parties recognize the rights of every child alleged as accused of having infringed the panel law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which enforces the child's respect for human rights and fundamental freedoms of others and which takes into account the child's age and the desirability of promoting the child's reintegration and the child assuming a constructive role in society (SAPS, 2007).

In response to the UN obligation, South Africa proposed the Child Justice Bill to parliament in July 2008. The state recognized that it would require capacity development and adequate resources for its implementation, resulting in parliament's decision that the Bill would come into effect in April 2010. Chapter 2 of the Constitution 1996 (108 of 1996) under section 28 singles out children for special protection. The Constitution affords children in conflict with the law specific safeguards and rights. The

Act recognizes that before 1994, children were not given the opportunity to live and act like children and that some children, because of the circumstances in which they found themselves, in conflict with the law. Furthermore the Act takes account of the past and unduly harsh measures taken against some of these children (SAPS, 2007).

The Act seeks to establish a criminal justice system for children who are in conflict with the law, in accordance with the values underpinning our Constitution. The Act also makes the possibility of diversion a central feature of this new system, and this will occur in appropriate circumstances and the matters not diverted will be dealt with in the criminal justice system in a child justice court. The Child Justice Act (CJA) Act 75 of 2008 places the following responsibility upon the police officials: the first task is to understand the age of criminal capacity. The Act has risen the age of criminal capacity from 7 years to 10 years, which means that when children of 10 years commit an offence, they do not have criminal capacity and therefore cannot be prosecuted (section 7(1)) (SAPS, 2007). The researcher discussed the procedure to be followed by an officer when dealing with children in conflict with the law in Chapter five paragraph 10.2.10.1

The results indicate that the participants lack knowledge with regards to handling a child in conflict with the law. This signifies that there is a greater need for the in-service training of police officials in the Child Justice Act 75 of 2008, because not all the participants knew how to deal with the situation where children are in conflict with the law, since the Act came into effect in April 2010.

This means that the impact of police officials who are not familiar with handling cases involving children in conflict with the law in terms of Child Justice Act 75 of 2008 can result in an increase in lawsuits against the state and children offending even further, because of the attitude of police officials who are unable to help those children within the system.

6.11.2 Doing stop and search while on duty

The Commonwealth (2006:75) states that Article 12 of the Universal Declaration of Human Rights explains that police actions of search and seizure are often fundamental to the investigation, prevention or apprehension of crime. However, the conduct involved in such cases carries the potential for very serious infringements of a person's rights. Fundamental rights include the right to freedom and security of the person and to privacy. Furthermore, no one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor attacks on their honour and reputation. Everyone has the right to the protection of the law against such interference or attacks (Commonwealth, 2006).

The Commonwealth further argues that existence of these rights means that police officers may not search a person's home, property or body and cannot seize their belongings, for example open their mail or tap their phones, without being authorized by law to do so. It is important to realize that these rights are not absolute as they can be, and are, limited by the same law that creates the power to search. Police officers have lawful powers to search and seize property. The power to search persons, private property and buildings is a power essential to prevention and detection of crime, and other police functions (Commonwealth, 2006).

The SAPS (2008:146) states that respecting rights during search and seizure, the Criminal Procedure Act 51 of 1977, gives police officials extremely wide powers to search and seizure, as it is necessary to prevent, detect and investigate crime, however, a number of human rights are limited in the process. The SAPS is in line with the Commonwealth that the rights that are at risk during search and seizure are: equality, human dignity, freedom and security of the person, privacy, freedom of trade, occupation and profession, property, language and culture and access to information. Furthermore, the National Instruction (2/2002) supports the CPA by informing police officials that only police officials may take part in the search, the search must be conducted during the day, unless the warrant allows it to be conducted at night, where a warrant authorizes the police official to search a specific person, then only that person

can be searched, if a search warrant authorizes the search of premises and everyone at the premises, then only people who are linked to the activities on the premises must be searched and if a search warrant authorizes the search of premises, only the premises specified in the warrant may be searched. This will ensure that the rights to privacy are protected (SAPS, 2008).

The results reveal that participants cannot explain their duties to the members of the community while performing their duties, as the majority stated that they would use force should they be refused to search a suspicious person. The impact of their action will be interpreted as if police officials do not respect the human rights of citizens. The responses of participants provide a clear indication that members are not aware that when performing their duties outside the CSC, police officers form part of the community at large, therefore when police officers perform their duties, the community feels that they are victims of the police. Police officers must know the laws of general application when performing their duties so that they are able to explain those laws of general application when limiting their rights, and while explaining those members of the community get an education on police rights.

6.11.3 Attending to domestic violence

In attending to a complaint of domestic violence, police officials are expected to act in a manner that is always partial towards all parties involved in the complaint. The results indicate that participants know and understand the legal duty placed upon them by the Constitution, Act 108 of 1996 and the law of general application, Domestic Violence Act 116 of 1998 in handling domestic violence situations, as assisted by National Instruction 7/1999. Furthermore, the research mentioned the international human rights standards and practices applicable when dealing with violence against women in this chapter, point 6.10.1.

The responses given by the participants clearly indicate that participants would not perform their duties according to the Constitution, because they seemed not be

impartial in attending to the complaint, as the respondent in the given scenario is a police official.

Domestic violence happens in all countries across the globe. It happens not only within families, but also among people who are in a relationship. The problem for police is that it happens within an environment where many societies view the relationship between husband and wife or partners as a private matter. Law enforcement officials around the world acknowledge domestic disputes as a very difficult area to police, and they often choose to mediate rather than to treat domestic violence as a normal crime.

Furthermore, violence against women can be physical, sexual or psychological, and includes battery, sexual abuse, marital rape, harmful traditional practices, non-spousal rape and violence, sexual harassment, forced prostitution, trafficking in women, acid-throwing, female genital mutilation, and exploitation-related violence. Violence against women, in all its forms, violates and impairs human rights (Commonwealth, 2006:127).

International standards and practices applicable when dealing with violence against women, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), endorsed by many Commonwealth countries, defines gender-based violence as any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life and any violence that is directed at a woman because she is a woman or that affects women disproportionately. It includes acts that inflict physical, mental or sexual harm or suffering, threats of such acts and other deprivations of liberty (Commonwealth, 2006:127).

It is clear from the above international human rights standards and practices given to all law enforcement agencies around the world, that the SAPS must not have any grounds of justification in the violation of human rights when it comes to attending to domestic violence cases or failure thereof in handling such cases in the country. Domestic violence, if not handled correctly because of negligence on the part of the police, may

escalate and perpetrators think that they can continuously commit acts of domestic violence and they will never be punished.

6.11.4 Police brutality

The UN (2004) states that with regards to non-discrimination in law enforcement, all law enforcement agencies should honour the principle that all human beings are born free and equal in dignity and rights and are entitled, without discrimination, to equal protection of the law. Police officials, in executing their duties in serving and protecting the community, must not unlawfully discriminate on the basis of race, gender, religion, language, colour, political opinion, national origin, property, birth or other status. However, it shall not be considered unlawfully discriminatory for police to enforce certain special measures designed to address the special status and needs of woman such as pregnant woman and new mothers, juveniles, the sick, elderly, and others requiring special treatment in accordance with international human rights standards. On the other hand, the Commonwealth (2006:34) states that the police who have lawful authority to act, may abuse their powers. The police can non-discriminate by ensuring that they do not use unnecessary, excessive, unreasonable physical or mental force during arrest, detention or interviews. The police may not display an attitude of rudeness, arrogance, hostility, bossiness or search a person or their property with impropriety. Finally, brutality and discrimination may also occur within police itself by means of bullying and harassment, or where individual members are disadvantaged or mistreated only because of their race, ethnicity, religion, language group or gender (Commonwealth, 2006:34).

The UN and the Commonwealth both agree that there will be no form of discrimination based on race, gender, religion, language, colour, political opinion, national origin, property, birth or other status, and brutality from the use of unnecessary, excessively, unreasonable physical and mental force, which is used during arrest, detention and interviewing and furthermore police may not display an attitude of rudeness, arrogance, hostility, bossiness or search a person or their property with impropriety from the side of any law enforcement agency that will be accepted.

The results show that the participants understand that as law enforcement officers they are not above the law, and in the execution of their duties they must work within the parameters of the Constitution of the Republic. They also recognize the vision of the SAPS and to uphold the code of conduct that they committed themselves to.

6.11.5 Attending to a xenophobia crime scene

The United Nation (2002) state that the international standard requires that the term 'non-national' includes foreigners and stateless persons. Non-national persons are lawfully within the territory if they have entered in accordance with the legal system, or if they possess a valid residence permit. These persons, if lawfully within the territory, are entitled to all human rights, except certain political rights. Non-national persons have the same rights to leave and to emigrate as nationals, Non-national persons, lawfully within the territory, who have close attachments to the state and view it as their own, who have created a home, who were born in the state or who have resided in the state for a long time, shall not be expelled. Other Non-national persons, lawfully within the territory, may be expelled only if decided by law, if the decision is not arbitrary or discriminatory and if procedural guarantees have been afforded (UN, 2002).

The UN (2002) issued guidelines for all police officials to follow: be alert to any evidence of xenophobic or racist activity in your duty area, co-operate closely with immigration authorities and social agencies assisting refugees and non-nationals in areas with high immigrant concentrations, reassure residents of their right to seek police protection and assistance without fear of being deported. Colleagues are reminded that unlawfully present non-national are not criminals or criminal suspects solely by virtue of their immigration status and to provide visible security for refugees shelters and camps.

The results indicated that participants know and understand that South Africa belongs to all who live in it, united in their diversity as stated in the Preamble to the Constitution. The participants also understand the importance of their objectives as mentioned in section 205(3) of the Constitution which states that police must protect and secure the inhabitants of the Republic and their properties. Likewise they know that when dealing

with a crowd, it cannot be handled by only two members on the scene, but other aids and units must be utilized to give assistance so that the situation can be managed more effectively.

This means that the training of participants on learning area 6: first responder to crowd gathering, with unknown unit standard number was well done. The participants are able to demonstrate knowledge, skills and understanding of applying the basic functions required by the first responder to a scene of a spontaneous gathering in line with legal aspects, policies and procedure, and general issues related to crowd management. The topic of handling of complaints in relation to non-nationals as written in the Preamble to the Constitution that South Africa belongs to everyone who lives in it and the impact of this training on the participants will result in participants being able to execute their duties in line with the Constitution.

6.12 Summary

This chapter has discussed the findings by revisiting the nine themes. A description of human rights was given and the origin of human rights was highlighted. The importance of law enforcement to respect human rights and determining of the respect for human rights can be a barrier for members to perform their duties. It was established that participants were trained in domestic violence. The scenarios were used to determine how participants will handle different situations which will involve children in conflict with the law, being refused permission to search while on duty, police brutality by another member and controlling a scene where xenophobia is involved.

CHAPTER 7: SUMMARY, RECOMMENDATIONS AND CONCLUSION OF IMPROVING THE TRAINING OF HUMAN RIGHTS IN THE SAPS.

7.1 Summary

In chapter one the researcher described human rights as universal legal guarantees protecting individuals and groups against any actions by governments that wish to interfere with those fundamental freedoms and human dignity. In addition, more the need to protect human rights was emphasized at the African Charter on Human and Peoples Rights meeting held in Luanda, Angola by recalling Resolution 228. The researcher motivated the need to conduct research on the topic to provide the police with knowledge how to demonstrate professional skills in the line of duty as a result of the mounting concern regarding police brutality and deaths in police custody. Finally, the researcher clearly outlined the aim and objectives of this study.

Chapter two covers the regulatory framework of human rights training and it was explained that training of human rights must be based on legal principles. The basic objectives of human rights training programmes are to receive information and knowledge, to reinforce skills and to become sensitized. The overview of the Constitution, Act 108 of 1996 accentuated that those human rights in South Africa are protected under chapter two of the Constitution, also known as the Bill of Rights. SAPS Act 68 of 1995 forms the corner stone for SAPS members in the execution of their duties and the code of conduct for SAPS members must be adhered to at all times. Furthermore, the researcher discussed the basic training guidelines on human rights training offered at the SAPS Basic Training Academies. The Academies offer new recruits training in the National Certificate in Policing with SAQA ID 50122. In order to be found competent, they have to complete learning areas one to six successfully; as these deal with all the unit standards required, as well as the entire Constitutional and legislative mandates.

In chapter three international best practices for police training in human rights were discussed. The most important fact in ensuring that South Africa complies with

international best practices is that human rights training should demonstrate how human rights principles are applied in routine police work and practices. The core practical training should highlight the relationship between law enforcement powers and human rights protection. Human rights training for police can only be fully effective if recruitment policies demand the achievement of an adequate standard of education and ensure that police are representatives of the community as a whole. Furthermore, it is emphasized that human rights education constitutes an essential contribution to the long-term prevention of human rights abuse. The human rights-based approach must be founded on international human rights standards and operationally directed to promote the protection of human rights. The human rights training core competencies should develop knowledge, skills and attitude and learners should be evaluated on all those aspects.

The research methodology was discussed in chapter four in which an explanation was given of how the research was conducted. The researcher used a qualitative research design for this study. The population used in the study consisted of the 2013 SAPS recruits at Tshwane SAPS Academy situated Gauteng Province. The sampling technique used was a purposeful sample and the data was collected using semi-structured interviews with the participants as well as a document study. An interview schedule was used to conduct interviews. All participants were informed of their rights before the commencement of the interview and informed consent forms were signed by the participants. The data was analyzed using Tech's technique and coded. The research was conducted at the Tshwane SAPS Academy and all the participants were informed about the objectives of this study. The interviews were credible, transparent, analyzable and useful to ensure trustworthiness.

The analysis of the collected raw data constitutes the most important part of the research. In chapter five the researcher explained how the raw data was interpreted and nine themes emerged. The researcher derived at nine themes by looking at the following: the reasons for becoming police officials; the formal training received; the application thereof with regards to human rights as well as the description, understanding and originality of human rights. The importance of respecting human

rights and the fact that respecting human rights may become a barrier for law enforcement officials while on duty were also noted. Other aspects that were also scrutinized were whether participants applied human rights when attending complaints and whether they had received any formal training on the treatment of detained person(s) and the procedure to be followed when arresting a person. The official training received on domestic violence and the duties placed upon SAPS officials when dealing with domestic violence were also investigated. The researcher further analyzed data on how to deal with children in conflict with the law, how to conduct stop and searches while on duty, the action to be taken when attending to domestic violence, steps to be taken when witnessing police brutality by another member and finally attending to a crime scene that involves a xenophobic attack.

In chapter six the researcher discussed the results of the analyzed data described in chapter five. The findings of research are very important and the findings were explained according to the themes developed in chapter five. The findings on the following themes were examined: reason for joining SAPS, training in human rights, description of human rights, the origin of human rights, importance of respecting human rights by law enforcement officials, human rights as a barrier for SAPS members to perform duties, application of human rights when attending to complaints, specific training of police officials and training received in domestic violence. The scenarios dealt with the following themes: dealing with children in conflict with the law, conducting stop and searches while on duty, attending to domestic violence, police brutality and attending to xenophobia crime scenes.

7.2 Recommendations

This section will be devoted to the recommends that may be implemented by the SAPS to enhance human rights training in the SAPS based on the findings of the research conducted. The researcher established that the training material adheres to international standards. The researcher identified that the human rights training manual developed for in-service training to be included in the SAPS Basic Training as a unit standard and to stand alone adheres to international standards. The Corruption Watch

published on 23 October 2017 on their article name the real police numbers behind SA's high crime rate stated that 29 million was paid out in civil claims by SAPS after the courts had ruled on illegal behaviour in 2015/2016 (Corruption Watch, 2017). It indicated a 175 percent increase in civil claims against the police from the previous five years. This clearly indicates a very high number of human rights violations by some SAPS members. The question why police officials who have been so well trained still violate human rights to such an extent that a high number of civil claims are won by the public remains unanswered. The researcher recommends that there should be firm command and control over the recruits and SAPS members in general by management to ensure that any member that violates human rights is dealt with according to Regulation 5 (3) of 2016.

7.2.1 The reason for joining SAPS

The findings indicated that some recruits joined the SAPS because it offered employment, but some regarded the opportunity as a calling. To date the SAPS recruitment process is still the same as mentioned by researcher in paragraph 6.2. The researcher recommends that the same recruitment process be maintained as it is effective to ensure that the correct candidates are appointed, but recommends that additional measures be put in place during the recruitment process so that SAPS does not become the employer of last resort.

7.2.2 Training in human rights

The researcher explored two aspects, namely, the official training given and application thereof on human rights. A few of the participants were not certain if they had received training on the topic of human rights, although the majority admitted that they had been trained on the topic as it is covered under modules one to four of the criminal justice system in the learners guide. On the second aspect, namely the application of training during field training, the majority of participants agreed that they applied the knowledge gained at the academy on human rights while they were at the stations.

The researcher recommends that SAPS Basic Academies should incorporate the new revised human rights participants guide used to train members at the stations and units with the one presented at the Academy to maintain the same standard. The new revised participants guide in human rights contains relevant and applicable information.

7.2.3 Defining human rights

The findings showed that participants used examples to define human rights but that none of the participants was able to define human rights correctly. The researcher recommends that a sub-heading be included in which the human rights are properly defined in the learner's guide of new recruits at the SAPS Academy, as it has been omitted. This study has explained human rights in Chapter one paragraph 1.2 and in Chapter six paragraph 6.4. It is recommended that a discussion of different aspects of human rights be made a standing item on the parade agenda.

7.2.4 The origin of human rights

The findings revealed that the participants were not able to explain the origin of human rights. The researcher has noted that there is no sub-heading on the origin of human rights both from in learners guides at the Academy and the new revised participants guide on human rights and policing. The researcher recommends that material on the origin of human rights be included in both the participants guide at the Academy and the revised guide. A brief history of human rights is mentioned in the revised participants guide. The background on human rights in policing was discussed in Chapter three of the study, paragraph 3.2, and in Chapter six paragraph 6.5.

7.2.5 The importance of respecting human rights by law enforcement

It was found that there is no sub-heading addressing this topic in both the participants guide at the Academy and the revised guide. The researcher recommends that this information be added to both participants guides. The research has elaborated on the need to protect human rights in Chapter one paragraph 1.3 and in Chapter six paragraph 6.6.

7.2.6 Human rights as a barrier for SAPS members to perform duties

The researcher recommends that material pertaining to human rights as a barrier for SAPS members in the performance of their duties be included in both participants guides, as it explains that members should not think that respecting human rights while performing their duties will interfere with their rights to perform their duties appropriately. The researcher has elaborated more on this aspect in Chapter six paragraph 6.7.

7.2.7 Application of human rights when attending to complaints

This study has found that SAPS did excellently in the revised participants guide by elaborating on the rights of victims and witnesses. Additionally, the guide emphasizes the fact that offenders' rights must also be respected. The researcher recommends that the revised participants guide be used by the facilitators at the Academies when facilitating the module of human rights and policing.

7.2.8 Specific training of police officials

The findings revealed that the participants received official training under section 35 of Chapter Two in the Constitution Act 108 of 1996, but the participants could not differentiate between the rights of arrested and detained persons. The researcher recommends facilitators should clearly differentiate between the rights of arrested, detained and accused persons, using the participants guide of the Academy supported by the publication *Applied Law for police officials* 4th edition (pg.272-282).

7.2.9 Training received in domestic violence

The findings indicate that participants received adequate formal training on the topic of domestic violence and they understand their responsibilities as stated in the participants guide SAQA US ID 120488. The researcher recommends the continued use of this guide, as it is information rich. Facilitators should incorporate the rights of victims and witnesses from the revised manual of human rights and policing.

7.2.10 Scenarios

The researcher used scenarios as part of the interviews with the participants. The following questions were asked to determine if the participants would be able to conduct themselves in a professional manner: how to deal with children in conflict with the law, how to do stop and search when on duty, how to handle police brutality and finally, how to handle a xenophobia crime scene.

7.2.10.1 Dealing with the child in conflict with the law

The results indicated that participants lack knowledge how to handle a child in conflict with the law. The researcher acknowledges that although training is provided on the topic of children in conflict with the law, extra effort should be made to ensure that members understand how to handle such situations. The researcher recommends that the participants guide used for the SAPS in-service training namely, children and youth at risk, be fully integrated at the Academies as it is very comprehensive. The information in the participants guide at the Academies is presented as a flow chart which may be confusing. The researcher discussed the topic in Chapter six, paragraph 6.11.1.

7.2.10.2 Doing stop and search while on duty

The results in Chapter six revealed that the majority of participants would use force should they be prevented from searching a suspicious person, which is a clear indication that participants lack communication skills to convey clear messages to members of the community about their duties. The researcher recommends that the National Instruction 2/2002 on search and seizure and the revised participants guide on human rights and policing on respecting rights during search and seizure be integrated at the Academies. Emphasis must be given to the consequences for police officials in unlawful search and seizure actions. The researcher discussed the topic in Chapter six 6.11.2.

7.2.10.3 Police brutality

The results showed that the participants know that as law enforcement officers they are not to regard themselves as above the law in the execution of their duties. Participants further recognize the vision of the SAPS and the code of conduct that they committed themselves to uphold. The researcher recommends that the revised learners guide on human rights and policing should include material on police brutality. Learners should know that police brutality can be physical as well as emotional. The word police brutality is broad and by adding it as a sub-heading it will be more specific. The researcher has given a brief discussion on the topic in Chapter six paragraph 6.11.4.

7.2.10.4 Attending to a xenophobia crime scene

The researcher is impressed that participants know and understand that South Africa belongs to all who live in it, united in diversity as stated in the Preamble to the Constitution. The researcher recommends that a material should be added dealing with attending to xenophobic complaints. The focus should be given on the following sub-headings: definition, impact of xenophobia in the country, impact of xenophobia internationally and the summary. The researcher has given a brief discussion on the topic in Chapter six paragraph 6.11.5.

7.3 Conclusion

The aim of this research study was to conduct an analysis of human rights in the SAPS and to comply with the research aim of the study, the question is what role training plays in protecting human rights. Effective training of police in human rights is an essential element in global efforts to promote and protect human rights in every country, not only in South Africa. The study indicated that to protect human rights, police must first know and understand the concept human rights and understand international guidelines and principles regarding human rights. Training sessions should continuously emphasize that knowledge of human rights is an essential professional requirement for all serving SAPS personnel. This study also clearly indicated that training efforts that fail to meet required standards will be neither credible nor effective.

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APPENDIX 1



APPLICATION TO CONDUCT RESEARCH IN SAPS, GAUTENG

FOR OFFICIAL USE	
File ref no:	
System ref no:	
Date file opened:	
Date application received:	

INSTRUCTIONS TO RESEARCHER

- Complete your name and all other fields relevant to your research.
- Please do not change to font or layout of this form.
- This application must be printed, initialled on each page and signed by the (lead) researcher.
- NOTE: All information typed in by you must be in *italic font*.
- The signed application must be scanned and emailed to the Provincial Research Coordination Centre (RC).
- The original signed application must be submitted to the RC by the researcher together with any requested documents
- The electronic (MS word) copy must also be send to the RC.
- Your application will only be processed once the signed and electronic (MS word) copies have been received by the RC.

APPLICATION FOR RESEARCH

NAME OF (LEAD) RESEARCHER: **SGT J Lukele**

1. RESEARCHER DETAILS

1.2 FULL NAMES:

Joseph Lukele

1.2 ID / PASSPORT NO:

7	8	0	4	2	6	5	4	0	4	0	8	5
---	---	---	---	---	---	---	---	---	---	---	---	---

1.3 RESIDENTIAL ADDRESS:

Line 1	<i>3073 Tame Crescent Street</i>
Line 2	<i>Wattville</i>
Line 3	<i>Benoni</i>
Line 4	
Postal code	<i>1 5 1 6</i>

1.4 POSTAL ADDRESS:

Line 1	<i>3073 Tame Crescent Street</i>
Line 2	<i>Wattville</i>
Line 3	
Line 4	
Postal code	<i>1 5 1 6</i>

1.5 WORK ADDRESS:

Line 1	<i>Block 3 Kleinfontein Lakeview office park</i>
Line 2	<i>Pioneer Road</i>
Line 3	<i>Benoni</i>
Line 4	
Postal code	<i>1 5 0 1</i>

1.6 TELEPHONE NUMBERS:

Work:	<i>0 1 1 7 4 6 5 7 2 0</i>
Home:	<i>n/a</i>
Cell:	<i>0 7 3 1 8 7 6 9 5 8</i>

1.7 EMAIL ADDRESS:

josephlukele@yahoo.com

J. L. *SGT Lukele*

APPENDIX 2



PERMISSION TO CONDUCT RESEARCH IN THE SAPS

RESEARCH TOPIC: APPLICATION FOR RESEARCH: SGT J LUKELE: AN ANALYSIS OF HUMAN RIGHTS TRAINING IN THE SAPS: CASE STUDY

RESEARCHER: SGT LUKHELE

Permission is hereby granted to the researcher above to conduct research in the SAPS based on the conditions of National Instruction 1 of 2006 (as handed to the researcher) and within the limitations as set out below and in the approved research proposal.

This permission must be accompanied with the signed Indemnity, Undertaking & Declaration and presented to the commander present when the researcher is conducting research.

This permission is valid for a period of six months after signing.

Any enquiries with regard to this permission must be directed to SAC Linda Ladzani at Ladzanim@saps.org.za.

RESEARCH LIMITATIONS / BOUNDARIES:

Research Instruments:	Interviews (Semi-Structured)
Target audience / subjects:	Trainees at the college ready for integrated assessment in January /February 2015 Members of Visible Poling
Geographical target:	Tshwane Academy Tembisa Cluster : Tembisa SAPS / Tembisa South SAPS / Kempton Park SAPS / Benoni SAPS / Daveyton SAPS
Access to official documents:	None


MAJOR GENERAL
DEPUTY PROVINCIAL COMMISSIONER: HUMAN RESOURCE MANAGEMENT
TM MALOKA

COLLEGE OF LAW RESEARCH ETHICS REVIEW COMMITTEE

Date: 2016/06/14

Reference: ST 51
 Applicant: J. Lukele

Dear J. Lukele
 (Supervisor: Prof R. Snyman)

DECISION: ETHICS APPROVAL

Name	J. Lukele
Proposal	A critical analysis of human rights training in the SAPS: A case study
Qualification	M Tech

Thank you for the application for research ethics clearance by the College of Law Research Ethics Review Committee for the above mentioned research. **Final approval is granted.**

The application was reviewed in compliance with the Unisa Policy on Research Ethics.

The proposed research may now commence with the proviso that:

- The researcher will ensure that the research project adheres to the values and principles expressed in the Unisa Policy on Research Ethics which can be found at the following website:*

http://www.unisa.ac.za/cmsys/staff/contents/departments/res_policies/docs/Policy_Research%20Ethics_rev%20app%20Council_22.06.2012.pdf
- Any adverse circumstances arising in the undertaking of the research project that is relevant to the ethicality of the study, as well as changes in the methodology, should be communicated in writing to the College of Law Ethical Review Committee.*



Open Rubric

University of South Africa
 Preller Street, Muckleneuk Ridge, City of Tshwane
 PO Box 392, Unisa, 0003, South Africa
WWW.UNISA.AC.ZA/LAW

An amended application could be requested if there are substantial changes from the existing proposal, especially if those changes affect any of the study-related risks for the research participants

- 3. The researcher will ensure that the research project adheres to any applicable national legislation, professional codes of conduct, institutional guidelines and scientific standards relevant to the specific field of study.*

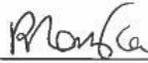
Note:

The reference number (top right corner of this communique) should be clearly indicated on all forms of communication (e.g. Webmail, E-mail messages, letters) with the intended research participants, as well as with the URERC.

Kind regards



PROF B W HAEFELE
CHAIR PERSON: RESEARCH ETHICS
REVIEW COMMITTEE
COLLEGE OF LAW



PROF R SONGCA
EXECUTIVE DEAN:
COLLEGE OF LAW

APPENDIX 4

**INTERVIEW SCHEDULE FOR TRAINEES AT TSHWANE ACADEMY AND
MEMBERS AT NORTH-RAND**

BY

J Lukele 3391406-0

Submitted in fulfillment of the

MAGISTER TECHNOLOGIAE

POLICING

SCHOOL OF CRIMINAL JUSTICE

DEPARTMENT: POLICE PRACTICE

UNIVERSITY OF SOUTH AFRICA

Supervisor: Prof R. Snyman

QUESTIONS

1. Why did you join the SAPS?
2. In your basic training did you receive any formal training on the topic of Human Rights & Policing?
3. Have you used this training in incidences when you were working in the station?
4. Can you describe to me what human rights are?
5. In your own understanding where do human rights come from?
6. Do you believe that it is important for SAPS members to respect human rights and why?
7. Do you think respecting human rights by members, prevents members to execute their duties effectively?
8. When attending to any complaint, do you think about the fundamental human rights of all parties involved in the complaint?
9. During your field training at the station, did you attend to any serious crime scenes? Describe briefly the crime scene for me.
10. If yes, how did you respond to the complaint? Explain the steps you took.
11. Explain to me the procedure that you will follow when arresting a person?
12. Did you receive any official training in working with detained persons? (Yes or no)
13. What, in your opinion, are the rights of the detained person?
14. Did you receive any official training on the Domestic Violence Act?
15. What are the duties placed upon the police official when attending to a Domestic Violence?

SCENARIOS

A child's right

- You are called to a supermarket, on arrival at the scene, the security staff complains about shoplifting in the shop and they have the suspect in their custody. You open the case and they bring the suspect to you. You identify that the suspect is the child under the age of ten years. What will you do?

Stop and search

- During your shift, you are posted to stop and search in your sector. While patrolling you identify a suspicious man, you stop him and you request to search the person and he refuses to be searched. How will you handle the situation?

Domestic violence

- You are called to a complaint of a domestic dispute. On arrival the husband is complaining about his wife assaulting him and he wants to open a case against her. He also informs you that the wife is a police official. What will you do?

Police brutality

- You are patrolling with your partner, you received a complaint and on your arrival, you find the complainant and the suspect both on the scene of the crime. While interviewing the victim, you notice that your partner is assaulting the suspect badly. What will you do?

Foreign national

- You are called to a murder scene. On arrival, you find that the community members are up in arms to the murder suspect. The suspect is the local foreign shop-owner and the community is looting the shop as a way of revenge to the murder committed by the owner? Explain the steps you will take in this situation?

APPENDIX 5

INFORMED CONSENT FORM

Researcher: Joseph Lukele, School of Criminal Justice, Dept. Police practice, College of Law,

Unisa. josephlukele@yahoo.com Tel: 073 187 6958.

Title of Study: An analysis of human rights training in SAPS: Case study.

Purpose of study: The aim of this study is to conduct an analysis of human rights training in the SAPS, using a case study, the study will focus on the different pedagogies used by SAPS to train its members on human rights to execute their duties in the professional manner. The researcher will use the qualitative approach for this study.

Human rights are described as universal legal guarantees protecting individuals and groups against actions by Governments that interfere with fundamental freedoms and human dignity and above all human rights law obliges Government to do something and prevents them from doing others (United Nations 2002).

Procedures: The researcher will use one instrument namely interviews to collect data in this research. They include interviews with the new recruits, interviews using scenarios at the stations with operational members and documents analysis from different sources.

Risk and Discomforts: The participants may become tired or feel emotional discomfort at which point a break may be requested or the interview may be postponed to a later date or terminated if so desire. The researcher will make every effort to ensure the comfort and minimize the risk for the participant.

Benefits: It is my hope that the participant partaking in this study will feel the satisfaction of contribution by raising the awareness of human rights among other members when executing their duties.

Participant's rights: Participation in this study is voluntary and may be withdrawn at any time without negative consequences for the participant. All information is treated as confidential and anonymity is assured by the research. The data shall be destroyed should the participant wish to withdraw. The researcher is the only individual who will have access to raw data from interviews, and hereby ensure that will be treated as stipulated above.

Right of access to Researcher: Participants are free to contact the researcher at the cellphone number as stipulated on this form, at a reasonable hour, in connection with interview particular, if they so wish.

THANK YOU FOR YOUR PARTICIPATION IN THIS STUDY.

I, the undersigned, agree to participate in this study free and voluntary without duress.

**Signed at On this day
of..... 2015.**

Signature:Name (print)

APPENDIX 6

LEGISLATIONS IN THE CONSTITUTION ACT (ACT 108 OF 1996)

SAPS Act (Act 68/1995)

SAPS Amendment Act (Act 10/2012)

IPID Act (Act 01/2011)

Civilian Secretariat for Police Service Act (Act 02/2011)

Firearms Control Act (Act 60/2000)

Dangerous Weapons Act (Act 15/2013)

National Key Points Act (Act 102/1980),

Second-hand Goods Act (Act 23/1955)

Private Security Industry Regulation Act (Act 56/2001)

Explosives Act (Act 26/1956)

Protection of Constitutional Democracy Against Terrorist and Related Activities Act (Act 33/2004)

Regulation of gatherings Act (Act 205/1993)

Stock Theft Act (Act 57/1959)

Control of Access to Public Premises and Vehicles Act (Act 53/1985).

Criminal Procedure Act (Act 51/1977)

National Strategic Intelligence Act (Act 39/1994)

Domestic Violence Act (Act 116/1998)

Prevention and Combating of Corrupt Activities Act (Act 12/2004)

Regulation of Interception of Communications and Provision of Communication-related Information Act (Act 70/2002)

Child Justice Act (Act 75/2008)

Protection from Harassment Act (Act 17/2011)

Criminal Law (Sexual Offenses and Related Matters) Amendment Act (Act 32/2007)

Prevention and Torture of Persons Act (Act 13/2013)

Criminal Law (Forensic Procedure) Amendment Act (Act 37/2013)

Immigration Act (Act 13/2002)

Counterfeit Goods Act (Act 37/1997)

Financial Intelligence Centre Act (Act 38/2001)

Non-proliferation of Weapons of Mass Destruction Act (Act 87/1993)

State of Emergency Act (Act 64/1997)

Precious Metal Act (Act 37/2005)

Diamonds Act (Act 56/1986)

Customs and Excise Act (Act 91/1966)

Drugs and Drug Trafficking Act (Act 140/1992)

Prevention of Organized Crime Act (121/1998)

Disaster Management Act (Act 57/2002)

Films and Publications Act (Act 65/1996)

Merchandize Marks Act (Act 17/1941)

Inquest Act (Act 58/1959)

Mental Healthcare Act (Act 17/2002)

Liquor Act (Act 59/2003)

Exchange Control Regulations of 1961, National Environment Management Act (Act 107/1998)

Marine Living Resources Act (Act 18/1998)

Marine Living Resources Act, 1998 (Act No 18 of 1998)

National Road Traffic Act, 1996 (Act No 93 of 1996)

Safety at Sports and Recreational Events Act, 2010 (Act No 2 of 2010)

Children's Act, 2005 (Act No 38 of 2005)

The Prevention and Combating of Trafficking in Persons Act, 2013 (Act No 7 of 2013)

Older Persons Act, 2006 (Act No 13 of 2006)

Dangerous Weapons Act, 2013 (Act No 15 of 2013)

Appendix 7: SAPS BASIC TRAINING QUALIFICATION UNIT STANDARDS

The requirements for the qualification NLRD ID 50122 with a total number of 135 credits in relation to the National Certificate: Policing: NQF Level 5. The unit standards for the qualification are listed below. SAPS Tshwane Academy SASSETA Accreditation number: 061905004506.

NLRD ID	UNIT STANDARD TITLE	NQF LEVEL	CREDITS
120476	Adhere to professional conduct and organizational ethics	Level 5	4
120483	Conduct preliminary investigations	Level 5	6
120486	Demonstrate physical defensive restraining techniques	Level 5	6
120477	Demonstrate tactical and street survival techniques	Level 5	10
120479	Demonstrate understanding of community policing	Level 5	4
120480	Demonstrate an understanding of crime prevention	Level 5	6
120494	Demonstrate an understanding of proportionality of force	Level 5	8
120482	Manage client service centre in a law enforcement environment	Level 5	10
120478	Manage the detention of persons in custody	Level 5	6
120485	Receive and attend to complaints	Level 5	5
11990	Take finger, palm and sole prints of person for identification purposes	Level 5	3
120487	Use firearm in a military and law enforcement environment	Level 5	12
120491	Demonstrate an understanding of law of evidence in a policing environment	Level 5	6

120489	Demonstrate an understanding of criminal justice system	Level 5	9
120481	Demonstrate an understanding of the criminal procedure act related to policing function	Level 5	9
120484	Demonstrate an understanding of the principles of common law crimes and statutory law offences	Level 5	12
120488	Attend to and handle a domestic violence incidents	Level 4	5
119342	Apply knowledge of ethical principles, standards and professional conduct in public sector management and administration	Level 5	8
120492	Demonstrate the application of performance management	Level 5	6
TOTAL CREDITS = 135			

CASE LAWS: SOUTH AFRICA

Philander v Minister of Safety and Security (473/2011) [2013] ZANWHC 51 (6 June 2013)

Ntwagae and Others v Minister of Safety and Security and Another (878/08) [2013] ZANHC 7 (27 March 2013)

IN THE HIGH COURT OF SOUTH AFRICA. EASTERN CAPE DIVISION –
GRAHAMSTOWN: Never Ndlovu v Minister of Safety and Security CASE NO:
1203/2010.

APPENDIX 8: PARTICIPANTS

LIST OF INTERVIEWS: TSHWANE BASIC TRAINING

Interview 1: Male trainee

Interview 2: Male trainee

Interview 3: Male trainee

Interview 4: Male trainee

Interview 5: Female trainee

Interview 6: Female trainee

Interview 7: Male trainee

Interview 8: Female trainee

Interview 9: Female trainee

Interview 10: Female Trainee

Interview 11: Male trainee

Interview 12: Male trainee

Interview 13: Female trainee

Interview 14: Female trainee

Interview 15: Male trainee

Interview 16: Male trainee

Interview 17: Male trainee

Interview 18: Male trainee

Interview 19: Male trainee

Interview 20: Male trainee

Interview 21: Male trainee

Interview 22: Male trainee

Interview 23: Female trainee

Interview 24: Male trainee

Interview 25: Female trainee

Interview 26: Male trainee. Tembisa SAPS

Interview 27: Female trainee. Tembisa SAPS

Interview 28: Female trainee. Tembisa SAPS

Interview 29: Male trainee. Tembisa SAPS

Interview 30: Female trainee. Tembisa South SAPS

Interview 31: Male trainee. Kempton Park SAPS

Interview 32: Female trainee. Kempton Park SAPS

Interview 33: Male trainee. Kempton Park SAPS

Interview 34: Female trainee. Tembisa SAPS.

Interview 35: Male trainee. Kempton Park SAPS

Interview 36: Male trainee. Kempton Park SAPS

Interview 37: Male trainee. Etwatwa SAPS

Interview 38: Female trainee. Kempton Park SAPS

Interview 39: Male trainee. Kempton Park SAPS

Interview 40: Male trainee. Benoni SAPS

Interview 41: Female trainee. Benoni SAPS

Interview 42: Male trainee. Actonville SAPS

Interview 43: Female trainee. Actonville SAPS

Interview 44: Male trainee. Actonville SAPS

Interview 45: Female trainee. Actonville SAPS

Interview 46: Female trainee. Actonville SAPS

Interview 47: Female trainee. Actonville SAPS

Interview 48: Male trainee. Actonville SAPS

Interview 49: Female trainee. Actonville SASPS

Interview 50: Female trainee. Benoni SAPS