



22 September 2016

**ATTENTION: THE ACTING NATIONAL COMMISSIONER
SOUTH AFRICAN POLICE SERVICE**

BY FAX: 012 393 2812

**Our ref: SBA/1101
Your ref: (PC Northern Cape 26/3/1)**

Dear Lt Gen Phahlane,

**RE: PROVINCIAL DIRECTIVE: 26 OF 2016: LANGUAGE USAGE ON ALL OFFICIAL
DOCUMENTS AND SYSTEMS: MEDIUM OF INSTRUCTION: ENGLISH**

1. A letter with reference number 26/3/1 dated 2016-09-05, signed by the Deputy Provincial Commissioner: Operational Services: Northern Cape Province has reference. A copy thereof is attached for ease of reference
2. We write to you on behalf of our paid - up members employed by the South African Police Service.
3. It is with concern that Solidarity has taken note of the contents of the abovementioned official letter.

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4. In the letter, an instruction was issued by the Provincial Commissioner of the Northern Cape, Lieutenant General RP Shivuri stating the following:

"3.1.1. With immediate effect, all A1 statements from complainants will be written in English language. Should the complainant relate his/her statement in any other official language, the official taking down the statement will interpret and translate the statement in English language;

3.2. Any other additional statements still to be obtained from either witnesses or suspects, must also be written in English language..."

5. Cluster Commanders, as well as Station Commanders are instructed to comply with the Provincial Instruction with immediate effect. It is further mentioned that non-compliance to the instruction will result in negative disciplinary action to be instituted against "those who do not comply".
6. Solidarity is of the opinion that the instruction is not in line with the prescripts of the Constitution. The instruction regarding the taking down of statements from either complainants, witnesses or suspects is in breach of at least the following provisions of the Constitution:

Section 9 - Equality

9(3) *The state may not unfairly discriminate directly or indirectly against anyone on one or more grounds, including race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth."*

Section 30 - Language and culture

"Everyone has the right to use the language and to participate in the cultural life of their choice, but no one exercising these rights may do so in a manner inconsistent with any provision of the Bill of Rights."

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Section 33 - Just administrative action

"1. Everyone has the right to administrative action that is lawful, reasonable and procedurally fair;

2. ...

3. National legislation must be enacted to give effect to these rights, and must

a. ...

b. ...

c. promote an efficient administration."

Section 35 - Arrested, detained and accused persons

"3. Every accused person has a right to a fair trial, which includes the right....

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

7. According to Stats SA – 2011 Census, only 3.3% of the population of the Northern Cape is English speaking and the majority (53.8%) of the population is Afrikaans-speaking, followed by Setswana speaking people which constitutes 33% of the population. See the table below containing Stats SA – 2011 Census statistics.



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Table 2.5: Population by first language spoken and province (number)

First Language	WC	EC	NC	FS	KZN	NW	GP	MP	LP	SA
Afrikaans	2 820 643	663 410	606 225	340 490	161 876	309 867	1 502 940	289 446	140 185	6 855 062
English	1 145 049	362 502	37 842	78 782	1 337 606	120 041	1 603 454	124 645	78 692	4 892 623
IsiXhosa	15 236	14 854	6 023	10 008	111 657	43 988	380 494	403 678	104 283	1 090 223
IsiZulu	1 403 233	5 092 152	50 187	201 145	340 832	190 501	736 841	48 393	20 275	8 154 258
Sepedi	24 634	31 634	8 501	118 126	7 901 932	84 836	2 390 036	965 263	62 424	11 587 374
Sotho	8 144	14 299	2 431	7 385	20 555	83 999	1 282 596	372 792	2 826 464	4 618 576
Swati	64 066	158 964	14 136	1 717 881	79 416	201 153	1 395 089	138 559	60 299	3 849 563
Sign language	24 534	12 607	373 086	140 228	52 229	2 191 230	1 004 539	71 713	107 021	4 067 248
SiSwati	22 172	42 235	3 930	32 910	49 575	14 924	52 744	8 932	8 230	234 655
Tshivenda	3 208	2 020	648	2 246	8 347	12 091	136 550	1 106 588	25 346	1 297 046
Xitsonga	4 415	3 653	1 083	2 592	4 309	16 255	272 122	12 140	892 809	1 209 388
Other	9 152	3 092	1 201	8 009	8 936	127 146	736 511	416 746	906 325	2 277 148
Total	127 117	36 993	12 385	15 935	77 519	60 872	371 575	39 639	85 322	829 258
	5 675 604	6 458 325	1 127 683	2 675 777	10 153 789	3 457 004	12 075 861	3 898 726	5 338 675	50 961 443

NB: Unspecified and not applicable are excluded

8. The fact that traumatised victims (which could include small children) will not be able to make statements in their mother tongue is very worrying. It would mean that inaccurate statements will be presented to the courts which could have a negative impact on the conviction rate of perpetrators – especially in serious and violent crime and in crimes against women and children.
9. Interpretation will be left in the hands of an individual police officer when statements are obtained from either complainants, victims, witnesses or suspects. The majority of police officers in the Northern Cape's home language is also not English and therefore the quality of the contents of statements in case dockets will further deteriorate.
10. The abovementioned practice could have a negative effect on the employees involved, especially when it is expected of them to give an accurate description of events on behalf of traumatised victims. Employees are placed in an arbitrary situation as their failure to comply with the Provincial Instruction could result in disciplinary action been taken against them on the one hand and an inaccurate statement to be contained in case dockets sent to court – which could constitute defeating the ends of justice on the other hand.

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11. We are requesting your assistance in providing us with an undertaking that the Provincial Instruction issued on 2016-09-05 will be retracted and reconsidered with immediate effect.
12. As the matter is also viewed in a very serious light by our members, we request your urgent response and feedback by no later than 28 September 2016 in order for us to communicate with our members.

Yours faithfully,



J KRUGER
DEPUTY HEAD: SOLIDARITY



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REWATE KARNAD ASS.
664 1707

SUID-AFRIKAANSE POLISIEDIENS



SOUTH AFRICAN POLICE SERVICE

SAP 21

Privaatsak/Private Bag 5001
Postbus/Post Office Box

Verwysing Reference	25/3/1
Navrae Enquiries	Maj- Gen Mnguni/ Brig Desai
Telefoon Telephone	053-8362637
Faksnommer Fax number	053-8070224

DEPUTY PROVINCIAL COMMISSIONER
SOUTH AFRICAN POLICE SERVICE
OPERATIONAL SERVICES
NORTHERN CAPE
KIMBERLEY
8300

- A. All Deputy Provincial Commissioners
South African Police Service
NORTHERN CAPE
- B. All Provincial Heads
South African Police Service
NORTHERN CAPE
- C. All Cluster Commanders
South African Police Service
NORTHERN CAPE
- D. All Station Commanders
South African Police Service
NORTHERN CAPE

PROVINCIAL DIRECTIVE: 26 OF 2016: LANGUAGE USAGE ON ALL OFFICIAL DOCUMENTS AND SYSTEMS: MEDIUM OF INSTRUCTION: ENGLISH

A+B.1. For your information and monitoring of compliance with instructions pertaining to your relevant core functions and to inform all personnel under your command.

C+D.1. By Instruction of the Provincial Commissioner, Lieutenant General RP Shivuni the undermentioned must be complied with.

2. CONSTITUTIONAL MANDATE

2.1 The Constitution of the Republic of South Africa, 1996, Act 108 of 1996, Chapter 1: Founding Provisions, Section 6 (1), 3 (a) refers.

2.2 Section 6(1) – The official languages of the Republic are Sepedi, Sesotho, Setswana, siSwati, Tshivenda, Xitsonga, Afrikaans, English, isiNdebele, isiXhosa and isiZulu.
Section 3(a) – The national government and provincial governments may use any particular official languages for the purposes of government, taking into account usage, practicality, expense, regional circumstances and the balance of the needs and preferences of the population as a whole or in the province concerned. In terms of the language policy the medium of instruction is English.

PROVINCIAL DIRECTIVE: 26 OF 2016: LANGUAGE USAGE ON ALL OFFICIAL DOCUMENTS AND SYSTEMS: MEDIUM OF INSTRUCTION: ENGLISH

3.1. Registration of case dockets at the Community Police Service centre and obtaining of witness statements as contained in the case dockets.

3.1.1. With IMMEDIATE effect, all A1 statements obtained from complainants will be written in English language. Should the complainant relate his /her complaint in any other official language, the official taking down the statement will interpret and translate the statement in English language.

3.2 Any other additional statements still to be obtained from either witnesses or suspects. Must also be written in English language.

3.3 All information as contained on the CASE DOCKET must be completed in English.

3.4 All comments on the CAS system must be captured in English.

3.2. OFFICIAL CORRESPONDENCE

3.2.1 All official correspondence must be written and typed in English.

4. CLUSTER COMMANDERS

4.1 To ensure compliance of the Provincial Directive and inform all Station Commanders under his/her respective command.

4.2 To submit a signed and scanned certificate to be submitted to Brig Desai at email: DesaiDL@saps.gov.za, fax to email number; 053-8070224 on or before 7 September 2016.

5. STATION COMMANDERS

5.1 To ensure compliance and IMMEDIATE implementation of the Provincial Directive.


5.1.2 To inform all personnel at your respective stations.

5.1.3 To obtain a signed acknowledgement of this directive from each and every official at your respective station.

5.1.4 To submit a signed and scanned Certificate of compliance and Implementation on or before 6 September 2016 to the relevant Cluster Commander.

6. NON-COMPLIANCE

6.1 Non-compliance of this instruction will result in negative discipline actions instituted against those who do not comply.


.....MAJOR GENERAL
DEPUTY PROVINCIAL COMMISSIONER
OPERATIONAL SERVICES
NORTHERN CAPE
P. MNGUNI

DATE: 2016-09-05