

Discussion Paper

Review of the Police Act 1965



Ministry of Policing, Fiji Police Force & Office of the Solicitor-General

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1A. BACKGROUND

The Ministry of Policing and the Fiji Police Force have recently embarked on a comprehensive review of the Police Act 1965. The review comes in light of the changing landscape of law enforcement and the need to ensure that the legislation governing the Fiji Police Force and policing in Fiji is relevant and effective in addressing contemporary challenges.

The initial meeting on the review was held with the Solicitor-General, Mr. Ropate Green Lomavatu, who provided valuable insights into the legal framework surrounding the Act, as well as a team of lawyers to assist the Ministry and the Fiji Police Force with the review. The team consists of legislative drafters from the Office of the Solicitor-General – Ms. Glenys Andrews (Chief Law Draftsperson) and Mr. Epli Sau (Senior Legal Officer), and a legal consultant – Mr. David Solvalu (Solara Law & Policy). Subsequent meetings were then held with key stakeholders, including the Minister for Policing, Hon. Mr. Ioane Naivalurua, the Permanent Secretary for Policing, Mr. Beranado Daveta, and the Commissioner for Police, Mr. Rusiate Tudravu. These meetings were crucial in setting the direction for the review process and identifying key areas that require attention.

As the review progressed, targeted meetings were held with certain organisations that play a significant role in the criminal justice system. These included the Fiji Independent Commission Against Corruption (FICAC) and the Office of the Director of Public Prosecutions (ODPP). These meetings allowed for a deeper understanding of the challenges faced by these organisations and the legislative reforms required to better support their work.

Further targeted meetings were conducted with a range of government ministries, statutory organisations, civil society organisations and advocacy groups. These included the Ministry of Women, Children and Social Protection, the Legal Aid Commission, the Human Rights and Anti-Discrimination Commission, the Fiji Council of Social Services, the Fiji Disabled Peoples Federation, the Fiji Women's Crisis Center, the Fiji Women's Rights Movement, and femLink Pacific. These meetings were essential in ensuring that the voices of marginalised and vulnerable groups are heard in the review process and that their perspectives are taken into account in shaping the new legislation.

Across all meetings, there was consensus that the current legislation is outdated, misaligned with modern governance principles, and inadequate to meet 21st-century policing challenges.

Key issues identified included the lack of legal frameworks for contemporary technologies such as drones, artificial intelligence, forensic tools, and body cameras; outdated disciplinary processes; lack of clarity regarding enforcement responsibilities across laws; and limited powers in cybercrime, maritime enforcement, and covert operations. Specific concerns were raised about role-overlaps between FICAC and the Fiji Police Force, inconsistencies in definitions of “police officer,” and insufficient legislative clarity for managing evidence, protecting informers, and prosecuting police officers who breach the law.

Additionally, the review highlighted the urgent need to align the Act with the Constitution and other laws, to embed human rights and ethical safeguards, and to strengthen community policing through dedicated legal support. Capacity gaps—particularly in resources, forensic

accreditation, inter-agency coordination, and officer training, including gender sensitivity training—were also emphasised. Notably, the Ministry expressed a vision to position Fiji as a regional policing leader through international alignment and the establishment of a Center of Excellence.

All stakeholders supported a holistic legislative overhaul that balances operational efficiency with accountability, privacy rights, and constitutional integrity.

A summary of the specific issues raised in each meeting is provided in **Annex A**.

The review of the Act is a collaborative and inclusive process that seeks to modernise and strengthen the legal framework governing the Fiji Police Force. By engaging with a wide range of stakeholders, including government agencies, law enforcement bodies, and civil society organisations, the Ministry of Policing and the Fiji Police Force are working towards creating a more effective and accountable police force that can better serve the needs of the Fijian people.

1B. THE REVIEW PROCESS

The workplan for the review and reform of the Police Act 1965 follows a structured process designed to ensure thorough analysis, broad consultation, and careful legislative drafting.

A gap analysis was conducted to review the existing Act against related laws and policies, identifying deficiencies and inconsistencies. This was followed by targeted meetings with state agencies such as the Fiji Police Force, Ministry of Policing, Office of the Director of Public Prosecutions, and the Fiji Independent Commission Against Corruption. Consultations were conducted with government ministries, statutory bodies, legal practitioners, and civil society. Feedback received from the participants at the targeted meetings, and the stakeholder consultations informed this Discussion Paper.

The purpose of this Discussion Paper is to provide the public with information on the policy and legal issues concerning the Police Act 1965. It is intended to get people thinking about what the law could look like based on best practice and international standards. To that end, a working document put together to help the public envision possible textual options is contained in **Annex B**. This document is not a formal Bill, has not undergone a thorough vetting and verification process and is only intended to provide textual possibilities for discussion purposes.

Public consultations will be held nationwide and online between 11 August and 2 September 2025 with validation workshops in at least 4 main districts in the first week of September.

The results will be compiled into a final report with best practice recommendations by 9 September, leading to a draft Bill and accompanying Cabinet Memorandum by late September 2025. These documents, it is hoped, may be submitted to Cabinet on 7 October 2025 for consideration by Cabinet, and if approved by Cabinet, tabled in Parliament by the Minister for Policing on a date determined by Cabinet.

1C. OUTLINE OF THE POLICE ACT 1965

Part 1: Preliminary (Sections 1–2)

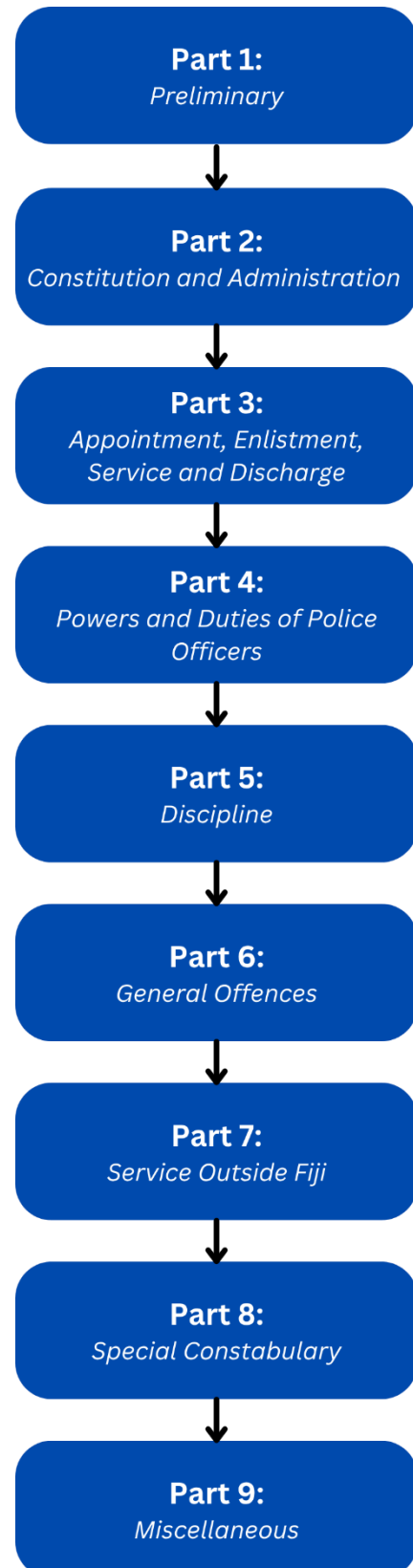
Part 1 sets out preliminary matters. It provides the short title of the legislation and formally refers to it as the Police Act 1965. It also provides a glossary of essential terms used throughout the legislation and their meanings. This provides clarity to vague and ambiguous terms and applies consistent meaning throughout the legislation.

Part 2: Constitution and Administration (Sections 3–8)

Part 2 deals with the constitution and administration of the Fiji Police Force. It continues the existence of the Fiji Police Force and outlines its constitution and functions, such as the maintenance of law and order, the preservation of peace, the protection of life and property, the prevention and detection of crime and the enforcement of all laws with which the Fiji Police Force is directly charged. This Part also confers broad administrative authority on the Commissioner of Police.

Part 3: Appointment, Enlistment, Service and Discharge (Sections 9–15)

Part 3 sets out personnel rules. It governs the process of enlistment into the Fiji Police Force and mandates officers within the Fiji Police Force to take an oath or declaration upon joining. It also ensures the issuance of identity cards. This Part also restricts resignation by officers without permission but requires service extension during war or emergencies. It also sets out discharge procedures. Finally, this Part ensures the return of arms, ammunition and equipment upon leaving the service, protecting institutional property.



Part 4: Powers and Duties of Police Officers (Sections 16–26)

Part 4 details what officers may and may not do. This Part also bars political activities or secondary employment, and outlines general duties and lawful powers such as arrest, search, and investigation.

This Part also empowers officers to take photographs descriptions, measurements, fingerprints, palmprints and footprints of a person in lawful custody. In addition, it gives authority to receive official complaints. It shields officers from liability when acting under valid warrants. It also provides inspection powers over licences or permits. Furthermore, this Part authorises the erection of barriers and cordons. It mandates the maintenance of order on public roads and creates offences for giving false identities. It sets rules for disposing of unclaimed property. Finally, this Part empowers entry into premises in emergencies such as fires or accidents.

Part 5: Discipline (Sections 27–42)

Part 5 establishes internal accountability mechanisms. It outlines suspension or interdiction procedures for officers and defines offences by or against officers. It also allows officers to arrest their peers for disciplinary breaches, and there are also trial and review procedures, including the Commissioner's review authority. This Part also empowers investigations into serious or repeated misconduct, and covers outcomes such as dismissal, demotion, fines withheld from pay, compensation for damaged equipment, confinement, and the creation of a Police Rewards and Fines Fund to manage penalties and rewards.

Part 6: General Offences (Sections 43–48)

Part 6 sets out general offence provisions. It deals with unlawful possession of police articles, the duty to assist police, restrictions on police associations, persons causing disaffection, disorderly conduct at a police station and protection of subordinate officers' pay.

Part 7: Service Outside Fiji (Sections 49–52)

Part 7 deals with cross-border deployment. Under this Part, the Minister can declare a neighbouring territory for the purposes of certain provisions, and the President can order police officers to serve in neighbouring territories. If a police officer is punished in a neighbouring territory, it is considered as if they were punished in Fiji. When police officers from a neighbouring territory are in Fiji for emergency assistance, they are under their own officers' orders but subject to the Commissioner's command. They have the powers and duties of equivalent rank officers in Fiji and their laws regarding discipline and service terms may be applied in Fiji. Contracts of service with the neighbouring territory's government can be enforced in Fiji.

Part 8: Special Constabulary (Sections 53–59)

Part 8 establishes a Special Constabulary and empowers the Commissioner to appoint them. This Part also addresses how they are employed. It grants them defined powers and protections and sets out disciplinary procedures applicable to them. This Part also ensures that they are issued proper equipment and outlines the termination of their appointment under structured rules.

Part 9: Miscellaneous (Section 60)

Part 9 is a single-section Part empowering the Minister to make regulations to give effect to the provisions of the Act.

2. DETAILED REVIEW OF THE POLICE ACT 1965

This portion of the Discussion Paper analyses each section of the Police Act 1965 with a view to providing relevant considerations and possible recommendations for improvement.

Part 1 - Sections 1 and 2

Long Title

The long title of the Police Act 1965 provides that it is an ‘Act to make better provision for the organisation, discipline, powers, and duties of the Fiji Police Force and matters incidental to’ these purposes. While the inclusion of a long title is standard practice in Fijian legislation, the current wording does not adequately reflect the principal purpose of the Act, which is the continuation of the Fiji Police Force. In other jurisdictions like Australia and Canada, long titles commonly make explicit reference to the establishment of a police force.

The long title of the Australian Federal Police Act 1979 states that it is ‘An Act to establish the Australian Federal Police...’ because one of the main objectives of the Act is to provide for the constitution of the Australian Federal Police. Similarly, in the state of New South Wales in Australia, the long title of the Police Act 1990 specifically mentions that it is ‘An Act to establish the NSW Police Force....’. Again, in the state of Queensland in Australia, the Police Service Administration Act 1990 states that the Queensland Police Service is to be maintained at all times in the state of Queensland. Accordingly, the long title of the Act reflects this and states that it is ‘An Act to provide for the Queensland Police Service and its administration’.

In Singapore, the long title of the Police Force Act 2004 states ‘An Act relating to the Singapore Police Force...’. It does not specifically mention that the Act establishes the Singapore Police Force, but perhaps this is because the Singapore Police Force was established under the repealed Police Force Act (Cap. 235, 1985 Revised Edition). Interestingly in Canada, the long title of the Royal Canadian Mounted Police Act uses the word ‘respecting’. It states, ‘An Act respecting the Royal Canadian Mounted Police’.

In Solomon Islands, the long title of the Police Act 2013 is very similar to that of Fiji’s Act. There is no specific mention of the establishment of the Royal Solomon Islands Police Force. But the approach taken in Solomon Islands is perhaps due to the fact that the Royal Solomon Islands Police Force had been established under a different Act i.e. the Police Act (Cap. 110) which was repealed by their existing Act. The existing Act continues the existence of the Royal Solomon Islands Police Force and provides for its organisation, discipline, powers and duties.

It is recommended that the new Act should ensure the long title specifically recognises and provides for the continuation of the Fiji Police Force, reflecting its central role under the Constitution.

Section 1 – Short title

Section 1 gives the short title of the Act as the Police Act 1965. The determination of a short title for a new Act will require careful consideration.

In New Zealand, the New Zealand Police operates under the Policing Act 2008, which defines their powers, functions and obligations. In Australia, the Australian Federal Police is constituted under the Australian Federal Police Act 1979. This legislation outlines the functions and powers of the Australian Federal Police. Each state and territory have their own legislation governing their police force. In New South Wales, the Police Act 1990 governs the NSW Police Force. In Queensland, the Police Service Administration Act 1990 establishes the Queensland Police Service, but the Police Powers and Responsibilities Act 2000 sets out the powers etc of the Queensland Police Service. The state of Western Australia has one of the oldest police legislation in the world, which is the Police Act 1892 that governs the Western Australia Police Force. These different states have been considered, to a varying extent, for this Report.

In Singapore, the Police Force Act 2004 governs the Singapore Police Force, in Canada, the Royal Canadian Mounted Police Act (R.S.C., 1985, c. R-10) is the legislation that governs the Royal Canadian Mounted Police, in Solomon Islands, the Police Act 2013 governs the Royal Solomon Islands Police Force and in Tonga, the Tonga Police Act governs the Tonga Police.

These act as a guide to determining what the short title of the new police legislation should be – it is, however, not an exhaustive guide. The short title of the new Act would also depend on what the content and the purposes of the legislation would be. The choice of title for Fiji should reflect both the scope of the new Act and its intended purposes.

Section 2 - Interpretation

This section defines key terms used in the Act, including Commissioner, Force, gazetted officer, inspectorate officer, police officer, special constable, subordinate officer, and tribunal.

Precise definitions are essential to avoid ambiguity and ensure consistent interpretation. The new Act must carefully define such terms to support clarity and proper application of the law.

Part 2 Sections 3 - 8

Section 3 - Establishment of Force

The title of this provision ('Establishment of Force') suggests that the provision establishes the Fiji Police Force, but it does not establish the Fiji Police Force per se; instead, it *continues* the existence of the Fiji Police Force. But it was not always referred to as the Fiji Police Force. When this provision was enacted in 1965 and eventually commenced on 1 January 1966, it continued the establishment of the Royal Fiji Police Force. The Police (Amendment) Act 1998 removed the word 'Royal' from this provision, thus effectively changing the name from 'Royal Fiji Police Force' to 'Fiji Police Force'. This change, although almost a decade later, was necessary given that Fiji was no longer a colony with the Queen of England as its head of state; instead, Fiji had become a Republic with the President as its head of state.

Aside from this provision, section 129(1) of the Constitution continues the existence of the Fiji Police Force. Given that the existence of the Fiji Police Force is safeguarded under the highest law of the land, it would not be necessary for a provision like section 3 of the Act to exist in the new Act. A provision referring to section 129(1) of the Constitution and recognising the Fiji Police Force under the new Act may be more appropriate.

Section 4 - Constitution of Force

Section 4 provides for the constitution of the Force, stating that it shall consist of such ranks as prescribed by the Minister in the Gazette. This approach grants wide discretion to the Minister. Under section 129 of the Constitution, however, the Commissioner holds authority over the command and appointment of the Force. Other jurisdictions provide more structured clarity: for example, New Zealand and Solomon Islands specify the composition of their forces in statute.

The new Act should adopt a more explicit framework for the composition of the Force that is consistent with the constitutional role of the Commissioner, as well as provide for the employment of civilian employees which is done in practice but is not provided under the Act. This would also be in line with section 129 of the Constitution which provides for the employment of “other employees” in the Force.

In the *2016 Consolidation of the Laws of Fiji*, the current Legal Notice (LN 25 of 1992) which sets out the ranks of the Force is published as a schedule to the Act although it is in fact only a notice published in the Gazette. This format – of clearly demarcating the ranks and hierarchy of the Force in the Schedule, may be adopted substantively for the new Act.

Police Animals

The current Police Act also does not recognise or provide for the role of police animals, despite their growing importance in law enforcement and the fact that cooperation to strengthen their role has been in place since the 1970s.¹ Trained detector dogs are vital in identifying illicit substances and supporting investigations, as demonstrated in December 2024 when K9 Tiny and her handler successfully detected methamphetamine, earning commendation from the Commissioner.²

In Fiji, the Fiji Police Force’s K9 Unit and the Fiji Detector Dog Unit, run in partnership with the Fiji Revenue and Customs Service and supported by the New Zealand Government, have strengthened national capabilities through training and resources. Plans are also underway to expand these services with a new K9 unit in Savusavu to help combat drug trafficking through the busy port.³

The new Act must provide for the recognition and role of police animals and in doing so it is worth considering other jurisdictions in the region.

In New Zealand, under the Policing Act 2008, section 46 explicitly addresses police dogs by clarifying that a police dog under the control of a handler may lawfully enter any place that the handler may enter in the line of duty, and neither the Commissioner nor the handler is liable simply because the dog enters or is present in such a place. The New Zealand Act also makes it an offence for those who intentionally kill, maim, wound or otherwise injure a police dog without lawful authority or reasonable excuse, carrying a sentence of up to 2 years imprisonment or a fine

¹ Fiji Police Force. (2022, September 25). *K9 Officers travel NZ FOR Training*
<https://www.police.gov.fj/view/2125>

² Fiji Police Force. (2025, February 11). *K9 tiny commended for her duties*.
<https://www.police.gov.fj/view/3262>

³ FBC News. (2025, May 9). *Police enhances K9 unit capabilities*.
<https://www.fbcnews.com.fj/news/police-enhances-k9-unit-capabilities/>

of \$15,000 (or both).⁴ These provisions ensure legal protection for the operational deployment of canine teams.

In Australia, under the Australian Federal Police Act 1979, section 12A defines "police dog" and gives handlers immunity from liability for the dog entering premises in the course of duty.

At state level, New South Wales has enacted dedicated legislation. The Police Powers (Drug Detection Dogs) Act 2001 grants police officers a general authority to use trained dogs in circumstances where the officer has lawful authority to search or enter a place and the officer is not liable to any action, claim or demand merely because the dog enters or is in the place.⁵ The Act also empowers officers to carry out general drug detection⁶ in defined public places (e.g., licensed liquor venues, sporting or artistic performance events and transport hubs) and in specific circumstances, without requiring a warrant.⁷ For general circumstances (and covert operations)⁸, an officer must apply for a warrant to use a police dog in general detection.⁹ In either case, the officer must take all reasonable precautions to prevent the dog from touching a person and must keep the dog under control.¹⁰ The exercise of the powers under the Act was subsequently monitored by the Ombudsman for 2 years after the commencement of the Act.¹¹ This robust framework, including the post commencement monitoring period, is worth considering when crafting a framework for inclusion of police animals in the new Act.

Section 5 – Functions of Force

Section 5 sets out the functions of the Fiji Police Force, which include the maintenance of law and order, the preservation of peace, the protection of life and property, the prevention and detection of crime, and the enforcement of law. It also authorises the carrying of arms, which is considered below.

This provision has not been updated in sixty years and does not reflect the modern scope of policing in Fiji, which now extends to the protection of human rights, community engagement, national security responsibilities, and participation in international policing operations. Jurisdictions such as New Zealand, Australia, and Singapore articulate broader and more contemporary functions in their police legislation. The new Act should expand its articulation of the functions of the Fiji Police Force to reflect these modern realities.

In New Zealand, section 9 of the Policing Act 2008 sets out the functions of the New Zealand Police. These are more extensive than what is currently outlined in section 5 of Fiji's Police Act 1965, and are:

1. Keeping the peace

⁴ NZ Policing Act 2008, section 53

⁵ Police Powers (Drug Detection Dogs) Act 2001, section 4

⁶ Defined in section 5 as "the detection of prohibited drugs or plants in the possession or control of a person, except during a search of a person that is carried out after a police officer **reasonably suspects** that the person is committing a drug offence".

⁷ Police Powers (Drug Detection Dogs) Act 2001, section 7

⁸ Police Powers (Drug Detection Dogs) Act 2001, section 9(3)

⁹ Police Powers (Drug Detection Dogs) Act 2001, section 8

¹⁰ Police Powers (Drug Detection Dogs) Act 2001, section 9

¹¹ Police Powers (Drug Detection Dogs) Act 2001, section 13

2. Maintaining public safety
3. Law enforcement
4. Crime prevention
5. Community support and reassurance
6. National security
7. Participation in policing activities outside New Zealand
8. Emergency management

In New Zealand, section 16 of the Policing Act 2008 also outlines the responsibilities of the Commissioner of Police. These are:

1. The Commissioner is responsible to the Minister for:
 - (a) carrying out the functions and duties of the Police;
 - (b) the general conduct of the Police;
 - (c) the effective, efficient, and economical management of the Police;
 - (d) tendering advice to the Minister and other Ministers of the Crown; and
 - (e) giving effect to any lawful ministerial directions.
2. The Commissioner is not responsible to, and must act independently of, any Minister of the Crown (including any person acting on the instruction of a Minister of the Crown) regarding:
 - (a) the maintenance of order in relation to any individual or group of individuals;
 - (b) the enforcement of the law in relation to any individual or group of individuals;
 - (c) the investigation and prosecution of offences; and
 - (d) decisions about individual Police employees.

In Australia, the functions of the Australian Federal Police are outlined in section 8. They are:

1. Provision of police services in relation to the Australian Capital Territory
2. Provision of police services in relation to the Jervis Bay
3. Provision of police services in relation to the laws of the Commonwealth, property and property authorities of the Commonwealth and the safeguarding of Commonwealth interests
4. Investigation of State offences that have a federal aspect
5. Provision of services in accordance with arrangements entered into
6. Performance of the functions conferred by the Witness Protection Act 1994
7. Performance of the functions conferred by a law of a State or Territory that is a complementary witness protection law for the purposes of the Witness Protection Act 1994
8. Performance of the functions under the Proceeds of Crime Act 2002
9. Performance of any such protective and custodial functions as the Minister directs by notice in writing in the Gazette, being functions that relate to a person, matter or thing with respect to which the Parliament has legislative power
10. Provision of police services and police support services for the purposes of assisting, or cooperating with, an Australian or foreign:
 - (a) law enforcement agency;

- (b) intelligence or security agency; or
- (c) government regulatory agency; and
- 11. Provisions of police services and police support services in relation to establishing, developing and monitoring peace, stability and security in foreign countries
- 12. Assistance or cooperation with:
 - (a) an international organisation; or
 - (b) a non-governmental organisation, in relation to acts, omissions, matters or things outside Australia; in relation to the provision of police services or police support services
- 13. Anything incidental or conducive to the performance of the foregoing functions.

In the state of New South Wales in Australia, section 6(2) of the New South Wales Police Act 1990 sets out the functions of the NSW Police Force, which include providing police services for New South Wales, exercising any other function conferred on it by or under any Act and also doing anything necessary for, or incidental to, the exercise of its functions. Police services include:

- 1. Services by way of prevention and detection of crime
- 2. Protection of persons from injury or death, and property from damage (whether from criminal acts or in any other way)
- 3. Provision of essential services in emergencies
- 4. Other services prescribed by regulations

In the state of Queensland in Australia, section 2.3 of the Police Service Administration Act 1990 sets out the functions of the Queensland Police Service. These functions are quite extensive, and they are:

- 1. The preservation of peace and good order
- 2. The protection of all communities in the State and all members of the communities from unlawful disruption of peace and good order that results, or is likely to result, from actions of criminal offenders or actions or omissions of other persons, and from the commission of offences
- 3. The prevention of crime
- 4. The detection of offender and bringing of offender to justice
- 5. The upholding of the law
- 6. The administration of the provisions of the Criminal Code, all other laws being committed to the responsibility of the Queensland Police Service, and the powers, duties and discretions prescribed for officers by any Act
- 7. The provision of the services, and the rendering of help reasonably sought in an emergency or otherwise as are required of officers under any law or the reasonable expectations of the community or reasonably sought of officers by members of the community
- 8. The provision of services for the security of state buildings

The state of Western Australia has one of the oldest police legislation in the world, dating all the way back to 1892. With regard to the functions of the police force, the Police Act 1892 is different in that it sets out the functions of various positions or offices. It sets out the functions of the

Commissioner of Police, non-commissioned officers, special constables, aboriginal police liaison officers and police auxiliary officers.

In Singapore, section 4 of the Police Force Act 2004 states that the Singapore Police Force has the following functions:

1. Maintain law and order
2. Preserve public peace
3. Prevent and detect crimes
4. Apprehend offenders
5. Exercise any other function conferred on it by any written law

The provision goes further to state that the Singapore Police Force has the duty to take lawful measures for:

1. Preserving public peace
2. Preventing and detecting crimes and offences
3. Apprehending all persons whom police officers are legally authorised to apprehend
4. Regulating processions and assemblies in public roads, public places or places of public resort
5. Regulating the traffic upon public thoroughfares, and removing obstructions therefrom
6. Preserving order in public places and places of public resort, at public meetings and in assemblies for public amusements, for which purpose any police officer on duty must have free admission to all such places and meetings and assemblies while open to any member of the public
7. Assisting in carrying out the revenue, excise, sanitary, conservancy, quarantine and immigration laws
8. Assisting in preserving order in any port, harbour, train station and airport in Singapore
9. Executing summonses, subpoenas, orders to attend court, warrants, commitments and other process issued by courts and Justices of the Peace
10. Disseminating information to and advising the public and conducting prosecutions
11. Taking action for the safe custody of lost property and for the disposal of unclaimed property
12. Assisting in the protection of life and property at fires
13. Protecting persons from injury or death, and public property from damage or loss, whether arising from criminal acts or in any other way
14. Attending the criminal courts and, if specially ordered, the civil courts, and keeping order in those courts
15. Escorting and guarding prisoners (including those in remand)
16. Executing such other duties as may by any written law be imposed on a police officer

Arms and ammunition

Additionally, it is worth noting that section 5 of the current Fiji Act entitles the Fiji Police Force to carry arms. In this review, the definition of “arms” used in section 2(1) of the Arms and Ammunitions Act 2003 is accepted as likely to be included in the meaning of the term in section 5 of the Police Act. The definition is:

“arms

(a) means—

(i) any lethal weapon with or without barrel of any description from which any shot, bullet or other missile can be discharged or which can be adapted for the discharge of any such shot, bullet or other missile; and

(ii) any weapon of any description designed or adapted for the discharge of any noxious liquid, gas or other thing dangerous to persons;

(b) and includes any component part of any weapon mentioned in paragraph (a)(i) or (ii), any accessory to any such weapon designed or adapted to diminish the noise or flash caused by firing the weapon and any explosive-operated power tool, ramset, hilt or fire nail fastener operated by pneumatic pressure;

(c) but does not include an article designed or adapted solely to discharge a spear for spearing fish;”

It is also noted that section 15 of the current Fiji Act deals with the return of “arms and ammunition” after service and section 39 deals with cases where an officer loses or damages his or her arms and ammunitions. As such, it is clear that the intention of the Act was indeed to arm the Fiji Police Force.

However, the Police do not in fact carry arms and during public consultations it is perhaps worth considering if this provision is necessary as it is not used in practice.

Section 6 - Employment of Force in times of emergency

This provision empowers the President to employ the Fiji Police Force during times of war or any other emergency in the defence of Fiji. During such time, the Fiji Police Force will be subject to military law.

It appears that this provision is inconsistent with section 129(5) of the Constitution which states that the Commissioner of Police is responsible for the organisation and administration of the Fiji Police Force and the deployment and control of its operations. This, however, is subject to any ministerial general policy direction to the Commissioner under section 129(6) of the Constitution. As such, it may be more appropriate for the Minister or Commissioner to be vested with the power to mobilise the Force during times of emergency in response to a declaration under Chapter 9 of the Constitution.

This provision also uses the terms ‘war’ and ‘other emergency’. The reference should be to a state of emergency as declared under Chapter 9 of the Constitution.

Section 7 - General powers of the Commissioner

This section grants the Commissioner of Police command and superintendence of the Fiji Police Force, including responsibility for training, appointments, promotions, and discipline. These powers reflect the constitutional mandate set out in section 129 of the Constitution. The new Act should give legislative effect to these constitutional powers, while also addressing practical issues such as the Commissioner’s ability to delegate authority to subordinates. This will ensure

the Commissioner can effectively manage the Force while maintaining ultimate responsibility. In New Zealand, for example, section 18 of the Policing Act 2008 outlines the powers of the Commissioner of Police to appoint employees. Section 24 outlines the powers of the Commissioner of Police to authorise officers to exercise particular powers or to perform particular roles. Section 28 outlines the powers of the Commissioner of Police to issue general instructions for Police employees. Section 31 empowers the Commissioner to take charge, or to appoint a Police employee to take charge, of policing operations.

Furthermore, it may be necessary to expand on language in this provision concerning mandatory gender sensitisation and human rights training for all officers, from recruitment through ongoing service.

Section 8 - Administration of Force

Section 8 assigns the administration of the Fiji Police Force to the Commissioner of Police, who may appoint officers in charge of different areas. This is consistent with constitutional provisions, but the Act could provide greater detail on the scope of this administrative authority.

In Singapore, section 5 of the Police Force Act 2004 sets out a similar provision. It states that the Commissioner of Police is responsible to the Minister for the supreme command, direction and administration of the Singapore Police Force, including all persons appointed or engaged for police duties.

Part 3 Sections 9 – 15

Section 9 - Enlistment

Section 9 provides that the Commissioner may fix the period of service for police officers. Historically, subordinate officers were enlisted for five-year terms, while higher-ranked officers served until retirement. Current practice is inconsistent, with uncertainty surrounding certain ranks such as Deputy Inspector.

Under Fiji's Police Regulations 1965, the rank structure in the Fiji Police Force, according to the pay structure, is as follows:

1. Commissioner (appointed by the President on the recommendation of the Constitutional Offices Commission following consultation with the Minister)
2. Deputy Commissioner (enlisted until retirement)
3. Assistant Commissioner (enlisted until retirement)
4. Senior Superintendent (enlisted until retirement)
5. Superintendent (enlisted until retirement)
6. Deputy Superintendent (enlisted until retirement)
7. Assistant Superintendent (enlisted until retirement)
8. Senior Inspector
9. Inspector
10. Sergeant Major (enlisted for 5 years)
11. Sergeant (enlisted for 5 years)
12. Corporal (enlisted for 5 years)
13. Constable (enlisted for 5 years)

14. Probationer Year 3 (enlisted for 5 years)
15. Probationer Year 2 (enlisted for 5 years)
16. Recruit Year 1 (enlisted for 5 years)

Currently, police officers of and below the rank of Sergeant are enlisted for a period of 5 years and further re-enlisted subject to certain conditions. Officers of the rank of Inspector are not enlisted for any specific number of years and may continue their service until retirement.

The terms and conditions of periods of employment of gazetted officers i.e. police officers of and above the rank of an Assistant Superintendent of Police up to the rank of Deputy Commissioner prior to 2013 were covered under the Government General Orders which did not specify the period of enlistment for such officers at the time. Since the promulgation of the Constitution, the administrative control of the Fiji Police Force is conferred on the Commissioner of Police. As such, the Government General Orders in this regard no longer applies to the Fiji Police Force.

Accordingly, this provision needs to be amended in line with the following directions of the Commissioner of Police:

- Police officers of and below the rank of Sergeant Major are enlisted for 5 years with further re-enlistment being subject to them fulfilling certain conditions.
- Police officers of and above the rank of Deputy Inspector up to and including the rank of a Deputy Commissioner are not enlisted for any specific number of years and may continue their service until retirement.
- The Fiji Police Force has in place assessment protocols which determine the police officers' suitability for advancement in the Fiji Police Force.
- This directive from the Commissioner is also in line with the government approved reform and restructure of the Fiji Police Force which includes an increase in ranks in the rank structure.

The recommendation by the Fiji Police Force refers to the rank of Deputy Inspector, but there is no specific pay category for that rank under the Police Regulations 1965. It is also unclear whether the ranks of Inspector and Senior Inspector have enlistment periods of 5 years, or whether they are enlisted with no specific period until retirement.

The Commissioner has recently directed reforms in this area, and the new Act should codify current practice, ensuring clear and consistent rules for enlistment and service across all ranks.

Section 10 - Declaration on enlistment

Section 10 requires every new officer to take an oath or affirmation before a gazetted officer, swearing loyalty and obedience to the State and their superiors. Similar provisions exist in other jurisdictions, including New Zealand, Singapore, and Tonga, though procedures differ. The oath should be retained in the new Act, updated for modern practice, and potentially adapted to allow for technological solutions such as remote administration where appropriate.

In New Zealand's Policing Act 2008, a new Police employee is required to give a solemn undertaking that he or she will faithfully and honestly perform his or her duties as a Police employee. This undertaking must be given before his or her supervisor and may be recorded in any manner that the Commissioner determines from time to time. This is provided for in section

19 of the Policing Act 2008. But a Police employee would have to take an oath before the Commissioner of Police, or a person authorised by the Commissioner before he or she can become a constable. This is provided for in section 22. New Zealand goes a step further and says that the Commissioner of Police or the authorised person can only administer the oath if they are satisfied that the Police employee is adequately trained to exercise the powers of a constable and is capable of exercising the powers of a constable.

In Singapore, section 19 of the Police Force Act 2004 requires every police officer to take an oath of office and oath of allegiance prescribed by the Oaths and Declarations Act 2000 before entering office. The taking of the oath may be carried out through a live video or one television link created using a remote communication technology. Section 68 also requires any volunteer offering his or her service to the Special Constabulary to also take an oath or affirmation.

In Tonga, sections 12 and 52 of the Tonga Police Act requires any person who is appointed or employed as a member of the Tonga Police to take the oath or affirmation of allegiance. This requirement does not apply only to the Commissioner of Police and police officers – it also applies to administrative staff members of the Tonga Police.

Section 11 – Identity cards

Section 11 provides that every police officer shall be issued with an identity card. The requirement for officers to carry official identification ensures accountability and fosters public trust. In modern practice, identity cards serve as a safeguard against impersonation of officers and as a means for the public to verify the legitimacy of police authority.

In Tonga, it is a requirement under section 117 of the Tonga Police Act for every police officer and authorised officer to be issued an identity card by the Commissioner of Police, and to always wear his or her identity card in a visible manner when on duty. Tonga's Act goes on to state that the identity card must contain a recent photo of the officer, the officer's name and the officer's identity number.

Section 96 of New Zealand's Policing Act 2008 is similar in that every Police employee must be provided with evidence of his or her identity and authority as a Police employee. The provision also sets out all the matters that the evidence needs to state and bear.

The new Act should strengthen this requirement by prescribing standards for identity cards, including security features to prevent forgery, and setting out obligations for officers to produce their identity card upon request, where practicable.

Section 12 – Police officers not to resign without permission

Section 12 restricts officers from resigning from the Fiji Police Force without the Commissioner's approval. The purpose of this provision is to maintain continuity of service and ensure the Force retains trained personnel. However, in its current form, the section is rigid and does not account for personal circumstances or rights of officers to terminate employment. Comparative approaches in New Zealand and Australia balance organisational needs with employment rights by providing clear notice periods and formal processes for resignation.

The new Act should provide a structured mechanism for resignation that both protects the interests of the Force and respects the rights of officers.

New Zealand has a similar provision i.e. section 79 of the Policing Act 2008. The only difference is that the restriction on resignation by a police constable applies only if the Governor-General is of the opinion that special circumstances require that no police constable resigns without permission and he or she makes a declaration under his or her hand to that effect.

In the state of New South Wales in Australia, a member of the NSW Police Force may resign but the resignation takes effect only when the Commissioner of Police accepts the resignation. This can be seen in section 94C in the NSW Police Act 1990.

In Tonga, section 70 of the Tonga Police Act deals with resignation by a member of the Tonga Police. A member of the Tonga Police may resign by giving the Commissioner of Police a signed notice of his or her resignation at least 28 days before the proposed date of resignation. The resignation will only be effective if it is approved in writing by the Commissioner of Police within the 28-day period.

Section 13 – Prolongation of service in case of war

This provision ensures the availability of as many police officers as possible during a state of war, insurrection or hostility, or a state of civil commotion which threatens public safety in any part of Fiji ('emergency'). Police officers whose period of service expires during an emergency are retained to assist during the emergency, and they can be retained for a further period of up to 6 months after the emergency. This period, however, must be directed by the President.

This provision does not apply to civilian staff at the Fiji Police Force.

According to the Fiji Police Force, the support of the civilian staff is also crucial during an emergency, and they have recommended that such a provision also apply to civilian staff.

In Tonga and Solomon Islands, a very similar provision exists. Section 91 of the Tonga Police Act continues the appointment of a police officer during a state of war, insurrection, hostility or state of emergency, if the police officer's appointment expires during the state of war, insurrection, hostility or state of emergency. The same is done under section 44 of the Solomon Islands Police Act 2013 during "a state of war, insurrection, hostilities or period of public emergency ... for a specified time".

Section 14 - Discharge

This provision ensures that only those officers who are medically, physically and efficiently capable are employed by the Fiji Police Force. If a police officer is not medically, physically and efficiently capable, then the Commissioner of Police is able to discharge the police officer from the Fiji Police Force.

Section 14(1)(a), (b) and (c) are grounds for the Commissioner of Police to discharge a police officer from the Fiji Police Force.

The Fiji Police Force has recommended that this provision also apply to the civilian staff.

Section 15 – Arms and equipment to be delivered up upon ceasing to be a police officer

According to this provision, a police officer commits an offence if he or she fails to deliver all arms, ammunition, equipment, clothing and appointments that had been given to him or her, after he or she has ceased to be a police officer. Such delivery is to be made to the person

appointed by the Commissioner for that purpose or to the police officer in charge of the place the police officer in question was last stationed. The offence carries a maximum fine of \$40 or a maximum imprisonment term of 3 months or to both the fine and imprisonment.

This provision applies to police officers and does not extend to civilian staff. If this were to extend to civilian staff, then it would be necessary to determine whether civilian staff have arms, equipment and clothing in their official capacity that they would need to return to the Fiji Police Force.

The penalties are also considerably low and do not do much for deterrence.

Part 4 Sections 16 - 26

Section 16 - Police officers not to engage in other employment or in political activities

Section 16 prohibits officers from engaging in other employment or political activity. This is an important safeguard to ensure impartiality, prevent conflicts of interest, and maintain public confidence in the neutrality of the Fiji Police Force.

Some modern jurisdictions permit limited secondary employment subject to strict oversight. In the state of New South Wales in Australia, members of the NSW Police Force (excluding the Commissioner of Police) may engage in paid outside employment, provided they have obtained the approval of the Commissioner of Police. This is outlined in section 94D of the NSW Police Act 1990.

In Singapore, section 27 of the Police Force Act 2004 allows police officers to engage in private work provided that the employer applies to the Commissioner of Police requesting for a particular police officer to guard them, or to guard another person or property. It may even be for any other reason that is acceptable to the Commissioner of Police. The employer making the application is required to pay for the services of the police officer at such rate as may be prescribed or at the amount or rate as the Commissioner of Police thinks fit.

In Solomon Islands, a police officer may undertake paid outside employment provided that he or she has the permission of the Commissioner of Police. This is provided for in section 205 of the Police Act 2013.

Section 17 - General powers and duties of police officers

Section 17 sets out the general duties of police officers. These duties include preserving the peace, preventing and detecting crime, protecting life and property, and enforcing laws. The section, however, is outdated and does not adequately capture the breadth of modern policing, including community engagement, protection of human rights, and cooperation with regional and international policing bodies. The new Act should broaden the scope of police powers and duties, reflecting contemporary expectations and obligations.

Covert Operations

Section 17(3) states that it is the duty of every police officer to “collect and communicate intelligence” but provides no further elaboration on what this means and how this may be done.

One aspect of intelligence gathering for modern policing that was raised in targeted consultations was covert policing operations, which involves the use of undercover officers, surveillance devices, or controlled interactions that are not visible to the public, enabling law enforcement to infiltrate criminal networks, collect evidence discreetly, and prevent offences without alerting suspects. These operations are essential to effective policing and the administration of justice, particularly in tackling organised crime, narcotics trafficking, corruption, and other complex offences where overt tactics would compromise investigations.

Under Fiji's current Act, no framework exists to regulate covert operations—there is no provision for surveillance warrants, controlled undercover activity, or oversight mechanisms. This legislative absence poses significant risks as without clear legal boundaries and authorisation procedures, covert operations may infringe on personal and privacy rights, evidence may be challenged or excluded in court, and operational accountability remains undefined.

In contrast, the Illicit Drugs Control Act 2004 (IDCA2004) empowers a High Court judge to, upon written application, grant an interception warrant “authorising the covert monitoring and recording, by any means, of the conduct and communications, including telecommunications” of a person if the applicant (a police officer above the rank of inspector) has reasonable grounds to believe that a person has committed, is committing or is about to commit an offence¹² against that Act. The warrant may also authorise covert entry to monitor and record. An interception warrant application may also be made orally if “the circumstances are such that ... a written application... is not reasonably practicable”¹³ and if so is valid for only 48 hours.¹⁴ The IDCA 2004 also sets out the considerations for the judge when determining whether to grant the warrant, including the nature and gravity of the offence, the extent the privacy of the person is affected, alternative means for obtaining the information, the potential prejudice these alternatives may have on the investigation, the extent the information may assist the investigation and the evidentiary value of the information.¹⁵ The warrant must specify the manner and place of monitoring, name of person monitored, conditions of entry, persons required to provide assistance, duration and retrieval of the device.¹⁶ Section 13 of the IDCA2004 provides a similar framework for a tracking warrant, which allows the Force to place a tracking device on any craft, vehicle or goods. Although the covert operations framework is limited to offences under IDCA2004, it is still a model worth noting.

A very similar covert operations framework is also provided in the Fiji Independent Commission Against Corruption Act 2007, where interception warrants may be issued by the High Court,¹⁷ with the limitation of only applying to offences under that Act and only for FICAC officers appointed under section 8 of that Act. Finally, for Fiji, real-time confidential¹⁸ collection of traffic data¹⁹ may

¹² Illicit Drugs Control Act 2004, section 12(1)(a)

¹³ Illicit Drugs Control Act 2004, section 12)(4)

¹⁴ Illicit Drugs Control Act 2004, section 12)(8)

¹⁵ Illicit Drugs Control Act 2004, section 12)(6)

¹⁶ Illicit Drugs Control Act 2004, section 12)(7)

¹⁷ Fiji Independent Commission Against Corruption Act 2007, section 10E

¹⁸ Cybercrime Act 2021 section 22(5)

¹⁹ Traffic data is defined in section 2 of the Cybercrime Act 2021 as “any computer data relating to a communication by means of a computer system, generated by a computer system that forms a part in the

be authorised by a warrant issued by a Judge or magistrate on application from a Police officer under section 22 of the Cybercrime Act 2021.

In Australia, Queensland's Police Powers and Responsibilities Act 2000 provides a comprehensive regime for covert operations under Chapters 9 to 13. Police must apply for covert search warrants (Chapter 9) and may be authorised by a senior police officer to conduct a controlled activity, which is essentially the act of communicating with a suspected offender in any way and deliberately concealing the true purpose of the communication (Chapter 10). The Act also provides for authorisation for controlled operations, which enables an officer to engage in conduct which may ordinarily be criminal in nature but is done in limited circumstances for the purposes of obtaining evidence (Chapter 11). A controlled operation may only be undertaken after an application to a Controlled Operations Committee and after receiving recommendations from the committee and is monitored by mandatory reporting requirements to the head of the enforcement agency and for the Police ultimately to the Minister.²⁰ The Queensland Act also provides for assumed identities needed for undercover work (Chapter 12) and the use of surveillance devices (Chapter 13).

Fiji's reform may be based off the already existing models under the IDCA2004 or the FICAC Act 2007 for a relatively straightforward framework or may seek to create a very comprehensive and sophisticated system for covert operations similar to that of Queensland, Australia.

Community Policing

In targeted stakeholder meetings the need for some form of formal recognition for community policing initiatives was raised. Community policing is a policing philosophy and organisational strategy grounded in partnership and problem-solving, where police and community members collaborate to identify, prevent, and address public safety issues. It emphasises trust-building, regular engagement (such as foot patrols and neighborhood meetings), and empowering residents and officials to jointly improve safety and quality of life.

The Review Team's research indicates that a legislative framework for community policing is rare, with most countries opting for purely administrative structures, workplans or support programmes instead. However, some examples do exist – Kenya for example sets out a framework under Part XI of the Kenya National Police Service Act 2011, giving effect to objects contemplated under their Constitution.²¹ The Kenyan Act defines community policing as “the approach to policing that recognises voluntary participation of the local community in the maintenance of peace and which recognises that the police need to be responsive to the communities and their needs, its key element being joint problem identification and problem solving, while respecting the different responsibilities the police and the public have in the field of crime prevention and maintaining order”²² and expressly states that one of the functions of the Inspector General is to “issue guidelines on community policing and ensure co-operation between the Service and the communities it serves in combating crime”.²³ Part XI lays out the

chain of the communication, indicating the origin, destination, route, time, date, size or duration of the communication, or type of underlying service”

²⁰ Queensland Police Powers and Responsibilities Act 2000 s269

²¹ Constitution of Kenya, Article 244

²² Kenya National Police Service Act 2011 s2

²³ Kenya National Police Service Act 2011 s10(k)

objectives of community policing,²⁴ the role of the County Policing Authority in establishing structures for community policing in a county, training members of the community, receiving reports from local community policing structures and making reports to the Cabinet Secretary.²⁵ On a more localised level, the Act makes it the responsibility of the police officer in charge of an area to set up community policing committees within that area.²⁶ Every community also elects a chairperson and a vice-chairperson from their community, the chair being a civilian and the vice chair being a police officer.²⁷ A final point of interest is that under the Kenyan Act, if the Police were to exercise their power to erect barriers in an area, they are required to submit records of these barriers and the reasons for setting them to the local community policing association.²⁸

Section 18 - Power to take photographs etc.

Section 18 authorises officers to take photographs, descriptions, measurements, fingerprints, palmprints and footprints of individuals in lawful custody for any offence punishable by imprisonment regardless of whether they have been convicted or not. This provision was considered in the High Court in the case of *Ratei v Commissioner of Police [2022] FJHC 329; HBJ009.2021 (30 June 2022)*, where the High Court noted in paragraph 19 that “...section 18(1) of the Police Act is in line with Section 24(1) of the Constitution of the Republic of Fiji where every person has a right to their personal privacy. Therefore, taking the facial photo of Jonacani Bolavutia Bainimarama when he was not a suspect who was in lawful custody and using it by uploading on to a Viber group where other personnel get access to, would have been grounds for discipline action”.

Although the Court affirmed the safeguards in this provision, the provision may benefit from greater detail on how the identifying particulars may be used, stored, or disclosed.

In New Zealand’s Policing Act 2008, Part 3 sets out the powers of the Police, and one of those powers is the power to obtain information by taking the identifying particulars of a person who is in the lawful custody of the Police. Identifying particulars of a person means their name, address and date of birth (Fiji does not specify date of birth), as well as the person’s photograph or visual image and/or impressions of the person’s fingerprints, palm-prints or footprints. The NZ Act also specifies the place at which identifying particulars may be taken (a police station or any other place being used for police purposes)²⁹ and empowers a constable to use reasonable force if necessary to secure the particulars.³⁰ The Fiji Police Act; however only permits the use of reasonable force to secure particulars *after* a person has been *convicted* for the offence of refusing to submit their information, which appears to be an odd distinction. The NZ Act also provides for temporary detainment of a person that a constable has good cause to suspect of committing an offence simply to take their particulars and initiate proceedings later by way of summons,³¹ a power which is also absent from the Fiji Act.

²⁴ Kenya National Police Service Act 2011 s96

²⁵ Kenya National Police Service Act 2011 s97

²⁶ Kenya National Police Service Act 2011 s98

²⁷ Kenya National Police Service Act 2011 s100

²⁸ Kenya National Police Service Act 2011 s65

²⁹ NZ Policing Act 2008 s32(2)

³⁰ NZ Policing Act 2008 s32(3)

³¹ NZ Policing Act 2008 s33

An additional point of contrast is that the Fiji Act only provides for the destruction of the personal information upon *acquittal*,³² whereas the NZ Act is nuanced enough to also provide for the destruction of information if the Police decide to not lay charges or to withdraw charges they have laid.³³

Finally, the penalty for refusing to provide information in s18(3) of the Fiji Police Act 1965 is a maximum fine of \$40 or imprisonment for up to 3 months only. These penalties are woefully inadequate in the 21st century.

Forensic Procedures etc

Section 18 of the Act only provides for the collection of photographs, descriptions, measurements, fingerprints, palmprints and footprints and does not provide for conducting forensic procedures and the collection of blood, urine or saliva samples. Ensuring that the police have clear statutory powers to conduct forensic procedures, including the collection of blood, urine, or saliva samples, is vital for the effective investigation and prosecution of offences. Such procedures provide critical scientific evidence that can confirm or exclude suspects, establish links between offenders and crime scenes, and strengthen the integrity of the justice system.

In Australia, the Queensland Police Powers and Responsibilities Act 2000, Chapter 17 sets out a detailed framework for forensic procedures, requiring judicial or magistrate approval for intrusive procedures such as blood or saliva collection (sections 475–488A), while allowing police to conduct non-intrusive procedures, such as fingerprinting, under less stringent conditions, with clear safeguards around consent, the rights of suspects, and destruction of samples when no longer needed.

New Zealand has enacted dedicated legislation to deal with forensic procedures. The Criminal Investigations (Bodily Samples) Act 1995 provides for the collection of bodily samples with judicial oversight, distinguishing between voluntary and compulsory samples, and embedding protections for individual rights and privacy.

Best practice internationally calls for forensic procedure frameworks that balance investigative needs with constitutional rights, ensuring that compulsory collection is strictly regulated through judicial warrants or orders, that informed consent is obtained wherever possible, and that collected samples are securely stored, subject to privacy protections, and destroyed when no longer required for criminal proceedings.

Section 19 - Power to make complaint

Section 19 authorises a police officer to make a complaint or charge against any person before a Magistrate, and to apply for a summons, warrant, search warrant or such other legal process against the person.

Similar provisions do not exist in the corresponding legislation in New Zealand, Australia, Singapore, Canada and Solomon Islands. In fact, the provision may be obsolete as section 56 of the Criminal Procedure Act 2009 provides a comprehensive framework for complaints, which

³² Fiji Police Act 1965 s18(2)

³³ NZ Policing Act 2008 s34(2).

may be made by any person who believes from a reasonable and probable cause that an offence may be committed.

Digital Devices

The reference in section 19 to the power of a police officer to apply for “such other legal process against the person” as a part of a complaint may be the only, albeit vague, language in the Act that may imply some form of recognition for processes to seize property including digital devices. It is however totally insufficient as a standalone provision.

However, section 16 of the Cybercrime Act 2021 provides that a police officer may apply to a Judge or magistrate for a warrant to enter a particular location to search and seize a computer, computer program, computer system, computer data storage medium, device or computer data. Section 15 of the Cybercrime Act extends the application of the powers and procedures of the Act to “other criminal offences established under any other written law” and “the collection of evidence in electronic form of a criminal offence under this Act or any other written law”. Furthermore, section 21 of the Cybercrime Act empowers a Judge or magistrate to, after an application made under oath and affidavit by a police officer, issue a warrant authorising the officer to seize or secure a specified computer system, program, data or computer data storage medium and require any person other than the suspect to provide, as is reasonable, the necessary computer data or information or to decrypt the system.

Section 20 - Non-liability for act done under authority of warrant

Section 20 provides that officers acting under a valid warrant are protected from liability. This is a standard safeguard to ensure officers can perform their duties without fear of personal litigation, provided they act within the scope of lawful authority. The new Act should retain this protection but make clear that immunity does not extend to actions taken in bad faith, outside the scope of the warrant, or in violation of human rights obligations.

In the state of New South Wales in Australia, section 213 of the Police Act 1990 provides protection to members of the NSW Police Force from personal liability. They are not liable for any injury or damage caused by any act or omission if the act or omission was exercised in good faith of a function conferred on them under any law.

Section 21 - Power to inspect licences or permits

Section 21 empowers police officers to inspect licences and permits. This authority supports enforcement of regulatory and statutory schemes, ensuring compliance across various sectors such as firearms, liquor, and business operations. However, the current provision does not set out limits or safeguards on how inspections should be carried out. The new Act should specify procedures for conducting inspections, require officers to identify themselves where practicable, and ensure that such powers are exercised reasonably and proportionately to protect against arbitrary use.

Tonga has a similar provision in the Tonga Police Act. Section 139 empowers a police officer to ask a person who is required to hold or have an authority under an enactment to produce the authority to the police officer for inspection. Unlike Fiji which is restricted only to permits and licences, Tonga uses the term ‘authority’ to refer to licences, permits, permissions, approvals, authorities, registers and other records required under an enactment.

Section 22 - Power to erect barriers

This provision permits a police officer (other than a subordinate officer) to erect or place barriers in or across any road or street or in any other public place as he or she considers necessary. It also permits a police officer to prevent a person or vehicle from passing any such barrier, and if a person does pass the barrier, then he or she commits an offence which carries a maximum fine of \$100 or a maximum imprisonment term of 6 months or to both the fine and imprisonment. This power is crucial for maintaining public order, controlling traffic during emergencies, and supporting law enforcement operations.

This provision does not extend to stopping or restricting the movement of people on any part of the sea or other waterways of Fiji using any water borne vessel if it is necessary for the performance of the functions of the Fiji Police Force.

Furthermore, the provision lacks detail on the circumstances under which barriers may be established and does not provide for safeguards to balance operational needs with public rights. The new Act should outline the grounds for setting up roadblocks, establish requirements for notice and signage where feasible, and include provisions for accountability and review.

Section 23 - Duty of Force to keep order on public roads

This provision sets out the duty of the Fiji Police Force to do a number of things in relation to public roads. These are to:

1. Regulate and control traffic
2. Maintain order on public roads, streets and thoroughfares, landing places and other places of public access or resort
3. Prevent obstructions where there are assemblies or processions on the public roads and streets

Where a person disobeys a lawful order by a police officer in the performance of their duty, then they commit an offence which carries a maximum fine of \$100 or a maximum imprisonment term of 3 months or to both the fine and imprisonment.

The recommendation is for there to be higher penalties for greater deterrence. The new Act should also clarify the relationship between police duties under this section and the enforcement of the Land Transport Act 1998, while ensuring consistency with broader public safety responsibilities.

In New Zealand's Policing Act 2008, section 35 empowers a constable to temporarily close to traffic any road or part of a road if the constable has reasonable cause to believe that:

1. Public disorder exists or is imminent or near that place
2. Danger to a member of the public exists or may reasonably be expected at or near that place
3. An offence punishable by 10 or more than 10 years' imprisonment has been committed or discovered at or near that place

Section 24 - Persons furnishing false name and address

Section 24 requires a person who has been asked by a police officer to provide his or her name and address, to provide his or her name and address accordingly. If the person refuses to do so

or if he or she provides a false name or address, then he or she commits an offence which carries a maximum fine of \$40 or a maximum imprisonment term of 3 months or to both the fine and imprisonment.

The Fiji Police Force now requires more information for the purposes of identification of that person in future. Currently, police officers face a lot of difficulty when suspects or accused persons change their place of residence. They require more information such as the person's place of work, his or her contact details, the name of his or her spouse with contact details etc.

This will in turn ensure that the Fiji Police Force will not have to use taxpayer's funds in locating the suspect or accused person once they change their place of residence.

Currently, the Fiji Police Force is experiencing problems in this regard which is resulting in a backlog of unexecuted warrants and summons.

Additionally, the punishment should be more to serve as a deterrent but with consideration to other limitations discussed above.

Section 25 - Disposal of unclaimed property

This provision refers to lost and found property where the owner, after proper notice has been given in accordance with this provision, fails to make a valid claim on the property, allowing the Fiji Police Force to dispose of the property.

If the property is sold, the proceeds are to be deposited in the Consolidated Fund.

This provision does not extend to:

1. property that was seized during an investigation and the true owner cannot be established e.g. stolen properties
2. the Fiji Police Force having the authority to recover costs of removal of property such as accident vehicles which need to be towed to the police station
3. levy charges on owners for their unclaimed property after due notice has been issued to them to remove or take their property e.g. write-off vehicles which have been abandoned at police stations

New Zealand has a similar approach, but there are some slight differences. In section 41 of the Policing Act 2008, there is a timeline for which the rightful owner can come forward and claim the property. The provision prescribes a period of 6 weeks. If, after 6 weeks, the property remains unclaimed, then the Commissioner of Police may direct that the property be sold. Additionally, Fiji's provision refers to a sale but does not specify that it must be an auction sale, in the way that New Zealand does.

Section 26 - Power of police officer to enter premises in case of fire

Section 26 grants police officers the power to enter premises in cases of fire, accident, or similar emergencies. This ensures timely intervention to protect life, prevent injury, and safeguard property.

However, the scope of the power is limited and does not address broader emergency situations such as natural disasters, hazardous material incidents, man-made or terrorist threats, or

instances where there is reasonable cause to believe that there may be danger to a person's life particularly in domestic violence situations. The new Act should expand the provision to cover a wider range of emergencies while balancing the need for prompt action with respect for privacy and property rights.

Part 5 Sections 27 – 42

Section 27 - Suspension or interdiction of gazetted officers

Section 27 sets out the power to suspend police officers. This is a necessary disciplinary tool to ensure that officers under investigation do not compromise the integrity of the Force. The current provision lacks detail on the grounds, procedures, and rights of officers during suspension. The new Act should specify the criteria for suspension, provide timelines for review, and ensure that officers have access to due process, including the right to representation and appeal.

In New Zealand, section 70 of the Policing Act 2008 empowers the Commissioner of Police to suspend or remove Police employees. In contrast, the authority to discipline a police officer in Fiji is provided for in the Constitution (and this authority is vested in the Commissioner of Police).

Section 28 - Interdiction of officers

Section 28 provides for the interdiction of officers, allowing them to be removed from active duty while investigations or proceedings are ongoing. As with suspension, the existing provision is under-developed and may result in uncertainty or inconsistency in practice. The new Act should clarify the legal basis, rights, and obligations during interdiction, including treatment of salary and benefits during the interdiction period.

Section 29 - Offences by police officers

Section 29 defines disciplinary offences committed by police officers. This provision sets out the various offences by police officers. The offences are as follows, and they each attract 5 years imprisonment:

1. mutiny or sedition (including failure to suppress, or conspiracy with others to cause)
2. desertion (including persuading, procuring or assisting others to desert, or does not give information without delay to superior officer)
3. causes violence to superior officer in the execution of duty
4. does not use his utmost to suppress any assemblage for riot

New Zealand's Policing Act 2008 takes a different approach. New Zealand's repealed Police Act 1958 dealt with disciplinary offences by police constables. However, New Zealand's Policing Act 2008 has moved away from dealing with disciplinary offences *by* police constables in the Act itself. Section 103, which is a savings provision, is the only provision in their current Act that deals with disciplinary offences, but only in relation to matters arising in relation to conduct occurring before the commencement of the Act. These will be dealt with under their repealed Police Act 1958 and repealed Police Regulations 1992.

In the Act, behaviour that goes against a police constable or against the New Zealand Police are treated as criminal offences. In New Zealand's Policing Act 2008, Part 3 sets out the offences. These are:

1. Failing to comply with the directive of a constable
2. Gaining employment with Police by false representation
3. Personation and representing vehicle, etc., as Police vehicle
4. Use of term Police or New Zealand Police in operating name
5. Unlawful possession of Police property
6. Failing to help Police employee
7. Unlawful dealings with prisoners
8. Killing or injuring police dogs

Section 30 - Offences against discipline

This provision states that a police officer who commits a prescribed disciplinary offence is liable to be punished in accordance with the Act. The same police officer who commits a prescribed disciplinary offence is not exempted from prosecution provided that he or she is not punished twice for the same offence (unless expressly provided for in the Act).

Disciplinary offences are prescribed under regulation 12 of the Police Regulations 1965. This regulation lists a total of 37 disciplinary offences for the purposes of section 30 of the Act.

The Fiji Police Force is recommending that the provision expressly state that a police officer is not immune from disciplinary action even if he or she has committed an offence under any other law and is punished accordingly under that law. This should be within the limits of section 14 of the Constitution.

For comparison, section 55 of the Tonga Police Act provides that a member of the Tonga Police (police officers and administrative staff) commits a breach of discipline if the member:

1. Contravenes the Tonga Police Act or the regulations
2. Fails to comply with the Code of Conduct
3. Fails to comply with the Commissioner's instructions, circulars or orders
4. Aids, abets, counsels or procures the commissioner of something mentioned above

The Code of Conduct is determined by the Commissioner of Police and applies to all members of the Tonga Police. It is, however, difficult to access the Code of Conduct for any further review.

As stated above, New Zealand's Policing Act 2008 has moved away from dealing with disciplinary offences by police constables in the Act itself.

Section 31 - Power of arrest

Section 31 authorises police officers to arrest other officers for offences under the Act. This provision is intended to ensure that police personnel are held accountable to the same laws and standards as the general public and to maintain the integrity of the Force.

The New Zealand Policing Act 2008 and Australian NSW Police Act 1990 do not expressly provide for arrests of fellow officers (whether senior or junior). It appears that the provision is unique to Fiji – although it does bear some similarity to Solomon Islands Police Act 1972 (section 35), Nauru Police Force Act 1972 (section 32) and Cayman Islands Police Law (section 53). The key difference, however, is that in each of these jurisdictions the power of arrest of a junior officer is only exercisable for disciplinary offences – not for general crimes and offences.

The provision makes more sense in that context. For general crimes and offences, the Fiji Police Force is correct in their position that seniority should not protect you from arrest where a crime may have been committed. Criminal offences must apply to all persons equally as far as that can be achieved. However, for disciplinary offences, it may be appropriate to only permit the arrest of junior officers, in line with the chain of command.

As such, adopting the above listed jurisdictions' limitations to the provision, i.e., ensuring that it is only applicable for disciplinary offences may be worth considering.

In fact, it may be argued that section 31 was in fact intended to only address disciplinary matters, in the same way that Solomon Islands, Nauru and the Cayman Islands does, however, due to unnecessarily general drafting it was left too broad. The main reason for this position is that section 31 is within Part 5, which is titled 'Discipline', and is couched between section 30 (offences against discipline) and section 32 (Trial of offences against discipline).

More generally, the current language does not clearly outline the procedures to be followed when an officer arrests a colleague, particularly concerning oversight and reporting. The new Act should clarify the processes for such arrests, including requirements for immediate notification of senior command and referral to an independent investigative body to avoid conflicts of interest. This is considered in more detail below.

Section 32 - Trial of offences against discipline

Section 32 establishes the framework for internal disciplinary trials within the police. It allows disciplinary charges against officers to be heard within the Force itself by two different tribunals – the Commissioner or a gazetted officer sitting as a tribunal who makes a finding of liability and then makes a recommendation to the Commissioner for the appropriate punishment. In both instances, however, the provision appears to be drafted to ensure that the Commissioner retains the final authority over punishment, which may be admonishment, reprimand, severe reprimand, confinement to quarters for up to 14 days, a fine not exceeding 7 days' pay, reduction in rank or dismissal.

General employment law v Specialist Police Framework

The disciplinary process under Part 5 is broadly similar to most commonwealth jurisdictions in the region as either historically enacted or currently in force. However, it is worth noting that in recent decades, the process has leaned towards aligning the Police Force (or some elements of the Force) to more generally accepted employment rights, principles and frameworks.

The policy issue thus becomes a question of whether the current Act should be revised to simply clarify the existing framework or if it is worth considering the option of transitioning the employment and disciplinary framework of the Force (or parts of it) to bring it under certain elements of the Employment Relations Act 2007 (ERA2007).

We have considered other jurisdictions and see two possible options.

Option 1: Special Rules for the Force

In Nauru, the Commissioner appoints members of the Force, however, he or she is "subject to all written laws relating generally to the maintenance of discipline in the public

service, the punishment of inefficiency and of breaches of discipline and the suspension of public officers pending the completion of disciplinary proceedings” (section 35). The courts of Nauru have interpreted this provision to mean that the Commissioner is subject to the laws in relation to public service (the Public Service Act providing an appeal to the Public Service Appeals Board) whereas the rest of the staff of the Police Force are subject to the disciplinary procedures under the Police Act.³⁴ The Commissioner’s disciplinary powers are prescribed and include reduction in rank/class, forfeiture of 1 week’s pay or in the case of absence pay for the period of absence, severe reprimand, reprimand or caution (s36), duties and dismissal. Appeals may be made to the Police Service Board (s37).

This framework bears a broad similarity to the current Fiji framework in the sense that the Commissioner has a separate disciplinary process to that of the rest of the Force but Force staff all fall under the jurisdiction of the Commissioner. The Commissioner, as an office established by the Constitution is governed by the constitutional framework for removal – on the grounds of inability to perform his or her officer or misbehaviour (s137(1)). The Constitutional Offices Commission may appoint a tribunal to inquire into a complaint and it is the President that determines the matter. The rest of the Force, however, falls under the jurisdiction of the Commissioner and is subject to the disciplinary processes under the Police Act.

In discussions with the Police it appears that there is a preference for this format to remain, even with the formal recognition of civilian employees under the Act. The rationale provided is that civilian staff are integral to the work of the Force and if they were to operate under separate rules this may have a detrimental effect on the work of the Force.

Option 2: Hybrid Employment Format

This option is essentially establishing the Force as a hybrid entity where Officers operate under special rules and ordinary civilian staff are civil servants with access to a more general employment framework.

In the State of Queensland, Australia Police staff members include officers of the public service assigned to perform duties in the police service (s2.5(a)) and persons appointed as staff members by the commissioner under the Public Sector Act 2022 (Chapter 4, Part 2). Police officers on the other hand are specifically appointed under the Police Act and not the Public Sector Act 2022 (s2.5A).

In the now repealed Solomon Islands Policing Act 1972 (CAP110) police officers used to be “subject to the same provisions as are applicable to other public officers of corresponding status”³⁵ unless otherwise provided for under that Act. The unique requirements for police officers were that they were always on duty, could not be a member of a trade union except independent police associations established by the

³⁴ See *Dowiyogo v Secretary for Justice* [2003] NRSC 17; *Civil Action 14 of 2003* (6 October 2003) (Note: at the time of this court ruling the position of the Nauru Commissioner was called Director)

³⁵ Solomon Islands Police Act 1972, section 20.

Prime Minister (section 15), could have their service prolonged in a time of war, insurrection/hostilities or civil commotion threatening public safety (section 17), their general powers and privileges (Part 4) and their unique disciplinary processes (Part 5). It was unclear in what way they fell within the framework of public service under that Act with such a wide range of unique provisions applying to them. However, in 2013 that Act was repealed and replaced with the Police Act 2013, which established a multi-tiered appointment and discipline system - the Police and Prison Services Commission appoints the rank of inspector and above, the Commissioner appoints below the rank of inspector and the Public Service Commission appoints specialist employees that work in the Force (section 19). Disciplinary measures are also divided based on the nature of the offence and the position of the offender, with options including inquiries or investigations by the Commissioner, a higher ranking officer, the Director Professional Standards and Internal Investigations Unit or a disciplinary tribunal. A complaint against a specialist staff member is referred to the Commissioner, the Leadership Code Commission or the Public Service Commission (section 116(5)).

Although there does not seem to be any appetite for this type of hybrid framework it is referenced here in this Report for consideration.

The role of the section 32 tribunals

An additional issue to consider is whether the current format of the tribunals under section 32 should be retained. While this internal system may provide efficiency, it raises concerns about impartiality and fairness. Complaints against the conduct of officers reviewed by other officers as a tribunal would not engender confidence in the system – an issue which was raised in targeted consultations.

It may be worth considering the establishment of a civilian tribunal comprising independent persons. This tribunal may be modelled after the Public Service Disciplinary Tribunal established under section 120 of the Constitution but adjusted to meet the specific requirements for the Force. It may consist of a chairperson or 2 other members. At least one of the members may need to have some experience with the procedures of the Force and so perhaps a retired officer Police employee may be appropriate.

However, the limits of the powers of such a body may require fine consideration. The current format in the Act is that section 32 tribunals make a finding of guilt/liability and a recommendation for punishment to the Commissioner. This may be compliant with the Constitution as section 129(7) states that the Commissioner has the power to remove and take disciplinary action against persons in the Force. It makes sense that the tribunal only *recommends* punishment – the power to *take disciplinary action* is constitutionally vested in the Commissioner and as such even an Act of Parliament cannot contradict it.³⁶

The new independent civilian tribunal may thus need to follow the same format.

³⁶ It is perhaps worth noting that section 129(6) of the Constitution states that the Minister has the power to make general policy directions to the Commissioner and the Commissioner must comply with those directions. This is a power which may be used in practice to ensure that recommendations from the tribunals are complied with, although use of such a power must be considered carefully.

Section 33 - Review by the Commissioner

Section 33 provides the Commissioner with authority to review disciplinary decisions. While this ensures oversight, it concentrates significant power in the hands of the Commissioner. Without clear guidelines, this may risk perceptions of bias or favouritism.

To ensure transparency and fairness, the new Act may establish a structured appeals or review process. This may be applications for appeal from or review of the findings of the section 32 tribunal (or a new civilian tribunal) or from the decision of the Commissioner in relation to the disciplinary action.

Review of decisions or recommendations of the s32 Tribunal (or new civilian tribunal)

If the format remains that the tribunal makes recommendations to the Commissioner, rather than an appeal per se, the aggrieved party may simply be given the right to challenge or object to the recommendation of the tribunal by way of a written statement to the Commissioner. The Commissioner may then review the matter by way of an in person hearing or make a decision on the papers and set the timelines and procedures for doing so. This is perhaps an option that may streamline the process and be less time consuming.

Review of decisions of the Commissioner

The second layer would then be reviews of decisions of the Commissioner. This requires careful consideration given the, as mentioned above, constitutional power of the Commissioner to take disciplinary action. However, the Constitution does not expressly declare that the decision of the Commissioner is final and the absence of that declaration of finality may be interpreted together with section 16(1)(c) of the Constitution, which states that “any executive or administrative action may be reviewed by a court, or if appropriate, another independent and impartial tribunal, in accordance with law.” Judicial review is also another option but given that this process is limited to process as opposed to merit and is a costly exercise that may be time consuming as it utilises the formal court process, it may not be an attractive option for disciplinary matters. It thus may be more appropriate to consider establishing a review mechanism under the new Police Act.

There are three options (the **Review Options**) worth considering here –

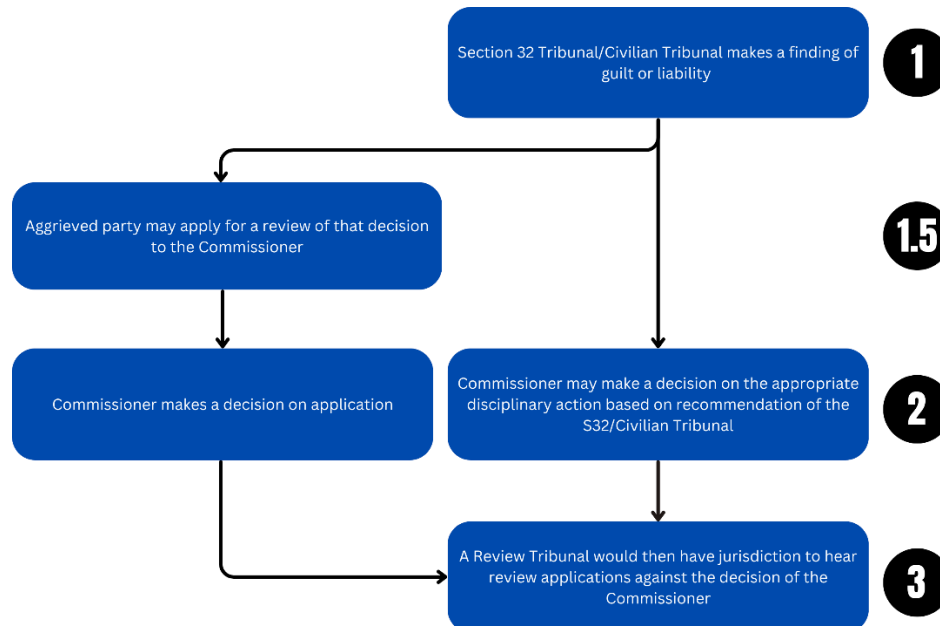
1. creating yet another tribunal as an appeals tribunal at the highest level (level 3) to review decisions of the Commissioner; or
2. Removing the s32 or civilian tribunal at the lower position of making recommendations to the Commissioner (level 1) and instead establishing a review tribunal to hear applications relating to decisions of the Commissioner (level 2); or
3. leaving the s32 or civilian tribunal at level 1, the decision of the Commissioner on review at level 2 and allowing for a review process to the Minister at level 3.

Option 1: A second independent tribunal as a Review Tribunal

Here the new Act may establish another tribunal as an appeals tribunal at the highest level (level 3) to review decisions of the Commissioner. As such the review structure would be that the section 32 Tribunal/Civilian Tribunal makes a finding of guilt or liability (level 1), the aggrieved party may apply for a review of that decision to the Commissioner (level 1.5) or if they do not, the Commissioner may make a decision on the appropriate disciplinary action

based on recommendation of the S32/Civilian Tribunal (level 2). A Review Tribunal would then have jurisdiction to hear review applications against the decision of the Commissioner either under level 1.5 or level 2, the decision of the Review Tribunal being at level 3.

See the diagram below for an illustration of this option.

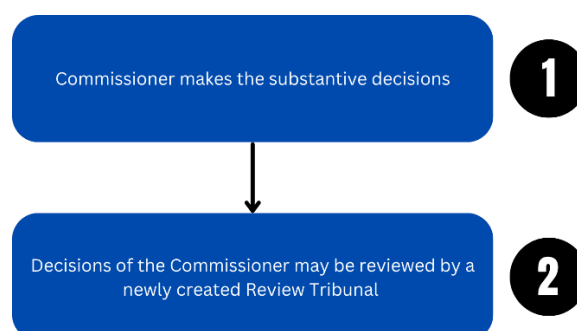


If this new Review Tribunal were to be created it may be more appropriate to make the civilian tribunal at level 1 a body simply comprising experts or persons with experience in policing (albeit independent and not currently with the Force) and to model the Review Tribunal after the Public Service Disciplinary Tribunal with a chairperson qualified to be appointed as a Judge.

For this option, financial constraints and timeliness must be considered.

Option 2: One tribunal only as the Review Tribunal

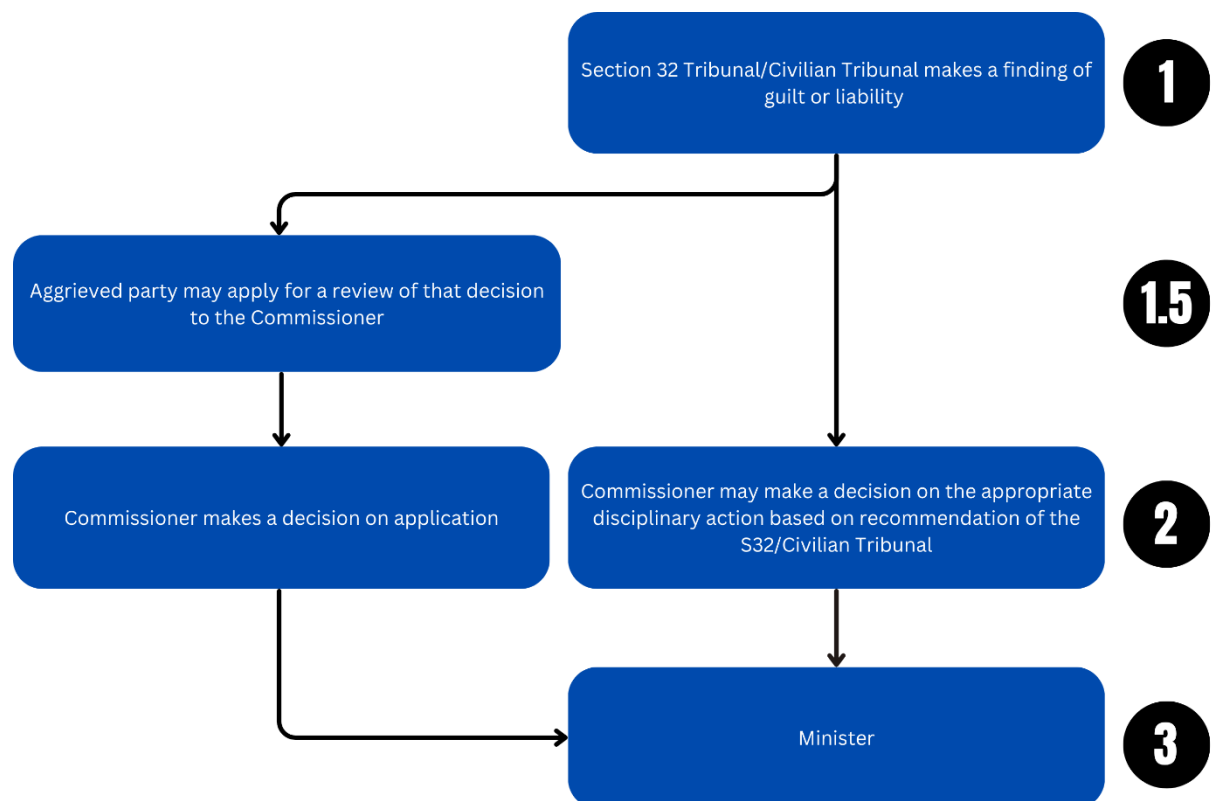
This option is a two-tier option where the Commissioner makes the substantive decisions at level 1 and the decisions of the Commissioner may be reviewed by a newly created Review Tribunal with the same make-up as recommended in Option 1. The benefits of this option are that it is simpler and more streamlined.



However, a possible concern in this option could be that the Commissioner becomes inundated with applications as all substantive disciplinary matters would have to be reviewed by the Commissioner at first instance. To address this concern, it is possible for the new Act to reproduce section 31 of the Interpretation Act 1967 but in relation to the Commissioner. This would empower the Commissioner to appoint persons to make inquiries and render advice and recommendations to the Commissioner on an ad hoc basis.

Option 3 – Review applications to the Minister

This option follows the same process as Option 1 except there is no second Review Tribunal at level 3. Instead, a person may apply for a review of decisions of the Commissioner to the Minister.



This option is perhaps less bureaucratic in that it does not require the creation of two tribunals for one organisation. However, there are additional constitutional considerations for this option. As explained earlier, a Review Tribunal is a constitutional option because it draws on section 16 of the Constitution; however, direct appeals to the Minister is different from a Review Tribunal and would thus not be able to rely on that link.

The constitutional feasibility of this option would thus rest on the interplay between section 129 subsections (6), (7) and (8)—

*“(6) The **Minister** responsible for the Fiji Police Force may from time to time issue **general policy directions** to the Commissioner of Police and, if such a direction has been issued, the **Commissioner of Police must act in accordance with it.**”*

(7) The Commissioner of Police has the following **powers** in relation to the Fiji Police Force for all ranks, members and other employees, of the Fiji Police Force—

(a) to appoint persons to the Fiji Police Force;

(b) to **remove persons** from the Fiji Police Force; and

(c) to **take disciplinary action** against persons in the Fiji Police Force,

and **all written laws governing the Fiji Police Force shall be construed accordingly.**

(8) The Commissioner of Police, **with the agreement of the Minister** responsible for the Fiji Police Force, has the authority to **determine all matters pertaining to the employment of all staff** in the Fiji Police Force, **including—**

(a) the terms and conditions of employment;

(b) the qualification requirements for appointment and the process to be followed for appointment, which must be an open, transparent and competitive selection process based on merit;

(c) the salaries, benefits and allowances payable, in accordance with its budget as approved by Parliament; and

(d) the total establishment or the total number of staff that are required to be appointed, in accordance with the budget as approved by Parliament.”

The issue that arises for this option is whether the power of the Commissioner under 129(7) may be subject to review by the Minister. The Minister has an overarching policy authority under 129(6) as well as an apparent veto power for “all matters pertaining to the employment of all staff” under section 129(8), but are these combined powers sufficient to read in a superior authority over section 129(7)? The final qualifier in section 129(7), (that all laws governing the Police Force are to be construed accordingly) makes it difficult to see it this way. Careful and further consideration must thus be given to this option.

Section 34 - Powers of an officer making inquiries

Section 34 sets out the powers of a tribunal to summon and examine witnesses on oath or affirmation and to require the production of all documents relevant to an appeal or trial, and to adjourn any hearing from time to time.

It would be prudent to retain this power for a newly created Civilian Tribunal.

Although the provision grants authority for inquiries, it lacks sufficient detail on how investigations are to be conducted, who may conduct them, and what rights officers under investigation possess, other than the brief mention of the right to be heard under section 32(2). Section 32(2), however also states that the charge must be investigated in the presence of the employee, which is a requirement that may be extraordinarily difficult in practice.

It is also important for the new Act to make a more nuanced distinction of natural justice rights in the context of civil or disciplinary proceedings as opposed to criminal charges.

Section 35 - Power to suspend punishment

Section 35 empowers the Commissioner to suspend any punishment awarded under section 32 for up to 6 months. The Commissioner may review the case taking into account the offender’s

conduct during the period of suspension of punishment and may remit or reduce the punishment, expunge the records if so, or impose the punishment. As the decision on punishment under section 32 is made by the Commissioner, this provision appears to enable the Commissioner to suspend his or her own decision and retract it.

This sole discretion carries the same concerns as discussed in the analysis of section 32 – transparency, accountability and fairness. However, if one of the options proposed in that portion of this Report are accepted, section 35 may be obsolete.

Section 36 - Procedure in cases of grave or repeated offences

This provision empowers an officer (presumably acting as a tribunal under section 32(1) B.) to stay proceedings and transfer a matter to the Commissioner if the matter is serious or because of previous offences.

If one of the **Review Options** proposed in the portion of this Report analysing section 32 is accepted, this section may be obsolete.

Section 37 - Dismissal and reduction in rank of police officers convicted by any court

This section empowers the Commissioner to reduce in rank or dismiss a police officer convicted by a court of any offence unless the conviction has been appealed.

Demotion serves as a serious penalty short of dismissal, preserving the officer's employment while acknowledging the gravity of the offence. However, without clear procedural protections, demotion risks being applied inconsistently particularly as this provision allows for demotion in cases where a person has been convicted of an offence. The Force is the enforcement arm of the law and it may be said that the Force must be held to a high standard for compliance with the law. This provision allows convicted offenders to remain in the Force with only a demotion in rank at the sole discretion of the Commissioner and is susceptible to bias and unfairness.

The Australian Queensland Police Service Administration Act 1990 expressly states that a police officer sentenced to a period of imprisonment by a court (including a suspended sentence³⁷) is dismissed from the service once sentenced³⁸ and if the person appeals the sentence and the sentence is overturned, the person may be reinstated to the same or similar position at the same rank³⁹ but is not entitled to salary for the period in which he or she was dismissed.⁴⁰ It may be worth considering adopting this model.

Section 38 – Fines to be recovered by stoppage of pay

Section 38 allows for the recovery of fines from the pay of an officer at the discretion of the officer that imposed the fine but not exceeding half of the offender's monthly pay. This provision grants a significant amount of discretion to the officer imposing the fine although if one of the **Review Options** is accepted this may address that concern.

³⁷ Queensland Police Service Administration Act 1990, section 8.5

³⁸ Queensland Police Service Administration Act 1990, section 8.6

³⁹ Queensland Police Service Administration Act 1990, section 8.8

⁴⁰ Queensland Police Service Administration Act 1990, section 8.10

Additionally, the recovery maximum limit appears to be quite high. In remarkable contrast, for ordinary employees outside of the Force under the Employment Relations Act 2007 an employer commits an offence if they make “a deduction from the wages of a worker in the nature of a fine”.⁴¹ Although the ERA2007 allows deductions (for medical insurance, loan repayments etc) for up to 50%, those have in some way a link to the benefit of the employee. A 50% deduction for a fine may be too high.

In Australia, the Queensland Police Service Administration Act 1990 limits deductions for fines at a maximum rate of 2 penalty units each fortnight, or roughly AU\$170 for Queensland at the date of this Report and this limit may only be exceeded with written consent.⁴² The Queensland Act also provides that if the officer resigns etc, any outstanding amount may be deducted from any allowances, salary or other entitlements owing to the officer. The Fiji Act does not provide for this and as such it is prudent that this be considered.

Section 39 - Loss or damage to arms and equipment to be made good by stoppage of pay

Section 39 provides that if any officer pawns, sells, loses by neglect, makes away with or damages any arms, ammunition, equipment, clothing etc, recovery of the value of the items may be taken from the officer’s pay. The considerations for this provision are the same as those under section 38.

The now repealed Solomon Islands Police Act CAP110 contained an almost identical provision (section 44) to section 39, however, it expressly limited these deductions to a maximum of one third of the officer’s monthly pay unless the officer consented to more. The 2013 Solomon Islands Act kept the one-third limit (section 147 and 148) but also permitted the Commissioner to suspend or reduce the deductions if the officer applies on the grounds of hardship or special circumstances (section 147(2) & (3)). This framework appears to be fairer and more reasonable than the Fiji provision.

Section 40 - Pay not to accrue during absence without leave, imprisonment or detention

Section 40 provides that the salary of an officer who is absent from duty without leave for more than 24 hours or is undergoing any sentence of imprisonment does not accrue unless the Commissioner, in his or her discretion decides otherwise. If the decision is made to pay, then only 50% of the salary accrues.

The use of the word ‘accrue’ as opposed to simply stating that the officer will not be paid, appears to be deliberate. Section 37 as analysed above, allows the Commissioner to demote an officer if the officer is convicted and sentenced by a court instead of dismissing the officer – which means that it is possible for an officer to continue to be a part of the Force despite a conviction and sentence. As such, it is possible for the officer’s pay (or 50%) to accrue in his or her absence. However, if the recommendations in relation to section 37 are accepted this may no longer be the case.

⁴¹ Employment Relations Act 2007 section 247(e)

⁴² Queensland Police Service Administration Act 1990 section 7.40(2)

Section 41 - Place of confinement of offenders

Section 41 provides that any officer arrested for an offence under the Act may be confined to their quarters or in any building set apart as a guard room or cell. The Force has clarified that the Force does not have any such building for confinement and have instead recommended that the offenders be confined in a police cell but kept separate from other detainees or prisoners.

Section 42 – Establishment of Police Rewards and Fines Fund

Section 42 establishes the Police Rewards and Fines Fund into which fines imposed on officers are paid and from which rewards may be issued. The Commissioner may permit payments from the Fund for:

1. “Assistance to the wives or families of deceased police officers or special constables, other than gazetted officers, or to any such officer or special constable discharged from the Force as medically unfit for further service;
2. contributions towards prizes to be given at athletic meetings and similar events organised by or for the benefit of the Force;
3. purchase of ammunition for the encouragement of range practice amongst police officers or special constables;
4. payments to police officers or special constables, other than gazetted officers, as rewards for meritorious acts or service in the execution of duty, if such payments are not met from public funds;
5. expenditure for the benefit and advancement of authorised recreation and sport and other branches of police activity organised within the Force;
6. any other purpose which the Commissioner considers to be for the general welfare of police officers or special constables”

The administration of such a fund must be transparent and accountable, and the new Act should provide detailed provisions for the governance of the Fund, including oversight arrangements, and annual reporting and auditing requirements to ensure integrity and fairness. The current Act has relegated these requirements to regulations made under section 60(e), but it is worth noting that although there are 9 subsidiary laws made under the Act, regulations dealing with the Fund is not one of them. On a positive note, the existence of such a Fund is not unique to the Force, as a similar fund exists for the Republic of Fiji Military Forces under section 64 of the RFMF Act 1949 (the Military Forces Fund); however, the use and application of that Fund is simply stated in the RFMF Act as “applied for such purposes connected with the Forces and in such manner as the Minister may from time to time approve.” The RFMF Act also establishes a “band fund” for fees earned by the services of the RFMF band (section 37). The requirements for both these funds under the RFMF Act are unclear, whereas the Police Force Fund does provide some direction on how the money collected is to be applied. However, it is recommended that consultations with the Ministry of Finance be undertaken to develop more robust financial requirements for the Police Fund.

Protection of informers

As an additional issue, it is worth noting that section 42(4) of the Police Act states that all “rewards, forfeitures and penalties which by law are payable to informers shall, when the

information is laid by a police officer and there is no other informer on the case, be paid into the Police Rewards and Fines Fund”.

This is the only mention of informers in the Act and oddly enough it is simply to state that if a police officer is the only informer, any reward for being an informer is to be paid into the Police Fund. There is no framework under the Act for the protection of informers even though Police informers play a critical role in preventing and detecting crime by providing information that may otherwise be inaccessible to law enforcement. It is therefore essential to establish a clear and robust legal framework that guarantees their confidentiality and protection from retaliation, ensuring their safety and encouraging continued cooperation with the police.

In designing a framework for informers, consideration may be had to the Illicit Drugs Control Act 2004 (IDCA2004) which expressly provides for the protection of informers and undercover police officers (section 28) albeit with one key limitation – it only applies to offences under that Act and so is limited to drug related offences. Section 28 protects witnesses from disclosing the name or address of an informant or person that assisted in detecting or investigating with respect to the administration or enforcement of the IDCA2004. The court must conceal or destroy records to protect the identities of informers and may only permit enquiry and full disclosure concerning an informer if the informer knowingly provides false information or if the court is of the opinion that justice cannot fully be done without disclosure.

Similar protection is provided in section 30A of the Prevention of Bribery Act 2007 and sections 51A and 51B of the Fiji Revenue and Customs Service Act 1998; however, they both have the same limitations as the IDCA2004 – they only apply to specific offences. That said, as a point of interest, section 51B of the FRCS Act 1998 is worth noting as it allows for rewards for informers for information which leads to the recovery of tax, with finer details to be prescribed by regulations. Finally, for Fiji, the Accountability and Transparency Commission Bill 2025, also seeks to create a framework for the protection of informers with robust provisions to prevent detrimental action and creating an offence for disclosure of information about a complaint. The Bill has not passed but is also worth considering.

In New Zealand, the Policing Act 2008 does not appear to provide specific protections for informers, however some general protection is present in the Evidence Act 2006 which states that an informer “has a privilege in respect of information that would disclose, or is likely to disclose, the informer’s identity” and expressly includes a member of the Police working undercover. Utilising privilege as opposed to declaring protection or establishing an offence for disclosure is a model also worth considering.

Part 6 Sections 43 – 48

Section 43 - Unlawful possession of articles supplied to police officers

Section 43 prohibits the unauthorised possession, purchase, or aid in the sale, of police uniforms, arms, or other official property.

This measure protects the integrity and security of the Force, preventing impersonation of officers and misuse of official equipment. While the section is important, it should be updated to cover

all Police properties. The penalty of \$40 or imprisonment for 3 months should also be increased to reflect the seriousness of such offences.

Section 44 - Duty to assist police

Section 44 requires members of the public to assist police officers when called upon to do so if the officer is being assaulted or resisted or in danger of both. This provision reflects the principle that maintaining law and order is a shared responsibility.

The Solomon Islands Police Act 2013 limits this duty to persons over 18 years old and in circumstances where the officer needs assistance to arrest or secure any person or to convey the person to a police station or other place.⁴³ Failure to do so attracts a fine of 2,000 penalty units as opposed to the Fiji Act's penalty of \$10 or imprisonment for 1 month which does not reflect the seriousness of such offences.

Of interest is that a duty to assist police officers is also provided under section 29 of the Criminal Procedure Act 2009, however it qualifies this duty with the element of reasonable demand and limits the assistance to the prevention of escape of a person the officer is authorised to arrest, retaking a person who has escaped lawful custody and prevention or suppression of a breach of the peace or in the prevention of any injury attempted to be committed to any public property.

Section 45 - Police officers not to join certain associations

Section 45 restricts police officers from joining associations or unions, empowers the Minister to make regulations to provide for police associations which officers may join instead and makes it unlawful for an officer to go on strike or take any industrial action on any dispute relating to pay and conditions of service of the Force.

Although the right to join trade unions is guaranteed under section 20(2) of the Constitution this may be limited by law under section 20(5) for the purposes of regulating essential services or industries in the overall interests of the Fijian economy and the citizens of Fiji. Although the Constitution does not define essential services and the Employment Relations Act 2007's definition is only limited to the application of that Act (which does not apply to the Police), it is in the most ordinary mean of the term, clear that the services rendered by the Police are essential. As such, this provision may not contravene the Constitution.

Additionally, the ILO Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), which Fiji ratified in 2002, states that "The extent to which the guarantees provided for in this Convention shall apply to the armed forces and the police shall be determined by national laws or regulations." As such, the new Act even if it retains this limitation would not breach international standards.

As a recommendation for improvement, the fine of \$100 for joining a trade union is too low and may need to be increased. It is also unclear if that is a one-off fine and if so, it would have absolutely no chance of success at securing compliance.

⁴³ Solomon Islands Police Act 2013 section 186

Section 46 - Penalty on persons causing disaffection

Section 46 creates offences for instigating disaffection among police officers. This section is designed to preserve cohesion and discipline within the Force, preventing attempts to undermine command or encourage insubordination.

However, the provision is broadly worded and may risk criminalising legitimate criticism or attempts at reform. The new Act should refine the language to target deliberate and unlawful attempts to weaken discipline, while protecting the rights of officers to raise grievances or advocate for lawful change through approved channels.

Section 47 - Penalty for disorderly conduct in police station

Section 47 punishes disorderly conduct within a police station, police office or cell, or in any part of a police compound. Maintaining order within stations and other police facilities is essential to professionalism and public confidence.

However, the section is vague and does not cover all police premises (such as boats, vehicles etc.) The new Act should cover all premises and outline a range of proportionate penalties to ensure fairness in its application.

Section 48 - Pay or allowances of subordinate officers not liable to attachment

Section 48 protects the pay of subordinate officers from seizure or attachment by third parties. This ensures that officers retain access to their income for themselves and their families, regardless of debts or financial claims.

While the principle is sound, the provision should be updated to clarify its scope and interaction with modern financial systems, such as court-ordered garnishments for child support or restitution. Exceptions may also need to be considered for instances where the officer consents.

Part 7 Sections 49 – 52

Section 49 - Neighbouring territory defined

Section 49 defines the concept of a “neighbouring territory” for the purposes of police service outside Fiji. This provides a legal foundation for cooperation with other jurisdictions in areas such as regional security and cross-border crime prevention. There are no substantive issues with this definition.

Section 50 - Power to order service outside Fiji

Section 50 authorises the deployment of police officers outside Fiji by the President. This provision allows Fiji to contribute to regional stability, international peacekeeping, and cooperative security initiatives.

When the Police Act was originally promulgated in 1965, the power to deploy was vested in the Governor General. This was subsequently changed to the President.

It is likely that this provision is unconstitutional. Section 129(5) of the Constitution expressly states that “the Commissioner of Police is responsible for—

(a) organisation and administration of the Fiji Police Force; and

(b) the deployment and control of its operations,

and, subject to subsection (6), is not subject to the direction or control by any other person or authority in relation to those matters.”

Section 129(6), the exception to 129(5), empowers the Minister to issue general policy directions, not the President. Section 50 of the Police Act purports to empower the President to deploy members of the Force which conflicts directly with section 129(6).

Furthermore, section 173 of the Constitution provides that all written laws in force at the commencement of the Constitution “shall be construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with this Constitution.”

An amendment to section 50 to clarify the authority of the Commissioner over deployment is strongly recommended.

It is important to note that the definition of neighbouring territory under section 49 limits the countries that the Commissioner would be able to deploy officers to. As such, the authority of the Government over international relations is preserved by virtue of that provision and clarifying the role of the Commissioner over deployment under section 50 would not result in the Commissioner engaging in direct cross-border national relations without Government oversight.

Section 51 - Effect of punishment of police officer in neighbouring territory

Section 51 provides that disciplinary decisions or sanctions imposed on police officers serving outside Fiji have effect as though they were made in Fiji. This ensures continuity of discipline and accountability, even when officers are deployed abroad.

Section 52 - Provisions as to officers of neighbouring territory serving in Fiji

Section 52 provides for the role and status of police officers from a neighbouring territory when they are temporarily deployed in Fiji at the request of the President to assist during an emergency. These officers remain under the command of their own senior officers, but are also subject to the overall authority of the Commissioner of Police in Fiji. While in Fiji, they are granted the same powers and responsibilities as local police officers of equivalent rank, and are deemed members of the Fiji Police Force for that purpose. Their discipline and service conditions continue to be governed by the laws of their home jurisdiction, applied in Fiji as if they were part of Fiji’s own law. However, Fiji’s officers cannot discipline them; instead, disciplinary offences may be tried by a Fiji court or Magistrate with equivalent jurisdiction as those in the neighbouring territory.

Part 8 Sections 53 – 59

Section 53 - Establishment of Special Constabulary, appointment of special constables and general powers of Commissioner in respect thereto

Section 53 continues the establishment of and regulates the Special Constabulary in Fiji, which operates under the command, superintendence, and direction of the Commissioner of Police. Members of the Special Constabulary, referred to as special constables, hold ranks assigned by

the Commissioner. The Commissioner has wide authority, subject to the Act and ministerial directions, to appoint individuals as special constables, make decisions on their promotions, demotions, and ranks, and issue orders governing their appointment, training, equipment, uniforms, duties, and overall discipline to ensure efficiency and prevent neglect. Upon appointment, each special constable must take an oath or affirmation before the Commissioner or a gazetted officer in the prescribed form and is issued a formal notice of appointment.

Section 54 - Employment of special constables

Section 54 provides that special constables may be employed with the Force wherever it is necessary to augment the Force for the preservation of the public peace and the prevention and detection of crime, and may be paid from public funds at such rates as may be prescribed. The Act does not clarify whether special constables are members of the Force and whether section 16, which prohibits police officers from engaging in other employment or taking part in political activities, would apply to special constables employed under section 54. It is thus recommended that a provision be inserted to make this clear.

Section 55 - Powers, privileges and protection of special constables

Section 55 sets out the powers, privileges, and protections of special constables. These are designed to ensure that auxiliary officers can perform their duties effectively and with the same authority as regular officers when lawfully appointed.

Section 56 - Offences against discipline

Section 56 addresses the discipline of special constables. It subjects them to the same disciplinary standards as regular officers. While this is appropriate for ensuring uniform accountability, the Act does not specify how disciplinary processes are to be adapted for special constables, who may serve on different terms. The new Act should set out a clear disciplinary framework for special constables, balancing the need for accountability with recognition of their auxiliary status.

Section 57 - Trial of offences against discipline

Section 57 provides for the dismissal of special constables. The Commissioner retains authority to remove special constables for misconduct or failure to perform duties. This ensures that auxiliary personnel remain accountable.

The recommendations of this Report in relation to Part 5 and the Review Options should also be considered for this section.

Section 58 - Commissioner to provide necessary equipment for special constables

Section 58 places responsibility on the Commissioner for providing special constables with the necessary arms, clothing, and equipment. This ensures that auxiliary officers are adequately equipped to perform their duties safely and effectively.

The recommendations of this Report in relation to Part 5 should also be considered for this section.

Section 59 - Termination of appointment

This provision governs the termination and resignation of special constables. It allows the Commissioner, or a gazetted officer authorised by the Commissioner, to terminate the appointment of any special constable whose services are no longer needed, with formal written notice provided. A special constable whose appointment is terminated must, within one week of receiving the notice, return their notice of appointment along with all arms, ammunition, equipment, clothing, and other items issued under the Act.

Failure to do so constitutes an offence, punishable by a fine of up to \$40, imprisonment for up to three months, or both; however, the Commissioner may permit the special constable to pay for the items instead of returning them.

Special constables may resign at any time by giving one month's written notice, except during times of war, emergency, or civil unrest when the Commissioner has mobilised the Special Constabulary, in which case resignation requires the Commissioner's permission.

The recommendations in this Report applicable to police officers is also applicable to special constables in this section.

Part 9 – Section 60

Section 60 - Regulations

This provision sets out the matters for which regulations may be made to support the administration of the Police Force and the Special Constabulary. It authorises rules to determine the size of the Force, the pay, allowances, service conditions, duties, and conduct expected of both police officers and special constables.

It also covers the description and supply of arms, ammunition, uniforms, and other equipment. Regulations may prescribe disciplinary offences, establish procedures for disciplinary trials, and govern the operation of the Police Rewards and Fines Fund.

In addition, they may provide for any other matter required to be prescribed under the Act, as well as any measures necessary to ensure the effective administration of the Act and to maintain the good order, discipline, and governance of the Force and the Special Constabulary.

If recommendations made throughout this Report are accepted, empowering language to give effect to finer elements of the proposals may need to be inserted into this provision.

3A. PUBLIC CONSULTATIONS

The table below provides the proposed programme for public consultations throughout Fiji.

In-person public consultations will run from 11 August to 2 September 2025.

Written submissions may also be made to an online portal available at:

<https://www.police.gov.fj/acts>

Written submissions will be accepted until **2 September 2025**.

Programme for in-person public consultations

| SLR | DATE | TIME | VENUE |
|-----|----------------------------|-------------------|--|
| 1. | Monday 11th August 2025 | 9.00am to 12.00am | Suva Civic Centre - Lower Hall |
| 2. | | 2.00pm to 5.00pm | Lomanikoro Village Hall, Rewa |
| 3. | Tuesday 12th August 2025 | 9.00am to 12.00pm | Saint Vincent DePaul Parish Hall Nausori Town |
| 4. | | 2.00pm to 5.00pm | Navuso Village Hall Naitasiri |
| 5. | Wednesday 13th August 2025 | 9.00am to 12.00pm | Tailevu Hotel |
| 6. | | 2.00pm to 5.00pm | Wailotu Village Hall Tailevu |
| 7. | Thursday 14th August 2025 | 9.00am to 11.00pm | Namosi Provincial Council Hall |
| 8. | | 2.00pm to 5.00pm | Veivatuoa Village Hall Namosi |
| 9. | Friday 15th August 2025 | 10.00am to 1.00pm | Serua Provincial Council Hall |
| 10. | Monday 18th August 2025 | 9.00am to 12.00am | Sigatoka Gujrat Samaj Hall Vesi Lane, Sigatoka Town |
| 11. | | 2.00pm to 4.00pm | Yadua Village Hall Sigatoka |
| 12. | Tuesday 19th August 2025 | 9.00am to 12.00pm | Nadi Town Council Hall |
| 13. | | 2.00pm to 4.00pm | Narewa Village Hall Nadi |
| 14. | Wednesday 20th August 2025 | 9.00am to 12.00pm | Viseisei Village Hall Lautoka |
| 15. | | 2.00pm to 4.00pm | Returned Service's League Hotel 23 Tarewa Street Lautoka (next to Lautoka Court House) |
| 16. | Thursday 21st August 2025 | 9.00am to 12.00pm | Nailaga Village Hall Ba |
| 17. | | 2.00pm to 5.00pm | Ba Town Council Hall |
| 18. | Friday 22nd August 2025 | 9.00am to 12.00pm | Tavua Town Council Hall |
| 19. | | 2.00pm to 5.00pm | SAIONI Methodist Church Hall Vatukoula |
| 20. | Monday 25th August 2025 | 9.00am to 12.00pm | Levuka Town Hall |
| 21. | Tuesday 26th August 2025 | 11.00pm to 3.00pm | Naulumatua Conference Hall Nabouwalu |
| 22. | Wednesday 27th August 2025 | 9.00am to 12.00pm | Friendly North Inn Conference Hall Labasa |
| 23. | | 2.00pm to 4.00pm | Naduri Village Hall |
| 24. | Thursday 28th August 2025 | 9.00am to 12.00pm | Grand Epic Hotel Conference Room Savusavu |
| 25. | | 3.00pm to 5.00pm | Natewa Village Hall |
| 26. | Friday 29th August 2025 | 2.00pm to 4.00pm | Somosomo Village, Taveuni |
| 27. | Monday 1st September 2025 | 11.00pm to 2.00pm | Kavala Village Hall Kadavu |

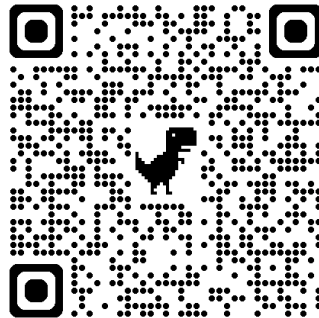
| | | | |
|-----|----------------------------|-------------------|----------------------------|
| 28. | Tuesday 2nd September 2025 | 10.00am to 1.00pm | Tavuki Village Hall Kadavu |
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3B. DATA GATHERING SURVEY

The Review Team has put together a survey to gather public feedback and views on key areas for the review project.

QR Code

The survey can be filled using the following QR Code



Survey Link

The survey may also be filled using the following [Police Act 1965 Review Survey Link](#)

Annex A – Summary of issues raised at targeted meetings with stakeholders

Meeting with Hon. Minister for Policing and Permanent Secretary for Policing

19 May 2025, Ministry of Policing, Level 2, Government Buildings, Suva

| Issue | Summary |
|--|--|
| Scope | Clear delineation of roles and powers between police, military, and navy is necessary, especially in light of the new National Security Strategy. The Act should cover all policing domains: land, maritime, cyber, space, and information security, and clarify police powers, especially in situations involving insurrection, emergencies, and the use of force. Alignment with the Constitution and international obligations is also essential to ensure consistency and sovereignty. |
| Strategic Vision and International Alignment | The Ministry aims to position Fiji as a regional hub for policing excellence. There is a plan to host a "Regional Center of Excellence" for policing in Fiji. The review process will consider international commitments and bilateral agreements with countries like Australia and New Zealand. |
| Artificial Intelligence and Cybercrime | The meeting highlighted the importance of integrating modern opportunities and challenges such as AI and cybercrime into policing. The Act needs to be realigned with new technological realities. Reference was made to strong AI laws in countries like Britain and Australia, suggesting Fiji should selectively adopt best practices rather than reinvent the wheel. The arrival of Google's submarine cables was mentioned as a sign of increasing digital connectivity and the need for cyber readiness. |
| Technological Integration | The police force is currently underequipped with modern tools necessary for effective crime fighting and so must acquire and legally enable the use of technology such as body cameras, forensic science tools, drones, and other digital resources. The legislation should support the scientific and technological methods used in modern policing. |
| Community Policing | Community policing lacks clear legislative support and as such, there is a need for a dedicated section in the Police Act or a separate policing act to empower police-community partnerships. This would help co-share responsibility for security and safety between police and the public. |

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| Human Rights and Ethics | The updated Police Act should embed human rights protections and ethical standards throughout, which is critical for building public trust and ensuring policing is conducted professionally and respectfully. |
| Roles and Powers of Police vs. Military | The meeting discussed the need to clearly define the boundaries between police and military roles. There should be an escalation ladder and clear guidelines on when and how police and military cooperate or intervene. This clarity is important for maintaining order and respecting legal frameworks during emergencies or insurrections. |
| Resource and Capacity Challenges | The police force is currently disadvantaged due to lack of resources and modern tools. There is a need to improve resourcing to enable frontline officers to fight crime effectively. The modernisation effort includes not only legislative reform but also equipping personnel with the right technology and training. |

Meeting with Fiji Police Force and Commissioner of Police

19 May 2025, Fiji Police Force Headquarters, Vinod Patel Building, Laucala Beach, Suva

| Issue | Summary |
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| Outdated Police Act Legislation | The current Police Act is described as "archaic," dating back to the 1960s, and does not reflect modern policing needs or the current criminal landscape. The Act includes outdated structures such as fixed hierarchies, positions, and salaries embedded in subsidiary laws, which is unusual and inflexible. It lacks provisions for new roles and technologies, such as police dogs, drones, AI, cyber security, and maritime policing. This limits the police's ability to operate effectively in contemporary contexts. |
| Legislative Gaps and Enforcement Role Confusion | Many laws create offences but do not clearly define the police's role in enforcing them. For example, laws like the Medicinal Products Act have offences but do not specify whether the police or other bodies enforce them. This causes confusion among licensing boards and enforcement agencies, leading to ineffective law enforcement. The Police Act currently restricts police enforcement to laws that explicitly name them as the enforcement agency, which is often not the case. |
| Need for Standardisation Across Laws | Inconsistencies in how offences are drafted, and enforcement roles are assigned across various laws. Some offences are unclear whether they are criminal or civil, causing confusion about enforcement responsibilities. There is a need to standardise offence drafting and enforcement roles to ensure clarity and effective policing. This includes aligning all relevant laws to clearly empower the police to enforce criminal offences. |
| Practical Operational Challenges | Lack of legal frameworks for practical policing tools and methods. The police currently face difficulties due to the absence of legal provisions for using police dogs, protecting informers, conducting drug tests, and employing surveillance technologies like drones. Without clear legal backing, these operational necessities are hindered. |
| Jurisdictional and Coordination Issues | Overlapping and unclear jurisdiction between police and other agencies. There is confusion over which agency handles certain offences, such as those related to education (e.g., child abuse in schools), pyramid schemes, and maritime enforcement. Coordination between police, FICAC, ODPP, Statutory Bodies and |

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| | other bodies needs clarification to avoid duplication or gaps in enforcement. |
| Disciplinary and Judicial Review Limitations | The Commissioner of Police has final disciplinary authority, but judicial review processes are available. While the Commissioner's decisions are final internally, affected parties can challenge decisions only through court judicial review, with no intermediate appeal body. This creates challenges in managing disciplinary matters efficiently and fairly. |
| Alignment with Constitution and Other Laws | Inconsistencies between the Police Act and the Constitution or other laws. For example, the Police Act states the President can deploy the police force in emergencies, but the Constitution assigns this power to the Commissioner of Police, subject to the Minister. Such inconsistencies need correction to ensure legal clarity and proper authority. |
| International and Regional Cooperation | Engagement with international policing bodies and regional partners. Fiji Police are participating in regional peacekeeping and bilateral agreements with other Pacific Island police forces. This cooperation requires legal frameworks that support cross-border operations and mutual assistance. |
| Technology and Privacy Concerns | Balancing police powers with individual rights, especially regarding technology use. Powers such as roadside drug testing must respect privacy rights and include safeguards to prevent abuse. The law must clearly define reasonable grounds for such actions to avoid infringing on constitutional rights. |

Meeting with Fiji Independent Commission Against Corruption (FICAC)

20 May 2025, Rev. John Hunt House, 3 St Fort Street, Suva

| Issue | Summary |
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| Use of Technology in Investigations | Rakiraki police station was noted as the only station with a standard practice of video recording interviews, which enhances transparency and evidentiary reliability. Other stations do not consistently use video recordings, partly due to concerns about admissibility in court and lack of resources or equipment. There is a clear need to modernise investigative techniques to include digital forensics, access to devices, and handling encrypted data. |
| Enforcement Challenges and legislative clarity | The meeting explored whether the law should clarify investigative processes or lower evidentiary hurdles to improve enforcement. There is a need to clearly define the powers and responsibilities of the Police and FICAC investigators to avoid overlaps and confusion. |
| Role overlaps | There is an overlap between the Police and FICAC where both have similar investigative powers, but amendments (such as the 2016 FICAC Act amendment) have expanded FICAC's powers, sometimes exceeding those of the police. Discussions also considered whether clearer legislative provisions are needed to define which agency handles which offences, especially for minor vs. serious crimes. |
| (In)sufficiency of Police powers | <p>Some participants felt current powers are sufficient, while others noted limitations, especially regarding access to biometric data and digital devices. There was debate about whether investigators should have the power to compel suspects to provide passwords for digital devices, with concerns about civil liberties and maintaining high evidentiary standards.</p> <p>There was caution about expanding police powers too much, which could infringe on civil liberties and create a "police state." The need to balance effective law enforcement with protecting citizens' rights was emphasised.</p> |

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| Judicial and Evidentiary Issues | <p>It was noted that courts sometimes overly rely on confessions or police evidence without sufficient corroboration, leading to “trial within a trial” scenarios. The meeting discussed the use of judges’ rules (guidelines for police interviews based on the Miranda case) and whether these should be codified into law for clarity and consistency.</p> <p>There was a strong view that prosecution should remain difficult to ensure only the right persons are convicted, cautioning against lowering evidentiary standards.</p> |
| Inter-Agency Collaboration and Jurisdiction | <p>Section 55 of the Criminal Procedure Act 2009 allows the Director of Public Prosecutions (DPP) and the Commissioner of FICAC to transfer prosecutions between their offices, but no similar provision exists for investigations or prosecutions by Police or other prosecutorial authorities, which may hinder smooth operations between offices.</p> <p>Additionally, the lack of formal agreements between police and FICAC can hinder cooperation, especially when cases involve police officers or require joint investigations. MOUs are encouraged; however, some form of enabling language in the Act may be worth considering.</p> |
| Legislative Language and Offence Classification | <p>The meeting noted confusion around “electable offences” and suggested simplifying classifications to just summary and indictable offences.</p> <p>Additionally, the current Police Act limits police enforcement to laws they are “directly charged” with, which may restrict their ability to investigate all criminal offences. There was consideration of expanding police powers to investigate all criminal offences unless otherwise specified, similar to FICAC’s Section 2A limitations.</p> |

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| Child Justice and Juvenile Procedures | <p>The new Child Justice Act 2024 raises the age of criminal responsibility from 10 to 14, meaning children under 14 cannot be prosecuted. While prosecution is limited, police may still need powers to detain and investigate juveniles to protect them and the community.</p> <p>The Child Justice Act emphasises care and supervision rather than punishment, which impacts how police and courts handle juvenile cases; however, the impact of this on actual operations and criminal enforcement remains to be seen.</p> |
| Resource and Training Needs | While Fiji has skilled digital forensic and IT teams, resource limitations may drive calls for expanded powers (e.g., compelling passwords) as a shortcut. Ongoing training is needed to equip investigators with skills to handle complex financial crimes, digital evidence, and interagency cooperation. |
| Narcotics Bureau | The lack of legislation establishing the Narcotics Bureau was noted, suggesting a need for formal legal backing. |
| Penalties | Some penalties in the Police Act are outdated or too low and may require adjustment for consistency and effectiveness. |

Meeting with Office of the Director of Public Prosecutions

20 May 2025, Gunu House, 25 Gladstone Road, Suva

| Issue | Summary |
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| Outdated Nature of the Police Act 1965 | The Police Act is considered ancient and no longer adequately addresses modern policing needs. It lacks provisions for contemporary issues such as the use of police dogs (canines), protection for informers, and the collection of biometric information. There is a need to update the Act to reflect current realities and technologies in law enforcement. |
| Alignment and Standardisation of Laws | <p>The Act needs to be aligned with other laws, such as the Cybercrime Act 2021 and Evidence Act 1944, to ensure police procedures are consistent and legally sound.</p> <p>There is a call for standardising criminal law enforcement across various statutes to avoid confusion about enforcement responsibilities. Many laws have offenses that police do not currently enforce due to lack of clarity or enforcement arms in regulatory bodies.</p> |
| Limitations for the special constabulary | <p>The special constabulary division of the police only has powers while on duty; off duty officers cannot arrest except by citizen's arrest, which is limited.</p> <p>There is also a need to clarify and possibly expand police powers, including for special constables and civilian employees.</p> <p>There is ambiguity in the definition of "police officer" across different laws, affecting who can exercise police powers.</p> |
| Access to Electronic Devices and Cybercrime Investigations | Current laws require police to obtain court warrants to access electronic devices, causing delays in investigations. There is a need for legislative provisions allowing immediate access to devices at the time of arrest to keep pace with the dynamics of cybercrime. The |

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| | challenge includes balancing investigative powers with privacy rights and legal safeguards. |
| Handling Police Officers as Offenders | <p>The current Police Act lacks clear provisions for prosecuting police officers who commit criminal offenses. Police officers involved in criminal activities are charged under general criminal laws, however there may be a need for special offences where the perpetrator is an officer of the law.</p> <p>There was also mention of immunity provisions in the previous draft Police Bill, which raised concerns about accountability.</p> |
| Destruction and Management of Evidence/Exhibits | There are challenges in managing and destroying drug evidence due to lack of clear legal authority. The current process requires court orders, which can be burdensome and cause delays. Suggestions include streamlining the process by allowing destruction after due diligence, such as photographing and analyst reports, with notification to the Director of Public Prosecutions (DPP). |
| Use of Technology in Policing | There was strong support for enabling the use of body cameras to enhance transparency and reduce disputes during arrests. Discussions also explored the need to incorporate provisions for the use of drones in policing, particularly for surveillance and enforcement in airspace. Additionally, the potential application of artificial intelligence (AI) in policing was considered, especially in addressing cybercrime and supporting enforcement operations across land, air, and water. |
| Biometric Data Collection and Privacy Concerns | Discussion on expanding police powers to conduct roadside drug and breath tests using biometric data. Concerns were raised about privacy, consent, and legal thresholds for such testing. The current legal framework requires consent or court orders for DNA and blood testing, which may conflict with proposed roadside testing powers. |

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| Laboratory Accreditation and Forensic Evidence | Police forensic laboratories currently lack formal accreditation or certification, which raises challenges in court regarding the validity and admissibility of forensic evidence. There is a need to formalise accreditation requirements in law, with flexibility to update standards through regulations or guidelines. |
| Enforcement Challenges in Maritime and Regulatory Contexts | Police powers are limited in maritime enforcement; for example, the Fiji Navy cannot board or search suspicious vessels without customs or police authority. Regulatory bodies often lack trained investigators or forensic officers, relying on police assistance. There is a suggestion to expand police powers to cover enforcement across land, air, and water comprehensively. |
| Covert Operations and Surveillance | Currently, covert operations powers are limited mainly to illicit drug enforcement. There is a need to consider expanding covert operation powers to other serious crimes while maintaining safeguards. However, public concerns about surveillance and privacy were noted, emphasising the need for clear legal boundaries and oversight. |
| Chain of Custody and Evidence Integrity | Maintaining the chain of custody for evidence is a significant challenge, especially when officers involved in investigations leave the force or pass away. Prosecutors rely on documentation and substitute witnesses to verify evidence handling. Improvements in procedures and legal provisions are needed to ensure evidence integrity. |
| Recruitment and Drug Testing of Police Officers | Discussion on drug testing during police recruitment and possibly ongoing testing of officers. Issues include consent, privacy, and the legal framework for such testing. The use of swabs versus blood tests and the implications for evidence and privacy were also considered. |
| Drafting issues | There is ambiguity in the definition of "police officer" across different laws, affecting who can exercise police powers. |

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Meeting with the Legal Aid Commission

Summary of issues discussed:

1. The “first hour” procedure project, which started as far back as 2007, intended to provide immediate legal advice to suspects upon arrest.
 - a. Lack of buy-in from the private legal sector, with most support coming from the Legal Aid Commission.
 - b. Suspects’ preference for private lawyers, despite financial challenges, highlighting issues around affordability and access.
 - c. Challenges with private lawyers participating due to odd hours, time commitments, and the absence of incentives for pro bono criminal work.
2. Recognition that the Police Act 1965 remains outdated, mostly administrative in nature, and lacking in detailed provisions for modern policing powers.
3. The need to align the Act with standing orders to avoid inconsistency, as most operational practices are currently governed outside the Act.
4. Discussion about including caution interview procedures and first hour rights within the Act, possibly in a schedule.
5. Consideration of video recording interviews to strengthen evidence and protect suspects’ rights, noting that this is currently limited to serious cases and certain locations.
6. Suspension of police officers during disciplinary investigations and its impact on the presumption of innocence.
7. Agreement to allow written submissions through an online portal, in addition to ongoing key stakeholder consultations.

Meeting with the Ministry of Women, Children and Social Protection

Summary of issues discussed:

1. The urgent need to modernise the Police Act of 1965, which remains outdated and does not reflect current policing realities.
2. The Act's current focus being largely administrative, with inadequate provisions on surveillance, monitoring, police powers, and their limits.
3. The consultation process, which includes ministries, NGOs, civil society, and the public, to shape a modernised Act.
4. The importance of aligning the Police Act with the Child Justice Act 2024 and the Child Care and Protection Act 2024.
5. The need for extensive police training to harmonise the Child Justice and Child Care and Protection Acts with daily policing practice.
6. Implementation challenges for child-friendly policing, including ensuring child-appropriate interview methods and case management.
7. The importance of involving parents or guardians when children are arrested, except in cases where the parent is implicated.
8. The need for recognition and enforcement of service delivery protocols for gender-based violence cases, including clear referral pathways.
9. Calls for survivor-centred police responses to gender-based violence, requiring specialised training for officers.
10. The effectiveness of the no-drop policy on gender-based violence.
11. Accessibility challenges in reporting cases in rural and maritime areas, with calls to strengthen community policing.
12. Concerns about how police handle street dwellers, beggars, and minor offenders, with suggestions for alternatives such as diversion or community service.
13. The inadequacy of current fines for offences like loitering and prostitution, with debate over raising fines versus addressing root causes.
14. Recognition of mental health issues among street dwellers and the lack of proper facilities to address their needs.

15. Resource limitations in police stations, particularly regarding separate facilities for children, women, and vulnerable groups.
16. The need for clear legal provisions around police involvement in schools, ensuring discretion and child protection during interventions.
17. The growing importance of addressing cyber-related crimes against children, with calls for stronger collaboration with the Online Safety Commission and telecom companies.
18. The lack of safe houses and shelters for women and children at risk, leading to reliance on churches and NGOs.
19. Cases where police officers had to house children themselves due to lack of facilities, raising urgent concerns for formal safe housing.
20. The need for gender mainstreaming within the Fiji Police Force and recognition of women's participation at all levels.
21. Calls for laws to clearly identify police as the enforcement authority under multiple Acts, avoiding gaps where offences go unenforced.
22. Discussion of whether certain provisions should be aspirational, requiring phased implementation with resource availability.
23. Recognition of the importance of networks and timing in ensuring meaningful community participation in public consultations.
24. The issue of ensuring child-friendly spaces in police stations, linked to international human rights obligations.

Meeting with Human Rights and Anti-discrimination Commission

List of issues discussed:

1. The importance of aligning the Police Act review with human rights standards while balancing policing needs.
2. Fiji's ratification of all nine core international human rights conventions and the duty of the police, as a state agency, to act as a duty bearer.
3. The link between police work and key human rights such as the right to life, liberty, freedom from torture, and the right to a fair trial.
4. Concerns about excessive use of force, torture, and inhumane treatment of detainees.
5. Reports of deaths in police custody and the lack of oversight mechanisms.
6. Breaches of the "First Hour Rule" regarding detention limits.
7. Denial of timely medical care for individuals in police custody.
8. Cases of discrimination and unequal treatment, including denial of breastfeeding rights for female detainees.
9. Overcrowding in police holding cells and inadequate facilities for children in conflict with the law.
10. Delays and inaction in addressing public complaints, raising concerns about administrative justice.
11. Arrests conducted without warrants and issues of racial profiling and discrimination.
12. Failures in serving Domestic Violence Restraining Orders (DVROs) in a timely manner.
13. Inappropriate detention conditions, such as placing women with intoxicated male suspects, leading to molestation.
14. Difficulties faced by detainees with disabilities, including deaf and mobility-impaired individuals, in custody.
15. The need for legislative reform to clearly define police powers and limits.
16. Establishing independent and robust oversight mechanisms for police accountability.

17. The necessity for effective remedies for victims of police misconduct.
18. Calls for tailored police training, with an emphasis on human rights and community-based policing.
19. Strengthening gender and vulnerable group protections, including children and persons with disabilities.
20. Lack of procedural safeguards against inhumane treatment, risking breaches of conventions such as the Convention Against Torture and the Mandela Rules.
21. Emphasis on legality, necessity, and proportionality when introducing restrictions in the new law.
22. The principle of accountability for police misconduct and ensuring non-discrimination.
23. Challenges in addressing the rights and safety of transgender detainees, including where and how they should be housed.
24. Resource limitations in old police stations that compromise privacy and gender-appropriate facilities.
25. The need for modernisation and the use of comparative analysis with other jurisdictions (e.g., Australia and New Zealand).
26. Expanding police powers in areas such as surveillance, informers' rights, search procedures, and drug testing, with proper safeguards.
27. Concerns over strip search procedures, requiring dignity and same-gender officers, while avoiding full nudity.
28. Safeguards for drug testing of police personnel and the need for consent-based policies.
29. Rights of police officers themselves, including the right to resign and access to grievance mechanisms.
30. The colonial legacy of the current Police Act, which mirrors outdated template laws from other jurisdictions.
31. Independent inspections of detention facilities by the Human Rights and Anti-Discrimination Commission to address overcrowding and poor conditions.
32. Limitations in current oversight mechanisms, including a lack of feedback from internal affairs.

33. Anticipation of the Right to Information Act to strengthen transparency and oversight.

Meeting with Fiji Council of Social Services

List of issues discussed:

1. Community-based organisations (CBOs) play a vital role in linking communities with police, especially during disaster response and reporting concerns.
2. Reports from communities indicate both positive and negative feedback on police performance, often channeled through district councils of social services before escalation to higher authorities.
3. Past concerns included the handling of gender-based violence complaints, which required the development of protocols with police leadership.
4. Community policing has been effective in building trust, with examples of close collaboration between local groups and police, especially supporting women's leadership.
5. A noticeable increase in community confidence to openly raise concerns with police officers, though worries remain about junior officers allegedly involved in misconduct such as drug trade.
6. Calls for greater police capacity in disaster response, especially in managing evacuation centres and coordinating during emergencies.
7. A need for statutory protection of informants, particularly in sensitive areas such as drug cases and human trafficking, to prevent victimisation.
8. Recognition of women's crucial role in community policing and calls to ensure their inclusion and protection in formal frameworks.
9. Discussion on the need to grant police additional powers during disasters to ensure compliance with evacuation orders and prevent risks to life and property.
10. Examples of resource limitations and hazards from poor enforcement during disasters, such as construction material causing damage in floods.
11. Analysis of the police budget showed resourcing gaps, especially for community policing, and the need for more targeted funding.
12. The structure of community policing committees was highlighted, with suggestions to formalise their role in law and ensure gender balance.
13. The committees are seen as effective for preventative and proactive programs (e.g., youth sports, women's markets) to reduce crime and build trust.

14. Concerns were raised about the low penalty (\$10) for refusing to assist police, which undermines cooperation.
15. Discussion on overlapping mandates with other agencies such as FICAC, and the need to clarify police jurisdiction across various laws to avoid duplication and resource strain.
16. Concerns that some State agencies are well resourced while local police stations struggle, creating perceptions of imbalance.
17. The possible impact of the Code of Conduct Bill on accountability structures, particularly regarding overlaps with FICAC's jurisdiction.
18. The urgent need for more police stations and resources to deal with increasing issues such as drugs.

Meeting with Fiji Disabled People's Federation

List of issues discussed:

1. Recognition that the Police Act 1965 is outdated, focused mainly on administrative functions, and does not reflect modern policing needs or technological developments.
2. The need to harmonise the Police Act with the Rights of Persons with Disabilities Act 2018 to ensure inclusion of non-discrimination principles and proper definitions of disability.
3. Concerns that people with disabilities often have their legal capacity disregarded, especially those with intellectual or psychosocial impairments.
4. Gaps in consideration for the diverse needs of different impairment groups, such as deaf, blind, intellectual, and psychosocial disabilities.
5. Inconsistent definitions of disability between the Police Act and other laws, including the Mental Health Act, leading to discrimination in practice.
6. The lack of interpreters and clear procedures for deaf individuals during the crucial “first hour” after arrest, undermining access to justice.
7. Findings from a 2019 audit that many police posts are in rented facilities, leaving accessibility improvements dependent on landlords’ willingness.
8. Barriers for people with sensory impairments in accessing information on police websites, which are not always compatible with screen reader software.
9. Financial and logistical challenges faced by people with disabilities when required to repeatedly visit police posts for documentation.
10. Need for disability awareness and sensitivity training for police recruits and officers to ensure inclusive practices.
11. Offensive and outdated terminology used by some officers, such as “deaf and dumb,” leading to feelings of disrespect and marginalisation.
12. Experiences of mockery or ridicule when deaf persons use sign language in police stations.
13. Cases where deaf individuals were arrested without understanding why, often based on neighbours’ negative comments rather than clear communication.
14. The necessity for reasonable accommodation when taking statements from persons with intellectual disabilities, such as involving carers or family members to facilitate understanding.

15. Procedural accommodations to account for intimidation of persons with disabilities when confronted by uniformed officers, especially in rural and maritime areas.
16. The importance of rehabilitating police officers who acquire disabilities in service, instead of dismissing them, by redeploying them to suitable roles.
17. Difficulties faced by blind persons in verifying the accuracy of police statements; need for officers to read back statements for confirmation.
18. The need for accessible reporting mechanisms, including technology solutions like video calls for interpretation.
19. Concerns that people with disabilities can also be manipulated by others to commit crimes, for example being used to transport drugs, highlighting the need for police awareness of exploitation risks.
20. Calls for compliance with the Rights of Persons with Disabilities Act in relation to recruitment, retention, and employment opportunities for persons with disabilities within the police force.
21. Recognition that people with disabilities may also appear as perpetrators, requiring fair treatment and dignity without compromising their rights.
22. Emphasis on ensuring that all detainees with disabilities maintain their dignity, including access to mobility aids, hearing aids, and reasonable accommodations while in custody.
23. The need for police procedures to account for the unique vulnerabilities of disabled detainees while ensuring officer safety.
24. Agreement that written submissions from stakeholders would be valuable to clearly articulate issues for inclusion in the Police Act review.

Summary of issues discussed:

1. The Police Act 1965 is outdated and no longer fit for purpose, requiring urgent modernisation.
2. Calls for structural and organisational reform of the Fiji Police Force, including demilitarisation and reducing reliance on “brawn over brain.”
3. Concerns about the lack of adequate legal knowledge and training among police recruits, leading to poor handling of cases.
4. The need for an independent and impartial oversight body to address complaints against police officers and prevent bias.
5. Suggestions to reintroduce an ombudsman or establish a police oversight committee for accountability.
6. Persistent “boys club” culture within the force, fostering nepotism and lack of transparency.
7. Criticism of recruitment processes, which emphasise physical fitness and driving licenses over education, empathy, and emotional intelligence.
8. Concerns about low police pay scales contributing to corruption, such as bribes to avoid fines or charges.
9. Strong recommendations for mandatory gender sensitisation and human rights training for all officers, from recruitment through ongoing service.
10. Calls for more women in leadership positions within the police to break the “boys club” and improve balance and trust.
11. Ongoing issues with police posts being unmanned, leaving communities without access to justice.
12. Reports of insensitive and misogynistic responses by officers to cases of domestic and sexual violence.
13. Recommendations for zero tolerance of police officers charged with domestic violence, sexual harassment, or rape, including immediate suspension or dismissal.
14. Inadequate application of the “first hour procedure” for suspects, particularly in domestic violence cases.

15. Concerns about blanket police powers to erect barriers without safeguards or accountability for damages caused.
16. Need to explicitly empower police to intervene in suspected domestic violence situations, even without direct complaints.
17. Advocacy for third-party reporting mechanisms to enable investigations even when survivors are unable to report themselves.
18. Misalignment between the Police Act and other laws such as the Domestic Violence Act and standard operating procedures.
19. Problems with mandatory medical examinations for sexual offence survivors, often unnecessary and invasive. Concerns that rape kits are overused, invasive, and rarely utilised in court, effectively re-traumatising survivors.
20. Calls for plain English drafting of new legislation so officers and the public clearly understand rights and responsibilities.
21. Reports of women held overnight or over weekends without justification, often citing “orders from above.”
22. Criticism of police officers engaging in restorative justice practices, particularly in rape or child sexual abuse cases, seen as inappropriate and harmful.
23. Lack of transparency and public access to police policies, protocols, and annual data, undermining accountability.
24. Request for consistent and reliable access to sex-disaggregated data, including in annual police reports to track gender-related crime and responses.
25. Concerns about conflicts between internal police disciplinary investigations and external criminal investigations, with calls to ensure both proceed independently.
26. Recommendation for an appeal mechanism to challenge the Commissioner’s disciplinary decisions, which currently hold excessive power.
27. Recognition that judicial review is limited and often inaccessible due to time constraints.
28. Issues with police treatment of transgender individuals, including lack of dignity, ridicule, and unsafe detention arrangements and calls for constitutional compliance with protections for gender identity and expression, and provision of safe facilities for transgender detainees.

29. Broader concern about the outdated and inadequate state of police infrastructure and facilities.
30. Lack of resources such as transport, working equipment, and proper infrastructure in police stations, leading to fatal outcomes in domestic violence cases.
31. Criticism of MOUs that may promote procedures which may be ineffective or harmful to survivors.
32. Emphasis on evidence-based community education, as current community policing often spreads misinformation or cultural stereotypes.
33. Identification of child marriage as a persistent crime being ignored in communities, with calls for police intervention.
34. Concern that survivors, especially women and girls, continue to lack confidence in reporting cases due to poor police handling and delays.

Annex B – Draft Working Document

DRAFT WORKING DOCUMENT

NOTE: THIS DRAFT IS A WORKING DOCUMENT PUT TOGETHER TO ASSIST READERS IN VISUALISING POSSIBLE TEXTUAL OPTIONS FOR A MODERN POLICE LAW. IT IS NOT A BILL AND IS NOT INTENDED TO REPRESENT THE FORMAL POSITION OF THE GOVERNMENT OR THE FIJI POLICE FORCE

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[LONG TITLE: A [BILL] FOR AN ACT TO REPEAL THE POLICE ACT 1965, TO ESTABLISH A NEW FRAMEWORK FOR POLICING IN FIJI, TO PROVIDE FOR THE ADMINISTRATION, POWERS, DUTIES AND RESPONSIBILITIES OF THE FIJI POLICE FORCE, TO FORMALISE COMMUNITY POLICING, AND FOR RELATED MATTERS]

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PART 1—PRELIMINARY

Short title and commencement

1.—(1) This Act may be cited as the [Police Act 2025]/[Policing Act 2025]/[Police Administration and Powers Act 2025].

(2) This Act comes into force on a date or dates appointed by the Minister by notice in the Gazette.

Interpretation

2.—(1) In this Act, unless the context otherwise requires—

“Act” means this Act and any subsidiary legislation made under this Act;

“biographic details” includes a person’s name, address, and date of birth;

“biometric information”, in relation to—

(a) a person being considered for recruitment as a member of Police staff or Police associate; or

(b) a member of Police staff or Police associate,

means—

(i) the DNA profile of the person obtained by taking a body sample of the person; or

(ii) fingerprints or palm-prints taken from the person;

“Commissioner” means the Commissioner of Police appointed in accordance with section 129(4) of the Constitution;

“Commissioner’s Orders” means the orders the Commissioner may prescribe under this Act, including orders made by the Commissioner under—

(a) section 5(2);

- (b) section 9(2) for the general governance and administration of Police staff;
- (c) section 13(4)(b) and (c) for the Special Constabulary;
- (d) section 25 for the training and education of Police staff;

“Constitution” means the Constitution of the Republic of Fiji;

“Force” or “Police” means the Fiji Police Force continued under section 129(1) of the Constitution and section 4 of this Act;

“Issuing Authority” means a person authorised to issue a search warrant under section 42;

“junior officer” means a ranked officer in the Schedule who is of a junior position as prescribed by the Commissioner in the Commissioner’s Orders;

“Member of the Special Constabulary” means any person appointed to the Special Constabulary by the Commissioner under section 13;

“Minister” means the Minister responsible for the Fiji Police Force;

“Permanent Secretary” means the Permanent Secretary responsible for the Fiji Police Force;

“Police associate” means a person engaged to perform a specified task for the Force under section 19;

“Police consultant” means a person engaged as a Police consultant under section 18;

“Police dog” means a dog that—

- (a) has completed a training course at a facility approved by the Commissioner; and
- (b) is used or is likely to be used for Police duties;

“Police dog handler” means a member of Police staff who is undergoing or has successfully completed a course of instruction approved by the Commissioner that qualifies the person to perform duties as a Police dog handler;

“Police employee” means a civilian employee of the Force employed under section 14;

“Police officer” means a member of the Force appointed under section 12 with the rank as prescribed in the Schedule;

“Police staff” or “a member of Police staff” means a Police officer, Police employee and a special constable employed under section 13(3);

“prescribe” means to prescribe a thing or matter—

- (a) by regulations made by the Minister under this Act if—

- (i) a provision states that the Minister may prescribe the thing or matter; or
- (ii) a provision does not specify who may prescribe the thing or matter; or

(b) by General Orders made under this Act if a provision states that the Commissioner may prescribe the thing or matter;

“senior officer” means a ranked officer in the Schedule who is of a senior position as prescribed by the Commissioner;

“staff biometric information”,—

- (a) in relation to a person being considered for recruitment as a member of Police staff or as a Police associate, means anything that is a DNA profile derived from a body sample or biometric information obtained under section 21;
- (b) in relation to a person who is a member of Police staff or a Police associate, means anything that is—
 - (i) a DNA profile derived from a body sample or biometric information obtained under section 27; or
 - (ii) a DNA profile derived from a body sample or biometric obtained under section 21 when the person was being considered for employment as a member of Police staff or Police associate;

“superior” when used in relation to a Police officer or special constable means a senior officer to that Police officer or special constable; and

“Tribunal” means the Fiji Police Force Disciplinary Tribunal established under section 111.

Act binds the State

3. This Act binds the State.

PART 2—CONSTITUTION, FUNCTIONS AND GOVERNANCE OF THE FORCE

Division 1—Continuation and constitution of the Force

Continuation of the Force

4. The Fiji Police Force continues in accordance with section 129(1) of the Constitution.

How the force is constituted

5.—(1) The Force consists of the following categories of Police staff—

- (a) Police officers, in ranks as set out in the Schedule;
- (b) employed special constables, in ranks as set out in the Schedule; and
- (c) Police employees.

(2) The Commissioner may, with the agreement of the Minister, make an order to amend the Schedule to change the administrative hierarchy or the ranks of Police staff.

(3) In this section, “ranks” means the badges of rank for Police officers and special constables.

Division 2—Functions of the Force

Functions of the Force

6. The functions of the Force are to—

- (a) maintain law and order;
- (b) preserve the peace, safety and security of Fiji;
- (c) protect life and property;
- (d) protect the rights of individuals;
- (e) prevent and detect crime;
- (f) engage, support and reassure the community;
- (g) participate in policing activities outside Fiji in accordance with Part 4, Division 2; and
- (h) enforce any written law that the Force is directly charged with enforcing, or any written law that the Minister may prescribe by notice in the Gazette for the Force to enforce.

Role of the Force in times of emergency

7.—(1) The Commissioner may, in a state of emergency declared under section 154 of the Constitution, direct the Force to deal effectively with the circumstances threatening the security and safety of all or a part of Fiji.

(2) The Minister may make regulations to give effect to this section but subject to—

- (a) section 43 of the Constitution; and
- (b) regulations made by the Prime Minister under section 154(1) of the Constitution.

(3) In a state of emergency, the Force is subject to military law but remains under the command of the Commissioner.

(4) Subsections (1) and (3) are subject to section 8.

Division 3—Governance of the Force

Powers of the Minister

8.—(1) In accordance with section 129(6) of the Constitution, the Minister may issue a general policy direction to the Commissioner.

(2) The Commissioner must comply with the general policy direction.

Powers of the Commissioner

9.—(1) Subject to section 8 and in accordance with section 129(5) of the Constitution, the Commissioner is responsible for—

- (a) the organisation and administration of the Fiji Police Force; and
- (b) the deployment and control of its operations.

(2) The Commissioner may make orders the Commissioner considers appropriate for the general governance and administration of Police staff —

- (a) in relation to training, arms, clothing, equipment, property, services, and the distribution and inspection of Police staff; and
- (b) to prevent negligence and promote efficiency and discipline of Police staff in the discharge of their duties and functions.

Delegation of Commissioner's powers

10.—(1) The Commissioner may delegate the Commissioner's powers, duties or functions under this Act to the Deputy Commissioner [or a senior Police officer][or a member of Police staff].

(2) The delegation—

- (a) may be made subject to any conditions or restrictions that the Commissioner considers appropriate, including any factors that must be taken into account when the delegation is exercised;
- (b) may be made generally or for any particular case or to any particular area in Fiji;
- (c) must not be delegated by the delegate to any other person;
- (d) may be revoked by the Commissioner at will; and
- (e) does not prevent the Commissioner from exercising the delegated power, or carrying out the function or duty.

(3) A delegate may, subject to any conditions or restrictions, exercise the powers, duties, or functions in the same manner and with the same effect as if the powers, duties, or functions had been conferred on the person directly by this Act.

(4) A member of Police staff purporting to act under a delegation under this section is, in the absence of proof to the contrary, presumed to be acting in accordance with the terms of the delegation.

PART 3—ENGAGEMENT, PROCESSING AND TRAINING OF POLICE

Division 1—Recruitment of Police staff and others

Subdivision 1—Recruitment of Police staff

Merit based recruitment

11.—(1) The appointment or employment of Police staff must be based on merit with preference to the person who is best qualified and suited for the position.

(2) In determining the merit of an applicant, consideration must be given to—

- (a) the person's integrity, emotional maturity, and psychological suitability for policing duties;
- (b) the diligence and conduct of the person;
- (c) if applicable, the past performance of the person;
- (d) the potential of the person to discharge the duties of the position;
- (e) the educational or vocational training qualifications of the applicant;
- (f) the ability, aptitude, skill, knowledge and experience of the person to meet the requirements of the position; and
- (g) the physical fitness of the person to perform the duties of the position.

(3) If candidates are of equal merit, the Commissioner may take into account the need for the Force to contain officers from diverse backgrounds and to promote gender and ethnic equity.

Appointment of Police Officers

12.—(1) The Commissioner may appoint a person as a Police Officer.

(2) The police officer must, on joining the Force and before making an oath or affirmation under section 15, answer truly any question which may be put to him or her in relation the person's previous service in any other organisation and whether he or she has at any time been convicted of any criminal offence.

(3) In accordance with section 3(2) of the Employment Relations Act 2007, a Police officer is not subject to the Employment Relations Act 2007.

(4) Despite any other written law, the appointment of a Police officer is subject to the requirements for service and the framework for discipline and conduct under this Act.

Appointment and employment of Special Constabulary

13.—(1) The Special Constabulary continues to be established and is under the command of the Commissioner.

(2) The Commissioner may—

- (a) appoint a person as a special constable; and
- (b) assign to the person a rank.

(3) [If the Commissioner [decides it is necessary,] the Commissioner may employ special constables to augment the Force.

(4) Subject to this Act, the Commissioner may—

- (a) as the Commissioner considers appropriate, appoint, employ, promote, demote, discipline, remove or terminate the employment of, a special constable;
 - (b) make orders for the general governance of special constables in relation to their appointment, employment, training, arms, clothing, equipment, property, classification, services, distribution and inspection; and
 - (c) make any other orders the Commissioner sees fit for preventing neglect and for promoting efficiency and discipline on the part of special constables in the discharge of their duties.
- (5) An employed special constable may be paid from public funds at the prescribed rates.
- (6) The Commissioner may authorise a special constable to, while on duty, exercise the prescribed powers of a Police officer for the purposes of any Act.
- (7) The authorisation must be in writing and may be—
- (a) general in scope and apply throughout Fiji; or
 - (b) specific to a person, class, rank or area in Fiji.
- (8) A special constable is subordinate to—
- (a) the same authorities as a Police officer; and
 - (b) a superior.
- (9) A special constable must, on being appointed and before making an oath or affirmation under section 15, answer truly any question asked in relation to his or her previous service in any other organisation and whether he or she has at any time been convicted of any criminal offence.
- (10) In accordance with section 3(2) of the Employment Relations Act 2007, a special constable employed under this Act is not subject to the Employment Relations Act 2007.
- (11) The appointment or employment of a special constable is subject to the requirements for service and the framework for discipline and conduct under this Act.

Employment of Police employees

14.—(1) The Commissioner may employ a civilian as a Police employee to serve in the Force.

(2) The Police employee must be employed—

- (a) under a written employment contract; and
- (b) subject to terms and conditions determined by the Commissioner and set out in the employment contract.

(3) A Police employee must, on being employed and before making an oath or affirmation under section 15, answer truly any question asked in relation to his or her previous service in any other organisation and whether he or she has at any time been convicted of any criminal offence.

(4) The Commissioner may authorise a Police employee to exercise a prescribed power, duty or function of a Police officer for the purposes of this or any Act.

(5) The authorisation must be in writing and may be—

- (a) general in scope and apply throughout Fiji; or
- (b) specific to a person, class, rank or area in Fiji.

(6) A duty, function or exercise of power by a Police employee under this section has the same effect as if the duty, function or power was exercised by a Police Officer.

Oaths once engaged

15. On joining the Force, the following persons must make before a senior officer, in the form prescribed, a declaration of allegiance and secrecy on oath or affirmation—

- (a) a police officer;
- (b) a special constable [employed by the Force under section 13(3)]; and
- (c) a Police employee authorised under section 14(4).

Subdivision 2—Police Dogs

Police dogs may accompany Police dog handlers

16. Despite any other enactment or rule of law,—

- (a) a Police dog under the control of a Police dog handler may enter and be in a place that the Police dog handler may in the course of Police duties lawfully enter or be in; and
- (b) neither the Commissioner nor a Police dog handler in charge of a Police dog is liable in any way by reason only of a Police dog's having entered or been on any place under paragraph (a).

Killing or injuring Police dogs

17.—(1) A person who intentionally kills, maims, wounds, or otherwise injures a Police dog without lawful authority or reasonable excuse commits an offence.

(2) A person who commits an offence against this section is liable on conviction to [imprisonment for a term not exceeding 24 months, to a fine not exceeding \$15,000, or to both].

Subdivision 3—Engagement of external persons

Engaging Police consultants

18.—(1) The Commissioner may engage a person, by written contract, as a Police consultant to provide a [prescribed] service to the Force for a period of time determined by the Commissioner.

(2) The Commissioner may [approve][prescribe] specific duties and functions for the Police consultant.

(3) A Police consultant is not an agent of the Force and must not hold himself or herself out to be an agent or representative of the Force.

Engaging Police associates

19.—(1) The Commissioner may engage as a Police associate a person who is not a member of Police staff but—

- (a) performs (or may in the future perform) duties with or for the Force, and whose duties may involve the risk of accidentally contaminating a crime scene or any evidence at the crime scene;
- (b) is a professional and has the capacity to assist the Force during the course of an investigation.

(2) In this section, “professional” means—

- (a) a health professional as defined in the Medical and Dental Practitioner Act 2010;
- (b) a welfare officer as defined in the Juveniles Act 1973;
- (c) a teacher who is registered under the Fiji Teachers Registration Act 2008;
- (d) a legal practitioner as defined in the Legal Practitioners Act 2009; or
- (e) a person of a prescribed profession.

Division 2—Engagement Requirements and Training

Subdivision 1—Requirements for information to be provided

Prospective Police staff to provide personal details

20.—(1) The Commissioner may require a person who applies to be recruited as a member of Police staff or as a Police associate to do one or any of the following—

- (a) provide identification and biographic details of the person;
- (b) provide evidence of any qualifications or experience required for the position;
- (c) take a test approved by the Commissioner, which assesses physical and mental fitness;
- (d) submit to a psychological evaluation;
- (e) provide biometric information or a body sample under section 21;
- (f) provide medical or other reports relevant to determining whether the applicant is capable of performing the required duties.

(2) If the Commissioner requires a person to do a thing under subsection (1) or section 21, the Commissioner must notify the person of the requirement as soon as practicable.

(3) If the person is unwilling to or does not do the thing required, the person must not be considered for recruitment as a member of Police staff or as a Police associate.

Prospective Police staff may be required to provide body sample and biometric information

21. The Commissioner may require a person to do either or both of the following things—

- (a) provide a body sample suitable for obtaining a DNA profile of the person for the purposes of section 22;
- (b) allow biometric information the Commissioner thinks appropriate to be taken for the purposes of section 22.

Use of prospective staff biometric information restricted

22. Staff biometric information relating to a person being considered for recruitment as a member of Police staff or as a Police associate must be used only for—

- (a) verifying that the person is not a user of an illicit drug listed under Schedule 1 to the Illicit Drugs Control Act 2004;
- (b) matching the information against other information held by the Police for the purpose of—
 - (i) determining whether the person has been convicted of an offence; or
 - (ii) if, when matched against other information held by the Police, it indicates that the person may have been involved in the commission of an offence,—
 - (A) investigating the offence; and
 - (B) if relevant, prosecuting a person charged with committing the offence; or
 - (iii) if the person later becomes a member of Police staff or a Police associate, eliminating him or her from being considered in the investigation of a crime.

Body sample to be destroyed once profile derived and stored

23. Except in the circumstances described in section 22(b)(ii), the Commissioner must ensure every body sample obtained under section 21 is destroyed promptly after a DNA profile has been successfully derived from it, and information relating to the profile has been stored in the database.

Prospective staff biometric information to be deleted or destroyed if person not recruited

24.—(1) Subject to subsection (2), the Commissioner must ensure that staff biometric information held by the Police that relates to a prospective member of Police staff or Police associate is—

- (a) permanently deleted from the database; or
- (b) for information held in hard-copy form, destroyed.

(2) Except in the circumstances described in section 22(b)(ii), the information must be deleted or destroyed promptly after the Commissioner decides not to recruit the person.

(3) The Commissioner must ensure that, promptly after the deletion or destruction of information under this section, the person to whom the information relates (or his or her personal representative) is given written notice of its deletion or destruction.

Subdivision 2—Training and Education

Training and education

25.—(1) The Commissioner must prescribe a training course and a continuing education course for all Police staff for the efficient and proper exercise and performance of the powers, duties, and function of the Force.

(2) A member of Police staff must—

- (a) successfully complete the training course [during the probationary period of recruitment][prior to recruitment]; and
- (b) must undertake the prescribed continuing education course at least once per year.

(3) Each course must contain training in at least—

- (a) gender sensitisation and the proper handling and treatment of cases involving women and other groups; and
- (b) the powers, duties and responsibilities of the Police and the limits to and proper exercise of each.

(4) The Commissioner may confer certificates or awards to a member of Police staff who has successfully completed the training or education course under this section.

PART 4—SERVICE

Division 1—Duties and Service Generally

Duties

26.—(1) A member of Police staff must perform the duties imposed on them by law.

(2) A member of Police staff must obey all lawful directions received from a superior in the Force in relation to performing their duty.

(3) A Police officer and special constable employed under section 13(3) are deemed to be on duty at all times and may at any time be detailed for duty in any part of Fiji or any other place in accordance with this Act.

(4) It is the duty of a Police officer and special constable promptly to—

- (a) obey and execute all orders and warrants lawfully issued to him or her by an issuing authority;

- (b) collect and communicate intelligence affecting the public peace;
- (c) prevent the commission of offences and public nuisances;
- (d) detect and bring offenders to justice; and
- (e) apprehend all persons whom he or she is legally authorised to apprehend and for whose apprehension sufficient ground exists.

Member of Police staff to provide body sample and biometric information

27. If the Commissioner has reasonable grounds to suspect that a member of Police staff or a Police associate—

- (a) may be involved in the commission of an offence; or
- (b) may be a user of an illicit drug as listed in Schedule 1 to the Illicit Drugs Control Act 2004,

the Commissioner may require the person to do either or both of the following—

- (i) provide a body sample suitable for obtaining a DNA profile of the person;
- (ii) allow any biometric information the Commissioner thinks appropriate to be taken.

Use of staff biometric information restricted

28.—(1) The staff biometric information is not admissible in evidence in any criminal proceedings against the person (even after the person ceases to be a member of Police staff or Police associate) and must be used only for —

- (a) determining whether the person has used an illicit drug listed under Schedule 1 to the Illicit Drugs Control Act 2004;
- (b) matching against other information held by the Police for the purpose of eliminating him or her from being considered in the investigation of a crime,

(2) This section applies to biometric information taken by the Police before the commencement of this provision from a person who was then a member of the Police within the meaning of the repealed Police Act 1965.

(3) Biometric information to which subsection (2) applies—

- (a) must for all purposes be treated as biometric information obtained under section 27; but
- (b) if the person had ceased to be a member of Police staff before the commencement of this Act, must be permanently deleted from the database (or, in the case of fingerprints held in hard-copy form, destroyed) no later than 12 months after the commencement of this provision.

Body sample to be destroyed once profile derived and stored

29. The Commissioner must ensure every body sample obtained under section 27 is destroyed promptly after a DNA profile has been successfully derived from it, and information relating to the profile has been stored in the database.

Prospective staff biometric information to be deleted or destroyed if prospective employee not employed, or subject asks

30.—(1) The Commissioner must, in accordance with subsection (2), ensure that all staff biometric information held by the Police that relates to a prospective member of Police staff or Police associate is—

- (a) permanently deleted from the database; or
- (b) for information held in hard-copy form, destroyed.

(2) The information must be deleted or destroyed no later than 12 months after the person ceases to be a member of Police staff or a Police associate.

(3) The Commissioner must ensure that, promptly after the deletion or destruction of information under this section and section 29, the person to whom the information relates (or his or her personal representative) is given written notice of its deletion or destruction.

Police staff not to engage in other employment or political activities

31. No member of Police staff may—

- (a) engage in any employment or hold any office unless provided under this Act;
- (b) take an active part in any political organisation or electoral campaign; or
- (c) engage in any activity which is likely to interfere with the impartial discharge of his or her duties under this Act.

Extended service in times of war etc.

32. —(1) The Commissioner may extend the appointment or employment of a member of Police staff if the member of Police staff's appointment is due to expire during a state of war or emergency or a period of insurrection or hostilities.

(2) The extension may only be for a period not exceeding 6 months.

Division 2—Service outside Fiji

Meaning of “neighbouring territory”

33.—(1) Subject to subsection (2), in this Division the expression “neighbouring territory” means a territory which the Minister may, by notice in the Gazette, declare to be a neighbouring territory for the purposes of this Division.

(2) The notice must not be published unless the Minister is satisfied that satisfactory arrangements have been or will be made to include in the law of that territory provisions reciprocal to those of this Division.

Power to order service outside Fiji

34. The Commissioner may, at the request of the government of a neighbouring territory, and with the agreement of the Minister, order a number of police officers as he or she may think fit to proceed to the territory for service.

Effect of punishment of police officer in neighbouring territory

35. A Police officer punished for any offence (whether against discipline or otherwise) committed while the officer was serving in a neighbouring territory is deemed to have been punished in Fiji for a similar offence committed within Fiji if the police officer was punished —

- (a) under the law of the neighbouring territory; or
- (b) under any of the provisions of this Act applied by the law of the territory to the police officer while serving in that country.

Request for service from other police force

36. The President[, after consultation with the Prime Minister, Minister and Commissioner] may request for assistance in a temporary emergency from the police force of a neighbouring territory.

Provisions as to officers of neighbouring territory serving in Fiji

37.—(1) This section applies to an officer from a neighbouring territory serving in Fiji (Visiting Officer) in response to a request under section 36.

(2) Subject to subsection (3), if 2 or more Visiting Officers are present in Fiji, a Visiting Officer is under the operational command of the superior officer of the Visiting Officers.

(3) All Visiting Officers are subject to the command of the Commissioner.

(4) A Visiting Officer has and may exercise the powers, and is liable to perform the duties, of a Police officer of equivalent rank in the Force, and is for those purposes deemed to be a Police officer of the Force.

(5) A written law that affects the discipline, punishment or terms and conditions of service of a Visiting Officer while serving in the Visiting Officer's own jurisdiction (Foreign Law) applies, so far as circumstances permit, in Fiji as if that written law were part of the general law of Fiji.

(6) Despite subsection (5)—

- (a) the foreign law is not to be interpreted in its application within Fiji as conferring power on a Police officer of the Force to punish a Visiting Officer for an offence against discipline; and
- (b) if the foreign law confers on a court or magistrate of the neighbouring territory jurisdiction to try and punish an offence, the jurisdiction may be exercised by a court or magistrate possessing comparable jurisdiction within Fiji.

(7) A contract of service between a Visiting Officer and the government of the neighbouring territory may be enforced in Fiji in the same manner and with the like effect as if it were made between the Visiting Officer and the Government of the Republic of Fiji.

PART 5—INVESTIGATIVE AND ENFORCEMENT POWERS

Division 1—Preliminary Provisions

Interpretation for Part 5

38. In this Part—

“access information”, for a digital device, means information necessary for a person to access or read device information from the device and includes a user identification or username, passcode or password;

“crime scene” has the meaning given in section 60;

“crime scene powers” means the powers a Police officer may exercise over a crime scene under Division 4, Subdivision 4;

“crime scene threshold offence” means—

- (a) an indictable offence for which the maximum penalty is [4 years imprisonment];[or
- (b) an offence involving deprivation of liberty];

“device information”, from a digital device, means—

- (a) information stored on the device; or
- (b) information accessed, communicated or distributed by using the device, including by using an application on the device;

“digital device”—

- (a) means a device on which information may be stored or accessed electronically; and
- (b) includes a computer, memory stick, portable hard drive, smart phone and tablet computer;

“identifying particulars” means, in relation to a person, one or more of the following—

- (a) the person’s biographical details;
- (b) the person’s photograph or visual image;
- (c) impressions of the person’s fingerprints, palm-prints, or footprints;

“place” includes any land, building, premises, or vehicle;

“post-search approval order” means an order made under section 58;

“responsible officer” mean a Police officer who —

- (a) establishes or has control of a crime scene under section 62;
- (b) has powers and responsibilities in relation to the crime scene under Division 4, Subdivision 4;

“transport vehicle” means—

- (a) an aircraft;
- (b) a boat;
- (c) a bus; or
- (d) a train;

“urgent search offence” means a prescribed offence for which an urgent search warrant may be issued under Division 3, Subdivision 5; and

“urgent search warrant” means a warrant issued under Division 3, Subdivision 5.

Division 2—Identification of Persons

Identifying particulars of person in custody

39.—(1) The purpose of this section is to enable the Force to obtain information that may be used now or in the future by the Force for a lawful purpose.

(2) For the purpose of this section, a police officer may take the identifying particulars of a person who is in the lawful custody of the Police if that person is detained for committing an offence and is—

- (a) at a Police station; or
- (b) at any other place being used for Police purposes.

(3) The officer—

- (a) must take the person’s identifying particulars in a manner that is reasonable in the circumstances; and
- (b) may only use reasonable force that may be necessary to secure the person’s identifying particulars.

(4) A person who, after being cautioned, fails to comply with a direction of the Police officer exercising his or her powers under this section—

- (a) commits an offence; and
- (b) is liable on conviction to imprisonment for a term not exceeding 6 months or a fine not exceeding \$5,000, or to both.

Identifying particulars for summons

40.—(1) The purpose of this section is to enable the Force to obtain information that may be used now or in the future by the Police for any lawful purpose.

(2) For the purpose of this section, a Police officer who has reasonable cause to suspect a person of committing an offence and who intends to bring proceedings against the person in respect of that offence by way of summons, may detain that person at any place—

- (a) in order to take the person's identifying particulars; and
- (b) only for the period necessary to take the person's identifying particulars.

(3) A police officer—

- (a) must take the person's identifying particulars in a manner that is reasonable in the circumstances; and
- (b) may only use reasonable force that may be necessary to secure the person's identifying particulars.

(4) A person who, after being cautioned, fails to comply with a direction of a police officer exercising his or her powers under this section—

- (a) commits an offence; and
- (b) is liable on conviction to imprisonment for a term not exceeding 6 months, to a fine not exceeding \$5,000, or to both.

Storage, etc, on Database of identifying particulars

41.—(1) The identifying particulars of a person that are obtained under section 39 or 40 may be entered, recorded, and stored on a Police information recording system.

(2) However, photographs or visual images of a person, and impressions of a person's fingerprints, palm-prints, or footprints, that are obtained under section 39 or 40 must be destroyed as soon as practicable after—

- (a) a decision is made not to commence criminal prosecution proceedings against the person in respect of the offence for which the particulars were taken;
- (b) criminal proceedings have been withdrawn by the prosecuting authority; or
- (c) criminal prosecution proceedings that are commenced against the person in respect of the offence for which the particulars were taken are completed with an outcome that is not an outcome under subsection (3) that authorises continued storage.

(3) An outcome which authorises continued storage is—

- (a) the person admits to, and completes a programme of diversion (being a programme conducted by the Police) for the offence for which the particulars were taken;
- (b) the person is convicted of the offence for which the particulars were taken; or

- (c) the person is discharged under section 44 of the Sentencing and Penalties Act 2009 in respect of the offence for which the particulars were taken.

Division 3—Search warrants

Subdivision 1—Preliminary Provision

Issuing authority

42. In this Act, the following persons may issue a search warrant—

- (a) a Justice of the Peace, for a general search warrant under Subdivision 2;
- (b) a Magistrate, for a general search warrant under Subdivision 2 or an urgent search warrant under Subdivision 5; and
- (c) a Judge of the High Court of Fiji, for a covert surveillance warrant under Subdivision 3 and a tracking warrant under Subdivision 4.

Subdivision 2—General Search Warrants

General search warrants

43. A general search warrant may be issued by the Issuing Authority in accordance with Part 9 of the Criminal Procedure Act 2009.

Subdivision 3—Covert Surveillance Warrants

Application for covert surveillance warrants

44.—(1) A senior officer may apply to a High Court Judge for a covert surveillance warrant to authorise the covert monitoring and recording, by any means, of the conduct and communications, including telecommunications, of a person.

(2) The application must state that the officer has reasonable grounds to suspect or believe that a person has committed, is committing or is about to commit a prescribed offence.

(3) Also, the application must state—

- (a) the facts relied upon to show reasonable grounds for suspicion or belief;
- (b) the manner by which it is proposed to undertake the monitoring;
- (c) the name or names of the person or persons to be monitored, if known;
- (d) the place at which it is intended to monitor the person;
- (e) the identity of any person who may be required by the court to provide assistance for the purpose of giving effect to the warrant;
- (f) the requested duration of the warrant; and
- (g) where the application is oral, the circumstances said to render a written application not reasonably practicable.

(4) If a written application under subsection (1) is not reasonably practicable in the circumstances, an application may be made orally, including by telephone.

Issue and renewal of covert surveillance warrant

45.—(1) The High Court Judge may issue the warrant if satisfied that there are reasonable grounds to suspect or believe that a person has committed, is committing or is about to commit a prescribed offence.

(2) The covert surveillance warrant may authorise police officers—

- (a) to overtly or covertly enter or, in the case of a renewed warrant, re-enter any place specified in the warrant, by force if necessary, for the purpose of executing the warrant; and
- (b) in the case of a renewed warrant, to continue monitoring and recording pursuant to the original warrant subject to any variation specified in accordance with section 47(g).

(3) A warrant issued under this Subdivision may be renewed by further application.

Considerations for Judge

46. In determining whether a warrant should be granted under this Subdivision, the High Court Judge may have regard to the following—

- (a) the nature and gravity of the offence in respect of which the warrant is sought;
- (b) the extent to which the privacy of any person is likely to be affected;
- (c) alternative means of obtaining the information or evidence sought and the extent to which employing these means could prejudice the investigation, through delay or any other reason;
- (d) the extent to which information that may be obtained is likely to assist the investigation of the offence;
- (e) the evidentiary value of any information sought to be obtained;
- (f) any previous warrant sought or issued in connection with the same offence;
- (g) in the case of an oral application, the circumstances that render a written application not reasonably practicable.

Form of warrant

47. A warrant issued under this Subdivision must—

- (a) specify the manner by which monitoring is authorised;
- (b) if known, specify the name of any person or persons who may be monitored;
- (c) specify the place or places at which monitoring is authorised;
- (d) specify any conditions subject to which premises may be entered pursuant to the warrant;
- (e) specify any person required to provide assistance for the purpose of giving effect to the warrant and order that person to provide such assistance;
- (f) specify the duration of the warrant;
- (g) in the case of a renewed warrant, specify any variation to the authority conferred by the previous warrant; and

(h) authorise and require the retrieval of the monitoring and recording device.

Term, cancellation and revocation of warrant

48.—(1) A warrant issued pursuant to an oral application is valid for 48 hours.

(2) If the Commissioner is satisfied that the grounds upon which a warrant was issued have ceased to exist, the Commissioner must, if the warrant is still in force, cancel the warrant in writing.

(3) A Judge may revoke a warrant issued under this Subdivision that is in force.

Subdivision 4—Tracking Warrants

Senior officer may authorise tracking

49.—(1) A senior officer may authorise the placement of a tracking device in or on any craft, vehicle or goods and may subsequently service or retrieve that device.

(2) The officer may only make the authorisation if he or she suspects or believes on reasonable grounds that it is expedient for the investigation of a prescribe offence.

Application for covert or forcible entry warrants

50.—(1) If placement, service or retrieval of the tracking device requires covert or forcible entry onto or into any premises, the officer must apply in writing to a High Court Judge for a warrant.

(2) The application must state—

- (a) the facts relied upon to show reasonable grounds for the suspicion or belief referred to in subsection (1);
- (b) the manner by which it is proposed to undertake the tracking;
- (c) the craft, vehicle or goods to be tracked;
- (d) the requested duration of the warrant; and
- (e) where the application is oral, the circumstances said to render a written application not reasonably practicable.

(3) If the circumstances are such that a written application is not reasonably practicable, an application may be made orally, including by telephone.

(4) Mere external placement of a tracking device upon any craft, vehicle or goods does not constitute entry requiring a warrant.

Issue and renewal of covert or forcible entry warrant

51.—(1) Upon application pursuant to this section, a Judge may, if satisfied that there are reasonable grounds to believe that the tracking device will yield information or evidence relating to the commission of an offence against this Act, issue a warrant authorising covert or forcible entry, or both covert and forcible entry, for the purpose of placing, servicing and retrieving the device.

(2) A warrant issued under this section may be renewed by further application.

(3) A renewed warrant authorises—

- (a) covert or forcible entry or both covert and forcible entry for the purpose of placing, servicing and retrieving the tracking device; and
- (b) the continued use of any tracking device pursuant to the original warrant subject to any variation specified in accordance with section 53(f).

Considerations for Judge

52. In determining whether a warrant should be granted under this section, the Judge may have regard to—

- (a) the nature and gravity of the offence in respect of which the warrant is sought;
- (b) alternative means of obtaining the information or evidence sought, the reliability of those alternative means and the resources required to employ them;
- (c) the extent to which information that may be obtained is likely to assist the investigation of the offence;
- (d) the evidentiary value of any information sought to be obtained;
- (e) any previous warrant sought or issued in connection with the same offence; and
- (f) in the case of an oral application, the circumstances said to render a written application not reasonably practicable.

Form of warrant

53. A warrant issued under this Subdivision must—

- (a) specify the manner by which tracking is authorised;
- (b) specify the craft, vehicle or goods that may be tracked;
- (c) specify the premises, vehicle or craft that may be entered pursuant to the warrant;
- (d) specify any conditions subject to which premises, vehicle, craft or goods may be entered pursuant to the warrant;
- (e) specify the duration of the warrant;
- (f) in the case of a renewed warrant, specify any variation to the authority conferred by the previous warrant; and
- (g) authorise and require the retrieval of the tracking device.

Term, cancellation and revocation

54.—(1) A warrant issued pursuant to an oral application is valid for 48 hours.

(2) Where the Commissioner of Police is satisfied that the grounds upon which a warrant was issued have ceased to exist, the Commissioner must, if the warrant is still in force, cancel the warrant by instrument in writing.

(3) A warrant issued under this section and still in force may be revoked by a Judge.

Subdivision 5—Urgent Search Warrants

Application of this Subdivision

55. This Subdivision applies only in relation to a prescribed urgent search offence.

Urgent search to prevent loss of evidence

56. —(1) This section applies if a Police officer reasonably suspects—

- (a) a thing at or about a place, or in the possession of a person at or about a place is evidence of the commission of an urgent search offence; and
- (b) the evidence may be concealed or destroyed unless the place is immediately entered and searched.

(2) This section also applies if a Police officer reasonably suspects an urgent search offence has been, is being, or may be committed in, on or in relation to a transport vehicle and involves the safety of the vehicle or anyone who may be in or on it.

(3) A Police officer may enter the place and exercise search warrant powers, other than the power to do something that may cause structural damage to a building, at the place as if they were conferred under a search warrant.

Post-search approval order

57. —(1) As soon as reasonably practicable after exercising powers under section 56(3), the Police officer must apply to a magistrate in writing for an order approving the search (post-search approval order).

(2) The application must be sworn and state the grounds on which it is sought.

(3) The applicant does not need to be present at the consideration of the application unless the magistrate requires the applicant's presence.

(4) The magistrate may refuse to consider the application until the police officer gives the magistrate all the information the magistrate requires about the application in the way the magistrate requires.

Making of post-search approval order

58. —(1) The magistrate may make a post-search approval order only if satisfied that—

(a) in the circumstances existing before the search—

- (i) the police officer, before exercising the powers, had a reasonable suspicion for exercising the powers; and
- (ii) there was a reasonable likelihood that the evidence would be concealed or destroyed or may have caused injury to a person; or

(b) having regard to the nature of the evidence found during the search, it is in the public interest to make the order.

Appeal

59. —(1) If a magistrate refuses to make a post-search approval order, the Commissioner may appeal against the order to the High Court within 28 days after the magistrate’s refusal.

(2) If the Commissioner appeals, the Commissioner may retain the thing seized until the appeal is decided.

Division 4—Crime Scenes

Subdivision 1—Preliminary Provisions

Meaning of “crime scene”

60. In this Division, a place is a crime scene if—

(a) either of the following apply—

- (i) a crime scene threshold offence happened at the place;
- (ii) there may be evidence at the place, of significant probative value, of the commission of a crime scene threshold offence at another place; and

(b) it is necessary to protect the place for the time reasonably necessary to search for and gather evidence of the commission of the crime scene threshold offence.

Subdivision 2—Establishing a Crime Scene

Gaining access to crime scenes

61. —(1) It is lawful for a Police officer—

- (a) to enter a place to reach another place that the police officer reasonably suspects is a crime scene; and
- (b) to enter a place that the police officer reasonably suspects is a crime scene and stay on the place for the time reasonably necessary to decide whether or not to establish a crime scene.

(2) What is a reasonable time for subsection (1)(b) will depend on the particular circumstances including—

- (a) the nature of any information obtained or any observation made that suggests the place is a crime scene; and
- (b) visible evidence that will help decide whether it is a crime scene; and
- (c) any preliminary inspection of the place.

Initial establishment of crime scene

62. —(1) If a Police officer enters a place that may be a crime scene, or is lawfully at a place, and decides the place is a crime scene, the Police officer (the responsible officer) may establish a crime scene and exercise crime scene powers at the place.

(2) If another police officer assumes control of the crime scene, that police officer becomes the responsible officer instead of the other officer.

(3) The responsible officer may establish the crime scene in any way that gives anyone wanting to enter the place enough notice that the place is a crime scene.

Responsibility after establishing crime scene

63. —(1) As soon as reasonably practicable after the responsible officer establishes the crime scene, a Police officer must apply to a High Court Judge or a Magistrate for a crime scene order under Subdivision 3.

(2) Subsection (1) does not apply if the place is a public place.

(3) However, if the place is a public place only while it is ordinarily open to the public and the occupier of the place requires a Police officer at the place to leave the place, the Police officer may apply under Subdivision 3 for a crime scene order.

(4) The application must be made to a High Court Judge for a crime scene order if it is intended to do something that may cause structural damage to a building.

(5) Subsection (4) applies whether or not a magistrate has issued a crime scene order for the place.

(6) If a judge or magistrate refuses to issue a crime scene order for the place, the place stops being a crime scene.

Deciding limits of crime scene

64. The responsible officer at a crime scene must—

- (a) identify what is the crime scene;
- (b) decide the boundaries necessary to protect the crime scene; and
- (c) mark the limits of the crime scene in a way that sufficiently identifies it to the public as a crime scene.

Restricting access to crime scene

65. —(1) The responsible officer must immediately take the steps the officer considers to be reasonably necessary to protect anything at the crime scene from being damaged, interfered with or destroyed, including for example, steps necessary—

- (a) to ensure people, including police officers, whose presence at the crime scene is not essential do not enter the crime scene;
- (b) to prevent unnecessary movement inside the boundaries of the crime scene; and

- (c) to establish a safe walking area in the crime scene for reducing the risk of damage to any evidence that may be on the place.
- (2) Also, a person, other than the responsible officer, must not enter a crime scene unless—
 - (a) the person has a special reason, associated with the investigation, for entering the crime scene;
 - (b) the person is a police officer or Police associate who is asked to enter the crime scene by the responsible officer or an investigating Police officer;
 - (c) the presence of the person is necessary to preserve life or property at a crime scene; or
 - (d) the person is authorised to enter by the responsible officer.
- (3) For subsection (2)(d), the responsible officer may authorise the entry subject to stated requirements.
- (4) The responsible officer must ensure a record is made of—
 - (a) the name of each person who is present when the crime scene is established;
 - (b) the name of each person who enters it after it is established;
 - (c) the time each person entered the place after it is established; and
 - (d) the purpose of the entry.

Preserving evidence at crime scene

66. The responsible officer at a crime scene must ensure that nothing in the crime scene is unnecessarily touched or moved—

- (a) until all necessary forensic and technical examinations are finished; or
- (b) unless there is a possibility that the thing could be damaged, interfered with or destroyed if it is not moved.

Subdivision 3—Crime Scene Orders

Application for crime scene order

67. —(1) A police officer may apply to a High Court judge or a magistrate for an order (a crime scene order) to establish a crime scene at a place.

- (2) The application must be sworn and state the grounds on which it is sought.
- (3) The occupier of the place must, if reasonably practicable, be given notice of the making of the application.
- (4) Subsection (3) does not apply if the police officer reasonably suspects giving the notice would frustrate or otherwise hinder the investigation of the offence to which the application relates.

(5) If present when the application is made, the occupier may make submissions to the judge or magistrate, but not submissions that will unduly delay the consideration of the application.

(6) The Judge or magistrate may refuse to consider the application until the police officer gives the Judge or magistrate all the information the Judge or magistrate requires about the application in the way the Judge or magistrate requires.

Consideration of application and issue of crime scene order

68. —(1) Before issuing a crime scene order, the Judge or magistrate must have regard to the following—

- (a) the nature and seriousness of the suspected offence;
- (b) the likely extent of interference to be caused to the occupier of the place;
- (c) the time, of not more than 7 days, for which it is reasonable to maintain a crime scene;
- (d) any submissions made by the occupier.

(2) The Judge or magistrate may issue a crime scene order only if reasonably satisfied the place is a crime scene.

(3) If before the application is considered, the place stops being a crime scene, the Judge or magistrate may issue a crime scene order that has effect only for the time the place was a crime scene.

What crime scene order must state

69. —(1) A crime scene order must state—

- (a) that a stated police officer may establish a crime scene at the place and exercise crime scene powers at the place; and
- (b) the day, not more than 7 days after the order is issued, the order ends, unless extended under section 70(2).

(2) If the issuer is a High Court judge, the order must state whether or not a police officer may, under the order, do something that may cause structural damage to a building.

Duration, extension and review of crime scene order

70. (1) A crime scene order stops having effect on the day fixed under the order or a later time fixed under subsection (2).

(2) The Judge or magistrate may, on the application of a police officer made before a crime scene order stops having effect, extend the order for a stated reasonable time of not more than 7 days.

Review of crime scene order

71. (1) If an application for a crime scene order was made in the absence, and without the knowledge, of the occupier of the place or the occupier had a genuine reason for not being present, the occupier may apply to the Judge or magistrate for an order revoking the warrant.

(2) The Judge or magistrate may revoke or refuse to revoke the order.

(3) The making of an application for judicial review of the order's issue does not stay the effect of the order.

Copy of crime scene order to be given to occupier

72. —(1) If a police officer exercises powers under a crime scene order for a place that is occupied, the police officer must give to the occupier a copy of the order and a statement in the approved form summarising the person's rights and obligations under the order.

(2) If the occupier is not present, the police officer must leave the copy in a conspicuous place.

Subdivision 4—Police Powers at a Crime Scene

Powers at crime scene

73. —(1) The responsible officer at a crime scene, or a Police officer or Police associate acting under the direction of the responsible officer, may do any of the following in relation to the crime scene—

- (a) enter the crime scene;
- (b) if reasonably necessary, enter another place to gain access to the crime scene;
- (c) perform any necessary investigation, including, for example, a search and inspection of the crime scene and anything in it to obtain evidence of the commission of an offence;
- (d) open anything at the crime scene that is locked;
- (e) take electricity for use at the crime scene;
- (f) dig up anything at the crime scene;
- (g) remove wall or ceiling linings or floors of a building, or panels or fittings of a vehicle;
- (h) remove or cause to be removed an obstruction from the crime scene;
- (i) photograph the crime scene and anything in it;
- (j) seize all or part of a thing that may provide evidence of the commission of an offence.

(2) However, if it is necessary to do anything at the place that may cause structural damage to a building, the thing must not be done unless a High Court judge issues a crime scene order for the place before the thing is done and the order authorises the doing of the thing.

Powers of direction etc. at crime scene

74. The responsible officer or a police officer or Police Associate acting under the direction of the responsible officer may, at a crime scene, do any of the following—

- (a) direct a person to leave the crime scene or remove a vehicle or animal from the crime scene;
- (b) remove or cause to be removed from the crime scene—

- (i) a person who fails to comply with a direction to leave the crime scene; or
- (ii) a vehicle or animal a person fails to remove from the crime scene;
- (c) direct a person not to enter the crime scene;
- (d) prevent a person from entering the crime scene;
- (e) prevent a person from removing evidence from or otherwise interfering with the crime scene or anything in it and, for that purpose, detain and search the person;
- (f) direct the occupier of the place or a person apparently in charge of the place to maintain a continuous supply of electricity at the place.

Exercise of crime scene powers in public place

75. —(1) A police officer may exercise powers under sections 73 and 74 at a public place without a crime scene order.

(2) However, if—

- (a) the place is a public place only while it is ordinarily open to the public; and
- (b) the occupier of the place asks a police officer to leave the place;

the police officer may, despite the request, continue to act under subsection (1) for the time reasonably necessary for an application for a crime scene order for the place to be made and decided.

Subdivision 5—Miscellaneous

Alternative accommodation to be provided in some cases

76. —(1) This section applies to the occupier of a dwelling if—

- (a) the occupier can not continue to live in the dwelling while the crime scene is established because of a direction given at a crime scene; or
- (b) the occupier can not continue to live in the dwelling because of damage caused to the dwelling in the exercise of powers under this Division.

(2) A police officer must inform the occupier of the occupier’s right to suitable alternative accommodation for the time the occupier can not live in the dwelling.

(3) The Commissioner must arrange suitable alternative accommodation for the occupier for the time the occupier can not live in the dwelling, if requested to do so by the occupier.

(4) This section does not apply to an occupier who is detained in lawful custody.

Division 5—Use of and Access to Digital Devices

Meaning of “specified person” in this Division

77. —(1) Subject to subsections (2) and (3), a “specified person” means any of the following persons—

- (a) a person reasonably suspected of having committed an offence in relation to which—
 - (i) a search warrant is or was issued;
 - (ii) a crime scene is or was established; or
 - (iii) a device was otherwise lawfully seized under this Act and removed from a place;
 - (b) the owner of a device;
 - (c) a person in possession of a device;
 - (d) an employee of the owner or person in possession of a device;
 - (e) a person who uses or has used a device;
 - (f) a person who is or was a system administrator for the computer network of which the device forms or formed a part.
- (2) Subsection (1) only applies in relation to a digital device —
- (a) at, or seized from a place for which—
 - (i) a search warrant is or was issued; or
 - (ii) a crime scene is or was established; or
 - (b) that is otherwise lawfully seized under this Act and removed from a place.
- (3) A person mentioned in subsection (1)—
- (a) paragraphs (a) to (e) is a specified person only if the person has, or is likely to have, knowledge about how to gain access to the digital device;
 - (b) paragraph (f) is a specified person only if the person has, or is likely to have, knowledge about how to gain access to the computer network of which the device forms or formed a part.

Orders in search warrant for digital device information

78. —(1) If an Issuing Authority that is a magistrate or a judge issues a search warrant under Division 3, the Issuing Authority may, in the search warrant, order a specified person to do any of the following in relation to a digital device at the place—

- (a) give a police officer access to the device;
- (b) give a police officer access information for the device or any assistance necessary for the officer to gain access to device information from the device;
- (c) allow a police officer to—
 - (i) use access information for the device to gain access to device information from the device; or
 - (ii) examine device information from the device to find out whether the information may be relevant evidence; or

- (iii) make a copy of device information from the device that may be relevant evidence, including by using another digital device; or
- (iv) convert device information from the device that may be relevant evidence into documentary form, or another form, that enables the information to be understood by a police officer.

(2) If the Issuing Authority is a magistrate or a judge, the magistrate or judge may also, in the search warrant, order that a specified person is required to do a thing mentioned in subsection (1)(b) or (c) in relation to a digital device seized and removed from the place, after the device has been removed.

(3) An order made under subsection (2) must state—

- (a) the time at or by which the specified person must give a police officer the information or assistance mentioned in subsection (1)(b);
- (b) the place where the specified person must provide the information or assistance;
- (c) any conditions to which the provision of the information or assistance is subject; and
- (d) that failure to comply with the order is an offence under section 81.

Order after digital device has been seized

79. —(1) This section applies if—

- (a) a digital device is seized under a search warrant and removed from a place, and either—
 - (i) the search warrant did not contain an order made under section 78(1) or (2); or
 - (ii) the search warrant contained an order made under section 78(1) or (2) but further access information is required for a police officer to gain access to device information from the device that may be relevant evidence; or
- (b) a digital device is otherwise lawfully seized under this Act, other than under section 74(1)(j), and removed from a place.

(2) On the application of a police officer, a magistrate or a judge may make an order requiring a specified person to do a thing mentioned in section 78(1)(b) or (c).

(3) An application made under subsection (2)—

- (a) may be made at any time after the digital device has been seized; and
- (b) must be made—
 - (i) if the digital device was seized under a search warrant issued by a High Court judge—to a High Court judge; or
 - (ii) otherwise—to a magistrate.

(4) An order made under subsection (2) must state—

- (a) the time at or by which the specified person must give a police officer the information or assistance mentioned in section 78(1)(b); and
- (b) the place where the specified person must provide the information or assistance;
- (c) any conditions to which the provision of the information or assistance is subject; and
- (d) that failure to comply with the order is an offence under section 81.

(5) A magistrate or a judge (the judicial officer) may make an order under subsection (2) only if—

- (a) for a digital device seized under a search warrant issued by a magistrate or judge—the judicial officer is satisfied there are reasonable grounds for suspecting that device information from the digital device may be relevant evidence; or
- (b) otherwise—the judicial officer is satisfied there are reasonable grounds for suspecting that device information from the digital device may be evidence of a crime scene threshold offence.

Order about digital device at or seized from a crime scene

80. —(1) On the application of a police officer, a High Court judge or a magistrate may make an order requiring a specified person to do a thing mentioned in subsection (2) in relation to a digital device—

- (a) situated at a crime scene; or
- (b) seized from a crime scene under section 73(1)(j).

(2) The specified person may be required to—

- (a) give a police officer access to the device; or
- (b) give a police officer access information for the device or any assistance necessary for the officer to gain access to device information from the device; or
- (c) allow a police officer to—
 - (i) use access information for the device to gain access to device information from the device;
 - (ii) examine device information from the device to find out whether the information may be evidence of the commission of a crime scene threshold offence;
 - (iii) make a copy of device information from the device that may be evidence of the commission of a crime scene threshold offence, including by using another digital device; or
 - (iv) convert device information from the device that may be evidence of the commission of a crime scene threshold offence into documentary form, or another form, that enables the information to be understood by a police officer.

(3) The judge or magistrate may make the order only if satisfied there are reasonable grounds for suspecting that device information from the digital device may be evidence of the commission of the offence for which the crime scene was, or is to be, established.

(4) The order must state—

- (a) the time at or by which the specified person must give a police officer the information or assistance mentioned in subsection (2)(b); and
- (b) the place where the specified person must provide the information or assistance; and
- (c) any conditions to which the provision of the information or assistance is subject; and
- (d) that failure to comply with the order is an offence under section 81.

(5) Without limiting when the application for the order may be made, the application may be made at the same time the police officer applies for a crime scene order for the crime scene and the judge or magistrate may include the order in the crime scene order.

Contravening order about device information from digital device

81. —(1) A person who, without reasonable excuse, contravenes an order made under section 78(1) or (2), 79(2) or 80(1) commits an offence and is liable on conviction to a term of imprisonment not exceeding 5 years.

(2) It is not a reasonable excuse to contravene the order on the basis that complying with the order might tend to incriminate the person or expose the person to a penalty.

Division 6—Forensic Procedures

Subdivision 1—Preliminary Provisions for Division 6

Interpretation of this Division

82. —(1) In this Division—

“DNA sampler” means a person authorised or requested to take a non-intimate DNA sample under section 84;

“forensic procedure” means—

- (a) an intimate forensic procedure; or
- (b) a non-intimate forensic procedure;

“forensic procedure consent” means consent under Subdivision 3 to a forensic procedure being performed;

“forensic procedure order” means an order under section 99 authorising a person to perform an intimate or non-intimate forensic procedure, or both;

“forensic sample” means—

- (a) a non-intimate DNA sample;

- (b) a breath sample;
- (c) a sample of blood, urine or other bodily fluid, excretion or substance;

“intimate area” means a person’s genital or anal area, buttocks or breasts;

“intimate forensic procedure” means all or any of the following procedures—

- (a) a procedure performed on a person’s external intimate area that involves—
 - (i) an external examination of the relevant part of the body;
 - (ii) taking a sample from the relevant part of the body, by swab, washing, vacuum suction, scraping, or by lifting by tape;
 - (iii) making an impression or cast from the relevant part of the body; or
 - (iv) measuring the relevant part of the body;
- (b) photographing a person’s external intimate area;
- (c) a procedure performed on a person that involves—
 - (i) an internal examination of a body cavity;
 - (ii) taking a sample of the person’s hair from an intimate area;
 - (iii) taking a sample, by swab or washing, from a body cavity other than the mouth;
 - (iv) removing a substance or thing from a body cavity other than the mouth;
 - (v) taking an X-ray of a part of the person’s body;
 - (vi) taking a dental impression; or
 - (vii) taking a sample of the person’s blood or urine.

“juveniles court” has the meaning given in section 2 of the Juveniles Act 1973;

“non-intimate DNA sample” means—

- (a) a sample obtained by swabbing a person’s mouth; or
- (b) a sample of a person’s hair—
 - (i) including roots of the hair;
 - (ii) but not including hair from an intimate area;

“non-intimate forensic procedure” means a procedure, performed on a person, that—

- (a) is not an intimate forensic procedure;
- (b) does not involve an intimate area; and
- (c) involves all or any of the following—
 - (i) an examination of an external part of the person’s body, that requires clothing to be removed or contact with the person’s body;
 - (ii) taking a sample from a part of the person’s body, by swab, washing, vacuum suction, scraping, or by lifting by tape;

- (iii) photographing a part of the person’s body;
- (iv) making an impression or cast of a part of the person’s body;
- (v) taking a non-intimate DNA sample;
- (vi) taking a sample of saliva;
- (vii) taking a sample from, or from under, a fingernail or toenail;

“person with impaired capacity” means a person whose capacity to look after or manage the person’s own interests is impaired because of either of the following—

- (a) an obvious loss or partial loss of the person’s mental functions;
- (b) an obvious disorder, illness or disease that affects a person’s thought processes, perceptions of reality, emotions or judgment, or that results in disturbed behaviour;

“qualified person” means a person listed in section 83 who may perform the specified procedure under that section;

“specialised nurse” means a nurse or nurse practitioner who—

- (a) is registered under the Nursing Act 2011 as a specialised nurse; and
- (b) has completed specific training on forensic examination; and

“support person” means—

- (a) for a child—
 - (i) a parent or guardian of the child;
 - (ii) a lawyer acting for the child;
 - (iii) an adult relative or friend of the child who is acceptable to the child; or
 - (iv) if no-one mentioned in subparagraphs (i) to (iii) is available, a justice of the peace, other than a justice of the peace who is a member of the Force; and
- (b) for a person with impaired capacity, a parent or another adult who provides or is able to provide support necessary to help care for the person by looking after or managing the person’s interests.

(2) In this Division a person who is the subject or the proposed subject of a forensic procedure may be referred to as a “person subject to a procedure”.

Subdivision 2—Qualified Persons and Rules

Procedures qualified person may perform

83.—(1) The qualified person listed in the first column in the table below may perform the procedure listed in the second column—

| Qualified person | Forensic procedure |
|------------------|--------------------|
|------------------|--------------------|

| | |
|--|--|
| A doctor, dentist or specialised nurse | An intimate forensic procedure and a non-intimate forensic procedure |
| DNA sampler | Taking a non-intimate DNA sample |
| An authorised examiner | A non-intimate forensic procedure that is a non-medical examination |
| A police officer | Taking identifying particulars |
| | |

(2) Despite subsection (1), a dentist may perform a forensic procedure only to the extent necessary to—

- (a) examine a person's mouth; or
- (b) take a sample of a person's saliva; or
- (c) take a dental impression of a person's mouth; or
- (d) examine a bite mark on a person.

(3) If a qualified person may take a person's identifying particulars under this Division, the qualified person may also photograph the person's identifying particulars.

Persons who may take DNA samples

84.—(1) A non-intimate DNA sample may be taken by a DNA sampler in accordance with this Division.

(2) A DNA sampler is—

- (a) subject to subsection (3), a police officer authorised by the Commissioner to take non-intimate DNA samples; or
- (b) a doctor or nurse who is requested by a police officer to take a non-intimate DNA sample.

(3) However, the Commissioner may authorise a police officer only if the Commissioner is satisfied the police officer—

- (a) has the necessary experience or expertise to be able to take the samples; or
- (b) has satisfactorily completed a course of training approved by the Commissioner for the purpose.

When forensic procedures may be performed

85. A forensic procedure may be performed on a person under this Division if—

(a) either of the following gives forensic procedure consent —

- (i) the person subject to the procedure; or
- (ii) a person authorised under Subdivision 3 to give consent for the person subject to the procedure, if the person subject to the procedure is a child of less than 14 years of age or a person with impaired capacity; or

- (b) the procedure is performed under a forensic procedure order.

Subdivision 3—Consent

General rules for Subdivision 3

86.—(1) This Subdivision states general rules—

- (a) for obtaining a forensic procedure consent from a person suspected of committing an offence; or
- (b) for obtaining a forensic procedure consent, that relates only to the taking of a DNA sample, from a person for any of the following purposes—
 - (i) to help decide whether or not the person may be a suspect in relation to an offence;
 - (ii) to help locate a missing person;
 - (iii) to help identify a deceased person or the remains of a deceased person.

(2) However, nothing in this Subdivision requires a police officer or other person to obtain consent under this Subdivision to perform a forensic procedure that the officer or person is not specifically required to have consent for.

(3) Also, nothing in this Subdivision requires a police officer to obtain a forensic procedure consent to perform a non-intimate forensic procedure on a person if the procedure does not involve—

- (a) the touching of the person by anyone other than the person; or
- (b) the taking of a non-intimate DNA sample.

(4) Subject to subsection (1)(b), this Subdivision must not be construed as requiring a police officer to act under this Subdivision to obtain forensic procedure consent from a person if the person is not suspected of having committed an offence.

General rules about asking for consent

87.—(1) A police officer may ask for forensic procedure consent from—

- (a) a person subject to a procedure; or
- (b) a person who may give consent under this Subdivision for the person subject to the procedure,

only if the police officer is satisfied that the relevant person's ability to give the consent is not affected by alcohol or a drug.

(2) A police officer must not ask for forensic procedure consent from—

- (a) a person subject to a procedure; or

- (b) a person who may give consent under this Subdivision for the person subject to the procedure,

unless the police officer suspects that the person subject to the procedure may have committed an indictable offence.

(3) This section applies whether or not the Force has initiated criminal proceedings against the person subject to the procedure and for which the results of performing the forensic procedure may be relevant.

Special requirement for child of 14 years or older

88.—(1) This section applies if a police officer reasonably suspects the person subject to a procedure is a child who is 14 years old or older.

- (2) The police officer may ask the child to give a forensic procedure consent.

(3) The police officer must ensure a support person is present when the explanation mentioned in section 92 is given and when any consent is given.

(4) To assist the child to consider the explanation and decide whether or not to consent, the police officer must ensure the child is given a reasonable opportunity to speak to the support person in circumstances in which the conversation can not be overheard, if it is reasonably practicable to do so.

(5) Subsection (6) applies if the child gives a forensic procedure consent relating to the performance of a non-intimate forensic procedure.

(6) Before the procedure is performed a police officer must ask the child whether the child wants a support person to be present while the procedure is being performed and, if the child wants a support person to be present, must ensure a support person is present while the procedure is being performed.

Special requirement for child under 14

89.—(1) This section applies if a police officer reasonably suspects the relevant person is a child who is not yet 14 years old.

(2) The police officer may ask a parent of the child to give a forensic procedure consent for the child.

(3) If the parent gives a forensic procedure consent for the child authorising the taking of a sample for DNA analysis, the sample taken must be a non-intimate DNA sample and not a sample of the child's blood.

(4) Subsection (5) applies if the parent gives a forensic procedure consent for the child relating to the performance of a non-intimate forensic procedure.

(5) Before the procedure is performed a police officer must ask the child whether the child wants a support person to be present while the procedure is being performed and, if the child wants a support person to be present, must ensure a support person is present while the procedure is being performed.

Special requirement for person with impaired capacity

90.—(1) This section applies if a police officer reasonably suspects the person subject to a procedure is a person with impaired capacity.

(2) The police officer may ask the person to give a forensic procedure consent.

(3) However, the police officer must ensure a support person is present when the explanation mentioned in section 92 is given and when any consent is given.

(4) Also, to assist the person to consider the explanation and decide whether or not to consent, the police officer must ensure the person is given a reasonable opportunity to speak to the support person in circumstances in which the conversation can not be overheard, if it is reasonably practicable to do so.

(5) If the person does not have the capacity to give a forensic procedure consent, the police officer may ask a parent of the person to give the consent for the person.

(6) Subsection (7) applies if the parent gives a forensic procedure consent for the person relating to the performance of a non-intimate forensic procedure.

(7) Before the procedure is performed a police officer must ask the person whether the person wants a support person to be present while the procedure is being performed and, if the person wants a support person to be present, must ensure a support person is present while the procedure is being performed.

Consent must be informed consent

91.—(1) A police officer must ensure a person asked to give a forensic procedure consent is given the explanation required under section 92 and a reasonable time to consider the explanation.

(2) If, under section 89(2) or 90(5) a parent is asked to give a forensic procedure consent for a child or a person with impaired capacity and the child or person is not present when the explanation required under section 92 is given to the parent, a police officer—

- (a) must, to the extent that is reasonably practicable in the circumstances, give the child or person an explanation of the matters mentioned in section 92(1); and
- (b) must tell the child or person that the child or person may object to the performance of the forensic procedure.

Explanations to ensure informed forensic procedure consent

92.—(1) To enable a person to give an informed forensic procedure consent, a police officer must explain all the following to the person—

- (a) why it is proposed to perform the forensic procedure on the person;
- (b) whether an intimate forensic procedure or a non-intimate forensic procedure or both is being proposed;
- (c) the general nature of the forensic procedure;
- (d) the class of qualified person who may perform the forensic procedure;
- (e) that the person may refuse to give the consent;
- (f) that if the person gives the consent, the person may withdraw the consent before the forensic procedure is performed or while it is being performed;
- (g) if a sample may be taken for forensic analysis and section 89(3) does not apply—
 - (i) that the person may limit the purpose for which the results of the forensic analysis may be used to the purpose stated by the police officer under paragraph (a); and
 - (ii) that unless the person limits the purposes of the consent in that way, the results of the forensic analysis of the sample may be included in the Database and used in a way permitted under this Division;
- (h) if a sample may be taken for forensic analysis and section 89(3) does apply—
 - (i) that the sample taken for analysis must be a non-intimate DNA sample and not a sample of blood; and
 - (ii) that a forensic analysis of the sample may be used only for the purpose stated by the police officer under paragraph (a);
- (i) that the forensic procedure may provide evidence that may be used in a court proceeding.

(2) The police officer may give the explanation by giving the person a statement, in the approved form, containing the explanation if it is appropriate in the circumstances to do so.

Recording consent

93.—(1) If a police officer gives the explanation under section 92 orally, the giving of the explanation and any forensic procedure consent must, if reasonably practicable, be electronically recorded.

(2) Unless a forensic procedure consent is electronically recorded under subsection (1), it must be written and signed by the person giving the consent.

(3) If a child mentioned in section 89(1) or a person with impaired capacity gives a written forensic procedure consent, it must also be signed by the support person present when the consent is given.

(4) A person giving a written forensic procedure consent may give the consent by signing an approved form for the consent.

Qualified person may perform forensic procedure

94. A qualified person for performing a forensic procedure may perform the forensic procedure on a person who gives forensic procedure consent.

Subdivision 4—Forensic procedure orders

Application of Subdivision 4

95.—(1) This Subdivision applies if a police officer is satisfied that performing a forensic procedure on a person suspected of committing an indictable offence may provide evidence of the commission of the offence.

(2) Also, this Subdivision applies whether or not the person subject to a procedure is dead.

(3) A police officer must not apply for a forensic procedure order under this Subdivision in relation to a child if—

- (a) the only purpose of the application is to obtain authority to take fingerprints or photographs of the child; and
- (b) it is practicable to make an application under section 25 of the Juveniles Act 1973 for an order of a magistrate to take fingerprints or photographs of the child; and
- (c) it is likely that an order made under section 25 of the Juveniles Act 1973 can be given immediate effect.

(5) Without limiting subsection (3)(b), it is taken not to be practicable to make the application under subsection (3)(b) if the whereabouts of the child to whom it relates are not sufficiently known to the police officer to allow the officer to give notice of that application to the child.

Application for forensic procedure order

96.—(1) If there is no forensic procedure consent, a police officer may apply to a magistrate in the prescribed form for an order authorising a qualified person to perform on the person named in the application—

- (a) an intimate or non-intimate forensic procedure; or
- (b) both an intimate and a non-intimate forensic procedure.

(2) If the person is a child, the application must be made to a juveniles court.

(3) The application—

- (a) must be sworn and state the grounds on which it is made; and
- (b) may be made whether or not the person has previously consented to the forensic procedure being performed.

(4) The magistrate may refuse to consider the application until the police officer gives the magistrate the information the magistrate requires about the application in the way the magistrate requires.

Notice of application must ordinarily be given

97.—(1) The person to whom the application relates must be given notice in the approved form of the application at least 7 days before the day the application is to be heard.

(2) The notice must state—

- (a) the grounds on which the application is made;
- (b) the date when and the place where the application is to be heard;
- (c) that the person may appear at the hearing and be heard on the application; and
- (d) that if the person does not appear, the application may be decided in the absence of the person.

(3) If the person appears at the time and place stated in the notice, the person is entitled to be heard on the application.

(4) If the person does not appear at the time and place stated in the notice, the application may be decided in the absence of the person.

(5) Subsection (1) does not apply if the person is dead.

(6) This section is subject to section 98.

When notice of application need not be given etc.

98.—(1) This section applies if the magistrate is satisfied—

- (a) a police officer has made a reasonable attempt to locate the person to whom the application relates and was unable to locate the person;
- (b) the person is likely to abscond if given notice of the application;
- (c) evidence that may be obtained by performing the forensic procedure to which the application relates on the person is likely to be lost or destroyed if the person is given notice of the application; or
- (d) giving notice of the application to the person may jeopardise the investigation of any indictable offence the person is suspected of having committed because—
 - (i) evidence relating to the offence may be concealed, fabricated or destroyed;
 - (ii) a witness may be intimidated; or
 - (iii) an accomplice or accessory of the person may take steps to avoid apprehension.

(2) The person is not entitled to be given notice of the application under section 97 or to be heard on the application.

Making forensic procedure order

99.—(1) A magistrate may make a forensic procedure order in relation to a person only if satisfied on the balance of probabilities there are reasonable grounds for believing that performing the forensic procedure concerned on the person may provide evidence of the commission of an

indictable offence the person is suspected of having committed (a suspected offence) and carrying out the forensic procedure is justified in the circumstances.

(2) In deciding whether performing the forensic procedure on the person is justified in the circumstances, the magistrate must balance the rights and liberties of the person and the public interest.

(3) In balancing those interests the magistrate may have regard to any of the following matters—

- (a) the seriousness of the circumstances surrounding the commission of the suspected offence and the gravity of that offence;
- (b) the degree of the person's alleged participation in the commission of the suspected offence;
- (c) the age and physical and mental health of the person, to the extent they are known to the magistrate or can be reasonably discovered by the magistrate (by asking the person or otherwise);
- (d) if the person is a child or a person with impaired capacity, the welfare of the person;
- (e) whether there is a less intrusive but reasonably practicable way of obtaining evidence tending to confirm or disprove that the person committed the suspected offence;
- (f) if the person has been asked for and refused to give a forensic procedure consent in relation to the suspected offence—the reasons for the refusal to the extent they are known to the magistrate or can be reasonably discovered by the magistrate (by asking the person or otherwise);
- (g) if the person is in custody for the suspected offence—
 - (i) the period for which the person has already been detained; and
 - (ii) the reason for any delay in applying for the forensic procedure order;
- (h) any other matter the magistrate considers relevant to balancing those interests.

Content and duration of forensic procedure order

100.—(1) A forensic procedure order must state—

- (a) the relevant person's name;
- (b) that a forensic procedure may be performed on the person by a qualified person; and
- (c) whether a qualified person may perform—
 - (i) an intimate forensic procedure;
 - (ii) a non-intimate forensic procedure; or
 - (iii) both an intimate and a non-intimate forensic procedure; and
- (d) that a police officer may exercise the powers in section 101.

(2) A forensic procedure order stops having effect when the forensic procedure authorised under the order is completed.

Powers for enforcing forensic procedure order

101.—(1) For enforcing a forensic procedure order, a police officer has the following powers—

- (a) power to detain the relevant person for a reasonable time and take the person to a place with appropriate facilities and persons for performing the relevant forensic procedure;
- (b) power to direct the relevant person—
 - (i) to attend at a stated place on a stated day or between stated hours, within 7 days after the direction is given to the person to enable the relevant forensic procedure to be performed; and
 - (ii) to stay at the place for the time reasonably necessary to enable the relevant procedure to be performed.

(2) Subsection (1)(a) applies whether or not the relevant person is given a direction under subsection (1)(b).

Order must be given before forensic procedure is performed

102.—(1) A police officer must give a copy of a forensic procedure order to the person subject to the procedure before a qualified person performs a forensic procedure on the person under the order.

(2) Subsection (1) does not apply if the person is unconscious or dead.

Qualified person may perform forensic procedure

103. A qualified person may perform the forensic procedure on a person under a forensic procedure order.

Subdivision 5—Records and storage of forensic samples

Recording forensic procedures

104. A person who carries out a forensic procedure under this Division must make and sign a record of the procedure as soon as practicable after the procedure and submit the record to the Force in accordance with prescribed procedures.

Storage, etc, on Police information recording system of forensic sample and analysis

105.—(1) Subject to subsection (2), the record under section 104 and, if practicable, the forensic sample and analysis obtained under this Division must be entered and stored on a database established by the Commissioner.

(2) The record under section 104 and, if practicable, the forensic sample and analysis obtained under this Division must be destroyed as soon as practicable after—

- (a) a decision is made not to commence criminal prosecution proceedings against the person in respect of the offence for which the forensic sample was taken; or
- (b) criminal prosecution proceedings that are commenced against the person in respect of the offence for which the particulars were taken are completed with an outcome (for example, an acquittal) that is not an outcome that authorises continued storage.

(3) The outcomes mentioned in subsection (2)(b) are as follows—

- (a) the person admits to, and completes a programme of diversion (being a programme conducted by the Police) for, the offence for which the particulars were taken;
- (b) the person is convicted of the offence for which the particulars were taken;
- (c) the person is discharged under section 44 of the Sentencing and Penalties Act 2009 in respect of the offence for which the particulars were taken.

PART 6—MISCELLANEOUS POWERS

Temporary closing of roads

106.—(1) A Police officer may temporarily close to traffic any public road, or part of the road, leading to or from or in the vicinity of a place, if the Police officer has reasonable cause to believe that—

- (a) public disorder exists or is imminent at or near that place; or
- (b) danger to a member of the public exists or may reasonably be expected at or near that place; or
- (c) an offence punishable by [10 or more years' imprisonment] has been committed or discovered at or near that place.

(2) In this section,—

“temporarily” means for a period that is reasonably necessary in the circumstances; and

“traffic” means all or any specified type of traffic (including pedestrian traffic).

Keeping order on public roads

107.—(1) It is the duty of the Force to—

- (a) regulate and control traffic;
- (b) divert all or any particular kind of traffic, when it is in the public interest to do so;
- (c) keep order on public roads, streets, thoroughfares and landing places, and at other places of public resort or places to which the public have access; and
- (d) prevent obstructions on the occasions of assemblies and processions on the public roads and streets, and in any case when any road, street, thoroughfare or landing place may be thronged or may be liable to be obstructed.

(2) A person who opposes or disobeys a lawful order given by a Police officer or special constable in the performance of his or her duty under this section commits an offence and liable

on conviction to a fine not exceeding \$1,000 or to imprisonment for a period not exceeding 12 months or to both.

(3) A person who disobeys a lawful order given by a Police officer or special constable in the performance of his or her duty under this section may be arrested without a warrant unless—

- (a) the person gives his or her personal details to the Police officer or special constable; and
- (b) the Police officer or special constable is satisfied that the person will answer any summons or other proceedings which may be taken against the person.

Erecting barriers

108.—(1) Subject to subsection (2), a Police officer or special constable may erect or place barriers in or across any road, street or any other public place in such manner as he or she may think fit.

(2) The Police officer or special constable may only exercise the power under subsection (1) if he or she considers it necessary for—

- (a) maintaining and preserving law and order;
- (b) preserving the peace;
- (c) preventing or detecting crime; or
- (d) apprehending offenders.

(3) A Police officer or special constable may take all such reasonable steps as he or she considers necessary to prevent any person or vehicle from passing the barrier.

(4) A person who—

- (a) crosses the barrier without authorisation from a Police officer or special constable;
- (b) fails to comply with a reasonable signal made or direction given by a Police officer or special constable to not cross a barrier under this section,

commits an offence and is liable on conviction to a fine not exceeding \$1,000 or to imprisonment for a period not exceeding 12 months or to both.

(5) The Police officer, special constable and the Force are not liable for any loss, damage or injury to a person or property as a result of this section.

Care and protection of intoxicated people

109.—(1) A Police officer who finds a person intoxicated in a public place, or intoxicated while trespassing on private property, may detain and take the person into custody if—

(a) the Police officer reasonably believes that the person is—

- (i) incapable of protecting himself or herself from physical harm;

- (ii) likely to cause physical harm to another person; or
 - (iii) likely to cause significant damage to any property; and
- (b) the Police officer is satisfied it is not reasonably practicable to provide for the person's care and protection by—
 - (i) taking the person to his or her place of residence; or
 - (ii) taking the person to a temporary shelter.
- (2) A person detained under subsection (1) must—
 - (a) be released as soon as the person ceases to be intoxicated;
 - (b) not be detained longer than 12 hours after the person is first detained, unless a medical practitioner recommends that the person be further detained for a period not exceeding 12 hours.
- (3) A medical practitioner must not recommend the further detention of a person detained under subsection (1) unless the medical practitioner satisfies himself or herself that—
 - (a) the person remains intoxicated and is incapable of protecting himself or herself from physical harm;
 - (b) the person does not have health needs that may require medical attention; and
 - (c) it is not reasonably practicable to provide for the person's continuing care and protection by—
 - (i) taking the person to his or her place of residence; or
 - (ii) taking the person to a temporary shelter.
- (4) In this section—
 - “intoxicated” means observably affected by alcohol, other drugs, or substances to such a degree that speech, balance, co-ordination, or behaviour is clearly impaired;
 - “medical practitioner” has the meaning given in section 2 of the Medical and Dental Practitioner Act 2010; and
 - “temporary shelter” means a place (other than a place operated by the Police) that is capable of providing for the care and protection of an intoxicated person.

Inspecting licences and permits

110.—(1) A Police officer or special constable may—

- (a) stop and detain any person whom he or she sees doing an act for which a licence or permit is required under the provisions of any law; and
- (b) request the person to produce his or her licence or permit.

(2) If the person does not produce the licence or permit, the Police officer or special constable may arrest the person without a warrant unless—

- (a) he or she gives his or her personal details to the Police officer or special constable; and
- (b) the Police officer or special constable is satisfied that the person will duly answer any summons or other proceedings which may be taken against him or her.

(3) A person who contravenes subsection (1) commits an offence and is liable on conviction for a fine not exceeding \$500 or imprisonment for a term not exceeding 12 months or both.

PART 7—DISCIPLINE

Division 1—Fiji Police Force Disciplinary Tribunal

Establishment of Fiji Police Force Disciplinary Tribunal

111.—(1) The Fiji Police Force Disciplinary Tribunal is established.

(2) The Tribunal consists of the following members appointed by the Minister on the recommendation of the Permanent Secretary following consultation by the Permanent Secretary with the Commissioner —

- (a) the chairperson, who must be a person who is, or is qualified to be appointed as, a Judge;
- (b) one member with experience and qualifications in the Force but who is not a member of Police staff on the date of appointment; and
- (c) one civilian member.

(3) The members of the Tribunal are to be appointed for a term of 3 years, and are eligible for reappointment.

(4) The Minister may, on the recommendation of the Permanent Secretary following consultation by the Permanent Secretary with the Commissioner, appoint a person to act as a member of the Tribunal during any period where—

- (a) there is a vacancy in the membership of the Tribunal;
- (b) a member is absent from duty, including being absent from Fiji; or
- (c) a member is, for any reason, unable to perform the functions of office.

(5) The Minister may, on the recommendation of the Permanent Secretary following consultation by the Permanent Secretary with the Commissioner, remove a member of the Tribunal from office for inability to perform the functions of office, whether arising from infirmity of body or mind or any other cause, or for misbehaviour, and may not otherwise be removed.

(6) The authority, functions and responsibilities of the Tribunal must be prescribed.

(7) In addition to such other functions as may be conferred by written law, the Tribunal has the function of hearing and determining disciplinary action instituted by any person against a member of Police staff.

(8) Any decision of the Tribunal is subject to review by the Commissioner under section 117.

(9) The Tribunal must be independent and is not subject to the direction or control of any person or authority, except by a court of law or as otherwise required by written law.

(10) The members of the Tribunal are entitled to such remuneration as determined by the Minister acting on the recommendation of the Permanent Secretary following consultation by the Permanent Secretary with the Commissioner, and any such remuneration must not be varied to their disadvantage, except as part of an overall austerity reduction similarly applicable to all officers of the State.

(11) The Tribunal may regulate its own procedure and may make such rules and regulations as it deems fit for regulating and facilitating the performance of its functions.

(12) The Tribunal must provide regular updates and advice to the Minister on any matter relating to its functions and responsibilities.

(13) The salaries, benefits and allowances payable to the members of the Tribunal are a charge on the Consolidated Fund.

(14) Parliament must ensure that adequate funding and resources are made available to the Tribunal, to enable it to independently and effectively exercise its powers and perform its functions and duties.

Division 2—Code of Conduct

Code of conduct

112. —(1) The Minister may, on the recommendation of the Commissioner, prescribe a code of conduct for Police staff.

(2) The Minister may, on the recommendation of the Commissioner, amend the code of conduct.

Compliance with the code of conduct

113. —(1) A member of Police staff must—

- (a) comply with the code of conduct; and
- (b) perform his or her duties or functions, and exercise his or her powers, in accordance with the code of conduct.

(2) A member of Police staff who contravenes any provision of the code of conduct commits a disciplinary offence.

Extended jurisdiction

114. Any member of Police staff who contravenes any provision of the code of conduct may be dealt with under the provisions of this Act, whether or not the alleged contravention has taken place in or outside Fiji.

Division 3—Complaints

Complaints against member of Police staff

115. A person may make a complaint against any member of Police staff to the Commissioner in the prescribed manner and form.

Division 4—Investigations

Investigation into complaints

116.—(1) The Commissioner must ensure that the complaint made against a member of Police staff is investigated within the prescribed period.

(2) The Commissioner must refer the complaint to the Tribunal for a determination.

Division 5—Review of Decisions of Tribunal

Commissioner to review decisions of Tribunal

117.—(1) A person aggrieved by a determination of the Tribunal may apply to the Commissioner for a review of the Tribunal's decision.

(2) The Commissioner may, in relation to a finding of the Tribunal,—

- (a) quash the finding;
- (b) alter the finding, find the offender guilty of another offence and punish him or her in accordance with his or her powers under section 9;
- (c) confirm the finding and punish the offender in accordance with his or her powers under section 9;
- (d) remit the proceedings to the tribunal which heard them, for rehearing.

(3) The decision of the Commissioner is final and not subject to any further review by any court or tribunal.

PART 8— RESIGNATION, RETIREMENT AND TERMINATION

Application of Part 8

118. This Part does not apply to the Commissioner.

Resignation

119.— (1) A member of Police staff may resign from the Force by giving the Commissioner a signed notice of resignation.

(2) The member must give the notice to the Commissioner at least [X] days before the proposed date of resignation.

(3) A resignation is not effective unless it is approved in writing by the Commissioner.

(4) The Commissioner must decide whether or not to approve the resignation no later than [X] days after receiving the notice.

(5) The Commissioner must not unreasonably refuse to accept a resignation.

Voluntary retirement age

120. The minimum voluntary retirement age for a member of Police staff is [X] years.

Compulsory retirement age

121. The compulsory retirement age for a member of Police staff is [X] years.

Performance review on reaching voluntary retirement age

122.—(1) On reaching the voluntary retirement age, a member of Police staff must undertake a performance review to determine whether the member is able to continue to perform the duties of a member in a satisfactory manner.

(2) The nature of the performance review must be determined by the Commissioner.

(3) If the member fails to undertake the performance review or fails to satisfactorily complete the performance review, the Commissioner may terminate his or her appointment as a member.

Termination of appointment

123.—(1) The Commissioner may order the termination of the appointment of a member of Police staff —

- (a) if the member fails to meet any prescribed health standard;
- (b) if the member fails to undertake, or fails to satisfactorily complete, a performance review; or
- (c) due to a reduction in the establishment of the Force.

(2) The Commissioner may also order the termination of a member's appointment if the Commissioner loses confidence in the member's suitability to be a member due to the—

- (a) member's competence or integrity;
- (b) manner in which the member has performed his or her duties; or
- (c) the member's conduct, either on duty or off duty.

Notice of loss of confidence

124.—(1) If the Tribunal believes on reasonable grounds that it is appropriate that the appointment of a member of Police staff be terminated under section 123, the Tribunal must—

- (a) notify the member in writing that the Tribunal is considering recommending to the Commissioner that the member's appointment be terminated;
- (b) include in the notice an explanation of why the Tribunal is considering making the recommendation; and
- (c) allow the member to provide within [X] days from the date of receiving the notice a written response to the Tribunal setting out why the Tribunal should not make the recommendation.

(2) The Tribunal must make a decision on whether to recommend the termination of appointment of the member of Police staff as soon as practicable after the end of the [X-day] period.

Matters to be considered in relation to loss of confidence

125. Before deciding whether or not to recommend that the appointment of a member of Police staff be terminated under section 123 for loss of confidence, the Tribunal must take into account —

- (a) any reports relating to the member's competence, integrity, performance or conduct;
- (b) any response or explanation provided by the member to a notice under section 124; and
- (c) any other circumstances the Tribunal considers relevant.

Notification of termination decision

126.—(1) The Commissioner must notify the member in writing of the Tribunal's recommendation within [X] days of receiving the Tribunal's recommendation.

(2) If the Commissioner agrees with the Tribunal's recommendation, the Commissioner may give effect to the recommendation and notify the member.

(3) The notice must—

- (a) include the Commissioner's reasons for making the decision; and
- (b) specify the day from which the termination takes effect.

(4) The day specified must not be more than [X] days after the date of the Commissioner's decision.

PART 9— COMMUNITY POLICING

Objects of community policing

127. —(1) The Force may liaise with communities through community policing initiatives, to—

- (a) establish and maintain partnership between the community and the Force;
- (b) promote communication between the Force and the community;
- (c) promote co-operation between the Force and the community in fulfilling the needs of the community regarding policing;
- (d) improve the rendering of police services to the community at national, municipal and maritime island levels;
- (e) improve transparency in the Force and accountability of the Force to the community; and
- (f) promote policing-problem-identification and policing-problem-solving by the Force and the community.

Role of police stations in community policing

128.—(1) A police station must establish structures to implement community policing in all parts of Fiji to the extent that it is appropriate.

(2) The station is responsible for the—

- (a) implementation of community policing policies and guidelines;
- (b) facilitation of training members of community policing within the county;
- (c) receiving reports from local community policing structures; and
- (d) preparing county community policing reports for submission to the Cabinet.

Establishment of area community policing committees and other structures

129.—(1) A police officer in charge of an area must, in consultation with stakeholders, be responsible for and facilitate the establishment of area community policing committees and other administrative structures.

(2) An area community policing committee must, subject to subsection (3), consist of representatives of community policing forums in the area concerned elected for that purpose by such policing forums.

(3) A station commander or administrative police post commander and the members elected by the community for that purpose must be members of the area community policing committee concerned.

(4) Where appropriate, the Force must establish joint committees or other structures.

Functions of community policing committees and other structures

130. A community policing committee or other structure must perform the functions it considers necessary and appropriate.

Procedural matters

131.—(1) The members of every community must elect as a chairperson and a vice chairperson from amongst their number.

(2) The chairperson must be a civilian member while the vice chairperson must be a police officer.

(3) The committee must determine its own procedure and cause minutes to be kept of its proceedings.

(4) Whenever it deems it necessary, the committee may co-opt other members, experts, community leaders to the committee in an advisory capacity.

(5) Members of community policing forums and committees must render their services on a voluntary basis and must have no claim to compensation solely for services rendered to such forums and committees.

PART 10—OFFENCES

Unauthorised possession, use and manufacture of Police property

132.—(1) Subject to section 133, a person commits an offence who, without lawful authority or reasonable excuse—

- (a) has in his or her possession Police property;
- (b) uses, exchanges or makes available for the use of another person Police property;
- (c) designs, manufactures, produces, reproduces or creates Police property;
- (d) sells, offers for sale or distributes Police property;
- (e) buys, borrows or takes Police property;
- (f) imports or exports Police property.

(2) A person who commits an offence against this section is liable on conviction to—

- (a) in the case of an individual, imprisonment for a term not exceeding 5 years, or to a fine not exceeding \$10,000, or to both; or
- (b) in the case of a body corporate, to a fine not exceeding \$100,000.

Exemptions for section 132

133.—(1) Subject to subsection (2), the Minister may, on the recommendation of the Commissioner, prescribe—

- (a) persons or organisations that may be exempted from section 132 in respect of Police properties, either for the express purpose of supplying the properties to the Force or for any other lawful purpose;
- (b) the procedures for applying for an exemption by these persons or organisations; and
- (c) the applicable fee for an exemption.

(2) The Commissioner may, for the purpose of fundraising for recreational purposes or for training and education of the Force, exempt and authorise in writing any person to design, manufacture, produce, reproduce, create, sell, offer for sale or distribute articles of clothing or accessories bearing the Police logo, insignia or emblem.

(3) A person authorised by the Commissioner under subsection (2) must maintain proper records in the prescribed form of all persons to whom the article or accessory is sold, given, or distributed.

(4) The Commissioner may revoke an authorisation or exemption given under subsection (2) if the person to whom it was given does not comply with subsection (3).

Unauthorised use of terms

134.—(1) A person commits an offence who, without reasonable excuse, carries on an activity and uses the word “Police”, the words “Fiji Police” or “Fiji Police Force” or other similar words, in a manner likely to lead a person to believe that the activity is endorsed or authorised by the Police or any part of the Police.

(2) A person who commits an offence against this section is liable on conviction to—

- (a) in the case of an individual, imprisonment for a term not exceeding 5 years, or to a fine not exceeding \$10,000, or to both; or
- (b) in the case of a body corporate, to a fine not exceeding \$100,000.

Offence of misrepresenting vehicle etc as Police vehicle

135.—(1) A person commits an offence who, without reasonable excuse, represents any vehicle, craft, or other conveyance of any kind or description—

- (a) as being in the service of the Police;
- (b) in circumstances likely to lead a person to believe the vehicle, craft, or conveyance is in the service of the Police.

(2) Except in the circumstances under subsection (3), a person who commits an offence against this section is liable on conviction to—

- (a) in the case of an individual, imprisonment for a term not exceeding 5 years, or to a fine not exceeding \$10,000, or to both; or
- (b) in the case of a body corporate, to a fine not exceeding \$100,000.

(3) If a person commits an offence under subsection (1) and the vehicle, craft, or other conveyance represented as being in the service of the Police is used in relation to the commission of an offence, the person is liable on conviction to—

- (a) in the case of an individual, imprisonment for a term not exceeding 10 years, or to a fine not exceeding \$50,000, or to both; or
- (b) in the case of a body corporate, to a fine not exceeding \$500,000.

Joining an association or trade union

136.—(1) A police officer who becomes a member of a trade union or an industrial association or of any association having for its objects, or one of its objects, to control or influence the pay or

conditions of service of the Force commits an offence and is liable upon conviction to a fine not exceeding \$1,000 or a term of imprisonment not exceeding one month or to both.

(2) Despite subsection (1), the Minister may make regulations—

- (a) for the establishment and regulation of a police association (including the regulation of office bearers) for the purposes of enabling police officers to negotiate with the Government matters affecting their pay and conditions of service of the Force, other than discipline and promotion;
- (b) for the rules and procedures for negotiation of pay or conditions of service of the Force;
- (c) for the rules and procedures relating to the determination of grievance for disputes relating to pay and conditions of service of the Force.

Unlawful strike

137. A police officer or member of a police association who goes on strike or takes any industrial action on any dispute relating to pay and conditions of service of the Force commits an offence and is liable on conviction to a fine not exceeding \$1,000 or a term of imprisonment not exceeding one month or to both.

Causing disaffection

138.—(1) A person who causes or attempts to cause or does an act calculated to cause disaffection amongst Police staff commits an offence and is liable upon conviction to a fine not exceeding \$1,000 or a term of imprisonment not exceeding one month or to both.

(2) A person who induces or attempts to induce or does any act calculated to induce a member of Police staff to withhold his or her services or to commit any breach of discipline commits an offence and is liable on conviction to a fine not exceeding \$1,000 or to a term of imprisonment not exceeding one month or to both.

Disorderly conduct in Police premises

139. A person who, in a police station, police office or cell, police vehicle or vessel or in any place in which the Police operate, conducts himself or herself with riotous, indecent, disorderly or insulting behaviour commits an offence and is liable on conviction to a term of imprisonment not exceeding 3 months.

False declaration on oath

140. A person who wilfully makes a false statement in reply to any question put to him or her under section 12(2), 13(9) and 14(3) commits an offence and is liable on conviction to a fine not exceeding \$500 or to a term of imprisonment not exceeding six months or to both.

Breach of oath

141. A person who makes an oath or affirmation under section 15 and breaches the oath or affirmation commits an offence and is liable on conviction to—

- (a) imprisonment for a term not exceeding 5 years; or

- (b) if such breach is for the purpose of committing, assisting another to commit or allowing the commission of an offence, imprisonment for a term not exceeding 10 years.

Failing to assist Police

142. —(1) A police officer in the lawful execution of his or her duty may, if it is reasonably necessary in the circumstances, ask a person over the age of eighteen years to aid or assist the officer to arrest or secure a person or to convey a person in the police officer's charge to a police station or other place.

(2) A person who, without reasonable excuse, fails to aid or assist the police officer when asked commits an offence and is liable to a fine not exceeding \$5,000.

PART 11—GENERAL ADMINISTRATION OF THE FORCE

Identity documents

143. —(1) The Commissioner must issue a member of Police staff with an identity document or any other form of identity of the approved type and in the approved form.

(2) The identity document or other form of identity is evidence of the appointment of the officer under this Act.

(3) A person visiting Police premises may be required to provide, or submit to the taking of, identification.

Police property

144. The Minister may, on the recommendation of the Commissioner, prescribe Police properties which may be issued to Police staff and police associates for a lawful purpose.

Use and custody of Police property

145. —(1) A member of Police staff issued with Police property must maintain the property and must not lend, or give the property to any other person, or part with it in any way without the authority of the Commissioner.

(2) All Police staff issued with Police property may only use the property for the lawful purpose it was issued.

(3) All Police staff must as soon as practicable notify their supervisor of any theft, damage, destruction, or loss of Police property issued to them.

(4) A member of Police staff issued with Police property must return the property at the end of his or her period of service.

(5) A member of Police staff who contravenes—

- (a) subsection (2), commits an offence and is liable on conviction to a fine not exceeding \$5,000 or imprisonment for a term not exceeding 5 years or both; and

(b) subsections (1) and (3), must be disciplined under this Act.

(6) A member of Police staff who contravenes subsection (4)—

(a) commits an offence and is liable on conviction to a fine not exceeding \$5,000 or imprisonment for a term not exceeding 5 years; and

(b) is liable to pay to the Force the value of the Police property not delivered up.

(7) The value of any Police property not delivered up in accordance with subsection (4) is to be—

(a) ascertained by the court, upon the value of the property provided by the Commissioner, by which the person was convicted; and

(b) is recoverable as a fine.

(8) At the discretion of the Commissioner, any member of Police staff may, instead of delivering up any of the Police properties, make payment in such amount as may be determined by the Commissioner.

Loss and damage to Police property

146.—(1) If a member of Police staff—

(a) pawns;

(b) sells;

(c) loses by neglect;

(d) makes away with; or

(e) wilfully or by neglect damages,

Police property or any government property supplied to him or her, the Commissioner may require the member of Police staff to pay to the Force the value of the loss or damage.

(2) The payment may be recovered by deductions from the member of Police staff's fortnightly salary.

(3) This section applies in addition to and despite any other punishment.

Protection of Police staff acting under court processes

147.—(1) A member of Police staff acting under a court process is not responsible for any irregularity, or any lack of jurisdiction, in its issuing.

(2) This subsection applies to an action if—

(a) it is an action against a member of Police staff in respect of acts done in obedience to a court process;

(b) the process is produced;

(c) it is proved that—

- (i) the process was issued out of a court; or
- (ii) the signature on the process is in the handwriting of the person whose name appears on it, and that the person is reputed to be and acts as a judicial officer; and

(d) it is proved that the acts were done in accordance with the process.

(3) If subsection (2) applies to an action,—

- (a) the court trying it must enter a verdict for the member of Police staff concerned; and
- (b) the member of Police staff may recover his or her costs.

PART 12—MISCELLANEOUS

Act to prevail

148. This Act has effect despite any provision of any other written law and if there is any inconsistency between this Act and any other written law, this Act prevails.

Regulations

149. —(1) The Minister may make regulations to give effect to prescribing matters that are required or permitted by this Act to be prescribed or are necessary or convenient to be prescribed for carrying out or giving effect to this Act and generally for achieving the purposes of this Act.

(2) Without limiting the generality of subsection (1), the Minister may make regulations relating to—

- (a) the description and issue of arms, ammunition, equipment, clothing and other appointments to be supplied to police officers and special constables;
- (b) rules of procedure for the trial of offences against discipline;
- (c) the control, administration and application of the Police Rewards and Fines Fund;
- (d) generally for the effective administration of this Act and for the good order and government of the Force.

PART 13—REPEAL, [TRANSITIONAL, SAVINGS AND CONSEQUENTIAL AMENDMENTS]

Repeal

150. The Police Act 1965 is repealed.

SCHEDULE – RANKS OF FIJI POLICE FORCE

(a) Chief Officers —

- (i) Commissioner of Police
- (ii) Deputy Commissioner of Police
- (iii) Assistant Commissioner of Police

(b) Superintendents —

- (i) Senior Superintendent of Police
- (ii) Superintendent of Police
- (iii) Deputy Superintendent of Police
- (iv) Assistant Superintendent of Police

(c) Inspectorate Officers—

- (i) Senior Inspector
- (ii) Inspector

(d) Subordinate Officers—

- (i) Sergeant Major
- (ii) Sergeant
- (iii) Corporal
- (iv) Constable

August 2025

[DRAFT WORKING DOCUMENT]

EXPLANATORY NOTE

(This note is not part of the Bill and is intended only to indicate its general effect)

1.0 BACKGROUND

- 1.1 The Ministry of Policing (‘Ministry’) and the Fiji Police Force embarked on a comprehensive review of the Police Act 1965 (‘Act’).
- 1.2 The review comes in light of the changing landscape of law enforcement and the need to ensure that the legislation governing the Fiji Police Force and policing in Fiji is relevant and effective in addressing contemporary challenges.
- 1.3 The Act is outdated, misaligned with modern governance principles, and inadequate to meet 21st-century policing challenges.
- 1.4 Key issues identified during the review included the lack of legal frameworks for contemporary technologies such as drones, artificial intelligence, forensic tools, and body cameras; outdated disciplinary processes; lack of clarity regarding enforcement responsibilities across laws; and limited powers in cybercrime, maritime enforcement, and covert operations. Specific concerns were raised about role-overlaps between the Fiji Independent Commission Against Corruption and the Fiji Police Force, inconsistencies in definitions of “police officer,” and insufficient legislative clarity for managing evidence, protecting informers, and prosecuting police officers who breach the law.
- 1.5 Additionally, the review highlighted the urgent need to align the Act with the Constitution of the Republic of Fiji and other laws, to embed human rights and ethical safeguards, and to strengthen community policing through dedicated legal support. Capacity gaps—particularly in resources, forensic accreditation, inter-agency coordination, and officer training, including gender sensitivity training—were also emphasised. Notably, the Ministry expressed a vision to position Fiji as a regional policing leader through international alignment and the establishment of a Center of Excellence.
- 1.6 All stakeholders supported a holistic legislative overhaul that balances operational efficiency with accountability, privacy rights, and constitutional integrity.

2.0 CLAUSES

2.1 [To be developed once the provisions of the Bill have been finalised]

3.0 MINISTERIAL RESPONSIBILITY

3.1 The Act comes under the responsibility of the Minister responsible for the Fiji Police Force.

S. TURAGA
Acting Attorney-General

DRAFT WORKING DOCUMENT