

Friday, 26 June 2020]

No 82—2020] SECOND SESSION, SIXTH PARLIAMENT

PARLIAMENT

OF THE

REPUBLIC OF SOUTH AFRICA

ANNOUNCEMENTS,

TABLINGS AND

COMMITTEE REPORTS

FRIDAY, 26 JUNE 2020

TABLE OF CONTENTS

ANNOUNCEMENTS

National Assembly and National Council of Provinces

1. Classification of Bills by JTM.....2

National Council of Provinces

1. Membership of Committees2

COMMITTEE REPORTS

National Assembly

1. Police4
2. Police9
3. Police10
4. Police15
5. Police20

6. Police	26
-----------------	----

National Council of Provinces

1. Security and Justice	32
2. Security and Justice	33

ANNOUNCEMENTS

National Assembly and National Council of Provinces

The Speaker and the Chairperson

1. Classification of Bills by Joint Tagging Mechanism (JTM)

- (1) The JTM in terms of Joint Rule 160(6) classified the following Bills as section 76 Bills:
 - (a) **National Road Traffic Amendment Bill** [B 7 – 2020] (National Assembly – sec 76).
 - (b) **Transport Appeal Tribunal Amendment Bill** [B 8 – 2020] (National Assembly – sec 76).
- (2) The JTM in terms of Joint Rule 160(6) classified the **Upgrading of Land Tenure Rights Amendment Bill** [B 6 – 2020], introduced in the National Assembly, as a section 76 Bill and as a Bill falling within the ambit of section 18(1) of the Traditional Leadership and Governance Framework Act, 2003 (Act No 41 of 2003).

National Council of Provinces

The Chairperson

1. Membership of Committees

- (1) Changes in membership of Select Committees and Joint Committee.

Select Committee on Cooperative Governance and Traditional Affairs, Water and Sanitation and Human Settlements (Cooperative Governance and Traditional Affairs, Water and Sanitation, Human Settlements)

Appointed: Hon. Ms M Bartlett (Northern Cape - ANC)

Resigned: Hon. Mr A B Gxoyiya (Northern Cape - ANC)

Select Committee on Security and Justice (Police, Justice and Correctional Services, Defence and Military Veterans, Home Affairs and International Relations and Cooperation)

Appointed: Hon. Ms M Bartlett (Northern Cape - ANC)
Resigned: Hon. Mr A B Gxoyiya (Northern Cape - ANC)

Select Committee on Petitions and Executive Undertakings

Appointed: Hon. Ms M Bartlett (Northern Cape - ANC)
Resigned: Hon. Mr A B Gxoyiya (Northern Cape - ANC)

Joint Standing Committee on Defence

Appointed: Hon. Ms M Bartlett (Northern Cape - ANC)
Resigned: Hon. Mr A B Gxoyiya (Northern Cape - ANC)

COMMITTEE REPORTS

National Assembly

1. Report of the Portfolio Committee on Police into the Petition by from the residents of Kempton Park; calling on the Assembly to investigate chronic inadequate visible and shortage of vehicle at the of Kempton Park police station (Mr M Waters) dated 26 June 2020.

1. Introduction

The Portfolio Committee received petition referred to it from the Speaker on 12 November 2019 (Order Paper: National Assembly No. 1–2020, 12 November 2019).

The Constitutional provides for petitions to be brought to parliament. Section 56 (d) and 69 (d) of the Constitution provides for the National Assembly (NA) and the National Council of Provinces (NCOP) to receive petitions, representations or submissions from any interested persons or institutions.

The process for the Committee to process the petitions are regulated in Chapter 14 of the Rules of the National Assembly (14th edition). Rule 337 (d) makes provision for the Speaker to table written instruments including special petitions and other petitions of a general nature.

Part 3 of the Rules makes provision for following:

Rule 344 makes provision for the form of the petition to be prescribed by the Speaker in accordance with the guidelines determined by the Rules Committee.

Rule 345 states that the petition must be in one of the official languages. All the petitions must be signed by the petitioners themselves according to Rule 346 (1).

According to Rule 347(1), a petition must be lodged by a member with the Secretary for approval and tabling by the Speaker, the Secretary Lodging of the petition and must be signed at the beginning thereof by the member. Rule 347(2) provides that a member may not lodge a petition on his or her own behalf, but such a petition may be lodged by another member.

Rule 348 makes provision for each petition to be deposited for at least one day with the Secretary who must submit it to the Speaker for approval before it is tabled in the Assembly. If the Speaker finds that the petition complies with the guidelines determined by the Rules Committee, the Speaker must approve it and table it in the Assembly without delay in terms of Rule 349.

After tabling, a petition is then referred in terms of Rule 350 (1) if it is a special petition to the committee on public finance and in terms of Rule 320 (2), to a relevant Portfolio Committee if it is a petition of a general nature.

The SAPS was invited by the Committee to respond to the petition after which Members of the Committee engaged on the responses.

2. SAPS presentation

The SAPS noted that the Kempton Park policing area covered 99km² with a population of 91 169. The policing area is divided into six sectors with one vehicle per sector available. Each sector is staffed by two officers. The unemployment rate stands at 17% and the area includes four informal settlements. There are 60 schools with a student population of 19 912 and one clinic with eight South African Social Security Agency (SASSA) pay-points.

The area has 24 liquor outlets and 74 second-hand good dealers. There are five railway stations, ten taxi ranks with 20 main and arterial routes. There is a daily influx of 90 000 commuters to the area for business and work. Kempton Park policing area consists of 54 shopping centres, 55 spaza shops and 16 banks. There are five sports and recreational grounds with one sports stadium. The area has seven active courts.

As far as the deployment of human resources at the station are concerned, the station has a surplus of 11 (or 7.38%) visible policing officers, a shortage of 22 detectives (or 25%), a surplus of 12 support staff (or 22%), which leaves it with a total of one staff member (292) over the granted staff establishment which is 291.

The station has had a shortage of 14 vehicles (or 19.1%) with the granted vehicles at 73 while the actual number of vehicles was at 59. The station has been granted four additional vehicles for the 2019/20 financial year with an additional five vehicles for the 2020/21 financial year.

3. Crime profile

The SAPS reported that during the reporting period, 1 April 2018 to 31 January 2019, compared with the period 1 April 2019 to 31 January 2020, the following crime categories showed decrease:

- Contact crime : -5.5%
- Contact-related crime : -22.7%

- Property-related crime: -17.9%
- Other serious crime : -8.9%
- Robbery aggravated : -6%
- Sexual offences : - 2%

Crimes, dependent on police action, increased by 15.1%, for the reporting period.

The SAPS reported that other reasons for the reduction of crime can be attributed to the following activities conducted:

- Weekly policing operations, such as Operation O Kae Molao, focussing on identified hot-spot areas and targeting specific crimes, i.e. carjacking, aggravated robbery, etc.
- Enhanced day-to-day activities, related to compliance inspections at firearm dealers, second-hand goods dealers, as well as targeting the liquor trade.
- Conducting vehicle check points and cordon and search operations, which focuses on the proliferation of illegal firearms and drugs.
- Awareness campaigns, conducted by Social Crime Prevention, focusing on the abuse of liquor and drugs, gender-based violence and providing crime tips.

In addition, the SAPS reported that it conducted several operations which included 58 176 patrols, 6 763 stop and search operations, three cordon and search, 27 roadblocks, 474 vehicle checkpoints and 116 crime awareness campaigns.

4. Committee Concerns

The Committee noted the report from the SAPS but raised a number of questions relating to the SAPS response. Mt Waters (petitioner) noted that the Kempton Park police station ranked 24th in the country's Top 30 stations and the word on the street was that the station is called *Trashtroplis* in anticipation of the government's attempt to build a new metropolis noted in the President's State of the Nation address. For the six sectors, there should be two police officers patrolling per sector. He wanted to know where and how the 160 people in the Visible Policing Sector are deployed. He also wanted to know why there could not be four people allocated per vehicle and he disputed the number of six vehicles in the sectors. In addition, if the crimes have been reduced by the percentages as claimed by the police, it would mean that police actions were not needed. Mr Waters wanted to know why crimes were reduced by the levels reported by the police and why the levels of rape, sexual assault and common assault had increased. He did not accept the figures presented by the SAPS and questioned why the station was not

inspected annually as before as it was one of the worst performing stations in the top 30 stations. The Portfolio Committee on Police did not receive the investigation reports to interrogate them.

Other members supported the sentiments and noted that it was consistently raised as it was part of the economic hub of the country and it has to be prioritised. In addition, the issue of tourist safety was also an issue that required immediate attention.

The Chairperson noted that the petitions are taken seriously in the Committee and noted that the SAPS should respond monthly on matters that are unresolved and that they should bring further information on the matter.

5. SAPS Response

The SAPS responded that they were acting on the judgement on the allocation of resources by the Equality Court and that they are currently reviewing the criteria for the allocation of resources.

Kempton Park is viewed as a priority station as it is in the TOP 30 stations nationally. Inspections has resumed. At some stage, the SAPS changed the names of inspections and that they were aware that the crime statistics picture looked gloomy. It was only after the appointment of the current Provincial Commissioner that the picture changed. However, they were not there yet. There are 40 high crime stations in the Province and Kempton Park is one of them. They were taking the high contact crimes seriously and they did not always have the six vehicles available and it differed every day. The SAPS noted that there were five vehicles available as they reported.

The 160 members were divided between the station components including Visible policing, Community Service Centre, Firearms, Liquor and Second Hand goods unit, crime prevention units and sector policing. The last inspections were done at the end of last year and they did all the priority stations. The SAPS noted that they are taking note of the policing of the economic hub of the country.

Members asked that the SAPS provide a copy of the inspection report and a breakdown of the deployment of the 160 members.

6. Conclusions

The Chairperson thanked the SAPS for the report and members resolved to wait for the report on the breakdown of the SAPS report on the breakdown of the deployment pattern as well as the inspection report. The Chairperson thanked the SAPS for their report and interaction on the matter.

Report to be considered

2. Report of the Portfolio Committee on Police on the application for a Firearm Amnesty declaration, dated 26 June 2020.

The Portfolio Committee on Police, having considered the notice from the Speaker of the National Assembly, that was referred to it on 26 May 2020 (ATC No. 60 - 2020) and 4 June 2020 (ATC No. 67 - 2020) for a declaration of a Firearm Amnesty in terms of section 139(2)(a) of the Firearms Control Act, 2000 (Act No. 60 of 2000), reports as follows:

The Portfolio Committee on Police met on 27 May 2020 to consider the request for the amnesty (ATC No. 60-2020). The Committee raised problems with the draft notice in which the members questioned the dates set down for the amnesty. The Committee had further questions for the SAPS and proposed that it returns with answers to its questions before finalising the amnesty.

The Committee had a second meeting on the 3 June 2020 where the Minister of Police announced that the dates of the proposed amnesty was changed in the draft notice from 1 August 2020 to 31 January 2021. In addition, the SAPS was satisfied that some of the police 46 stations that were not on the annexure of stations in the 2019 amnesty, had complied in terms of risk assessments that were conducted. Consequently, the only 28 stations were listed in the new amnesty notice.

The Committee however noted that the matter of the new draft notice was not officially referred to it by the Speaker for it to consider.

The Speaker officially referred the new draft notice for a firearms amnesty to the Committee on 4 June 2020 (ATC No. 67-2020) for consideration and report. The Committee met on 11 June 2020, to consider the application for a new firearms amnesty.

All the necessary documents were made available to the Committee Members and based thereon, the Committee was satisfied and approved the Minister's request for a new amnesty period from 1 August 2020 to 31 January 2021.

The Democratic Alliance, while not opposed to the Firearms Amnesty in principle, has reserved its rights with regard to the report.

The Freedom Front Plus noted its objection to the decision to approve the amnesty on the basis that the draft notice was not acceptable and not in keeping with the Firearms Control Act.

Report to be considered

3. Report of the Portfolio Committee on Police on the Petition of Mr Cornelius Basson dated 26 June 2020

1. Introduction

The Speaker of the National Assembly referred a petition from Mr Cornelius Basson to the Portfolio Committee on Police on 25 July 2019.

The particulars of the petition were that Mr Basson requested Parliament to intervene as his son was killed and he did not receive progress reports or feedback from the South African Police Service (SAPS).

The process for the Committee to process the petitions are regulated in Chapter 14 of the Rules of the National Assembly (14th edition). Rule 337 (d) makes provision for the Speaker to table written instruments including special petitions and other petitions of a general nature.

Part 3 of the Rules makes provision for following:

Rule 344 makes provision for the form of the petition to be prescribed by the Speaker in accordance with the guidelines determined by the Rules Committee.

Rule 345 states that the petition must be in one of the official languages. All the petitions must be signed by the petitioners themselves according to Rule 346 (1).

According to Rule 347(1), a petition must be lodged by a member with the Secretary for approval and tabling by the Speaker, the Secretary Lodging of the petition and must be signed at the beginning thereof by the member. Rule 347(2) provides that a member may not lodge a petition on his or her own behalf, but such a petition may be lodged by another member.

Rule 348 makes provision for each petition to be deposited for at least one day with the Secretary who must submit it to the Speaker for approval before it is tabled in the Assembly. If the Speaker finds that the petition complies with the guidelines determined by the Rules Committee, the Speaker must approve it and table it in the Assembly without delay in terms of Rule 349.

After tabling, a petition is then referred in terms of Rule 350 (a) if it is a special petition to the committee on public finance and in terms of Rule 320 (b), to a relevant Portfolio Committee if it is a petition of a general nature.

The Committee met on 27 November 2019 to hear the petitioner and the response from the SAPS. The Chairperson welcomed Mr Basson and his wife to the meeting and explained the process of hearing the petition.

2. Mr Basson submission

Mr Basson thanked the Committee for hearing his petition. He noted that the 28th of November would have been exactly 16 months since his youngest son, Chad was killed. Mr Basson stated that he was the father of four children and he started his activism with the Clothing and Textile Workers Union (CLOWU). He later joined the Transport and General Workers Union as an organiser. Mr Basson stated that his son, Chad matriculated at Portland's High School with distinction. His son was killed after being invited to attend a party and lost his life to people he did not even know. Two weeks after the killing, the family was astounded to see how many people his son knew, as many people came to sympathise with the family.

Mr Basson stated that he was disappointed with the manner in which the SAPS dealt with the investigation. Two weeks after the shooting, they had to tell the police that they had to fetch the bullet casings which were stuck in a couch. Thereafter, the family organised a march to the Lentegour Police Station to hand over signatures they had collected for the community to be made safer. He wrote letters to the Head of Detectives and the Head of the anti-Gang Unit.

He eventually persuaded the police to fetch the docket from the police station as he was seeing no progress from the station investigators after three months. The station commander of Lentegour police station retired and nothing happened. He made representations to the Directorate for Priority Crimes Investigation (DPCI) and the Provincial Commissioner of Police about the case and the arrests of the suspects. He also sent correspondence to the Minister of Police and the docket was transferred from the Lentegour station to the Anti-Gang Unit.

He was disappointed with the response from the Anti-Gang Unit and the Head of Detectives as nothing was forthcoming. Mr Basson stated that he received feedback from Brigadier Cele who told him that he was very frustrated with the investigators.

Mr Basson tried to approach the President when he came to Portlands during the elections campaign, but was unable to speak to him as there were many others who spoke. Mr Basson told the Committee he spoke to the deputy Secretary General and the Provincial Secretary of the ANC and also sent his complaint to the Police Ombudsman's Office. He even wrote to the former Chairperson of the Portfolio Committee on Police. He felt frustrated and alone when he received no breakthroughs.

According to Mr Basson, the detective assigned to his son's case had too many cases. All that he asked for was a short message service (sms) from time to time to give him feedback on the progress of the case. He went to look for potential witnesses and suspects. He found a gangster who was sentenced that gave him information about his son's case and provided a statement. Since he complained to Parliament however, the detective called four times in the last few days. He felt that there was selective justice as the police effected an arrest in the killing of a high profile lawyer at his son's school. When gang members are killed, there are quick arrests, but there was no arrest in his son's case. He also did not know if the firearm used in his son's killing was forensically linked to other killings.

Mr Basson kept his own diary of all the people and departments within the SAPS and others he had seen in connection with his son's case.

He established a foundation in his son's name and stated that he would fight until the last breath for justice for his son and for his son's killers to be found.

3. Minister of Police Response

The Minister of Police stated that he was worried about the way in which he SAPS responds. He was concerned that the meeting was open and there is was sensitive information which was required and he did not know how far they could go on during the discussion as too many people did not want to talk and some have already died.

4. SAPS Response

The SAPS reported that Mr Basson lodged a complaint one month after his son was killed and the case was investigated by Colonel Seals. At that point in time the investigation of the murder case was in the early stages. A suspect was identified, arrested and brought before court. The case against him was withdrawn, due to insufficient evidence and he was later also murdered. The SAPS then later also tasked informers to get more information about the suspects.

A meeting was held with Mrs Basson, on 28 August 2018. On 11 September 2018, a meeting was held with the community at which meeting the community agreed to work with the police. Mr Basson indicated that he will only be satisfied when someone is convicted for his son's murder. According to the SAPS, another meeting took place, on 9 October 2018 and feedback was provided to Mr Basson. Since 24 October 2018, Mr Basson was called several times,

without reply. His address was visited and Mrs Basson was interviewed. Another request was made for Mr Basson to contact the investigating officer and according to the SAPS, they were unable to contact Mr Basson.

After the case was transferred to the Anti-Gang Unit, they discovered that two further suspects were already killed. Another meeting with Mr Basson took place, on 1 December 2018 and another suspect was identified.

The SAPS reported that witnesses did not want to testify in court, as they feared for their lives. Witnesses did not want to go into the Witness Protection Programme and some of the witnesses could not identify possible suspects, only nick-names.

5. SAPS report and Committee meeting on 11 March 2020

The SAPS forwarded a report to the Committee regarding progress in the murder investigation of Mr Basson's son in preparation for the Portfolio Committee meeting on 19 February 2020. In view of the time available to Committee, it was unable to deal with the matter and an updated presentation was provided on 4 March 2020.

The Committee met on 11 March and considered the SAPS report. The SAPS reported that feedback meetings were held with Mr Basson on 28 August 2018, 11 September 2018 and 9 October 2018, where the feedback and progress was provided. The investigating officer also visited Mr Basson and provided feedback to him on 3 March 2020.

The SAPS reported that the docket escalated to national level and it was perused by the national organised crime unit. The Investigation team is in the process of finalising the case docket and the Anti-Gang Unit was asked to monitor the progress of the docket. The SAPS reported that in the latest progress on matter an individual was identified and a magistrate signed a warrant of arrest and are pursuing matter.

The SAPS will be providing further information as the investigation develops.

6. Committee recommendation

After a thorough discussions and the knowledge that the case was at a sensitive stage, the Committee resolved to make the following recommendation:

The SAPS must investigate Mr Basson's case and report and each and every meeting of the Portfolio Committee until the matter has been resolved. The SAPS must also provide the feedback to Mr Basson. The matter will be the first on all agendas of the Portfolio Committee.

Mr Basson was asked whether he agreed and he felt satisfied. Members of the Portfolio Committee expressed themselves on the moving testimony of Mr Basson and felt that the communications of the SAPS were bad.

In view of the progress provided at the meeting held on 11 March 2020, the Committee agreed that the SAPS should provide quarterly reports on the matter as the investigation progresses.

7. Conclusion

The Chairperson of the Portfolio Committee noted that it was the start of the 16 Days of activism for no violence against women and children and confirmed the decision of the Portfolio Committee Members. Although the Committee was busy, it did not expect the year to end on such a note and wanted progress in the case.

Report to be considered

4. Report of the Portfolio Committee on Police on the Petition from the residents of Actonville and Wattville; Benoni calling on the Assembly to address the escalation of crime, including gender-based violence and violence against children, and the need for a police station in their area (Ms H Ismail), dated 26 June 2020

1. Introduction

The Portfolio Committee received petition referred to it from the Speaker on 12 November 2019 (Order Paper: National Assembly No. 1–2020, 12 November 2019).

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Committee, the Speaker must approve it and table it in the Assembly without delay in terms of Rule 349.

After tabling, a petition is then referred in terms of Rule 350 (1) if it is a special petition to the committee on public finance and in terms of Rule 320 (2), to a relevant Portfolio Committee if it is a petition of a general nature.

The SAPS was invited by the Committee to respond to the petitions after which Members of the Committee engaged on the responses.

2. Actonville and Watville SAPS report

The SAPS reported on the two petitions received from Actionville and Watville communities. Given that Watville is a suburb of Actonville and policed by the Actonville police station, the SAPs reported on both the communities.

The police station services a surface area of 9km² policing a population of 58 388 (2019 Statistics SA mid-year population estimates) divided into four sectors. There is one allocated vehicle per sector with two police officials per vehicle. The unemployment rate is estimated at 32% and there are 6 informal settlements with 26 schools accommodating 25 396 learners. The community has two clinics and three SASSA pay-points. In addition, there is one taxi rank, an influx of 20 000 commuters, three bottle stores, 11 shebeens with nine second-hand goods dealers.

The police station is responsible for 13 shopping centres and 74 spaza shops and informal businesses, two banks and five sports and recreational grounds. There are no active courts in Actonville.

As far as human resources are concerned, the station has 71 visible policing members as when it staff establishment grants them 66, giving them a surplus of 7.5%. The detectives also show a surplus of three members from 23 granted to 26 which translates to a 13% surplus. Support personnel show a 35.4% decrease as the granted figure of 31 is staffed by 20 members, giving it a shortage of 11 members.

The SAPS has a shortage of six vehicles as they are granted 40 vehicles, but only have 34 which translates to a shortage of 15%. The station has been granted seven vehicles for the

2019/20 financial year and an additional three vehicles are allocated for the 2020/21 financial year.

The SAPS reported that as far as crime was concerned, there was an overall increase of 2.4% in community-reported crime in the policing area, due to the following:

- Substance abuse.
- Rapid development, leading to an increase in population in the area.
- Gender-based violence, especially rape, has increased by five cases, compared to the same period in the previous financial year. Most suspects are known to the victims and have been arrested immediately.
- Crimes, dependent on police action for detection, showed a positive increase of 21.9%, with drug-related crimes increasing by 14.7%.
- The Wattville crime is included in the overall crime overview.

The SAPS further reported that they have launched a number of joint operations in the area which include operations from Thursday to Sunday, aligned to Operation O Kae Molao. In addition, the Actonville Police Station conducts daily operations, focusing on the following crime generators:

- Drug-related crimes.
- Licenced liquor outlets.
- Closing of unlicensed shebeens.
- Firearms and dangerous weapons, vehicle check points/stop and search.
- Compliance inspections at second-hand goods dealers.
- The following Social Crime Prevention initiatives are undertaken:
- Awareness campaigns.
- Drugs/Substance abuse.
- Domestic violence.
- Crime awareness tips.
- Operation Divine Intervention, in conjunction with local religious leaders.

The SAPS also noted that they conducted 2142 patrols, 1462 stop and search operations, 719 vehicle checkpoints and 34 crime awareness campaigns.

The SAPS noted that Wattville is a suburb, located in the Actonville policing precinct and is shared by sectors one, three and four. The Wattville hostel is located, in Sector one. The Rooikamp, Emlotheni and Emoyeni informal settlements, are located in Sector three.

Sector four includes the Harry Gwala informal settlement. All the informal settlements are without the basic municipal services. The SAPS reported that the establishment of a fully-fledged police station at Wattville was investigated. The work study investigation was finalised, approved and prioritised on the User Asset Management Plan (UAMP).

3. Committee Responses

The Petitioner, Hon Ismail thanked the Committee and the Chairperson for the hearing the petition. She questioned the number of sectors which the SAPS indicated as four and indicated that it was their response in questions to the Minister that there were discrepancies with respect to the number of sectors for the policing area. The Minister has indicated that there were three sectors while the SAZPS indicated that there were four sectors. The liquor outlets were not compliant with the by-laws and were situated within 20 metres from schools and places of worship. There was also a worry about the assassinations in Lancashire Road where three assassinations took place on Monday. The Vispol units were not responsive. The number of police reservists were questioned and there was no mention of police reservists at the Actonville police station in the presentation. There were many gender-based violence cases involving many women who run through the railway line. The members felt that the SAPS should be engaged. The petitioner asked the Committee what measures could be taken to bring order and peace to the area.

One of the Committee Members noted that the Minister should be engaged on the matters raised by the petitioners. The SAPS was asked to respond on the unanswered questions in written form via e-mail to the Committee.

The Chairperson made it clear that Members should not use petitions when they can ask questions to the Minister in the House. It was pointed out that the Chair should take it up with the Speaker who have referred the petition to the Committee.

4. SAPS response

The SAPS noted that it will do a comparison with the responses it gave to the Committee and that of the Minister and provide the reply to the Committee. As far as liquor stores situated near to schools, the SAPS indicated that it does not have the discretion to decide where the licences are issued. However, they agreed that it made it very difficult for the SAPS to police the shebeens. A feasibility study has been undertaken to consider whether Wattville should have its own police station. There is no kiosk in the area and the SAPS has noted that it will request the Committee to support it in establishing a kiosk. Three people were shot and the investigations and profiles have shown that it was gang-related shootings. The investigation continues.

5. Conclusion

The Chair thanked the SAPS and the Petitioners for engaging on the issues and noted that all the outstanding responses must be forwarded in writing the Committee.

Report to be considered

5. Report of the Portfolio Committee on Police on the unsolicited Petition on the Re-Enlistment of former Police Forum Members into the Police Service (Mr M Qongqo), dated 26 June 2020.

1. Introduction

The unsolicited petition received from the former members of the Transkei and Ciskei Police Department prior to the integration of the 11 police forces to form the South African Police Services (SAPS), was referred to the Portfolio Committee on Police by the former deputy Speaker of the National Assembly on 27 June 2018. The unsolicited petition was supported by the Speaker of Eastern Cape Provincial Legislature and was not compliant with the Rules of the National Assembly.

The unsolicited petition received from ex-Police Forum members who left the Transkei and Ciskei Police between 1990 and 1994 for various reasons. They made submissions for re-enlistment in March 1995 following a Minute on re-enlistment from the then Police Commissioner George Fivaz.

The petitioners were dissatisfied because in their view, they were not treated fairly as some of their members were re-enlisted and others not. They had several engagements with the Provincial Commissioner of Police and finally they approached the Speaker of the Eastern Cape Provincial Legislature who referred them to the Parliament as the matter fell outside the competency of the Speaker of the EC Legislature.

The Portfolio Committee on Police met with the petitioners and the SAPS on 23 October 2018 and asked the SAPS to respond to the petition.

The SAPS provided a report to the Committee in October 2018.

2. The SAPS Response (October 2018)

The SAPS noted that prior to 1994 there were 11 separate police agencies in South Africa i.e. the former South African Police; Transkei, Bophuthatswana, Venda and Ciskei (TBVC) States; and Self-Governing Territories.

On 25 January 1995, Proclamation No. R.5 of 1995 the South African Police Service Rationalisation members of the former SAP, TBVC States and Self-Governing Territories were appointed as members of the SAPS. Subsequent to the amalgamation, posts for re-enlistment were advertised from time to time. Only former members from the South African Police; TBVC States; and Self-Governing Territories who met the requirements stipulated in the advertisement were invited to apply.

It was important to note that former members from the TBVC States who were dismissed dishonourably or who did not meet the requirements stipulated in the advertisement were not re-enlisted.

The re-enlistment criteria for the new SAPS was stipulated in terms of Regulation 11 (b) & 11 (2) as follows:

The members should have been appointed as a member of the South African Police Service in terms of the Police Service Act, 1995, or must have been a member of the former SAP; TBVC States or Self-Governing Territories; and should have:

- Have successfully completed basic police training and relevant functional police training courses, where applicable, for operational posts;
- Have a good disciplinary and attendance record during their former employment;
- Be in possession of at least a Grade 12 (Senior Certificate) or higher qualification;
- Have at least a valid light motor vehicle license (code B);
- Be a South African citizen of which documentary proof must be furnished;
- Be proficient in at least two of the official languages, of which one must be English;
- Submit himself or herself to a medical examination as determined by the National Commissioner;
- Undergo a psychological assessment as determined by the National Commissioner and be found to comply with the profile of a police official;
- Not have any tattoo marks of which will be visible when wearing uniform and not be irreconcilable with the objectives of the Service;
- Have no previous criminal convictions, and/or pending criminal, disciplinary cases and such person shall allow his or her fingerprints to be taken and allow background enquiries to be made;
- Not have been declared unfit to possess a firearm;

- Be prepared to be deployed based on the needs of the Service which may include having to relocate at one's own expense and or to accept a post away from one's current place of residence that could result in reasonable travelling;
- Not be involved in any business or activity that will be in conflict of interest with the integrity of the Service; and
- Be willing to undergo a refresher course or any other training as determined by the National Commissioner.

The SAPS reported that there were exclusions to the re-enlistment in terms of the Regulation 11 (b) & 11 (2) in terms of which, members would not under any circumstances be considered:

- Retirement (early retirement or compulsory retirement age);
- Dishonourably discharged and/or dismissed from the Service;
- Left the Service pending the finalisation of a disciplinary enquiry and/or criminal proceedings;
- Left the Public Service with severance package;
- Left the Service due to ill-health retirement/medical boarding.

The SAPS further reported that the former members applied for re-enlistment. They were told to liaise with the Recruitment Officer, Port Elizabeth. Their applications were not approved because they did not meet the requirements as they were dishonourably discharged and there were no records of serving former members that could be established.

The Committee recommended at that stage that the SAPS re-investigates the matter after meeting with the petitioners and report to the Committee on its findings.

On 29 April 2019, the Portfolio Committee on Police received the report from the National Commissioner on the investigation.

The SAPS met with the petitioners and asked them to submit supporting documentation and statements in support of their claims. The statements and evidence were individually analysed and it was found that the former members were aggrieved as they were victimised, ill-treated, detained, verbally suspended and unfairly dismissed from the Ciskei and Transkei Police departments.

The former members wanted the SAPS to condone the decision to re-enlist them so they could receive compensation for what the apartheid system has put them through.

The SAPS investigation found that it did not constitute grounds for re-enlistment and that the members should apply to a competent court for relief as the matter was never subjected to labour processes and there was a risk that matters that was not subjected to such a process could fall foul of legal processes.

The SAPS was of the opinion that they did not qualify in terms of the criteria for re-enlistments.

The aggrieved members did not accept the outcome of the SAPS investigation and continued to write to parliament asking for relief. The Portfolio Committee held another hearing on 11 March 2020 on the matter.

3. Petitioner Response (Mr M Qongqo) 11 March 2020

In their response, the petitioners stated that it was common cause that they left the old Ciskei and Transkei police forces between 1990 and 1994. According to them, some of their former colleagues were re-enlisted in 1995. They went through the necessary application processes and were sent for medical check-ups, cleared for re-enlistment and advised to wait for placement.

On 8 August 2013 they were informed by the Provincial Commissioner of the Eastern Cape that their applications had been dealt with and that they were not successful. They interacted with the SAPS National Office and were also told that their applications were unsuccessful and their matter was dealt with.

They were of the view that they were discriminated against given the fact that some of their former colleagues were re-enlisted. Their understanding was that the Minute of re-enlistment of General Fivaz applied to them.

After the recommendation from the Portfolio Committee on 23 October 2018, they attended a meeting with Major General Govender from Head Office and Major General Kunene from the provincial office in the Eastern Cape. They were still not satisfied with the outcomes. They insist that there were 19 members re-enlisted into the Service. They were of the view that the matter deserves reconsideration.

Mr M Qongqo (the petitioner) indicated that he first dealt with the application for re-enlistment when he was between 29-34 years of age and he had reached the age of 60. He noted that he joined the Railway Police Staff association and labelled a terrorist. According to Mr Qongqo,

there were members of the municipality that were taken into the service as well as people who had never been in the police service. He lamented the fact that as black police officers, they were used as targets in police dog training and had to run away from the dogs. White police officers were never used for this task.

None of the Ministers that they approached ever responded to them and they even approached the Office of the former President Zuma for assistance in the matter. He noted that they never approached a competent court or the Labour Court because some of their members were re-enlisted.

4. Committee response

Some Committee Members felt that for his persistence over 30 years, the petitioner believed that he was correct. They wanted to know what he had done to develop himself if he was serious about re-enlistment. Members wanted to also know what the endgame was and whether the petitioner wanted compensation if he was re-enlisted because of his age. The SAPS has been consistent and Members wanted to know why he has never approached the courts.

Members expressed their concerns that some members have been re-enlisted and wanted the facts checked. Other Members proposed that there must be a fresh look at the case from someone independent.

Members also expressed concerns in that they did not know which way as some of the people re-enlisted did not have a J-grade security grading and could not understand how they were re-enlisted. Members asked for an investigation into the re-enlistment of the 19 members.

However, the Committee felt strongly that the matter should be closed. The Chairperson apologised to the petitioner that the matter has taken so long, however she promised that a new team would look at the matter and report to the Committee.

5. Committee recommendation

The Committee resolved that the matter requires a fresh look by the SAPS and asked that the Deputy Minister and Lt General Mgwenya be given a chance to re-investigate the matter finally and report. The SAPS should meet with the petitioners in the Eastern Cape and report back to the Committee.

6. Conclusion

The petitioner indicated that he was happy that the matter will be considered afresh. He thanked the Committee for hearing his unsolicited petition and he was very comfortable with the recommendation.

Report to be considered

6. Report of the Portfolio Committee on Police on the Petition from the residents of Kokomeng; call upon the Committee and the Minister of Police to investigate and priorities the reopening of the Kokomeng Police Station (Mr IS Seithlo), dated 26 June 2020.

1. Introduction

The Portfolio Committee received petition referred to it from the Speaker on 12 November 2019 (Order Paper: National Assembly No. 1–2020, 12 November 2019).

The Constitution provides for petitions to be brought to parliament. Section 56 (d) and 69 (d) of the Constitution provides for the National Assembly (NA) and the National Council of Provinces (NCOP) to receive petitions, representations or submissions from any interested persons or institutions.

The process for the Committee to process the petitions are regulated in Chapter 14 of the Rules of the National Assembly (14th edition). Rule 337 (d) makes provision for the Speaker to table written instruments including special petitions and other petitions of a general nature.

Part 3 of the Rules makes provision for following:

Rule 344 makes provision for the form of the petition to be prescribed by the Speaker in accordance with the guidelines determined by the Rules Committee.

Rule 345 states that the petition must be in one of the official languages. All the petitions must be signed by the petitioners themselves according to Rule 346 (1).

According to Rule 347(1), a petition must be lodged by a member with the Secretary for approval and tabling by the Speaker, the Secretary Lodging of the petition and must be signed at the beginning thereof by the member. Rule 347(2) provides that a member may not lodge a petition on his or her own behalf, but such a petition may be lodged by another member.

Rule 348 makes provision for each petition to be deposited for at least one day with the Secretary who must submit it to the Speaker for approval before it is tabled in the Assembly. If the Speaker finds that the petition complies with the guidelines determined by the Rules Committee, the Speaker must approve it and table it in the Assembly without delay in terms of Rule 349.

After tabling, a petition is then referred in terms of Rule 350 (1) if it is a special petition to the committee on public finance and in terms of Rule 320 (2), to a relevant Portfolio Committee if it is a petition of a general nature.

The Deputy Minister of Police noted that if you burn a police station you do not need it. He indicated that it was their view that the destroyed property must be fixed. It could not however be that when you damage a police station, that you get it immediately. They were going to ensure that you wait. You will not have priority when you burn down a police station. We will rebuild the police station, but not immediately.

The SAPS was invited by the Committee to respond to the petition after which Members of the Committee engaged on the responses.

2. SAPS Presentation

In their presentation in response to the petition from residents of Kokomeng, the SAPS reported that a number of issues pertained to the situation. The Kokomeng is a Satellite Police Station in the Taung Policing Precinct in the North West Province.

The Satellite Police Station was set alight during a service delivery protest by community members on 16 April 2018 sustaining extensive damages. The SAPS had to withdraw services at the satellite as the facility was now unusable and the matter was handed over to the Department of Public Works (DPW) for repairs.

A Regional Sub-Bid Adjudication Committee of DPW meeting was held on 4 March 2020 and have approved the repairs of Kokomeng Police Station. The Project Manager appointed by the Department of Public Works (DPW) was in the process of appointing a contractor.

The Project Execution Plan will be submitted to Provincial SAPS: Supply Chain Management when it is finalised.

The police station area covered 1 303km² and serviced a population of 124 609 people (STATSSA, 2019 Mid-year population estimates). The policing area is divided into four sectors. There are no vehicles for sector policing and two VISPOL police vehicles are being used for this purpose. There are two sector commanders and no members. SAPS did not provide reasons for why there were no members available for sector policing.

The community had a 49% unemployment rate. There were 106 informal settlements with 70 schools accommodating 26 174 learners. The policing area consisted of 17 clinics and 41

SASSA pay-points. There were 16 bottle stores, 138 liquor premises and 7 second hand goods businesses. The community had one railway station and 16 taxi ranks which made provision for an influx of 1000 commuters daily. There are 8 shopping centres and 4 banks with 112 spaza shops, 9 sport-and recreational grounds and 7 sports stadiums. The community has 4 active courtrooms.

2.1 SAPS Human and Material Resources

The SAPS has a staff establishment of 88 and 85 actual VISPOL members giving it a shortage of -3.41%. It has 17 detectives which translates into a shortage of 19.05% with a surplus of five support members which gives it an actual number of 29 members.

In total, there are 131 members instead of 133 on its staff establishment, giving it a shortage of 1.5%.

The station has 31 allocated vehicles, but only has 24 actual vehicles giving it a shortage of 22.58%. In the 2019/2020 financial year, six (6) vehicles were allocated to the Taung Police Station. The station has already received three (3) of these vehicles during August to December 2019. The remaining three (3) vehicles is in the process of being delivered and is not included in the listed figures.

2.2 Crime profile

During the reporting period, 1 April 2018 to 31 January 2019, versus 1 April 2019 to 31 January 2020, the following crime categories showed a decrease:

Contact crime	:6%
Contact-related crime	: -12,9%
Property-related crime	: -8%
Other serious crime	: -3%
Robbery aggravated	: 29%
Sexual offences	: -100%

Crimes, dependent on police action, decreased by -16%, for the reporting period.

The North West province has been plagued by community protest related to service delivery issues. Due to the state of criminality and instability since April 2019 in the province additional resources were provided by the National Commissioner to stabilise crime hot-spots.

In the Pudimoe Cluster, which includes the Taung police Station an additional 24 police officials were deployed as a stabilisation group to address the crime and policing challenges for a period of six months.

The Taung SAPS was upgraded from a Lieutenant Colonel Station to that of a Colonel, this implied that more resources were being diverted to provide a policing service.

An additional Colonel and two Lieutenant Colonels were allocated after the upgrading of Taung Police Station, while 24 constables were placed at Taung Police Station over the last two financial years.

The station has undertaken 1514 patrols, 1188 and 1251 stop and search operations, held eight roadblocks, 14 vehicle checkpoints and 64 crime awareness campaigns.

3. Committee responses

The Chairperson provided the petitioner, Hon. Isaac Seithloho to respond to the SAPS. He noted that he did not support the idea of burning down the police station. According to him, people the station was a satellite police station and the matter was referred to the Department of Public Works. He expressed his concern that the Deputy Minister contradicted the response from the Minister of Police who confirmed that suppliers were supposed to present quotations.

A meeting took place and there were agreements and now it appears that from the responses of the Deputy-Minister that they would not be getting a police station after all. He felt that it was unprecedented that such comments were made and noted that the communities have never had sight of the sector policing vehicles. The fact that there was no police station affects 20 000 people. According to the petitioner, the communities of Kokomeng alleged that the satellite station was not even operational when it was burnt down and certain officers came to the office drunk. He questioned that if the rebuilding of the station was not a priority, why the quotations were submitted.

Members raised several concerns about the station being burnt down by the community members. There was agreement that it was unacceptable for the community to burn down the police station, even if it was a satellite police station. Some Members felt that the Taung police

station was beefed up and that positive things were happening there. The SAPS needed to go back to the community and assess the policing of the area, it was being doubted that it could be done from Taung.

Other members questioned if the satellite station really worked.

Members noted that there were problems with the petition in that many of the names on the petition had the same signature and that the petition was not in compliance with what was legally required for the submission of a petition to Parliament. The petition should be submitted in the correct manner and the people who burnt the police station should be arrested. There was also a request that the SAPS go back to the community and conduct community meetings to ascertain the reasons for the burning of the station.

Members noted that the petition should have been checked by the petitioner and suggested that the Civilian Secretariat for Police assist in the matter. The community burnt the station because they want to be assisted. It took up to ten years to provide and build a police station and the submission of petitions must conform to the Rules of the National Assembly.

Members also questioned why the crime rates dropped and suggested it dropped because members do not have a police station to report crime. Members questioned why there were an extra 24 police officers appointed when there is no or reduced crime. Members wanted to know who was arrested for the crime of burning the police station and how many community members burnt the police station.

Other members asked if the Minister of Police could not assist the community in the matter.

Members agreed with the assessment of the Chairperson that the police should consider the matter again and it was questioned whether the bid adjudication committee completed its work.

The petitioner apologised for his earlier remarks and was thankful to the Chairperson for her remarks in the matter. He was not aware that his remarks were politicising the issue. He invited the Committee to have an oversight visit to the area. He was also not aware of the signature issue and did not double check it. He apologised for that oversight. He wanted to know if the Magogeng area was being prioritised in the process.

The Deputy Minister noted that he was comfortable with the posture of the Committee and stated that it was the view that communities should adopt. They should respect their facilities and asked that those responsible should be hand over to the police and arrested. Criminal elements should not be allowed to hijack the legitimate grievances and processes of the

community. Furthermore, the Deputy Minister stated that there was no conflict in what the Minister and he has outlined. All he was saying is that people who damage the property of the state must not wake up and receive priority.

The Chairperson stated that the government has taken a stance that people should not burn or vandalise state property and that such forms of violence should be condemned. No police station should be burned down.

4. SAPS Responses

The SAPS responded by indicating that the building of the police station was informed by a feasibility study and analysis of statistical information. They invited complaints about police responses to complaints which have taken between 2-3 days to be made available to them so that they could ensure continuous visibility and functionality at the station. The SAPS further noted that the strike had nothing to do with the police, but was because of political dispute between factions of one party.

There were 1067 villages that should be policed and the satellite station was functional. It could not be functional with intoxicated members. There are additional vehicles that were made available to service the villages in and around Taung and there were even community meetings held in January.

There was a reduction of crime because of continuous reporting of crime and the 24 extra members were required because of this.

Lastly, the DPW was funding the building of the station.

5. Conclusion

The Chairperson ruled that there should be a written update of all petitions to the Committee within one month's time.

The Petitioner was happy with the outcome and thanked the Committee.

Report to be considered

National Council of Provinces

1. Report of the Select Committee on Security and Justice on the quarterly progress reports, dated 31 January 2020, of the Magistrates Commission as tabled in terms of section 13(3)(f) of the Magistrates Act, 1993 (Act No 90 of 1993), dated 25 June 2020.

The Select Committee on Security and Justice considered the Magistrates Commission's quarterly progress reports on:

- a) Progress report dated 31 January 2020, on the provisional suspension from office of Mr M D Hinx, the Chief Magistrate, Bloemfontein, in terms of section 13(3)(f) of the Magistrates Act, 1993 (No 90 of 1993);
- b) Progress report dated 31 January 2020 on the provisional suspension from office of Ms J F van Schalkwyk, Chief Magistrate at Kempton Park, in terms of section 13(3)(f) of the Magistrates Act, 1993 (No 90 of 1993);
- c) Progress report dated 31 January 2020, on the provisional suspension from office of Mr E S Nzimande, Regional Court President, Kwazulu-Natal, tabled in terms of section 13(3)(f) of the Magistrates Act, 1993 (Act No 90 of 1993).

Recommendation

The Select Committee on Security and Justice, having considered the progress reports recommends the Council wait for the conclusion of the disciplinary process, or future progress reports, to further consider the matter.

Report to be considered.

2. Report of the Select Committee on Security and Justice on the Report dated 25 May 2020, on the confirmation of suspension/removal from office of Ms L B Freeman, a Senior Magistrate, Mossel Bay, in terms of section 13(4)(b) of the Magistrates Act, 1993 (Act No 90 of 1993), dated 25 June 2020.

1. Introduction

The Select Committee on Security and Justice, having considered the Magistrates Commission's report, dated 25 May 2020, as tabled by the Minister for Justice and Correctional Service, on the confirmation of suspension/removal from office of Ms L B Freeman, a Senior Magistrate, Mossel Bay, in terms of section 13(4)(b) of the Magistrates Act, 1993 (No 90 of 1993), reports as follows:

2. Background

Ms Freeman is a Senior Magistrate and the Judicial Head of Office at the Mossel Bay District Court. She is 42 years of age and was appointed to the lower court bench on 24 October 2006. She was appointed as a Senior Magistrate at Mossel Bay on 01 May 2017.

By direction of the Magistrates Commission, Ms LB Freeman was charged with 29 counts of misconduct. A charge sheet dated 17 November 2017 was personally served on Ms Freeman on 23 November 2017.

The misconduct charges against Ms Freeman relate to acts of dishonesty committed during the period 2015 to 2017. In summary:

- a. In 21 of the misconduct charges it is alleged that Ms Freeman made a false or incorrect statement regarding transport claims where the kilometres claimed are more than the existing distances between the destinations;
- b. Ms Freeman indicated that she performed an inspection in loco at a location whilst no such inspection in loco took place. She claimed for the kilometres travelled;
- c. Ms Freeman indicated in one of her transport claims that she used an Audi A4 whilst in fact she used an Uno. The kilometre tariff she claimed for the Audi is more than the tariff for the Uno.
- d. Ms Freeman, in her application for Appointment as Senior Magistrate, on the question to list all directorships and other interests in business she held during the past ten years,

falsely and or unlawfully declared "N/A" (not applicable) on the application form, whilst she in fact is registered by the Commissioner of Companies and Intellectual Property as an active director and founding member in the company Southern Cape Fish Co-operative Limited;

- e. Ms Freeman, in her application for Appointment as Senior Magistrate, on the question whether she has ever been convicted of any offence or crime, stated "No" whilst in fact she had been convicted of theft and sentenced in the Magistrates Court, Potchefstroom on 06 May 1993 and,
- f. That she was negligent and indolent in the execution of her duties as a Magistrate and later as a Senior Magistrate, in not timely attending inquest cases allocated to her. The time delay in attending to these inquests ranged between 1 year and 1 year and 8 months. She returned the matters whilst she was provisionally suspended from office, without indicating that she dealt with them.

3. Discussion

- a. Having duly been served with a Notice of Hearing, the misconduct inquiry/disciplinary hearing against Ms Freeman commenced on 21 February 2018 at Mossel Bay. Ms Freeman was unrepresented at her first appearance at the inquiry. She requested the Presiding Officer (the PO) to postpone the inquiry to 22 March 2018 in order for her to obtain legal representation. She indicated that she was under the impression that the hearing would be held at the office of the Magistrate's Commission in Pretoria which caused her to consult with an attorney in Johannesburg. She later advised that she did not utilise the attorney in Johannesburg when she learned that the hearing was to be held in Mossel Bay. On 22 March 2018 Ms Freeman was still unrepresented and indicated that the attorney she had approached was not available on that day. She was given an opportunity to approach another attorney, apparently from Oudtshoorn, to confirm his availability on a future date. On confirming a date on the availability of the attorney from Oudtshoorn, the hearing was postponed to 02 August 2018. On 02 August 2018, Ms Freeman advised the inquiry that the mandate of her attorney from Oudtshoorn was terminated but that she instructed another attorney, who was present at the inquiry. He confirmed having received instructions to act at the inquiry on Ms Freeman's behalf.
- b. On the advice of the Magistrates Commission, the previous Minister of Justice and Correctional Services provisionally suspended Ms Freeman and the NCOP and the NA

confirmed the provisional suspension of Ms Freeman on 5 September 2018 and 25 October 2018, respectively.

- c. At the request of Ms Freeman, the inquiry was once again postponed to 12 to 14 September 2018 as she, without giving prior notice to the PO at the inquiry, had approached the High Court for a ruling that certain statements be made available to the defense at that stage. This caused a further delay for the inquiry to commence hearing the evidence. The High Court ruled that the statements must be made available, which ruling was complied with. Since the application by Ms Freeman was at that stage not yet finalised, it caused another postponement and further delay. The inquiry was then postponed to 21 to 23 November 2018.
- d. At the time Ms Freeman had not tendered a plea to the charges preferred against her. The Commission therefore had to identify and appoint another magistrate to preside at the inquiry. This was done and the newly appointed PO presided at the inquiry on 21 November 2018. He instructed the Officer Leading Evidence and Ms Freeman's legal team, prior to the continuation of the inquiry at its next date, to sort out any outstanding issues in dispute in order to expedite the conclusion of the matter. The inquiry was, for that purpose, postponed to 28 to 31 January 2019. A "pre-trial" meeting took place which resulted in Ms Freeman making certain formal admissions. Ms Freeman was on 28 January 2019 represented by her attorney and counsel. She pleaded not guilty to all the charges. The majority of the Commission's witnesses testified at the inquiry during this week. On 31 January 2019, the PO postponed the proceedings until 08 to 11 April 2019 for the presenting of further evidence on behalf of the Commission.
- e. All the evidence was led during the April 2019 session of the inquiry. On 10 April 2019, the Presiding Officer postponed the inquiry to 24 and 25 July 2019 for judgment, and ordered both parties to file their respective Heads of Argument on or before 28 June and 09 July 2019. Although the Officer Leading Evidence timeously presented his Heads of Arguments, Ms Freeman's counsel failed to do so. The Presiding Officer on 24 July 2019 delivered his judgment and found Ms Freeman guilty on all 29 charges of misconduct which the Magistrates Commission preferred against her.
- f. A copy of the judgment was tabled in Parliament and is available on request.
- g. Both parties were given the opportunity to address the Presiding Officer on the imposition of a sanction. The inquiry was postponed until 12 September 2019 for the Presiding Officer to impose a sanction.

- h. Having heard both parties' submissions in this regard, the Presiding Officer on 12 September 2019 recommended in terms of regulation 26(17)(b) of the Regulations for Judicial Officers in the Lower Courts, 1994 (the Regulations) that Ms Freeman be removed from office as contemplated in section 13(4) of the Act. Ms Freeman was, in terms of regulation 26(20) of the Regulations, given the opportunity to lodge written representations with the Commission within 21 working days after the findings of the Presiding Officer.
- i. A copy of the sanction imposed and the Presiding Officer's reasons was tabled in Parliament and is available on request.
- j. Ms Freeman failed to lodge her representations with the Commission by 15 October 2019, the date on which they were due. She lodged her representations with the Commission on 17 October 2019, but failed to forward a copy thereof to the Presiding Officer as required. On 21 October 2019 the Ethics Division forwarded her representations to the Presiding Officer, whereupon the latter indicated that, although her representations were clearly lodged out of time, there is nothing new which Ms Freeman disclosed which was not considered during the hearing itself. He therefore had nothing to add to his written recommendations which he already had made to the Commission.
- k. A copy of Ms Freeman's written representations was tabled in Parliament and is available on request.
- l. The Magistrates Commission having considered all the relevant documentation, as is required in terms of regulation 26(19) of the Regulations, including Ms Freeman's representations, the Commission, at its meeting held on 12 November 2019, resolved to recommend to the Minister that Ms Freeman be removed from office on the ground of misconduct as contemplated in section 13(4)(a)(i) of the Act. Ms Freeman's conduct as set out in the charge sheet of which she was found guilty is so serious that it justifies her removal from office. Her conduct displays dishonesty which puts her integrity as a judicial officer in serious doubt and renders her unfit to hold the office of Magistrate any longer.

4. Minister's confirmation of suspension/removal from office on the grounds of misconduct

The Minister for Justice and Correctional Services in terms of section 13(4)(a)(i) of the Magistrates Act, 1993, confirmed the suspension of Ms Freeman on 25 May 2020 and

submitted a report as required by section 13(4)(b) of the Magistrates Act, 1993, for Parliament's consideration. The Report was tabled on 2 June 2020 and referred to the Select Committee on Security and Justice on 3 June 2020.

5. Authority to Suspend/Remove from Office

In terms of section 13(4)(a) of the Act, the Minister for Justice and Correctional Services, if the Magistrates Commission recommends that a magistrate be removed from office on *inter alia* the basis of misconduct, must suspend that magistrate from office or if the magistrate is provisionally suspended from office, confirm the suspension.

A report in which such suspension and the reasons therefore are made known, must be tabled in Parliament by the Minister within fourteen (14) days of such suspension, if Parliament is then in session, or, if Parliament is not then in session, within fourteen (14) days after the commencement of its next ensuing session.

Parliament must then as soon as reasonably possible, pass a resolution as to whether or not the restoration of his/her office of the Magistrate so suspended is recommended.

After a resolution has been passed by Parliament as contemplated the Minister shall restore the Magistrate concerned to his/her office or remove him/her from office, as the case may be.

6. Impact of Ms Freemans resignation on suspension/removal from office

The Select Committee received a joint briefing with the Portfolio Committee on Justice and Correctional Services, on 17 June 2020. The Magistrates Commission informed the Committees that Ms Freeman had tendered her resignation on 17 June 2020. The Magistrates Commission requested the Committees to postpone the decision on her suspension/removal in order for the Magistrates Commission to obtain the necessary documentation, in respect of her resignation, and to advise the Committee on the impact of the resignation on the suspension/removal from office.

The Select Committee and the Portfolio Committee on Justice and Correctional Services met on 25 June 2020 where the Magistrates Commission provided case law to substantiate the argument that Ms Freeman's resignation did not comply with the prescripts regarding the period of notice for resignations.

The Magistrates Commission advised that, Ms Freeman would still hold the office of Magistrate until 31 July 2020 and therefore parliament would not be barred from deliberating on and determining a resolution regarding Ms Freeman's removal from office, as she is still a Judicial Officer until the expiration of her notice period.

The Magistrates Commission further advised that,

“[t]here appears to be no legal impediment for the Portfolio Committee on Justice and Correctional Services and the Select Committee on Security and Justice to consider the report on Ms Freeman's suspension and make recommendations to both Houses of Parliament in this regard. Therefore, having due regard to the information, necessary prescripts and authority cited, it is recommended that Parliament proceeds with the process to pass a resolution whether or not to restore Ms. Freeman to the office of Magistrate as envisaged in section 13(4)(c) of the Act.”

7. Recommendation

Having considered the report on the confirmation of suspension/removal from office of Ms L B Freeman, a Senior Magistrate, Mossel Bay, tabled in terms of section 13(4)(b) of the Magistrates Act, 1993 (No 90 of 1993), the Committee recommends that the National Council of Provinces resolve not to restore Ms L B Freeman to the office of Magistrate.

Report to be considered.