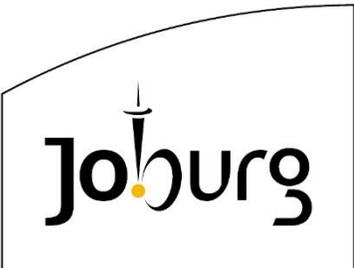


The dysfunctional state of the Department of Home Affairs



Presentation by the Executive Mayor, Cllr Herman Mashaba

22 October 2019



Background

Challenges we inherited

- The City of Johannesburg (“the City”) currently faces numerous challenges, including a housing backlog of an estimated 300 000 units. Within the context of Johannesburg, illegal immigration compounds serious challenges in the provision of basic services and temporary emergency accommodation (“TEA”) to residents.
- As a City we are expected to proactively plan and budget for the provision of basic services to all our residents.
- The City is required to proactively plan and budget for the provision of TEA, should residents be rendered homeless as a result of evictions or natural disasters. TEA must be provided to all rendered homeless irrespective of their status.
- The Department of Health is also required to provide health services irrespective of the status of those seeking medical assistance.
- How are we, as a City, supposed to effectively plan and budget, when we do not know who is even in our City?
- Tension is created between South Africans and foreign nationals when TEA is provided to foreign nationals while South Africans who are awaiting housing in terms of the official housing list are overlooked.
- Undocumented foreigners find themselves victims of human trafficking and modern day slavery.
- Tension is created between South African and foreign nationals as they compete for limited job opportunities.



Background

Foreign Nationals

- The City welcomes foreign nationals into Johannesburg and the Country, however, it is important that all those who come to Johannesburg do so lawfully, and while they are here, they respect our laws.
- The City encourages foreign nationals from all over the world, to lawfully, visit our city, invest in our economy and help create jobs.
- Foreign nationals buy goods in our country, they establish businesses, and stimulate economic growth.
- Foreign nationals contribute their skills and experience in sectors of our economy where they are desperately needed.
- Our vision for Johannesburg is to create an inclusive and prosperous city and foreign nationals who, are here lawfully, can contribute to this vision.



Department of Social Development

Migrant Sub-Unit

- The City's Department of Social Development, through the Migrant Sub-Unit assists undocumented migrants through a variety of programmes.
- As part of these programmes the Migrant Sub-Unit assists undocumented migrants by facilitating engagement with the Department of Home Affairs ("the Department"), through Home Affairs employees who volunteer at the City, to assist them in acquiring the relevant documentation.
 - Quarter One 2019/20 - 363 migrants were assisted.
- The Migrant Sub-Unit refers undocumented migrants who require legal assistance to NGOs such as Lawyers for Human Rights.
- For those undocumented migrants who have social issues the Migrant Sub-Unit refers them to social workers.
- The Migrant Sub-Unit also facilitates Orientation Sessions between local South Africans and foreign migrants, with the view of creating better social cohesion between the two communities.
 - Quarter One 2019/20 – 7 different events were held around Johannesburg with a total of 322 participants.



Department of Social Development

Migrant Sub-Unit

- The Migrant Sub-Units runs the City's Counter Xenophobia Programme. Under this programme several sub-programmes are run.
- The Focus on Local Migration Programme facilitates events with the youth educating them on migration and the causes and effects thereof. It also facilitates, amongst others, awareness campaigns with local religious leaders.
 - Quarter One – 7 events were held with a total of 302 people participating.
- One of the sub-programmes is centred around Labour issues and educating communities on the exploitation of foreign migrants.
 - Quarter One – 8 events were held with a total of 240 people participating.
- Another such programme is the Human Trafficking Programme educating communities and raising awareness regarding the human trafficking of foreign migrants.
 - Quarter One – 7 events were held with a total of 550 people participating.
- The Marriages of Convenience sub-programme is directed at the youth to educate and raise awareness around the advent of marriages of convenience.
 - Quarter One – 7 events were held with a total of 295 people participating.



Housing Challenges

The Provision of TEA

- During July 2017 the City housed over 600 undocumented migrants at the City's Wembley Stadium facility. Their presence followed a fire at the Cape York building which rendered them homeless and as is required the City provided them with TEA.
- The current audit of the Inner City facilities reflect the following amount of undocumented migrants being provided with TEA:
 - MBV Phase 1 – 2 undocumented migrants
 - Wembley TEA – 1 undocumented migrant
 - Wembley Shelter – 18 undocumented migrants
 - Wembley Tents – 10 undocumented migrants
 - Moth Building – 5 – undocumented migrants
- Total – 35 undocumented migrants being housed in TEA facilities in the Inner City.



Housing Challenges

The Provision of TEA

- It is important to note that the audits are conducted during the day and many undocumented migrants leave for fear of being detained, most return after dark.
- The Department of Housing suspects that around 100 undocumented migrants reside at the above-mentioned TEA facilities during the night.
- The Department has not, despite requests to do so, attended at the facilities to process the undocumented migrants.
- This results in the Department of Housing spending a considerable amount of its annual budget on the provision of TEA to undocumented migrants.
- The unnecessary burden on the City's fiscus could easily be curtailed by the Department simply fulfilling its mandate and attending at the TEA facilities and processing the undocumented migrants.

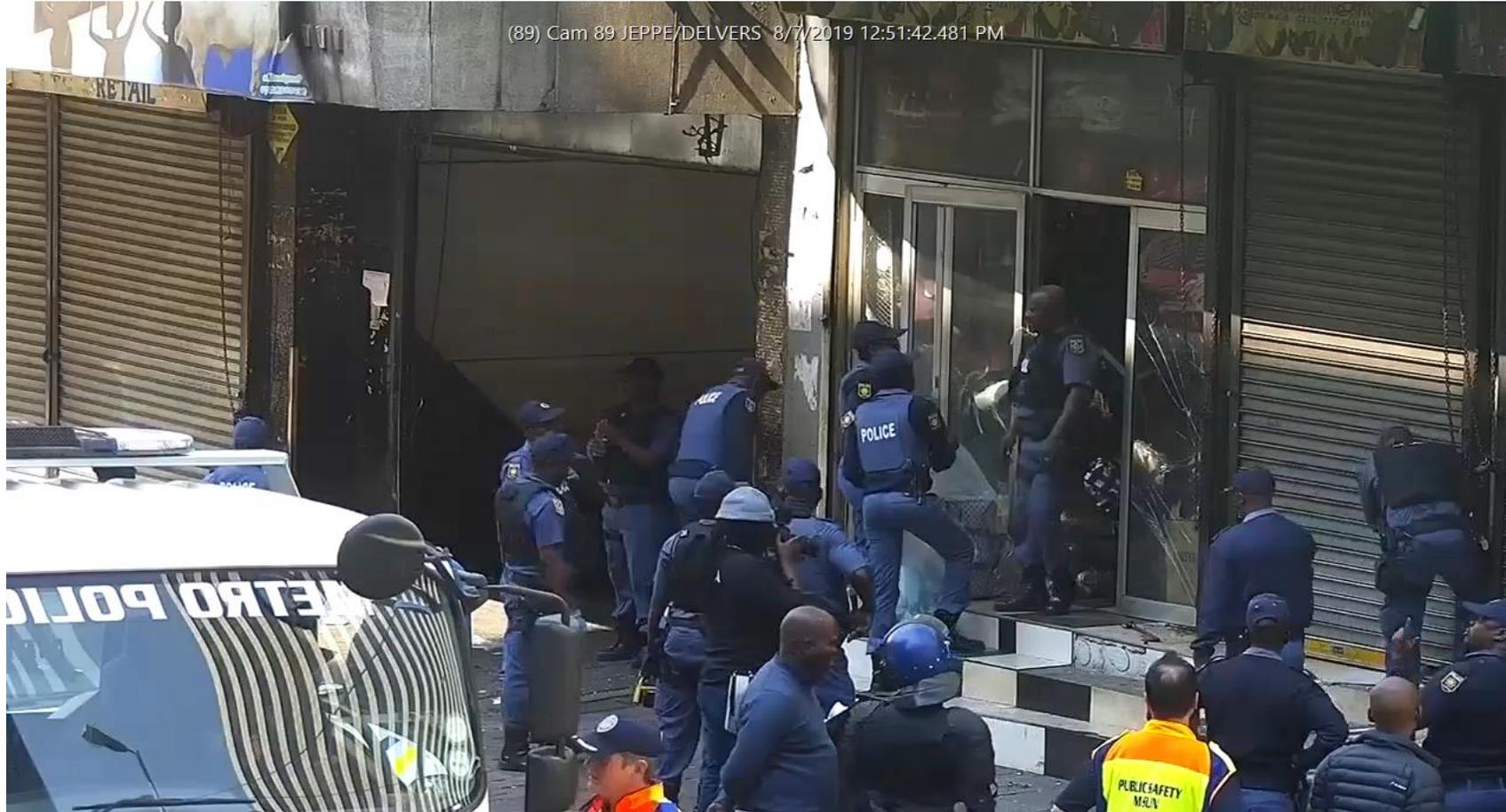


Group Forensic and Investigation Services Bad/ Hijacked Buildings

- First Quarter 2018/19
 - 8 properties raided and 13 undocumented migrants arrested.
- Second Quarter 2018/19
 - 31 properties raided and 73 undocumented migrants arrested.
- Third Quarter 2018/19
 - 4 properties raided and 2 undocumented migrants arrested.
- Fourth Quarter 2018/19
 - 22 properties raided and 28 undocumented migrants arrested.
- First Quarter 2019/20
 - 48 properties raided and 94 undocumented migrants arrested
- A total of 113 properties were raided and 210 undocumented migrants were arrested.



Group Forensic and Investigation Services Bad/ Hijacked Buildings



Group Forensic and Investigation Services Bad/ Hijacked Buildings





Group Forensic and Investigation Services RDP Housing Corruption and Counterfeit Goods

- The investigation into the Alexandra Renewal Project is still currently ongoing.
- 128 cases of alleged fraud and corruption against suspects who have unlawfully benefited from the project have been registered with the South African Police Service.
- To date the investigation into the Alexandra Renewal Project has uncovered that 23 foreign nationals have been allocated RDP houses in Alexandra on the basis that they fraudulently obtained South African identity documents in order to be allocated an RDP House.
- Group Forensic and Investigation Services, together with the South African Police Service and the Johannesburg Metropolitan Police Department has conducted 4 raids on 9 different properties within the Johannesburg CBD, which raids have resulted in a an amount of R40 million worth of counterfeit goods being confiscated by the South African Police Service.



South African Human Rights Commission

- The City and the SAHRC engaged on the issues of undocumented migrants as a result of a complaint from the African Diaspora Forum.
- An engagement was held between all three parties and issues related to foreign migrants were ventilated.
- On conclusion of the engagement between the SAHRC and the City a settlement agreement was reached, whereby, the City agreed to, amongst others, host a Social Cohesion summit.
- The City and the SAHRC co-hosted a Social Cohesion summit, whereby different stakeholders were invited to participate in the summit, the following persons were invited:
 - Foreign nationals residing within Johannesburg;
 - Students from the University of Johannesburg and the University of Witwatersrand;
 - South Africans living within Johannesburg;
 - Academics;
- The Executive Mayor, the MMC for Health and Social Development, the leadership of the SAHRC and several academics /experts spoke on the issue of migration.



The Department of Home Affairs

- For over three years, and five Ministers later, the City has continuously attempted to engage the Department and the Ministers, in good faith, in the interests of the City and its residents as well as intergovernmental relations as espoused in the Constitution. However, this attempted engagement has come to very little.
- The City met with Minister Gigaba in December 2016, the Minister publicly committed to working together. Nothing came of this public commitment.
- The City wrote to Minister Gigaba on the 17 of January 2017 requesting an engagement.
- The City conducted a skills audit and became aware that some City employees had been issued fraudulent documents by the Department. On becoming aware of this the City wrote to Minister Gigaba, on the 18th of January 2017, requesting his co-operation with regard to the City's investigation.
- The City hosted a Mayoral Budget Lekgotla wherein one of the topics to be discussed was “managing migration”. The City felt is prudent that the Minister and the Department participate in the discussions. The City therefore wrote to Minister Gigaba, on the 3rd of February 2018, requesting his participation.
- Minister Gigaba never responded to one of the City's correspondence.



The Department of Home Affairs

- On the appointment of Minister Hlengiwe Mkhize, the City wrote to the Minister, on the 10th of October 2017, requesting a meeting in order to discuss the challenges the City was facing regarding illegal immigration. This letter was simply ignored by the Minister.
- When Minister Ayanda Dlodlo was appointed the City requested its lawyers to intervene. The City's lawyers wrote to the Minister, on the 16th of November 2017, demanding that the Department advise the City on the specific measures, plans and interventions which it intends on putting in place to deal with the serious challenge of illegal immigration.
- The City finally received a response from the Department, who proposed establishing a joint committee to deal with the challenges of illegal immigration within Johannesburg.
- The Department thereafter sent the City the proposed Terms of Reference ("ToR") for the joint committee, the City considered the ToR and rejected them on the basis that they were vague and wholly inadequate.
- The City's lawyers, on the 9th of March 2018, wrote to the Minister and the Director-General requesting a meeting to further engage on the proposed ToR.



The Department of Home Affairs

- The Director-General accepted the meeting and after a considerable amount of diary re-shuffling a meeting finally occurred, however, nothing came of the engagement.
- On the appointment of Minister Siyabonga Cwele, the City again, on the 10th of December 2018, wrote to the Minister highlighting the City's challenges with regard to illegal immigration. The City requested a meeting so as to further engage and hopefully renew the joint committee. The Minister never responded.
- Minister Cwele and the Executive Mayor met at the Randburg Home Affairs Office on an oversight visit. The Minister and the Executive Mayor held a brief meeting on the side lines. Which meeting was very productive. The City wrote, on the 5th of February 2019, to the Minister requesting a response to the City's previous letter. No response from Minister Cwele was forthcoming.
- Upon the appointment of Minister Aaron Motsoaledi, the City, on the 7th of June 2019, wrote to the Minister outlining the challenges the City faced with regard to illegal immigration. The City requested a meeting so as to find a joint solution to the challenges faced. No response was forthcoming.
- The Executive Mayor met the Minister at the funeral of a mutual friend and advised him of the challenges the City faced as well as the lack of co-operation from the former Ministers. The Minister committed to engaging and requested that the City send him all its previous correspondence to the Department and previous Ministers.
- The City duly did so on the 22nd of July 2019 and no response from the current Minister was forthcoming.



The Department of Home Affairs

- It is abundantly clear that the City made every attempt to engage all five Ministers, it did so in the spirit of cooperative governance as espoused in the Constitution, which requires that the different spheres of government work together in good faith for the betterment of the people of South Africa.
- The values as advocated in the Constitution appear not to be ones that the Department or the Ministers shared.
- It is essential to understand that the City was not calling for undocumented migrants to be immediately deported. The City was simply calling on the Department to fulfil their constitutional mandate and ensure that all those who qualify for asylum or other permits are processed and provided with their papers timeously.
- Those that do not qualify should be returned to their homes.



The Department of Home Affairs

- The Supreme Court of Appeal has even found the Department to be in utter disarray. In the 2016 judgment of *Scalabrini Centre, Cape Town v the Minister of Home Affairs* the court had the following to say:
 - *“As regards the decrease in the number of asylum seekers and alleged improved efficiency in dealing with asylum applications, the Department overlooks the fact that according to its own records as at May 2015, there was a backlog of some 100 000 files which had not yet been decided by a refugee status determination officer; and a backlog of more than 100 000 cases which had not been decided by the Refugee Appeal Board. Save for a bald allegation that they are being addressed, the answering affidavit is silent on any progress made with these backlogs or whether they have increased since May 2015. Apart from this, the alleged efficiency is questionable.”*
- This judgement is hugely telling of the state of the Department with respect to dealing with undocumented migrants. From the City’s experience with the Department very little has changed.



Conclusion

- Many people, out of desperation borne out of political, social and economic instability in their countries, seek a better life in South Africa, and Johannesburg in particular. As undocumented immigrants, many of these people make it past our borders, are forced to live on the fringes of our society, in the shadows, and with limited protection.
- It is essential that the Department cleans up its act and ensures there is:
 - Identification of undocumented immigrants; and
 - In the appropriate circumstances, that legal documentation be expeditiously provided to those who qualify.
- This will protect those who wish to legitimately enter our country from criminal elements, including slum lords and drug traffickers, who abuse their desperation and are able to evade the law.
- The City hereby calls on the Portfolio Committee on Home Affairs to hold the Department accountable and to ensure that they fulfil their constitutional obligations.



Thank You

