



BRIEFING TO THE PORTFOLIO COMMITTEE ON POLICE IN
RESPONSE TO THE ALLEGATIONS MADE BY MS PATRICIA
MASHALE

30 November 2022

PRESENTATION OVERVIEW

- Purpose of the presentation

SECTION: 1

1. Irregular extension of contract of Lt Gen Motswenyane;
2. General Agnes Makhele; **[Maj General Agnes Makhele]**
3. Politisation of Free State Police;
4. Lt General Lesia; **[Maj General Lesia]**
5. District Commissioner Tsotseti; **[Maj General Tsotetsi]**
6. Alleged CIS Fraud and victimisation of Warrant Officer Massdorp;
7. Firearm Legislation breaches;
8. Labour law breaches;
9. Illegal destruction of personal and SAPS documentation; and
10. Previous charges

SECTION: 2: IPID INVESTIGATIONS AND RECOMMENDATIONS

1. IPID CCN2021120058
2. IPID CCN 2022010217 (Parkroad CAS 475/01/2022)
3. Parkroad CAS 1203/01/2022 (Cybercrime)

PURPOSE OF THE PRESENTATION

The purpose of this presentation is to provide responses to the Portfolio Committee on Police on the allegations made by Ms Patricia Mashale as requested by the PCOP in a letter dated 23 November 2022.



Section: 1

1. EXTENSION OF THE CONTRACT OF LIEUTENANT GENERAL MOTSWENYANE AS PROVINCIAL COMMISSIONER: FREE STATE

- Section 207 of the Constitution of the Republic of South Africa (RSA) 1996 (Act No. 108 of 1996)
 - The National Commissioner, with the concurrence of the Provincial Executive, must appoint a woman or a man as the Provincial Commissioner for that province
- Section 7(1) of the South African Police Act (SAPS), 1995 (Act No 68 of 1995)
 - An appointed Provincial Commissioner shall occupy that office for a period of five years from the date of his or her appointment
- Section 7(2) of the South African Police Act (SAPS), 1995 (Act No 68 of 1995)
 - The term of office of the Provincial Commissioner may be extended at the expiry thereof for a period or successive periods not exceeding five (5) years at a time by the National Commissioner in consultation with the member of the Executive
- The employment contract of Lieutenant General Motswenyane was extended in compliance with the above prescripts and in consultation and concurrence with the Premier of the Free State, Ms. SH Ntombela.
- Ms Mashale should indicate what are the irregularity in the appointment of the Provincial Commissioner to substantiate the allegation

2. “GENERAL AGNES MAKHELE”

- Major General Makhele was arrested on 19 September 2022 by the Investigative Directorate, together with former acting National Commissioner, Lieutenant General Phahlane, and other two members of the SAPS in relation to R54 million Fraud charges. Major General Makhele is currently on suspension pending the finalisation of the departmental investigation/proceedings;
- Major General Makhele was not arrested but appeared in Court in 2018 in relation to Pretoria CAS 534/05/2017: Defeating and Obstructing the cause of Justice that was investigated by IPID. Based on the IPID recommendation received in this regard, she was subjected to a disciplinary process in 2018 and was found not guilty.
- SAPS is unaware of Major General Makhele giving suspect security clearances to top SAPS members.

3. POLITISATION OF FREE STATE POLICE

- SAPS is unaware of the management in the Free State has been dominated by supporters of the former Premier Magashule;
- Vacant posts in the SAPS are advertised from time to time in accordance with relevant HR policies and prescripts. All employees of the SAPS are afforded an opportunity to apply and compete for such posts and appointments are made according to such policies and prescripts and is not influenced by any other circumstances;
- Lieutenant General Mosikili was appointed in the Qwa Qwa Police in 1989 and to date has more than 33 years service;
- She served in the Free State province from 1989 to 2011;
- From 2011, she served in Gauteng province as Cluster Commander and Deputy Provincial Commissioner;
- In 2016, she was transferred to the Division: Detective Service, Head Office as the Head: FCS and later was appointed as the Divisional Commissioner: Detective Service;
- In 2020, she was appointed as the Deputy National Head: DPCI and was laterally appointed on 1 July 2022 as the Deputy National Commissioner: Policing (without any salary or rank adjustment)
- Lieutenant General TC Mosikili was not promoted during the tenure of Lieutenant General Phahlane as the Acting National Commissioner of SAPS. Lieutenant General Mosikili is a career police woman who progressed through the ranks and did not skip any ranks.

4. LT GENERAL LESIA (MAJOR GENERAL)

- SAPS is unaware of any persecution against Ms Patricia Mashale;
- Ms Mashale and her husband George Mashale circulated threatening, false, baseless and defamatory messages on social media against Maj Gen Lesia;
- Based on the continuous and sustained harassment of SAPS Senior Management by both Ms Patricia and George Mashale, on 3 August 2021, Maj Gen Lesia obtained a Final Protection Order against both of them;
- A collaboration was formed between Ms Patricia Mashale, George Mashale, Malesela Teffo and the so called Majority Union of South Africa as well as some disgruntled dismissed members. On 29 October 2021, a march was arranged and a memorandum was handed over to the SAPS Provincial Office, Free State, NPA and the Office of the Premier;
- **Search and Seizure case** – A lawful search and seizure warrant was granted by the Magistrate and the cellphone was seized on the 14th October 2021 and handed in at Parkroad SAPS 13. On the 15th of October 2021 the cellphone was sent for analysis.
- On 4 November 2021 the cellphone was received back after analysis was concluded by TSU and handed back into the SAPS 13 in Parkroad SAPS. The cellphone is an exhibit in a pending case that was placed on a court roll on the 16th November 2022 at Bloemfontein Magistrate Court. The case has been remanded to 31st January 2023.

4. LT GENERAL LESIA (MAJOR GENERAL)

- **Promotion** - Vacant posts in the SAPS are advertised from time to time in accordance with relevant HR policies and prescripts. All employees of the SAPS are afforded an opportunity to apply and compete for such posts and appointments are made according to such policies and prescripts and is not influenced by any other circumstances.
- **Resources** – There was confusion on the part of Ms Mashale that the case was sitting on 30 May 2022 whereas the actual date of the Court was the 31st of May 2022. The allegation made by Ms Patricia Mashale and Mary De Haas in her letter to the Portfolio Committee on Police is both misleading and untruthful on the date of the Court Case as the matter was set to sit on 31 May 2022. There were some Voice messages circulating that Court proceeding were going to be disrupted when Ms Patricia Mashale and George Mashale appear in Court to challenge the Protection Order. The heightened presence of the police vehicles was solely to police the intended gathering and not intended to intimidate her.
- Maj Gen Lesia obtained a Protection Order against Ms Mashale. Ms Mashale brought a rescission application against the order. They then applied for an Interim Protection Order against Maj Gen Lesia. She further applied that the Protection Order by Maj Gen Lesia must be set aside and demanded to have a Magistrate outside Bloemfontein. This was granted however the Magistrate found that the allegations made was untrue, as a result the Protection Order by Maj Gen Lesia was upheld.

4. LT GENERAL LESIA (MAJOR GENERAL) cont...

- **SABC** – As part of his constitutional right Maj Gen Lesia contacted the SABC to request that he be afforded an opportunity to provide his side of the story. However, this did not happen and it was broadcasted anyway.
- **Arrest of Mr Mashale 16th September 2022** – A case was opened against Mr. Mashale for violation of the Protection Order and the police went to effect the arrest on the basis of a warrant of arrest but he was not traced. It must further be noted the arrests are not directed by the complainant but will be effected as part of investigation processes.
- **Video Footage** – SAPS is aware however, not in possession of any video footage of the alleged arrest.

5. “DISTRICT COMMISSIONER TSOTSETSI”

- The alleged toxic management by “Maj Gen Tsotsetsi”: this allegation was investigated by Lt Gen Otola appointed by Provincial Commissioner to investigate the issue of relations in the district and recommendations were made.
- The recommendation was to initiate an EHW intervention which was conducted by Maj Gen Temba, the Head: EHW, Pretoria.
- The National Commissioner further appointed Lt Gen Manamela to conduct investigation on allegations which included, amongst others, the toxic management by Maj Gen Tsotsetsi.
- The allegation of members leaving the Service as a result of stress caused by Maj Gen Tsotsetsi is unfounded since the exit interviews in line with the policy is conducted by an HR Practitioner reflects contrary to the allegation.
- The HR processes allows various other avenues/alternatives to personnel to explore to resolve conflict without resorting to resignation.
- An Inquest docket (Tweeling CAS 01/09/2016) in relation to the suicide of a white Station Commander (Captain Naude) was investigated. The DPP declined to prosecute and referred the matter as an Inquest. In the Inquest Court, the Magistrate found that no one could be held responsible for the death of the officer and the matter is finalised and the docket is closed.

6. ALLEGED CIS FRAUD AND VICTIMIZATION OF WARRANT OFFICER MAASDORP

- Warrant Officer Maasdorp was departmentally charged on 24 June 2022 for failing to comply with or contravenes an Act, regulation or legal obligation, failing to carry out a lawful order or routine instruction without just or reasonable cause, conducting himself in an improper, disgraceful and unacceptable manner and contravening any prescribed Code of Conduct of the Service or Public Service.
- He was subjected to a disciplinary hearing and was found not guilty on 5 October 2022.

7. FIREARMS LEGISLATION BREACHES

- Amnesty Firearms Sold – Matter is currently being investigated by the Directorate for Priority Crime Investigation (DPCI)

8. LABOUR LAW BREACHES

Background

- Ms Mashale was employed in the SAPS as an Administration Clerk from 1 August 2007 to 21 February 2022. During October 2021, Ms Mashale participated in a Strike Action while she was reportedly off-sick. She was subsequently charged for misconduct together with another SAPS member [Lt Col] who was on duty but participated in the unprotected strike and was also dismissed.
- At the march, Ms Mashale read a Memorandum where she insulted the Provincial Commissioner as well as other Senior Managers. This was captured in a footage. She was subsequently charged for misconduct and bringing the Service into disrepute. The Disciplinary hearing was convened and Ms Mashale walked out of the hearing with her union representative and she was subsequently discharged by operation of law in terms of Regulation 9(7)(b) on 21 February 2022.
- She received the last salary in January 2022. The pension benefits could not be paid to Ms Mashale as she refused to complete/sign the necessary pension documentation for processing of her service termination. The final salary and pension benefits will be processed upon receipt of the necessary documents from Ms. Mashale.
- The appointment of Lt Gen Ntshiea to the Government Employee Pension Fund was done in accordance with Rule 4.1.2 (a) of the GEPP Law by the Minister of Finance.

9. ILLEGAL DESTRUCTION OF PERSONAL AND SAPS DOCUMENTATION

- The allegation is unfounded.
- Boxes with Ms Mashale's personal documents are still packed/stored in the office and no documents were shredded.

10. PREVIOUS CHARGES AGAINST MS MASHALE

Background

- In 2009, a complaint was received that Ms Mashale was irregularly employed in the SAPS. The matter was investigated by Inspectorate and recommendations were made for a disciplinary process to be instituted. Ms Mashale was then charged for failure to disclose her dishonourable discharge from the Department of Health where she was previously employed as well as irregular employment in the Service. The disciplinary hearing did not proceed due to delays in finalising the disciplinary proceedings within the prescribed timeframes.
- Mr George Mashale served in the SAPS as a Reservist. Information was obtained regarding his alleged involvement in Corruption (Parkroad CAS 142/04/2008). The allegations were investigated which resulted in his arrest as well as his accomplices. They were subsequently charged and detained on these charges;
- He was subsequently dismissed as a Reservist.

10. PREVIOUS CHARGES AGAINST MS MASHALE

Emanating from the continuous and persistent harassment and defamation made by Patricia Mashale and her husband George Mashale, Maj Gen Lesia has opened various cases against the Mashale's that is still pending. Below are some of the criminal cases opened against Patricia and George Mashale:

CASES OPENED	CHARGES	PROGRESS
Bainsvlei CAS 109/10/2021	Violation of Protection Order	Decline
Parkroad CAS 1684/10/2021	Criminal Defamation and Violation of Protection Order	Decline
Parkroad CAS 35/02/2022	Perjury	Docket with DPP for decision
Bainsvlei CAS 175/01/2022	Criminal Defamation	Docket with DPP for decision
Parkroad CAS 1614/08/2021	Harassment in terms of Section 18(1) of the Prevention of Harassment Act, 2011 (Act 17 of 2011).	Patricia Mashale charged by instruction of DPP Case remanded to 31/01/2023
Parkroad CAS 429/09/2022	Violation of Protection Order	Patricia Mashale has been charged and case postponed to 31/01/2023
Parkroad CAS 475/01/2022	Perjury (Complainant Patricia Mashale)	Declined to Prosecute
Bainsvlei CAS 90/09/2022	Violation of Protection Order	George Mashale has been charged. Case postponement to 31/01/2023



NATIONAL COMMISSIONER'S INTERVENTIONS

NATIONAL COMMISSIONER'S INTERVENTIONS

- Lt Gen Kwenza was appointed by the National Commissioner in March 2022 to investigate the complaints by Ms Mashale. However, when he arrived in Bloemfontein, Ms Mashale refused to engage with him [Lt Gen Kwenza].
- Lt Gen Manamela was appointed by the National Commissioner in July 2022 to investigate the allegations by Ms Mashale. During the telephone conversation with Ms Mashale, the Complainant's husband intervened and demanded that the any meeting be held at the convenient of the complainant and at the venue to be determined by the complainant and that they will not be dictated to. He further demanded that the meeting be held at the residence of Lt Gen Manamela which was not acceded to by Lt Gen Manamela.
- Based on the above details it became clear that the complainant was not cooperating or avail herself to assist SAPS in addressing the complains. An official letter was sent to the complainant by the National Commissioner informing her that in view of the fact that she was not prepared to engage with the SAPS, the service complaint file was subsequently closed.



Section: 2

IPID INVESTIGATIONS AND RECOMMENDATIONS

IPID RECOMMENDATIONS

- ❑ SAPS has not yet received the following recommendations with CCN Numbers from IPID for the purposes of initiating disciplinary proceedings:
 - IPID CCN 2021120058
 - IPID CCN 2022010217 (Parkroad CAS 475/01/2022) Defeating the ends of justice, the case has been closed as *nolle prosequi*.

- ❑ SAPS has not yet received the recommendation from IPID in relation to Parkroad CAS 1203/01/2022 (Cybercrime) Theft of cellphone, investigated by IPID. Case is still under investigation.

KEY CONCERN OF THE COMMITTEE – SAFETY OF MS MASHALE

- The concern by the Committee regarding Ms Mashale's safety is noted and she was afforded an opportunity to be declared as a whistle-blower by the Safety and Security Sectoral Bargaining Council (SSSBC).
- SAPS had afforded Ms Mashale the opportunity to have a fair hearing and also to be classified as a Whistleblower under the Protected Disclosure Act by allowing her the opportunity to implement section 188 of the Labour Relations Act.
- On the 8th of November 2021, the SSSBC indicated that the Council had not received the motivation from the applicant as well as her Legal Representative.
- Due to this failure by Ms Mashale and her Legal Representative to furnish the Council with the requested motivation, she was not classified in terms of the Protected Disclosure Act.
- The matter of the protection of Ms Patricia Mashale was addressed in Parliamentary Question 416 from the Honourable Member Mr MS Moletsane and the status is still the same.
- Further to this, during the matter between Major General Lesia and Ms Mashale, the Court deliberated on whether her conduct and disclosure that was made on social media meets the elements of section 6 – 9 of the Protected Disclosure Act 26 of 2000. The Court then declared that the disclosure does not fall under the Protected Disclosure Act.

CONCLUDING REMARKS

- The Committee should take note that Ms Mashale is part of group of people together with former dismissed SAPS members and Malesela Teffo who are driving a smear campaign on social media by spreading false, baseless, defamatory and unsubstantiated allegations against SAPS Top Management and the Service;
- This is done solely with the intention to discredit SAPS Top Management and bring the Service into disrepute;
- The status of the matters relating to the dismissed members were previously reported to the Committee and these matters are currently in the Courts and the SAPS cannot pronounce on such issues until the legal processes have been exhausted;
- Several attempts were made by the National Commissioner to reach out to Ms Mashale to have the issues investigated but there is no cooperation from Ms Mashale, however the smear campaigns continue unabated despite the fact that some of these issues were also investigated by IPID;
- The SAPS is considering all legal avenues available to address the continued smear campaigns which is not limited to SAPS Top Management initiating litigation in their private capacity.



THANK YOU