

Tuesday, 14 May 2024]

No 65 - 2024] SIXTH SESSION, SIXTH PARLIAMENT

PARLIAMENT OF THE PROVINCE OF THE WESTERN CAPE

ANNOUNCEMENTS, TABLINGS AND COMMITTEE REPORTS

TUESDAY, 14 MAY 2024

COMMITTEE REPORTS

1. ***(Final mandate stage)* Report of the Standing Committee on Mobility on the Transport Appeal Tribunal Amendment Bill [B 8D–2020] (NCOP), dated 13 May 2024, as follows:**

The Western Cape Provincial Parliament confers on the Western Cape’s delegation in the National Council of Provinces the Authority to support the Bill.

Report to be considered.

2. ***(Final mandate stage)* Report of the Standing Committee on Agriculture, Environmental Affairs and Development Planning on the Marine Pollution (Prevention of Pollution from Ships) Amendment Bill [B 5—2022] (NCOP), dated 13 May 2024 as follows:**

The Western Cape Provincial Parliament confers on the Western Cape’s delegation in the National Council of Provinces the Authority to support the Bill.

Report to be considered.

3. ***[Final Mandate Stage]* Report of the Standing Committee on Finance, Economic Opportunities and Tourism and the Standing Committee on Infrastructure on the Electricity Regulation Amendment Bill [B 23B – 2023] (NCOP), dated 13 May 2024.**

The Western Cape Provincial Parliament confers on the Western Cape’s delegation in the National Council of Provinces the Authority not to support the Bill.

In accordance with Standing Rule 90, the African National Congress expressed its minority view to support the Bill.

4. **Report of the Standing Committee on Police Oversight, Community Safety, and Cultural Affairs and Sport on its oversight visit to the South African Police Service Forensic Science Laboratory in Platteklouf on 23 April 2024.**

The delegation

The delegation of the Standing Committee on Police Oversight, Community Safety, and Cultural Affairs and Sport included the following Members:

Democratic Alliance

Bosman, G (Chairperson)
Baartman, DM
Fry, C

African Christian Democratic Party

Christians, FC

African National Congress

Bans, A

Apologies

Cassiem, A (EFF)
Pretorius, G (DA)
Windvogel, R (ANC)

Persons in attendance

The register for attendees is attached.

The link between the oversight visits and the WCPP 's priority strategies

The Western Cape Provincial Parliament strives to uphold its mandated duty of conducting oversight over the provincial departments. It also aims to effect socio-economic upliftment for the citizens of the Western Cape. The oversight visit served as a mechanism to uphold the WCPP's oversight role. The visit also served the interest of the citizens as the South African Police Service (SAPS) Forensic Science Laboratory (FSL) is an essential institution in the overall justice system. The FSL is responsible for analysing and testing evidence, be it DNA samples, firearm ballistics, examination of questioned documents, among a plethora of forensic science processes required within the chain criminal investigations. This visit follows the Committee's 8 June 2021 engagement with the FSL where key concerns were raised.

1. Background

The Standing Committee on Police Oversight, Community Safety, and Cultural Affairs and Sport conducted an oversight visit to the Forensic Science Laboratory (FSL) in Platteklouf on Tuesday 23 April 2024 as part of its oversight function.

The purpose of the visit was to primarily follow up on a visit conducted to the FSL in June 2021. To see first-hand what the challenges were in the FSL not being able to process DNA and chemistry samples, to assess the activities of the Forensic Science Laboratory, understand the safety protocols that were in place, and to establish a relationship with the management of the Laboratory. The Committee wanted to get a better understanding of the reported backlog cases and its impact on the people of the Western Cape.

Upon arrival at the Laboratory, the Committee was welcomed by Maj Gen T Mulaudzi, the FSL Component Head, and Brigadier HJJ Westraat, FSL Western Cape Regional

Head. The Provincial Minister of Police Oversight and Community Safety, Mr R Allen, was also in attendance.

2. Salient points that emanated from the visit to the Forensic Science Laboratory

Brig Westraat proceeded to brief the Committee on the FSL's unit composition, compliance requirements, updates on performance status per unit, the National Forensic DNA Database (NFDD), partnerships with private laboratories, staffing and key challenges.

The FSL comprises of a biology unit, ballistics testing unit, chemistry unit, a questioned documents unit, and a victim identification unit and a scientific analysis unit. The FSL serves other provinces as well as it is a national competency.

One of the marked concerns from the 2021 visit was the backlog of DNA testing cases. This required commitment by staff to work extensive overtime periods. SAPS agreed to a Committee request to submit quarterly performance updates. By the first quarter of 2023, the backlog had been ameliorated to the point where there were no backlogged cases. For the 2023/24 financial year, the FSL reported that 90% of cases had been finalised. Brig Westraat proceeded to inform the Committee of the case exhibit finalisation percentage of each unit.

The FSL has a total staff establishment of 460 personnel. There are 325 personnel employed under the Police Service Act, 2003 (Act 75 of 2003), and 135 personnel employed under the Public Services Act, 1994 (Act 103 of 1994). The Police Act posts account for 71% of the overall establishment, and those employed under the Public Service Act amount to 29% of the staffing structure. The SAPS reported that there were several resignations due to better monetary incentives elsewhere. Some staff were recruited by United Kingdom and Australian based forensic science institutions. Col T Lamani, division head; Biology division indicated that a big part of the reason qualified and experienced staff with years of service are leaving is due to the promotion and management structure within the FSL. Forensic Analyst are scientist with aspirations, but they are designated to being warrant officers for more than 15 years.

The SAPS has a working relationship with private laboratories, and university laboratories. These laboratories are not equipped to assist with the volume required. To ease the load and not over burden the system, the SAPS does not do chemistry tests on minor amounts of substances linked to criminal cases but relies on testing only what is required to secure a conviction and relies on Section 212 of the Criminal Procedure Act, 1977, (commonly referred to as 212 Chemistry cases). What this means is that the focus is on testing for cases where the investigations are aimed at prosecuting high-flying criminals.

The FSL issues letters to prosecutors to inform them that unless requested, the FSL avoids investigations requiring testing of minimal amounts of substances. The focus is on more high-profile cases, via the Prevention of Organised Crime Act (POCA), 121 of 1998, in order to achieve more severe conviction and sentencing. The FSL however does receive these lesser amounts but only tests if prosecutors request and motivate for the analysis.

The NFDD is used in investigations to identify serial rapists, murderers, and multiple offenders. At the time of reporting, there were 1 169 185 active forensic DNA profiles, or samples, on the database. There are more profiles loaded but in terms of legislation, these profiles are only on the database for 30 days. The more important samples are those linked to the investigations of serious and repeat offenders.

3. Challenges reported during the visit to the Forensic Science Laboratory

The FSL Division has a budget of R263 million for the 2024/25 financial year, with R90 million allocated to the Western Cape FSL. R20 million of the full allocation is earmarked for the overtime budget.

The FSL Platteklouf building has been occupied since 2011. The FSL reported that there is no maintenance contract for the building site. The FSL informed the Department of Public Works, in writing, 16 months prior to the maintenance contract expiring, that a renewal was needed. Despite a one-year extension, the FSL has been without a maintenance contract since November 2023. The cost of the extension had already reached the 20% National Treasury limit, by February 2023. This marked downscale of maintenance has left the FSL site in a precarious position for well over a year. Soft services such as gardening services, pest control, waste management, and window cleaning were stopped on 20 August 2023. The elevators are also not functional despite regular fault reporting.

The FSL also has to contend with the repair of expensive and critical laboratory equipment and basic office equipment such as printers. Upgrades and licence renewals of essential software are also exigencies that are not prioritised due to service provider contracts and/or appropriate budget allocations.

The staff cafeteria was closed down. The demarcated area provides a suitable space for staff to enjoy their breaks and meals. However, staff are now forced to go offsite to a nearby centre and surrounds for a reasonable break. Added to this is the need for more staff. The aforementioned national overtime budget allocation indirectly speaks to the fact that staffing numbers are a concern. An increase in testing samples adds to the workload of the existing staff numbers, without a proportionate, or any, increase of staffing to timeously deal with the increased workload demands.

There are several challenges and risks posed by the lack of such a contract and the related services. This includes the lack of airflow due to office windows being designed not to open, thus emphasising the need for airflow through the Heating, Ventilation and Air Conditioning (HVAC) needing urgent repair and/or replacement. The HVAC system has failed several times, and the lab has operated with no airflow in the building thus making it unsafe for staff to work effectively.

Several of the above factors have led to a marked decrease in staff morale.

The FSL is equipped with two megawatt of 1000 KVA generators redundancy and a room fully equipped with Uninterrupted Power Supply (UPS) capability. In the event of loadshedding, the UPS batteries can sustain the system for about two hours. The FSL also has a 50 000l diesel tank to feed the two generators that provide power to the building, especially once the UPS system runs its course. Severe and extended loadshedding stages leaves the site at risk, especially since generators itself are susceptible to malfunctioning and/or damage from attritional usage.

The City of Cape Town assisted with exemption from loadshedding, up until 5 April 2024. During the visit, national loadshedding was suspended, however, the risk is still present in the event of any future extended loadshedding implementation.

4. Tour of facilities

The delegation visited the Chemistry unit, the Ballistics unit, the Armoury Museum, and various preparation laboratories. The Committee posed questions as needed during the

walkabout. Brig Westraat showed how practically, the effects of loadshedding potentially hinders operations, from access to offices, using infrared and laboratory equipment, and analysis and testing processes, as well as the overall safety of personnel and the building.

5. Request for information.

The Committee requested that the SAPS FSL submits: -

- 5.1 The budget allocated for the maintenance for the Platteklouf FSL's laboratory machines and equipment for 2024/25.
- 5.2 A comprehensive list of all infrastructure and equipment that is not currently operational.
- 5.3 A breakdown of the staff establishment per section. The breakdown should include the actual vs granted amount, as well as the vacancy rate per unit.
- 5.4 A full list of resignations, categorised by post occupied, in the last 5 years and the reason indicated during the exit interview.
- 5.5 A detailed report into the organisational structure of the Forensic Science Laboratory service in the Western Cape, Gauteng and regional laboratories.
- 5.6 A detailed report into the ideal number of staff needed to ensure the lab runs as efficiently and effectively to meet its stated objective.

6. Conclusion

The Committee successfully concluded its visit to the Forensic Science Laboratory in Platteklouf.

5. ANNUAL ACTIVITY REPORT OF THE STANDING COMMITTEE ON POLICE OVERSIGHT, COMMUNITY SAFETY, AND CULTURAL AFFAIRS AND SPORT FOR THE PERIOD OF 1 APRIL 2023 TO 31 MARCH 2024

The Strategic Objectives of the WCPP linked to the Speakers' Priorities which impact on committees are as follows:

Priority 1: Building a credible WCPP; and
Priority 3: strengthening the core business.

The Standing Committee on Community Safety, Cultural Affairs and Sport, conducts oversight over multiple portfolios. The Committee's membership is different for each of the two main portfolios, that is, matters related to Community Safety and matters related to Cultural Affairs and Sport.

Permanent Members as at 31 March 2024

The Committee overseeing the Cultural Affairs and Sport portfolio comprised of the following members.

Bosman G (Chairperson) (DA)
Baartman DM (DA)
Harris P (ANC) *Member since 13 March 2024
Marais PJ (FFP)
Pretorius G (DA)

Alternate Members

Bans A (ANC)
Brinkhuis G (Al-Jama-Ah)
Cassiem A (EFF)

Fry C (DA)
 Lekker PZ (ANC)
 Poole CJ (DA) *Member since 6 March 2024
 Windvogel R (ANC)

*Messrs. M Kama (ANC) and D Plato (DA) were committee members prior to 1 March 2024.

The Committee overseeing the Community Safety portfolio comprised of the following members.

Permanent Members as at 31 March 2024

Bosman G (Chairperson) (DA)
 Baartman DM (DA)
 Pretorius G (DA)
 Christians FC (ACDP)
 Bans A (ANC)

Alternate Members

Brinkhuis G (Al Jamaa-Ah)
 Cassiem A (EFF)
 Fry C (DA)
 Lekker PZ (ANC)
 Poole CJ (DA)
 Windvogel R (ANC)

*Messrs. M Kama (ANC) and D Plato (DA) were committee members prior to 1 March 2024.

The Standing Committee on Police Oversight, Community Safety, and Cultural Affairs and Sport, reports on its 2023/24 annual activities, as follows:

1. Introduction

The mandate of the Committee is to:

- a. Maintain oversight over the Executive and other stakeholders responsible for community safety, cultural affairs and sport, in the province.
- b. Hold the Department of Police Oversight and Community Safety, the Western Cape Police Ombudsman, the Western Cape Liquor Authority, and the South African Police Service accountable. To also hold accountable the Department of Cultural Affairs and Sport, and its Entities (Western Cape Language Committee, Western Cape Cultural Commission and Heritage Western Cape).
- c. Consider and report on legislation and other matters referred to it by the Speaker.
- d. Monitor the implementation of legislation.

In the fulfilment of its mandate, the Committee:

- a. Facilitated public participation in the legislative and other processes of the Committee.
- b. Conducted its business in a fair, open and transparent manner.
- c. Promoted cooperative governance.
- d. Reported regularly to the House.

The Committee deals with two distinct portfolios, the report will detail the activities per portfolio.

2. Reporting Departments, entities, and stakeholders

- 2.1. The Department of Cultural Affairs and Sport, and its Entities (Western Cape Language Committee, Western Cape Cultural Commission and Heritage Western Cape).
- 2.2. The Department of Police Oversight and Community Safety and its Entities (Western Cape Police Ombudsman and the Western Cape Liquor Authority).
- 2.3. The South African Police Service and the City of Cape Town's Safety and Security Directorate are two stakeholders with which the Committee regularly engages as part of safety and policing matters in the Western Cape.

3. Cultural Affairs and Sport portfolio

During the 2023/24 financial year, members of the Standing Committee on Police Oversight, Community Safety, and Cultural Affairs and Sport (Cultural Affairs and Sport Portfolio) conducted an oversight visit to the Western Cape Archives and Records Service (WCARS). The visit included a detailed presentation on the major successes and concerns. One of the key discussions focused on the proposal to relocate or upgrade the WCARS.

The Committee conducted a guided tour of the facility. Some of the key areas visited included the restoration room, where records are repaired, the reading room, and the room housing the three state-of-the-art digitisation machines. Staff demonstrated how the innovative equipment is used to digitise records. The Committee also visited one of 45 stack rooms (storage rooms), which stores the second oldest archive record (a volume of records dating back to 1659). The visit was particularly pertinent to understand how the Library management navigated the impact of the lengthy national lockdown levels, to revive public interest in visiting the library.

The Committee ensured that it complied with its regulatory oversight mandate by conducting the cyclical reporting events, namely, the appropriation and adjustment appropriation processes, as well as the annual report discussions on the Department of Cultural Affairs and Sport, and its three entities.

4. Overview of activities for the Cultural Affairs and Sport portfolio

Number of Committee Meetings: 3
 Number of Public Hearings: 3
 Number of Oversight Visits: 1
 Number of Cluster Visit Weeks: 0
 Number of International Visits: 0

5. Police Oversight and Community Safety portfolio

During the 2023/24 financial year, the Standing Committee on Police Oversight, Community Safety, Cultural Affairs and Sport (Community Safety Portfolio) conducted an oversight visit to the Law Enforcement Advancement Plan (LEAP) base in Bishop Lavis. The LEAP is a programme facilitated by the City of Cape Town's Safety and Security Directorate, and the Department of Police Oversight and Community Safety provides funding to the LEAP.

The Department also presented its preliminary findings and recommendations on the Policing Needs and Priorities Report for 2023/24. Following the referral of the completed

PNP Report, the Committee invited the South African Police Service and the Municipal Head of Policing in the City of Cape Town, to provide input on the Report. Both stakeholders provided written input. The Committee deliberated on the Department's briefing of the finalised report and duly accepted it without any further recommendations to the Provincial Minister of Police Oversight and Community Safety.

The Committee conducted 11 virtual interviews via Microsoft Teams, to fill six vacancies on the Western Cape Liquor Authority's Governing Board. Following its deliberations and scoring of all interviews, the Committee submitted a shortlist of eight candidates, from which the Provincial Minister could appoint board members.

The Committee ensured that it deliberated on the cyclical matters, namely the adjustment appropriation, annual reports, and appropriation, for both the Department of Police Oversight and Community Safety, the Western Cape Police Ombudsman, and the Western Cape Liquor Authority.

6. Overview of activities for the Community Safety portfolio

Number of Committee Meetings: 6
 Number of Public Hearings: 3
 Number of Oversight Visits: 1
 Number of Cluster Visit Weeks: 0
 Number of International Visits: 0

7. NCOP Legislation

There was no legislation received.

8. Provincial bills

- 8.1. Vote 4: Police Oversight and Community Safety in the schedule to the Western Cape Adjustments Appropriation Bill (2023/24 Financial Year) [[B7 – 2023]].
- 8.2. Vote 13: Cultural Affairs and Sport in the schedule to the Western Cape Adjustments Appropriation Bill (2023/22 Financial Year) [[B7 – 2023]].
- 8.3. Vote 4: Community Safety in the Schedule to the Western Cape Appropriation Bill (2024/25 financial year) [B1- 2024].
- 8.4. Vote 13: Cultural Affairs and Sport in the Schedule to the Western Cape Appropriation Bill (2024/25 financial year) [B1- 2024].

9. Facilitation of public Involvement and participation

In line with the Committee's mandate to facilitate public participation as part of the legislative and oversight processes, members of the public were invited to participate in the consideration of and deliberations on:

- 9.1 The Annual Reports of the Department of Police Oversight and Community Safety, the Western Cape Liquor Authority, and the Western Cape Liquor Authority, and, the Department of Cultural Affairs and Sport, and its Entities (Western Cape Language Committee, Western Cape Cultural Commission and Heritage Western Cape).
- 9.2 The consideration of Vote 4: Police Oversight and Community Safety in the schedule to the Western Cape Adjustments Appropriation Bill (2023/24 Financial Year) [[B7 – 2023]].

- 9.3 The consideration of Vote 13: Cultural Affairs and Sport in the schedule to the Western Cape Adjustments Appropriation Bill (2023/24 Financial Year) [[B7 – 2023]].
- 9.4 The consideration of Vote 4: Police Oversight and Community Safety in the Schedule to the Western Cape Appropriation Bill (2024/25 financial year) [B1-2024].
- 9.5 The consideration of Vote 13: Cultural Affairs and Sport in the Schedule to the Western Cape Appropriation Bill (2024/25 financial year) [B1- 2024].

10. Financial particulars

The Standing Committee spent R46 254, 98 during the 2023/24 financial year. The budget was spent on advertisements for the annual report meetings, and the various Appropriation and Adjustments Appropriation Bills, as well as catering for in-person meetings.