

**Report of the Select Committee on Security and Justice on its activities undertaken during the 5th Parliament**

**(May 2014 – March 2019)**

**KEY HIGHLIGHTS**

1. **Reflection on committee programme per year and on whether the objectives of such programmes were achieved**

The main objectives of the Select Committee on Security and Justice for each year of the 5th parliament was on processing legislation. The Committee also focussed on Child Justice and hosted a workshop with the Department of Justice and other relevant Departments on understanding the operation of Child Justice Centres and their challenges. In this regard the Committee conducted oversight over a few Child Justice Centres. The Committee focussed on the challenges in Correctional Centres and the roll out of the rural safety plans of SAPS. In its last year, the Committee focussed on stock theft challenges and how SAPS is addressing this in rural communities.

1. **Committee’s focus areas during the 5th Parliament**

* Child Justice
* Correctional Services: Overcrowding, rehabilitation and reintegration of offenders
* The Distribution of benefits to Military Veterans
* SAPS – rural safety and stock theft as well as security measures at police stations.
* The working relationships between SAPS, Justice, NPA and Correctional Services.
* The challenges related to ageing infrastructure at buildings within the Criminal Justice Sector.

1. **Key areas for future work**

* Domestic Violence, Sexual Offences
* Overseeing the distribution of benefits for Military Veterans
* The overall challenges and obstacles encountered by the Departments in the Criminal Justice Sector.
* Challenges related to DPW and infrastructure of Departments, particularly in respect of Correctional Centres
* SAPS – analyse Crime Statistics and oversee the programmes which have been put in place to address the high crime in different provinces. Oversee the effective functioning of the Gang Unit launched in the Western Cape in 2018.

1. **Key challenges emerging**

* Ageing infrastructure
* Obstacles related to procurement policies in certain Departments, particularly the Department of Defence.
* Overcrowding, gangsterism, staff vacancies – Correctional Services
* Magistrates suspensions – lengthy proceedings undertaken by the Magistrates Commission.
* SAPS – Crime Statistics – oversee what measures have been put in place by SAPS to reduce crime statistics. Ensure that Police Stations are sufficiently resourced to address high crime.

1. **Recommendations**

* Cluster sizes of Committees remains a challenge in terms of completion of work in the respective Committees.
* Allocate sufficient time, per Committee, for oversight activities.
* Ensure that the Committee is afforded sufficient time to process legislation effectively.

1. **DEPARTMENTS AND ENTITIES OVER WHICH THE COMMITTEE EXERCISES OVERSIGHT**

## DEPARTMENT OF CORRECTIONAL SERVICES (DCS)

## In the 5th parliament, the Ministries of Justice and Correctional Services were merged into one Department. The Department of Correctional Services works towards effective and humane incarceration of inmates, rehabilitation and social reintegration of offenders

| **Name of Entity** | **Role of Entity** |
| --- | --- |
| **Judicial Inspectorate for Correctional Services** | The Judicial Inspectorate of prisons is an independent office under the control of the Inspecting Judge. The object of the Judicial Inspectorate is to facilitate the inspection of prisons in order that the Inspecting Judge may report on the treatment of prisoners in prisons and on conditions in prisons. |

## DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

To administer an efficient and responsive justice system.

**National Prosecuting Authority** provides a co-ordinated prosecuting service that protects certain witnesses and removes the profit from crime. (The Asset Forfeiture Unit is not a separate entity but a sub-programme of the NPA.)

| **Name of Entity** | **Role of Entity** |
| --- | --- |
| **Legal Aid South Africa** | The Legal Aid Board has been created as an independent body outside of government in terms of the Legal Aid Act to ensure the separation between the prosecuting arm of government and the defence of those requiring state funded legal assistance**.** |
| **Special Investigating Unit (SIU)** | The SIU’s principal function is to investigate serious malpractices, maladministration and corruption in connection with the administration of state institutions, state assets and public money, as well as any conduct, which may seriously harm the interests of the public. |

## 1.2 DEPARTMENT OF DEFENCE AND MILITARY VETERANS

**South African Navy**: The core business of the SA Navy is fighting at sea, and its aim is to provide prepared and supported maritime defence capabilities for the defence and protection of South Africa.

**South African Air Force:** The core business of the SA South African Air Force is fighting in the air, and its aim is to provide prepared and supported air defence capabilities for the defence and protection of South Africa.

**South African Defence Force (Army):**

**Department of Military Veterans:** Responsible for the overall management and administration of military veteran’s affairs, including, but not limited to developing policy, legislation, programmes, benefits and services that facilitate the transition from active service to civilian life.

**Secretariat of Defence:** Responsible for ensuring robust and healthy civil-military relations. It advises the Minister on all aspects relating to defence policy, programmes and budgets, performs the financial accounting function within the Department of Defence, and takes responsibility for interdepartmental and parliamentary liaison on behalf of the Department.

| **Name of Entity** | **Role of Entity** |
| --- | --- |
| **The Armaments Corporation of South Africa Ltd (Armscor)** | Armscor is the officially appointed acquisition organisation for the South African Department of Defence and with the approval of the SA Minister of Defence, also renders a professional acquisition service to other government departments and public entities. |
| **The Castle Control Board** | The Castle Control Board is a service orientated public entity, striving to optimise its tourism potential and accessibility to the public. |

## 1.4 DEPARTMENT OF POLICE

The Department of Police serves to: prevent, combat and investigate crime, maintain public order, protect and secure inhabitants of South Africa and to uphold and enforce the law.

**Civilian Secretariat for the Police Services:** The Civilian Secretariat's mandate includes:

* providing the Minister with policy advice and research support;
* developing departmental policy through qualitative and evidence-based research;
* providing civilian oversight of the Police Service through monitoring and evaluating overall police performance;
* mobilising role-players, stakeholders and partners outside the department through engagements on crime prevention and other policing matters; and
* providing other support services to the Minister in pursuit of achieving his/her mandate

**Independent Police Investigative Directorate (IPID:** The IPID’s mandate will investigate more serious and priority crimes committed by members of SAPS and the Metro Police, in particular, the discharge of a police firearm; rape by a police officer; rape while in police custody; torture or assault; and corruption and systemic corruption. The IPID also aims to improve reporting and accountability practises in the directorate; establish a formal liaison capacity between the IPID and the Civilian Secretariat of Police; and enforce compliance by SAPS of recommendations made in respect of SAPS members.

| **Name of Entity** | **Role of Entity** |
| --- | --- |
| **Private Security Industry Regulatory Authority (PSIRA)** | Regulator of Private Security in South Africa |

* 1. **FUNCTIONS OF COMMITTEE:**

Parliamentary committees are mandated to:

* Monitor the financial and non-financial performance of government departments and their entities to ensure that national objectives are met.
* Process and pass legislation.
* Facilitate public participation in Parliament relating to issues of oversight and legislation.
* Ensure that provincial interests are taken into account in the national sphere of government.
* Provide a national forum for the public consideration of issues affecting the provinces.

**Constitutional Mandate of the Select Committee on Security and Constitutional Development**

The Select Committee on Security and Constitutional Development (“the Select Committee”) is a multi-party committee consisting of ten permanent members and five alternative members from all nine provinces. Mr Simphiwe Mthimunye (Mpumalanga, MP) chairs the Committee. Members of the Select Committee also share membership with the Select Committees on Co-operative Governance and Traditional Affairs; and Petitions. Support staff includes the Committee Secretary, Committee Researcher, Committee Assistant and Content Adviser.

The Select Committee oversees the Departments of Justice and Constitutional Development, Department of Correctional Services, Department of Defence and Military Veterans, Department of Police and the Independent Police Investigative Directorate, and their entities. It also interacts with civil society and stakeholders of the respective departments reporting to it. It derives its mandate from the Constitution, the Joint Rules of Parliament and the Rules of the National Council of Provinces (NCOP) and must exercise its oversight function over the above departments in accordance with the Rules of Parliament and the powers given to the National Council of Provinces and its Committees in terms of Chapter 4 of the Constitution.

The Committee’s role and responsibilities are also informed by the broader strategic objectives and strategic priorities of the NCOP contained in the draft Strategic Framework Plan, which is aligned with the Medium Term Strategic Framework of Government. In addition, Government’s priorities as spelt out in the State of the Nation Address and the National Development Plan also impacts on Committee priorities. The Committee also adopted its own strategic plan which has been aligned with the NCOP’s Strategic Framework Plan.

* 1. **Purpose of the report**

The report aims to:

* Review the work of the Committee in Parliament by measuring its performance in respect of the Bills passed, over the period of review (May 2014 - March 2019).
* The report will be a useful tool for the Committee in re-establishing its mandate during the sixth Parliament in 2019.
* The report will enable the Committee to assist with its strategic plan for the next five years.
* Provide a record of the activity of the Committee and participation by the Members during its term.
* The report will consider the Committee’s progress, performance and participation in the House.
* It summarises the key issues for follow-up and concludes with recommendations to strengthen operational and procedural processes to enhance the committee’s oversight and legislative roles in future.

1. **KEY STATISTICS**

The table below provides an overview of the number of meetings held, legislation and international agreements processed and the number of oversight trips and study tours undertaken by the committee, as well as any statutory appointments the committee made, during the 5th Parliament:

| **Activity** | **2014** | **2015** | **2016** | **2017** | **2018** | **2019** | **Total** |
| --- | --- | --- | --- | --- | --- | --- | --- |
| Meetings held | **13** | **16** | **18** | **18** | **17** | **5** | **69** |
| Legislation processed | **2** | **5** | **1** | **6** | **1** | **2** | **17** |
| Oversight trips undertaken | **2** | **3** | **3** | **2** | **2** | **0** | **12** |
| Study tours undertaken | **0** | **0** | **0** | **0** | **0** | **0** | **0** |
| International agreements processed | **1** | **0** | **0** | **0** | **1** | **0** | **2** |
| Statutory appointments made | **0** | **0** | **1** | **0** | **0** | **0** | **1** |

1. **BRIEFINGS AND/OR PUBLIC HEARINGS**

The Committee hosted a Child Justice Workshop in 2014 and conducted oversight over Child Justice Centres. It would be important for the 6th parliament to have a follow up meeting with the Department and stakeholders to establish what the remaining challenges may be.

1. **LEGISLATION**

The following pieces of legislation were referred to the committee and processed during the 5th Parliament:

| **Year** | **Name of Legislation** | **Tagging** | **Objectives** | **Completed/Not Completed** |
| --- | --- | --- | --- | --- |
| **2014** | Legal Aid South Africa Bill [B 8B-2014 (s75)] | sec 75 | To ensure access to justice and the realisation of the right of a person to have legal representation as envisaged in the Constitution and to render or make legal aid and legal advice available; for that purpose to establish an entity called Legal Aid South Africa with a Board of Directors and to define its objects, powers, functions, duties and composition. | 5 November 2014 – completed. |
| Attorneys Amendment Bill [B 9B-2014 (s75)] | sec 75 | To amend the Attorneys Act, 1979, as an interim measure, pending the enactment of legislation aimed at rationalising the legal profession, so as to address disparities in relation to attorneys and candidate attorneys in the territories comprising the former Republics of Transkei, Bophuthatswana, Venda and Ciskei, and, for that purpose, repeal the laws of the former territories in so far as they are still applicable to attorneys and candidate attorneys in these territories; to further regulate the engagement of candidate attorneys and their right of appearance in courts; to give effect to a Constitutional Court judgment; to further regulate juristic persons conducting a legal practice; to enable actions against the Attorneys Fidelity Fund to be instituted in other courts than the High Court; to change the names of certain law ocieties; to restructure the areas of jurisdiction of law  societies; to amend or delete certain obsolete provisions and expressions. | 4 November 2014 – completed. |
|  |  |  |  |  |
| **2015** | Criminal Law (Sexual Offences) A/B [B 18 B-14 (s75)] | sec 75 | The Criminal Law (Sexual Offences and Related Matters) Amendment Amendment Bill, 2014 ("the Bill"), aims to give effect to two separate judgments of the Constitutional Court in the case of *Teddy Bear Clinic for Abused Children v the Minister of Justice and Constitutional Development and Others [2013] ZACC 35* ("the Teddy Bear case") and the case of *J v the National Director of Public Prosecutions and Others [2014] ZACC 13* | 23 June 2015 – Completed. |
| Maintenance A/B [B 16 B-14 (s75)] | sec 75 | The aim of the Maintenance Amendment Bill, 2014 (the "Bill"), is to amend the Maintenance Act, 1998 (Act No. 99 of 1998) (the "Act"), in order to improve the maintenance system pending the finalisation by the South African Law Reform Commission of the review of the Act. | 4 August 2015 – Completed. |
| Defence Laws Repeal and Amendment Bill [B 7 – 2015] (sec 75). | sec 75 | The South African Law Reform Commission (SALRC) has been mandated with the task of revising the South African statute book with a view to identifying and recommending the repeal or amendment of laws that are inconsistent with the Constitution of the Republic of South Africa, 1996 (the Constitution), or redundant and obsolete. | 26 November 2015 – Completed. |
| Criminal Matters A/B [B 20B-15 (s75)] | sec 75 | The amendments intend providing for changes to the law pertaining to infrastructure-related offences by providing stricter provisions for the granting of bail, the sentencing of offenders and creating a new offence to criminalise damage to, tampering with or destruction of essential infrastructure which may interfere with the provision of basic services, to the public. | 26 November 2015 – Completed. |
| Judicial Matters Amendment Bill [B 2B-15 (s75)] | sec 75 | To amend the Magistrates’ Courts Act, 1944, so as to further regulate the period of acting appointment of judicial officers; to amend the Criminal Procedure Act, 1955, so as to repeal an obsolete provision; to amend the Prescribed Rate of Interest Act 1975, so as to further regulate the calculation of interest on certain debts; to amend the Magistrates Act, 1993, so as to further regulate the pension benefits of a magistrate who is appointed to the office of judge; to amend the Judicial Service Commission Act, 1994, so as to amend the position regarding accountability for the receipt and payment of money in respect of the administration and functioning of the Judicial Service Commission; to amend the Promotion of Access to Information Act, 2000, the Promotion of Administrative Justice Act, 2000, and the Promotion of Equality and Prevention of Unfair Discrimination Act, 2000, so as to further provide for the training and designation of presiding officers for purposes of court proceedings as contemplated in these Acts; to amend the Judges’ Remuneration and Conditions of Employment Act, 2001, so as to substitute references to the Director-General: Justice and Constitutional Development with references to the Secretary-General of the Office of the Chief Justice; to amend the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007, so as to further regulate reporting on the implementation and training programmes of the said Act; to amend the South African Judicial Education Institute Act, 2008, so as to amend the position regarding accountability for the receipt and payment of money in respect of the administration and functioning of the South African Judicial Education Institute; to amend the Child Justice Act, 2008, so as to further regulate reporting on the implementation of the said Act and to further regulate the expungement of records of certain convictions and diversion orders in respect of children; to amend the Prevention and Combating of Trafficking in Persons Act, 2013, so as to further regulate protective measures for foreign victims of trafficking, and to further regulate matters in respect of which regulations can be made; and to provide for matters connected therewith. | 26 November 2015 - Completed |
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| **2016** | Justice Administered Fund Bill, B26-2015 | sec 75 | The Bill provides for the establishment of a Justice Administered Fund, it regulates management and control of investments and utilisation of money in the Fund. The Bill is part of the transformation plan for the Third Party Fund. |  |
|  |  |  |  |  |
| **2017** | Protected Disclosures Amendment Bill [B40B-2015] (S75). | sec 75 | The Protected Disclosures Amendment Bill emanates from the South African Law Reform Commission's report on protected disclosures. The Bill aims to extend the application of the Protected Disclosures Act, 2000 (Act No. 2 of 2000) (“the principal Act”), beyond the traditional employer and employee relationship. The Bill also aims to amend the principal Act in order to regulate joint liability, to introduce a duty to inform employees or workers who have made disclosures and to provide for immunity against civil and criminal liability under certain circumstances. | 25 May 2017 – Completed. |
| Criminal Procedure Amendment Bill [B 2B - 2017] (S75). | sec 75 | The Criminal Procedure Amendment Bill, 2016 (''the Amendment Bill''), among others, emanates from the judgment of the Constitutional Court in the case of *De Vos N.O. and Others v Minister of Justice and Constitutional Development and Others* [2015] ZACC 21 (''the De Vos case''). On 26 June 2015, the Constitutional Court declared section 77(6)*(a)*(i)and (ii) of the Criminal Procedure Act, 1977 (Act No. 51 of 1977)(''the principal Act''), to be inconsistent with the Constitution and invalid to the extent that it provides for the compulsory imprisonment of an adult accused person and the compulsory hospitalisation or imprisonment of children. | 22 June 2017 – Completed. |
| Courts of Law Amendment Bill [B 8B – 2016] (National Assembly – sec 75) | sec 75 | The Courts of Law Amendment Bill aims to curb alleged abuses in the EAO system and to provide for an additional mechanism in terms of which court judgments may be rescinded or abandoned without incurring prohibitive legal costs. The amendments are intended to alleviate the plight of certain debtors who often find themselves at the receiving end of a debt collecting system and certain common law principles that keep debtors in a state of indebtedness, from which it is difficult to escape. | 27 June 2017 – Completed. |
| Judicial Matters Amendment Bill [B14B – 2016] (National Assembly – Section 75 | sec 75 | The primary aim of the Judicial Matters Amendment Bill, 2016 (the "Bill"), is to amend numerous Acts, most of which are administered by the Department of Justice and Constitutional Development (the "Department") and are intended to address practical and technical issues of a non–contentious nature. | 27 June 2017 – Completed. |
| International Arbitration Bill [B 10B-2017] (S75). | sec 75 | The International Arbitration Bill proposes the incorporation of the United Nations Commission on International Trade Law (UNICITRAL) Model Law, as the cornerstone of the international arbitration regime in South Africa. | 22 November 2017 – Completed. |
| Legal Practice Amendment Bill [B 11B-2017] (S75). | sec 75 | The Legal Practice Amendment Bill seeks to amend the Legal Practice Act, 2014, to further regulate, amongst other matters:   * The establishment of the South African Legal Practice Council; * The prescription of areas of jurisdiction of the Provincial Councils; * The composition of the Board; * The duties of banks in respect of trust accounts and * The duration of the National Forum on the Legal Profession. | 22 November 2017 – Completed. |
|  |  |  |  |  |
| **2018** | Critical Infrastructure Protection Bill [B 22B – 2017]  (National Assembly – sec 75) | sec 75 | To provide for the identification and declaration of infrastructure as critical infrastructure; to provide for guidelines and factors to be taken into account to ensure transparent identification and declaration of critical infrastructure; to provide for measures to be put in place for the protection, safeguarding and resilience of critical infrastructure. | 27 November 2018 – Completed. |
|  |  |  |  |  |
| **2019** | Powers, Privileges and Immunities of Parliament and Provincial Legislatures Amendment Bill [B 18 - 2018] (National Assembly – sec 75) | sec 75 | To amend the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act, 2003, so as to amend a definition; to provide that the arrest and  removal, on the order of a presiding officer, of a person who creates or takes part in any disturbance on the precincts is not applicable to a member. | 20 February 2019 – Completed. |
| Defence Amendment Bill [B18-2017] (National Assembly– sec 75) | sec 75 | To amend the Defence Act, 2002, so as to include the Chief of Staff in the Military  Command of the Defence Force; to clarify the process regarding the implementation by the Chief of the Defence Force of the delegation of powers and assignment of duties to members by the Secretary for Defence as head and accounting officer of the Department; to provide for the employment of the Defence Force outside the Republic. | 6 March 2019 |
| Independent Police Investigative Directorate Amendment Bill [B 25 – 2018] (National Assembly – sec 75) | sec 75 | To amend the Independent Police Investigative Directorate Act, 2011, so as to provide for parliamentary oversight in relation to the suspension, discipline or removal of the Executive Director; and to provide for related matters. | Not yet completed. |
| Hydrographic Bill[B 17B—2018] (National Assembly – sec 75) | sec 75 | To provide for the establishment of the Hydrographic Office; to provide for its objects, functions and the manner in which it is to be managed; to provide for the  appointment and powers of the Hydrographer and the staff in the Hydrographic Office. | Not yet completed. |
| Child Justice Amendment Bill [B 32B-2018] (National Assembly– sec 75) | sec 75 | The Child Justice Amendment Bill seeks, amongst other matters, to: amend the Child Justice Act, 2008, so as to amend a definition; further regulate the minimum age of criminal capacity; further regulate the provisions relating to the decision to prosecute a child who is 12 years or older but under the age of 14 years; further regulate the proof of criminal capacity; further regulate the assessment report by the probation officer; further regulate the factors to be considered by a prosecutor when diverting a matter before a preliminary inquiry; further regulate the factors to be considered by an inquiry magistrate when diverting a matter at a preliminary inquiry;further regulate the orders that may be made at the preliminary inquiry; amend wording in order to facilitate the interpretation of a phrase; and to further regulate the factors to be considered by a judicial officer when diverting a matter in a child justice court; and to provide for matters connected therewith. | Not yet completed. |
| Cybercrimes Bill [B 6B-2017] (National Assembly– sec 75) | sec 75 | The Cybercrimes Bill seeks, amongst other matters, to: create offences which have a bearing on cybercrime; criminalise the distribution of data messages which are harmful and to provide for interim protection orders; further regulate jurisdiction in respect of cybercrimes; further regulate the powers to investigate cybercrimes; further regulate aspects relating to mutual assistance in respect of the investigation of cybercrime; provide for the establishment of a designated Point of Contact; further provide for the proof of certain facts by affidavit; impose obligations to report cybercrimes; provide for capacity building; and provide that the Executive may enter into agreements with foreign States to promote measures aimed at the detection, prevention, mitigation and investigation of cybercrimes amongst other matters. |  |

1. Challenges emerging

The following challenges emerged during the processing of legislation:

* Lengthy processes at the NA with legislation and pressure on SC Committee to complete legislation quickly.
* Insufficient time to process legislation.
* During public participation process ensure that experts in the field of the legislation address the Committee.
* NCOP Rule 155(3)(a)

“When a question is to be decided in terms of section 75 of the Constitution –

(a) the question may be decided only if the majority of the permanent members of the committee is present;

(b) the question is decided by the majority of the votes cast;

(c) if there is an equal number of votes on each side of the question, the chairperson must cast a deciding vote in addition to a vote as an ordinary member.”

Members of the opposition made up 5 of the 12 members on the Committee. A majority in terms of Rule 155(3)(a) is 7 members and where a majority of the governing party was not present the opposition utilised the opportunity to frustrate the adoption of the S75 legislation by walking out of the meeting, thus rendering the meeting not quorate.

1. **Issues for follow-up**

The 6th Parliament should consider following up on the following concerns that arose:

* Monitoring the implementation of the legislation which has been passed through oversight activities.
* Monitor the implementation of Sexual Offences and legislation affecting children (vulnerable groups).

1. **OVERSIGHT TRIPS UNDERTAKEN**

The following oversight trips were undertaken:

| **Date** | **Area Visited** | **Objectives** | **Status Report** |
| --- | --- | --- | --- |
| 22 October 2014 | KZN  Estcourt Police Station and magistrates Court. | Oversee the effectiveness and efficiency of service delivery by the SAPS at station level;  Assess the effectiveness of policing programmes in the area and promote policing coordination in the province; | 19 November 2014. |

**5.1 Estcourt Recommendations:**

**Police**

SAPS has built up a good working relationship with various role players to resolve many issues, particularly in respect of drugs and stock theft. The main challenge, which confronts this station, relates to service delivery protests, political intolerance and taxi violence protests. The Committee will continue to monitor developments in this region.

**Magistrates Court**

The Magistrate Court infrastructure is in dire need of repair and upgrade. The interaction with the Judicial Head, Mrs Goosen, highlighted the urgent need for a new court. The Committee will send a letter to the Department requesting that the magistrate’s court be provided with a new court building.

The National Prosecuting Authority representative expressed a need for additional staff to assist the Dundee Magistrate court as the District Court prosecutor at Estcourt had to assist due to a suspension of a prosecutor at the Dundee court. The National Prosecuting Authority and the Department of Justice and Correctional Services should address the staffing challenges currently experienced by the magistrate’s court.

The Magistrate Court deals with sexual related offences but it does not have a developed court infrastructure such as separate rooms for children. The Department of Justice and Correctional services needs to ensure that changes to the infrastructure of the court building are made to accommodate children.

The implementation of the IJS system requires monitoring and follow up in future meetings of the Committee.

**Responses to Recommendations**

* The Committee has followed up with the Departments during its interaction with the Departments in the respective meetings.

**Follow up issues**

* Committee still has to meet DPW to oversee the work being done to improve the infrastructure of Departments.

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| --- | --- | --- | --- |
| **Date** | **Area Visited** | **Objectives** | **Status Report** |
| 20 August 2015 | North West:  **Klerksdorp**: North West One Stop Child Justice Centre as part of the Inter-departmental and Stakeholder Workshop on the Child Justice Act and Implementation Challenges | Tour the facility;  Receive a briefing from the various departments on the profile of the centre, its day to day operations and successes;  Identify the implementation and operational challenges of the One Stop Child Justice Centre (OSCJC) and solutions to rectify these challenges. | 1 September 2015. |
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**5.2 North West Recommendations:**

1. Members were concerned that not all departments were cooperating in the spirit of the Act and members advised that, in the interest of the child, departments must meet regularly and render assistance immediately where shortcomings are identified.
2. The Department of Basic Education must conduct oversight on OSCJC to determine if educators were qualified and implementing the relevant curriculum.
3. The outsourcing of the MSCF to private companies must have a stipulated end date for hand over to the Department of Social Development. Members noted that OSCJC must be properly managed by the state itself, and that outsourcing of services should not be a permanent situation.
4. The Committee awaits the report on the analysis of OSCJC currently underway by the Department of Justice and Constitutional Development.

**Responses to Recommendations**

* Still awaiting Report

**Follow up Issues:**

* Conduct follow up meeting with the Department regarding Child Justice.

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| --- | --- | --- | --- |
| 9 September 2015 | Eastern Cape  **Mthatha Remand Detention and Mthatha Medium Correctional Centre** | Determine the levels of overcrowding at the centre;  The state of the facility;  Determine the challenges faced by the centre management in its day to day operations; and  Determine the challenges toward repairing the facility and alleviating the overcrowding at the facility. | 10 May 2016. |

**5.3 Eastern Cape Mthatha Correctional Centre Recommendations:**

* The Department must forward a breakdown of the posts and the length of time the posts have been vacant.
* The Department must indicate whether the Area Manager has been appointed and whether the security personnel posts were filled.
* The Department must indicate in a report the progress made to date with upgrading the facility, repair of the reticulation and sewerage system, the kitchen upgrade and cold room repair.
* The Department must supply a breakdown of the prioritised national projects as identified by the Department’s national facilities team.

**Response to Recommendations:**

No response received.

**Follow up Issues:**

Follow up meeting with DCS on matters which arose during this oversight visit and potential follow up visit in 6th parliament.

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| --- | --- | --- | --- |
| Date | Area Visited | Objectives | Status Report |
| 14 April 2016 | Diepkloof police station - Gauteng | The Committee decided to visit this particular police station given the recent internal audit report on the station and media reports regarding mismanagement which was reported on in the media in March 2016 (See Annexure A). The Soweto Cluster, within which Diepkloof police station falls, was also involved in the 2015 xenophobic attacks on foreign shop owners. Strategies to prevent, contain and manage these types of civil unrest was also a determining factor in the decision to conduct oversight over Diepkloof police station | 25 April 2016. |

5.4 **Diepkloof Recommendations**

* That the police station furnish the Committee with the audit report mentioned in the news article.
* That the police station identify its challenges and forward them to the Committee.
* That the police station explain its turnaround strategy to address vacancies and forward this information to the Committee.
* That the police station set up regular meetings with the Department of Home Affairs in respect of undocumented migrants

**Response to Recommendations**:

No response received.

**Follow up Issues:**

Follow up on these issues in a meeting with the Department.

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| --- | --- | --- | --- |
| Date | Area Visited | Objectives | Status Report |
| 31 August – 1 September 2016 | Mpumalanga: Hoedspruit Airforce Base | The Select Committee chose the Hoedspruit Air Force Base to exercise its constitutional mandate to maintain oversight of the exercise of national executive authority | 6 September 2016 |
|  | Mpumalanga: The Department of Military Veterans | To conduct visits to see the housing provided to military veterans in the Province.  To interact with military veterans and understand the particular challenges in respect to their benefits faced by military veterans in the Province.  To receive a presentation from the Department of Military Veterans on the distribution of benefits provincially, the progress on their turn-around strategy and to highlight strengths and weaknesses in the implementation of their programmes and distribution of benefits provincially | 6 September 2016 |

**5.5 Hoedspruit Recommendations:**

The Committee agreed that it will meet with the Minister of Public Works to discuss the slow pace of maintenance delivery at the base and further to discuss prioritising the improvements to the bulk water infrastructure at the base and surrounding settlement.

**Responses to Recommendations:**

Due to time Constraints the meeting with DPW did not occur.

**5.6** **Department of Military Veterans Recommendations:**

The Delegation expressed reservations and concerns regarding the slow pace of the turnaround of the Department of Military Veterans and the impact this has on service delivery to the beneficiaries. The Delegation recommended meeting with the Minister of Defence and Military Veterans in Parliament to discuss the matter and raise their concerns.

**Responses to Recommendations:**

The Committee made several attempts to meet with the Minister, but the meeting did not materialise due to the unavailability of the Minister.

**Follow up Issues:**

Meeting with the Minister for a status report on the roll out of benefits to Military Veterans

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| --- | --- | --- | --- |
| **Date** | **Area Visited** | **Objectives** | **Status Report** |
| 26 October 2016 | Pollsmoor – Western Cape | The visit was conducted in response to the high court order requiring Pollsmoor to reduce overcrowding | 1 November 2016 |

**5.7 Pollsmoor Recommendations:**

* The Committee requests the Department to supply the Committee with the following information within 14 days after the adoption of this report by the National Council of Provinces:
* The strategy on the gangsterism policy and strategic plan must be sent through to the National Council of Provinces.
* The DCS must reply in writing on the strategy to combat smuggling in the prisons.
* The Committee requires a report on the filling of vacancies and requires an assessment of what has been done to address this matter. The Committee further requested that remedial action be taken to assist managers who were failing to fill vacant positions.
* The Committee agreed to engage the SAPS on the prevention of crime strategies in the Country.

**Responses to Recommendations:**

The Committee has had several meetings and oversight visits with SAPS to address crime prevention strategies.

The Committee also conducted oversight to other Correctional Centres to oversee the impact of prisoners being moved to different Correctional Centres in the Provinces.

**Follow up issues**

The Committee should continue to monitor overcrowding within Correctional Centres

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| **Date** | **Area Visited** | **Objectives** | **Status Report** |
| 31 January 2017 | Galeshewe Police Station (Wanya Tsotsi) Northern Cape. | To oversee the functioning of these departments and centres and to investigate the relationship between the SAPS, Community Police Fora and public groups fighting crime in the area. | 15 March 2017 |
| 1 February 2017 | Tswelopele Correctional Centre Northern Cape. | To oversee the functioning of these departments and centres. | 15 March 2017 |
| 2 February 2017 | Department of Military Veterans Northern Cape. | To oversee the distribution of housing and compliance with building requirements for housing for military veterans. | 15 March 2017 |

**5.8 Galeshewe Recommendations:**

The delegation acknowledged the apology tendered by the MEC for Transport, Safety and Liaison but did not accept the apology and advised that the situation required a meeting with the MEC to clarify the matters raised in the meeting.

* The delegation requested the MEC’s office to submit a report to the Committee within 14 days on the achievements and challenges with crime in the area as well as the way forward to resolve the matter between the SAPS and Operation Wanya Tsotsi.
* The meeting with the MEC must resolve how to legitimise Operation Wanya Tsotsi, and to create a model that allows for an effective working relationship between the SAPS and Operation Wanya Tsotsi in respect of the CPF structures.
* The delegation advised the Civilian Secretariat to ensure that the police are resourced and that reaction times are minimised and to take into consideration the fact that the sector-policing model requires that there should be one vehicle per sector.
* The delegation advised Operation Wanya Tsotsi and the SAPS to resolve their differences and work together to develop a Memorandum of Understanding.

**Responses to Recommendations**

Mr MP Dichaba the Head of the Department in MEC for Transport, Safety and Liaison’s, Mrs P Williams’ office reported that the Department will facilitate and monitor the working relationship between SAPS and Operation Wanya Tsotsi (OWT).

He further recommended that the OWT be recognised as an autonomous body while pursuing the placement of the OWT under the CPF structure.

**Follow up Issues**

Monitor signing of memorandum of understanding between SAPS and Wanya Tsotsi and CPF structures.

* 1. **Tswelopele Recommendations**:
* It is recommended that the Centre should take responsibility for filling its vacancies.
* The Committee will meet with the Department of Public Works (DPW) to discuss the maintenance challenges in respect to the Department of Correctional Services and the building of more classrooms.
* The centre presents a good model of rehabilitation. It is recommended that the Department of Correctional Services consult with the Department of Social Development to address the challenges faced by inmates upon their release.

**Responses to Recommendations:**

None received

**Follow up Issues:**

Scheduling of meeting with DPW in 6th parliament.

Follow up on filling of vacancies.

Ongoing monitoring of reintegration programme

**5.10** **Department of Military Veterans Recommendations:**

* The Delegation identified a need to discuss the capacity constraints such as transporting of patients and the database concerns with the Minister of Defence and Military Veterans.
* The Delegation advised the DMV and SAMHS to meet to sort out their challenges and to find solutions in order for Military Veterans to receive appropriate medical treatment.

**Responses to Recommendations**:

None received

**Follow up Issues:**

Committee to hold a follow up meeting with the Department.

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| Date | Area Visited | Objectives | Status Report |
| 14 August 2017 | Free State Mafube police oversight | To oversee the rollout of the rural safety strategy by police stations and the functioning of the correctional centre | 6 September 2017 |
| 15 August 2017 | Free State Masilonyane police oversight | To oversee the rollout of the rural safety strategy by police stations and the functioning of the correctional centre | 6 September 2017 |
| 16 August 2017 | Free State Winburg CC oversight. | To oversee the rollout of the rural safety strategy by police stations and the functioning of the correctional centre. | 6 September 2017 |

**5.11 Mafube Recommendations:**

* That the police station will ensure that it works with the municipality and develops and submits its IDP to the municipality.
* That SAPS should conduct an evaluation of the root causes affecting police officer's low morale and then develop a strategy aimed at addressing the root causes to improve the morale of police officers.
* The police station will improve its awareness raising strategies in respect of gender based violence and report back to the Committee on its progress.

**Responses to Recommendations**

Letters were written – No response received.

**5.12 Masilonyane recommendations:**

* The police station must report, within 14 days, back to the Committee in writing on the downgrading of the police station.
* The police station should provide the statistics of convictions and the mediation of cases in writing to the Committee for the past year

**Responses to Recommendations:**

Letters written – no response received.

* 1. **Winburg Recommendations:**
* The Department of Correctional Services must investigate the possibility of providing video calling facilities to inmates to connect with their families to assist with the component of rehabilitation requiring connection with family and community.
* The Department should provide the Committee with information pertaining to the private correctional centres and the terms that remain since the contract was entered into in 2000.
* The Department should furnish the Committee with a written report, within 14 days of adoption of this report, on how the challenges related to cooking pots which were not in working order, uniforms which were not being furnished to officials and offenders and the constraints in respect of stationery would be addressed going forward.

**Responses to Recommendations**:

No response to letters.

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| Date | Area Visited | Objectives | Status Report |
| 1 August 2018 | Free State Province: **Phuthaditjhaba** | The objectives of the Select Committee included the stock theft operations of the Phuthaditjhaba unit and the cross border operations with the SANDF to patrol the Lesotho border. | 21 August 2018 |
|  |  |  |  |

**5.14 Phuthaditjhaba Recommendations**:

* Intelligence – in the past there was a level of intelligence collection. Recommendation to restore and bring back intelligence collection.
* Recommended that proper stock trade is encouraged in order to decriminalize the illegality of it.
* The Cluster must follow up the outstanding stock theft cases and report to the residents about the progress of the cases within two weeks of the adoption of this report.

**Responses to Recommendations:**

Received 28 September 2018.

**Follow up Issues:**

Committee to continue its oversight role over stock theft in Provinces.

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| 17 October 2018 | Gauteng: **Vanderbijlpark Police Station** | To conduct a discussion with the South African Police Service (SAPS), the National Prosecuting Authority (NPA) and the Department of Correctional Services (DCS) on the strategy in place to reduce crime in the area but also broadly for the region and South Africa in general. The discussion included the working relationship between the role players and any areas to improve the situation related to; staffing matters, success rate of convictions, prison control, rehabilitation of offenders and statistics on recidivism. | 6 March 2019. |

* 1. **Vanderbijlpark Recommendations**
* It was proposed that the Department of Labour continues to provide skills for incarcerated offenders. The Services Seta should be involved in offering offender’s rehabilitation programmes.
* The Committee proposed the DCS should meet with the Department of Home Affairs to ensure the effective processing of foreign prisoners at the correctional facility.
* It was recommended that the SAPS furnish the Committee with a submission on all policy related matters.

**Responses to Recommendations**

No response.

1. **STUDY TOURS UNDERTAKEN –** no study tours were undertaken by the committee although the Committee had agreed to visit Brazil. This should be followed up in the 6th parliament.
2. **INTERNATIONAL AGREEMENTS:**

The following international agreements were processed and reported on:

| **Date referred** | **Name of International Agreement** | **Objective** | **Status of Report** | **Date of enforcement** |
| --- | --- | --- | --- | --- |
| 1 October 2014 | United Nations Arms Trade Treaty, referred to it in terms of section 231(2) of the Constitution. | *The object of the treaty is to:*   establish the highest possible common international standards for regulating or improving the regulation of the international trade in conventional arms;   Prevent and eradicate the illicit trade in conventional arms and prevent their diversion | dated 16 October 2014 | 1 November 2014 |
| 2 November 2018 | Extradition Treaty between the Government of the Republic of South Africa and the Government of the United Arab Emirates, referred to it in terms of section 231(2) of the Constitution | Extradition is the delivery of an accused or convicted individual to the state where he is accused, or convicted, of a crime, by the State in whose territory he or she happens to be. Therefore, the fundamental purpose of extradition is to bring criminals to justice. However, without an extradition treaty in place, a Requesting State can only rely on the Requested State’s good will. Extradition treaties, in contrast, rely instead on reciprocity: in other words, the request for surrender is accompanied by reassurances of reciprocal extradition in comparable circumstances. Hence the need for this Treaty. | dated 27 November 2018 | 25 October 2018 |
| 2 November 2018 | Mutual Legal Assistance in Criminal Matters between the Government of the Republic of South Africa and the Government of the United Arab Emirates, referred to it in terms of section 231(2) of the Constitution | A mutual legal assistance treaty is an agreement between two or more countries for the purpose of gathering and exchanging information in an effort to enforce criminal laws. | dated 27 November 2018 | 25 October 2018 |

1. **OBLIGATIONS CONFERRED ON COMMITTEE BY LEGISLATION:**

**Magistrates Commission disciplinary matters**

1. **Challenges emerging**

The Select Committee expressed its strong dissatisfaction with the length of time it took to complete the disciplinary process while magistrates were receiving their full benefits. The Select Committee requested a report on the cost of the financial implications to the state.

1. **Issues for follow-up**

The Magistrates Commission has indicated that delays are often due to the fact that magistrates are well versed in the law and therefore use every loophole to delay the disciplinary hearings. For this reason, further interaction with the Magistrates Commission, the Ethics Committee and the Ministry is required to address these challenges in order to ensure that delays in disciplinary proceedings are minimised.

1. **SUMMARY OF OUTSTANDING ISSUES RELATING TO THE DEPARTMENT/ENTITIES THAT THE COMMITTEE HAS BEEN GRAPPLING WITH**

The following key issues are outstanding from the committee’s activities during the 5th Parliament:

| **Responsibility** | **Issue(s)** |
| --- | --- |
| SC Security and Justice Committee | Meeting with DPW – ageing infrastructure of buildings within the Criminal Justice Sector |
|  | International Study Tour to Brazil |
|  |  |

1. **RECOMMENDATIONS**

* The NCOP should consider smaller clusters in order for each committee to exercise its oversight function effectively in respect of the processing of legislation and oversight visits conducted by the Committee.

1. **Committee strategic plan –** please see Annexures attached hereto.
2. **Master attendance list**