**NATIONAL ASSEMBLY**

**QUESTION FOR WRITTEN REPLY**

**PARLIAMENTARY QUESTION NO: 107**

**DATE OF QUESTION: 10 FEBRUARY 2022**

**DATE OF SUBMISSION: 24 FEBRUARY 2022**

**Mr I S Seitlholo (DA) to ask the Minister of Justice and Correctional Services:**

What is the (a) current status of the 51 criminal cases related to public funds in the North West that are pursued by the (i) National Prosecuting Authority and (ii) Directorate for Priority Crime Investigation (details furnished) and (b) breakdown of each and every case highlighted including the person(s) involved?

**NW111E**

**REPLY:**

(a) current status of the 51 criminal cases related to public funds in the North West that are pursued by the (i) National Prosecuting Authority and (ii) Directorate for Priority Crime Investigation (details furnished):

**Summary details of the 51 cases is as follows:**

**17 of these cases are currently enrolled**;

* With a total of 19 accused persons before court
* Amongst the accused are a former head of department, three former municipal managers and a mayor.

Total amount of prejudice involved**:** R53 551 742.46

**2 cases are currently with the NPA/ SCCU** for guidance to the DPCI on further investigations to be conducted or decision on whether to initiate a criminal prosecution.

**19** cases are with the DPCI for further investigations.

**13 cases have been finalised with the following outcomes:**

* 5 Convictions: (5 accused persons convicted)
* Total amount of prejudice involved: R2,155,990.00
* 2 acquittals
* 8 cases withdrawn / prosecution declined

**Details of the 17 cases enrolled**

1. Ventersdorp CAS 63/07/2021 (Fraud): partly heard and remanded to 04 April 2022 for arguments before judgment.
2. Wolmaranstad CAS 07/07/2015 (Fraud & corruption): Case remanded to 17-19 August 2022 for trial.
3. Wolmaranstad CAS 11/09/2015 (Fraud & corruption): Case remanded to 17-19 August 2022 for trial.
4. Orkney CAS 15/11/2010 (Fraud): Case remanded to 17 May 2022 for further trial.
5. Orkney CAS 17/11/2010 (Fraud): Case remanded to 17 May 2022 for further trial.
6. Orkney CAS 18/11/2010 (Fraud): Case remanded to 17 May 2022 for further trial.
7. Orkney CAS 62/11/2015 (Fraud): Case remanded to 17 May 2022 for further trial.
8. Rustenburg CAS 302/08/2014 (Fraud): Case remanded to 18 February 2022 pending representations by Accused 2.
9. Orkney CAS 16/11/2020 (Fraud): Case remanded to 22 February 2022 for a pre-trial conference.
10. Makapanstad CAS 83/12/2015 (Corruption): Case remanded to 29 March 2022 for trial.
11. Zeerust CAS 54/03/2015 (Fraud): Case remanded to 17 February 2022 for a pre-sentence report and sentencing.
12. Mmabatho CAS 206/02/2018 (Fraud): Case is on the High Court roll for trial from 14 February to 18 February 2022.
13. Setlagole CAS 09/10/2019 (Corruption): Case remanded to 19 April 2022 for trial.
14. Potchefstroom CAS 187/5/2020 (Fraud): Case remanded to 28 February 2022 for further trial.
15. Christiana CAS 37/09/2016 (Fraud): Case remanded to 30 May 2022 for trial.
16. Taung CAS 94/11/2015 (Fraud): Case remanded to 21 February 2022 for trial.
17. Rustenburg CAS 552/05/2016 (Contravention of the Municipal Finance Management Act): Case remanded to 04 April 2022 for trial.

**Cases pending guidance / decision (2)**

1. Vryburg CAS 120/06/2013

Background of Case (Summary)

Tender awarded to build RDP houses and installation of electricity at Naledi Local Municipality during the period of 2009-02-01 to 2012-12-30. The contractor failed to install the electricity as per specification but invoiced the municipality for building and installation of electricity. The Technical Director confirmed that work has been done by signing the certificate knowing that no work was done.

Current Status:

The prosecutor’s decision is awaited.

1. **Tlhabane CAS 105/7/2014:**

Background of Case (Summary)

It is alleged that Tau Pride Project was appointed as the principal agent for the construction of Rustenburg CHC and Tlhabane CHC without following the correct tender process.

The department of Public Works approved the tender while it was not budgeted for. Tau Pride Project left the site before they could finish the construction and another company was appointed to complete the construction while Tau Pride Project was paid the full amount for the building.

Current Status:

The contract prosecutor who initially dealt with this matter resigned from the NPA with effect from 30 September 2021. A proper hand over was done to the newly appointed prosecutors who are dealing with the matter, including consulting with key witnesses, before a final decision is made.

**Matters under investigation (19):**

**Mmabatho CAS 7/11/2016**

Background of Case (Summary)

The complainant alleged that the former HOD of Public Works who is currently the administrator of Public Works, together with the four district directors and the CFO of the Dept. of Public Works colluded to award a tender to construct roads without following the prescribed tender procedures, the tender was for the four districts: Bojanala, Dr Ruth Segomotsi Mompati, Ngaka Modiri Molema, and Kenneth Kaunda.

Current Status:

The prosecutor has studied the docket and issued queries to the investigation officer. The forensic audit report is outstanding as there is a dispute between the Department and the forensic auditor regarding payment.

The investigation team is currently engaging stakeholders to address this challenge.

**Mmabatho CAS 135/01/2016**

Background of Case (Summary)

It is alleged that the Department of Health appointed service providers for the upgrading of Brits hospital unlawfully.

Current Status:

The contract prosecutor who initially dealt with this matter consulted with the witnesses and as a result of those consultations identified certain outstanding issues. The said prosecutor however has resigned from the NPA with effect from 30/09/2021. A proper handover was done to another prosecutor who has studied the docket and has engaged the investigation team on the abovementioned outstanding issues.

Feedback from the investigation team is expected by the end of February 2022.

**Rustenburg CAS 331/9/2019**

Background of Case (Summary):

It was alleged that CMS Water Engineering was appointed fraudulently without following the procurement processes and procedures. The tender was for upgrading and extension of Bospoort Water Treatment Works in Rustenburg. It was further alleged that the abovementioned company invoiced the Municipality for services that were not rendered or supplied.

Current Status:

The docket was submitted to the DPP for decision. Certain outstanding issues have been identified. The investigating officer is dealing with these issues with the guidance of the prosecutor.

**Mmabatho CAS 141/9/2013**

Background of Case (Summary)

The department went on tender and the service providers namely Raliform Investment and Mr Property were appointed to deliver and service medical equipment to Vryburg and Brits Hospital. The allegations are that the officials connived with the service provider to defraud the department by inflating prices as well as paying for services not rendered (some of the medical equipment were not delivered and those delivered were not according to specifications).

Current status:

The matter is under investigation. An additional prosecutor has been added to the team with effect from 1 October 2021. Outstanding issues in conjunction with the investigation team has been identified and possible charges have been identified.

**Mmabatho CAS 302/01/2014**

Background of Case (Summary)

It was alleged that officials of Public Works Road and Transport colluded with service providers and that supply chain management processes were not followed during the appointment of scholar transport tender in the North West Province. A tender was advertised (PWRT 029/10) in 2010 and approximately 150 service providers were appointed in October 2010 of which some were appointed on a month to month basis.

Current Status:

The docket was submitted to DPP for decision. The prosecutor has perused the docket, case planning meetings have taken place and directives for further investigation are being attended to.

**Mogwase CAS 43/09/2019**

Background of Case (Summary)

Matter involves the disposal of land to the detriment of the Bakgatla-Ba-Kgafela tribe by their traditional leader and/or council, through collusion with mining companies as well as the misappropriation of tribal funds.

Current Status:

The docket was submitted to DPP for guidance. The prosecutor has issued directives for further investigation. The appointment of a forensic auditor by the administrator of the Tribal Authority is currently awaited.

**Mmabatho CAS 345/5/2018**

Background of Case (Summary)

A company known as AgriDelight entered into an agreement with the North West Department of Rural Environment and Agricultural Development (“the Department”) as an implementing agent for the Department. The Department would pay money to AgriDelight for the approved projects. Thus far, investigation has established that the Department made payments of approximately six hundred and four million, forty-eight thousand, eight hundred and twenty-eight rand and eighteen cents (R604 048 828.18) into the bank account held by AgriDelight.

Current Status:

Case planning meetings have taken place and the investigation team is dealing with directives issued by the prosecutor on 25/11/2021.

**Mmabatho CAS 01/07/2020**

Background of Case (Summary)

It is alleged that a service provider in the Office of the Premier of North West Province, namely NEPO Data Dynamic (Pty) Ltd (**“NEPO”**) received suspicious payments from the Office of the Premier. NEPO was appointed to provide IT services to the Office of the Premier and numerous municipalities in the North West province. There were suspicious payments made to NEPO.

Current Status:

The docket has been submitted for decision. The prosecutor has perused the docket, case planning meetings have taken place and prosecutorial directives for further investigation are being attended to by the investigation team.

**Mahikeng CAS 369/06/2017**

Background of Case (Summary)

The Former MEC of Public Works misrepresented to the department by signing housing documents pretending to be the MEC of Local Government and Human Settlement whereby houses were registered unlawfully to non-deserving beneficiaries.

Current Status:

Case planning meetings have taken place and the investigation team is dealing with directives issued by the prosecutor. Engagement with SIU investigators on the matter has also taken place.

**Mmabatho CAS 63/02/2013**

Background of Case (Summary)

The Former MEC of Finance and the Director in her office contracted Morake attorneys to render a service of proceeding over a disciplinary matter against three (3) senior officials within the department. The said law firm delayed the proceedings and inflated prices which were not agreed upon. Upon investigation it revealed that the MEC and the director connived with the service provider to invoice and inflate prices to the department.

Current Status:

The docket was submitted to the prosecutor who has issued directives for further investigation. The docket is still under investigation

**Mmabatho CAS 89/03/2018**

Background of Case (Summary)

The department of Health appointed a service provider namely Buthelezi Ambulances to render services of transporting patients from the clinics to the hospital. The allegations are that the tender procedures were not followed to appoint the said service provider as well as officials conniving with Buthelezi Ambulances to deviate from their initial contract and render service that they were not supposed to. Further allegations are that the service provider with the assistance of the officials inflated the amount that was supposed to be paid.

Current status:

The docket is still under Investigation, the docket has not yet been submitted to the prosecutor for decision.

**Mmabatho CAS 181/5/2020**

Background of Case (Summary)

The complainant, HOD of Department of Community Safety and Transport Management alleged that her department unlawfully entered into a contract with SA Express and the contract was never put onto a competitive bidding process.

The contract was for the rehabilitation and reintroduction of flights at Mahikeng and Pilanesberg Airports. The money paid out by the Department into SAX Express was paid out to various entities through a money laundering scheme which involved Koroneka and others.

Current Status:

The prosecutor has studied the docket issued directives for further investigation. The investigation is at an advanced stage.

**Mmabatho Cas 36/05/2020**

Background of Case (Summary)

The complainant, Administrator of Department of Transport alleged that there were irregular appointments of service providers to provide scholar transport. It is further alleged that the service providers inflated the travelling kilometres.

Current Status:

The docket is still under investigation.

**Mahikeng CAS 256/4/2015**

Background of Case (Summary)

It is alleged that in December 2012, a public entity known as Social Housing Regulatory Authority (“SHRA”) concluded a Restructuring Capital Grant with Mafikeng Project Securitisation (Pty) Ltd trading as Marang Estate for the construction of 2 400 housing units. It is further alleged that between19 December 2012 and 12 June 2013, an amount of R144 755 020.00 was paid out by SHRA to Marang Estate in three tranches. The said amount came from funds which had been re-directed to SHRA from Eastern Cape Department of Human Settlement and Free State Department of Human Settlement.

Current Status:

The docket was submitted to DPP for decision. Due to the scale of the allegations, the investigation was divided into sections or legs. On the first leg relating to funds paid by the public entity and the department to the private company, a decision to decline prosecution has been taken. The investigation regarding the remaining leg is still outstanding.

**Mmabatho CAS 134/03/2018**

Background of Case (Summary**)**

The allegations are that the HoD of the Department DPW misrepresented to the department that he had invoked Section 16a of National Treasury to contractor Ayama Consulting to render service of building roads within the North West Province. Furthermore, an upfront payment of R103 000 000.00 was paid to the said contractor for services not rendered. Preliminary investigations were conducted and revealed that the tender used from Mbombela Municipality was actually for water and sanitation and not for construction of roads.

Current status:

The docket was presented for decision and on 16 November 2020 the prosecutor declined prosecution, indicating the absence of the forensic reports as main reason for the said decision. The DPCI subsequently obtained three separate forensic reports on the matter from the Department of Public Works, which they handed over to the prosecutor 18 November 2021. The prosecutor has studied the three reports and on 25 November 2021 he issued directives for further investigation thereon, which are being attended to by the investigation team.

**Mogwase CAS 292/01/2017**

Background of Case (Summary)

The complainant alleged that the Company Big Time Strategies was appointed to render Soft Ware services, Training and Hardware (computers etc) to the municipality and they were paid for services not rendered. Investigations were instituted and National Treasury was roped in to assist with the investigation whereby it has been established that the company was appointed unlawfully without going through proper processes as required by PFMA and MFMA.

Current Status:

The docket was submitted for decision and on 19 April 2021 the prosecutor has decided to decline prosecution. The DPCI followed up on the deficiencies pointed out by the prosecutor and has re-submitted the docket for guidance. A new prosecutor has been allocated to the matter with effect from 1 October 2021, who has studied the docket and issued directives for finalising the investigation.

**Matters finalised (13):**

**Bloemhof CAS 187/03/2014**

Background of Case (Summary)

The Bloemhof municipality had assets which were worn out and wanted to dispose them off. They then appointed an auction company to dispose the properties and the auction took place, of which the auctioneer did not pay the municipality the proceeds.

Outcome:

The accused was convicted and was sentenced on 2020-11-18 as follows:

5 years imprisonment

**Mmabatho CAS 159/02/2014**

Background of Case (Summary)

The complainant alleged that they appointed an auctioneer to sell property belonging to Botshelo water, and the auctioneer did not pay the proceeds to Botshelo water

Outcome:

The accused was convicted and was sentenced as follows:

3 years imprisonment wholly suspended for 5 years.

**Klerksdorp CAS 392/06/2015**

Background of Case (Summary)

Matlosana Local Municipality complained that certain municipal employees at the Financial Section, Indigent Unit were manipulating the system. It was further alleged that payments were done to volunteers at the Indigent Unit without them doing any work. The volunteer will then be contacted and the money would be withdrawn from the bank account and handed over to the municipal employee.

Outcome:

Accused was convicted on 2019-02-08 and was sentenced as follows:

-Accused to repay R68 530 in terms of Sec 300 of Act 51 of 1977 to Matlosana Local Municipality.

-All counts taken together for the purpose of sentences and he was sentenced to a fine of R50 000.00 or 3yrs imprisonment. He was further sentenced to 3yrs imprisonment which was suspended for 5yrs on condition that he does not commit any crime of the same nature during the period of suspension.

**Rustenburg CAS 302/08/2014**

Background of Case (Summary)

The complainant alleged that three employees within the salary department employed at Rustenburg Local Municipality connived with their colleagues that monies will be deposited in their accounts as acting allowances, of which they will withdraw the money and share it amongst themselves.

Outcome:

On 2019-08-26, Accused 1 was found guilty and sentenced to 10 years imprisonment of which 5 years is suspended for 5 years on each count.

Accused 1 previously entered into an agreement with the municipality after a disciplinary hearing and paid an amount to R57, 767.60

The case against Accused 2 is remanded to 18/2/2022 pending representations.

Accuse 3 passedd away during 2021.

**Vryburg CAS 72/02/2012**

Background of Case (Summary)

It is alleged that during 2007, Naledi Local Municipality made an application for the approval of housing projects in respect of Vryburg extensions 25 and 28. The Municipal Manager appointed Khasu Engineering Services without following procurement processes for the establishment of the 3 000 low cost houses. It is further alleged that the service provider submitted claims for the work not done.

(R60, 000, 000.00).

Outcome:

Accused Zwelakhe Erick Phukwana was convicted on 2021-02-11 and sentenced to an effective period of imprisonment of 8 years. A confiscation order in the amount of R454,000.00 was obtained against the accused.

The second leg of the case relating to Khasu Engineering is pending decision by the prosecution team. Consultation with witnesses are underway. This matter is investigated by DPCI, Pretoria

**Wolmaranstad CAS 92/12/2020**

Background of Case (Summary)

The municipality advertised a tender for refuse trucks whereby the complainant was one of the service providers that bid for the tender. The complainant alleges that he was approached by the employees of the municipality whereby they promised to influence the committee to award the said tender to him for benefit.

Outcome:

Matter was before court on 2019-04-24. The accused was acquitted.

**Mahikeng CAS 165/01/2018**

Background of Case (Summary)

The department of Health Advertised a vacancy for a HoD post. The appointed HoD misrepresented by submitting false information during his application. Information was received that the appointment was irregular as he did not make the requirement as per the Advert of the post. Preliminary investigations were conducted and proved that there was a prima facie case that needs further investigation.

Outcome:

The case was prosecuted in the High Court. On 9 November 2021 the Court acquitted the accused. The court found their versions in light of all circumstances to be reasonably possibly true.

**Lichtenburg CAS 259/8/2016**

Background of Case (Summary)

Financial Intelligence Centre (“FIC”) identified several deposits into the bank account of the Chief Financial Officer of Ditsobotla Local Municipality from the following entities:

Khoisan Roads Cc, Ipes-Utility Management Services (PTY) LTD; and Bay Breeze Trading 241 Cc Two of the abovementioned entities are service providers of Ditsobotla Local Municipality.

Outcome:

The main suspect has passed away and prosecution was declined on 22 July 2021.

**Potchefstroom CAS 81/05/2011**

Background of Case (Summary)

Docket was opened by the Department of Education North West in Potchefstroom. The complainant alleges that two tenders were awarded during 2007. These two tenders were allegedly awarded to four companies. During investigations by the Department of Education it was discovered that two of these four companies were allegedly front companies.

Outcome:

The DPP declined to prosecute, due to insufficient evidence to prosecute

**Hartbeespoortdam CAS 174/6/2016 & 175/06/2016**

Background of Case (Summary)

Docket was opened by the Department of Water and Sanitation North West at Hartbeespoortdam. The complainant alleged that the suspects contravened sec 57 (e) of the PFMA, by appointing a company to upgrade the road at Hartbeespoortdam and Lindleyspoort dam whereas the terms of the contract does not make provisions for such services. It was also found the same service provider had received other tenders without following tender procedures.

Outcome:

The DPP declined to prosecute.

**Mogwase CAS 204/03/2013**

Background of Case (Summary)

The Department appointed a contractor to disburse an amount of R1.5m to create projects to alleviate poverty for 100 indigent’s community members but the contractor allegedly disbursed for only 22 indigents. The said contractor allegedly failed to return to the site to continue with the project as agreed in the service level agreement and stole the remaining amount.

Outcome:

The DPP declined to prosecute (Suspect deceased).

**Mmabatho CAS 270/05/2011**

Background of Case (Summary)

The department of Education Advertised a tender seeking a motivational speaker who will render service to different districts within the province for a period of six (6) months. The MEC, Superintendent General and officials connived with the appointed service provider to defraud the department by inflating prices and claiming for services not rendered.

The case was before the Mahikeng High Court and was struck off the roll on 2014-08-25 because the prosecutor needed to finalise the charge sheet and get permission from the DPP North West to re-enrol the matter.

Outcome:

Application for re-enrolment was submitted to the DPP. The DPP requested the DPCI to follow up on certain aspects before a final decision could be made. On 21 September 2021, the DPP refused authorisation in terms of section 342A of Act 51 of 1977 for re-enrolment of the matter, and the matter is now deemed finalised.

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