

**NATIONAL ASSEMBLY**

**QUESTION FOR WRITTEN REPLY**

**PARLIAMENTARY QUESTION NO.: 3126**

**DATE OF QUESTION: 21 AUGUST 2015**

**DATE OF REPLY: 4 SEPTEMBER 2015**

**3126. Mr G R Davis (DA) to ask the Minister of Justice and Correctional Services:**

(1) Whether a certain person (name furnished) was found guilty and convicted of driving under the influence of alcohol in 1994 and was also found guilty and convicted of culpable homicide in 1998; if so, (a) what are the specific details of the offences that the specified person was convicted of, (b) which courts handed down such conviction and (c) what sentences were handed down;

(2) Was the specified person incarcerated as a result of each specified conviction; if so, for how long in each specified case; and

(3) Have any of the specified convictions been expunged by his department; if so, (a) on what date were they expunged, (b) under whose authority were they expunged, (c) in terms of what legislation were they expunged and (d) what reasons were considered when the convictions of crimes were expunged? NW3667E

**REPLY:**

(1) The Departments of Justice and Constitutional Development and of Correctional Services, are not responsible for the keeping of criminal records of previous convictions. This is a function of the South African Police Service (SAPS), in particular the Criminal Record Center of the SAPS (CRC). This question should therefore be referred to the Ministry of Police for an answer or input in this regard.

(2) The Department of Justice and Constitutional Development does not have specific information in this regard.

(3) No. (a) to (d) therefore fall away.

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Please also find attached a copy of the Parliamentary Question answer No 2615 of the 7th August 2015, where-in the Honourable Member is informed that no pardon has been granted by the President to the person in question, because additional information is still being awaited.

Pardons are submitted for consideration by the President, when the person concerned, does not qualify to have his conviction expunged in terms of the Criminal Procedure Act, 1977. Applications for expungement are submitted to the Director-General of the Department of Justice and Constitutional Development, where a convicted person has been convicted of an offence for which he/ she did not serve a term of direct imprisonment; the conviction happened more than 10 years ago; and he or she has not been found guilty of a sexual offence against a child or a mentally disabled person, which would then mean that such person’s details will be added to the National Register of Sexual Offenders in terms of Chapter 6 of the Criminal Law Amendment (Sexual Offences and Related Matters) Act, 2007 (Act No 32 of 2007).

It is the responsibility of the person applying for a pardon and/or an expungement, to obtain a SAPS Clearance Certificate from the Criminal Record Centre him- or herself, to submit to the Department of Justice and Constitutional Development, for consideration of the expungement, if there was no direct term of imprisonment imposed, after 10 years have passed and the person has not been convicted of a sexual offence against a child or a mentally disabled person. In the latter case, an expungement will not be granted and the only option for removal of a person’s criminal conviction/s, is to apply for a Presidential pardon.