**NATIONAL ASSEMBLY**

**QUESTION FOR WRITTEN REPLY**

**PARLIAMENTARY QUESTION NO: 3514**

**DATE OF QUESTION: 16 NOVEMBER 2018**

**DATE OF SUBMISSION: 30 NOVEMBER 2018**

**[Dr C P Mulder (FF Plus) to ask the Minister of Justice and Correctional Services:†**

1. (a) How many (i) public servants and (ii) Ministers have received legal and financial support from the state annually since 1 January 2014 during court cases arising from the execution of their duties and (b) what were the costs related to each specified case;
2. in how many cases have such civil servants and Ministers forfeited their administrative protection;
3. whether the financial expenses associated with such forfeited cases have been recouped from the said civil servants and Ministers; if not, why not; if so, what is the extent of the financial expenses recouped in each case;
4. whether he will make a statement about the matter?

**NW4089E]**

**REPLY:**

I have been informed by the Office of the Acting Chief Litigation Officer as follows:

(1)(a)(i) 526 public servants; and (ii) 4 Ministers; and (b) the statistics concerned regarding the costs, have not been kept separately, because they are managed in the normal processes and kept with all other files, which are allocated to a State Attorney if and when such an application is brought. The costs that could be sourced, are indicated in the tables below.

(2) None. In the normal processes in State Attorneys’ Offices, such statistics are not kept separately, but are kept with all other normal files and allocated to a State Attorney if and when such an application is brought. In respect of the Heads of Department, Chief Financial Officers and Members of the Executive Council who applied for State cover, no separate record or statistics of such matters, were kept.

(3) No, because I have been informed that it is mostly SAPS members who are faced with this situation; and SAPS recoup the money themselves. The SAPS members sign an undertaking to pay before the matter is referred to the State Attorneys’ Offices and SAPS executes it internally.

(4) No such statement is necessary.

**Background information:**

The tables below provide statistical information of the Offices of the State Attorneys and the Chief Directorate: Law Enforcement within the Office of the Chief Litigation Officer dealing with matters of the Department of Justice and Constitutional Development:

1. **STATE ATTORNEY: BLOEMFONTEIN**

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Year** | **No. of Public servants** | **No. of Ministers** | **Costs for public servants** | **Costs for Ministers** | **No. of cases where public servants forfeited their administrative protection** | **No. of cases where Ministers forfeited their administrative protection** |
| 2014 | 43 | None | R267 431.74 | None | None | None |
| 2015 | 5 | None | R50 015.47 | None | None | None |
| 2016 | 95 | None | R700 828.03 | None | None | None |
| 2017 | 27 | None | R289 980.35 | None | None | None |
| 2018 | 33 | None | R304 75.30 | None | None | None |

1. **STATE ATTORNEY: EAST LONDON**

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Year** | **No. of Public servants** | **No. of Ministers** | **Costs for public servants** | **Costs for Ministers** | **No. of cases where public servants forfeited their administrative protection** | **No. of cases where Ministers forfeited their administrative protection** |
| 2014 | 2 | None | None | None | None | None |
| 2015 | 2 | None | None | None | None | None |
| 2016 | 1 | None | None | None | None | None |
| 2017 | 3 | None | R33 961.81 | None | None | None |
| 2018 | None | None | None | None | None | None |

1. **STATE ATTORNEY: PRETORIA**

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Year** | **No. of Public servants** | **No. of Ministers** | **Costs for public servants** | **Costs for Ministers** | **No. of cases where public servants forfeited their administrative protection** | **No. of cases where Ministers forfeited their administrative protection** |
| 2014 | None | None | None | None | None | None |
| 2015 | None | None | None | None | None | None |
| 2016 | None | None | None | None | None | None |
| 2017 | None | None | None | None | None | None |
| 2018 | 9 | 4 | None | None | None | None |

1. **STATE ATTORNEY: DURBAN**

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Year** | **No. of Public servants** | **No. of Ministers** | **Costs for public servants** | **Costs for Ministers** | **No. of cases where public servants forfeited their administrative protection** | **No. of cases where Ministers forfeited their administrative protection** |
| 2014 | None | None | None | None | None | None |
| 2015 | None | None | None | None | None | None |
| 2016 | None | None | None | None | None | None |
| 2017 | None | None | None | None | None | None |
| 2018 | None | None | None | None | None | None |

1. **STATE ATTORNEY: MTHATHA**

| **Year** | **No. of Public servants** | **No. of Ministers** | **Costs for public servants** | **Costs for Ministers** | **No. of cases where public servants forfeited their administrative protection** | **No. of cases where Ministers forfeited their administrative protection** |
| --- | --- | --- | --- | --- | --- | --- |
| 2014 | None | None | None | None | None | None |
| 2015 | None | None | None | None | None | None |
| 2016 | None | None | None | None | None | None |
| 2017 | None | None | None | None | None | None |
| 2018 | 2 | None | None | None | None | None |

1. **STATE ATTORNEY: KIMBERLEY**

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Year** | **No. of Public servants** | **No. of Ministers** | **Costs for public servants** | **Costs for Ministers** | **No. of cases where public servants forfeited their administrative protection** | **No. of cases where Ministers forfeited their administrative protection** |
| 2014 | None | None | None | None | None | None |
| 2015 | None | None | None | None | None | None |
| 2016 | None | None | None | None | None | None |
| 2017 | None | None | None | None | None | None |
| 2018 | None | None | None | None | None | None |

Regarding the Kimberley State Attorneys’ Office, it has been reported that no records were kept regarding public servants. Nor were records kept of Ministers who received legal representation in the scope of their duties.

1. **STATE ATTORNEY: MAHIKENG**

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Year** | **No. of Public servants** | **No. of Ministers** | **Costs for public servants** | **Costs for Ministers** | **No. of cases where public servants forfeited their administrative protection** | **No. of cases where Ministers forfeited their administrative protection** |
| 2014 | None | None | None | None | None | None |
| 2015 | None | None | None | None | None | None |
| 2016 | None | None | None | None | None | None |
| 2017 | None | None | None | None | None | None |
| 2018 | None | None | None | None | None | None |

Regarding the Mahikeng State Attorneys’ Office, the information as received from the Office of the State Attorney, is that the State Attorneys have represented Ministers in all claims. This was however in the official (normal) capacity and not in their personal capacity. The State Attorney, Mahikeng is therefore not aware of any Minister who forfeited administrative protection. Therefore the Head of the Office informs me that there are no such cases.

The Office of the State Attorney has also represented individual officials in their official capacities who were cited as co-defendants with the relevant Minister. The State Attorney is not aware of any of those officials who forfeited their administrative protection. Therefore the Head of Office informs me that there are no such cases.

As the Office has not kept statistics of this nature before, it is not possible to provide a breakdown of the costs incurred in respect of all these cases. In this respect, I am informed that there are no costs to report on, as there were no such cases where the Minister, Member of the Executive Council (MEC) or Officials have applied for legal representation in their personal capacity.

1. **STATE ATTORNEY: JOHANNESBURG**

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Year** | **No. of Public servants** | **No. of Ministers** | **Costs for public servants** | **Costs for Ministers** | **No. of cases where public servants forfeited their administrative protection** | **No. of cases where Ministers forfeited their administrative protection** |
| 2014 | 66 | None | R1 188 735.00 | None | None | None |
| 2015 | 49 | None | R1 462 626.00 | None | None | None |
| 2016 | 18 | None | R395 845.00 | None | None | None |
| 2017 | 10 | None | R222 566.00 | None | None | None |
| 2018 | 8 | None | R22 292.00 | None | None | None |

1. **STATE ATTORNEY: CAPE TOWN**

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Year** | **No. of Public servants** | **No. of Ministers** | **Costs for public servants** | **Costs for Ministers** | **No. of cases where public servants forfeited their administrative protection** | **No. of cases where Ministers forfeited their administrative protection** |
| 2014 | None | None | None | None | None | None |
| 2015 | None | None | None | None | None | None |
| 2016 | None | None | None | None | None | None |
| 2017 | None | None | None | None | None | None |
| 2018 | 135 | None | None | None | None | None |

1. **STATE ATTORNEY: THOHOYANDOU**

| **Year** | **No. of Public servants** | **No. of Ministers** | **Costs for public servants** | **Costs for Ministers** | **No. of cases where public servants forfeited their administrative protection** | **No. of cases where Ministers forfeited their administrative protection** |
| --- | --- | --- | --- | --- | --- | --- |
| 2014 | 4 | None | R36 559.00 | None | None | None |
| 2015 | None | None | None | None | None | None |
| 2016 | None | None | None | None | None | None |
| 2017 | 1 | None | R4 305.00 | None | None | None |
| 2018 | None | None | None | None | None | None |

1. **STATE ATTORNEY: PORT ELIZABETH**

| **Year** | **No. of Public servants** | **No. of Ministers** | **Costs for public servants** | **Costs for Ministers** | **No. of cases where public servants forfeited their administrative protection** | **No. of cases where Ministers forfeited their administrative protection** |
| --- | --- | --- | --- | --- | --- | --- |
| 2014 | 2 | None | R31 468.00 | None | None | None |
| 2015 | 3 | None | R138 372.00 | None | None | None |
| 2016 | 5 | None | None | None | None | None |
| 2017 | None | None | None | None | None | None |
| 2018 | None | None | None | None | None | None |

1. **STATE ATTORNEY: POLOKWANE**

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Year** | **No. of Public servants** | **No. of Ministers** | **Costs for public servants** | **Costs for Ministers** | **No. of cases where public servants forfeited their administrative protection** | **No. of cases where Ministers forfeited their administrative protection** |
| 2014 | None | None | None | None | None | None |
| 2015 | None | None | None | None | None | None |
| 2016 | None | None | None | None | None | None |
| 2017 | None | None | None | None | None | None |
| 2018 | None | None | None | None | None | None |

Regarding the Polokwane State Attorneys’ Office, the Head of Office has reported that there are no such applications that have been submitted to their office. Hence the nil return on the table, above.

1. **CHIEF DIRECTORATE: LAW ENFORCEMENT IN THE DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT:**

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Year** | **No. of Public servants** | **No. of Ministers** | **Costs for public servants** | **Costs for Ministers** | **No. of cases where public servants forfeited their administrative protection** | **No. of cases where Ministers forfeited their administrative protection** |
| 2014 | None | None | None | None | None | None |
| 2015 | None | None | None | None | None | None |
| 2016 | None | None | None | None | None | None |
| 2017 | None | None | None | None | None | None |
| 2018 | 3 | None | None | None | None | None |