**NATIONAL ASSEMBLY**

**QUESTION FOR WRITTEN REPLY**

**PARLIAMENTARY QUESTION NO: 810**

**DATE OF QUESTION: 11 MARCH 2022**

**DATE OF SUBMISSION: 18 MARCH 2022**

**Adv G Breytenbach (DA) to ask the Minister of Justice and Correctional Services:**

1. What are the reasons for the high withdrawal rate of over 50% of case enrolments for fraud and corruption (details furnished);
2. Whether he has found that a conviction success rate of five out of 13 cases in specialist units such as the (a) Specialised Commercial Crime Unit and (b) National Prosecuting Authority is acceptable; if not, what is the position in this regard; if so,
3. Whether the success rate does not represent serious underperformance; if not, what is the position in this regard; if so, what are the relevant details?

**NW989E**

**REPLY:**

1. In order to address the question with regard to the withdrawal rate it is necessary to indicate the details of the thirteen (13) finalised cases. Five (5) cases resulted in convictions, two (2) cases resulted in acquittals, and in the remaining six (6) cases prosecution was in fact declined.

The six (6) cases wherein prosecution was declined are as follows:

* 1. **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:

1. Khoisan Roads Cc, Ipes-Utility Management Services (PTY) LTD, and Bay Breeze Trading 241 Cc.
2. Two (2) 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.

* 1. **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 to four companies during 2007. During investigations by the Department of Education it was discovered that two of these four companies were allegedly front companies.

Outcome:

The Deputy Public Protector (DPP) declined to prosecute due to insufficient

evidence to prosecute.

* 1. **Hartbeespoortdam CAS 174/6/2016; and**
	2. **Hartbeeesporrtdam CAS175/06/2016**

Background of Case (Summary)

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

Outcome:

The DPP declined to prosecute due to insufficient evidence.

* 1. **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 because the suspect is deceased.

* 1. **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 25 August 2014 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 who 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.

1. In regard to the remaining seven (7) finalised cases, prosecution was instituted and resulted in five (5) convictions and two (2) acquittals. This translates to a conviction rate of 71%. The details of the two (2) cases wherein the accused were acquitted are as follows:
	1. **Wolmaranstad CAS 92/12/2010**

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 bid committee to award the said tender to him for benefit.

Outcome:

Matter was before court on 24 April 2019. The accused were acquitted. The complainant was a single witness, as the second witness, his son, passed away prior to the proceedings. At the stage when the matter was partly heard, it happened on repeated occasions that an interpreter was not available for the complainant, and the Court refused further postponement of the matter in terms of section 342A of Act 51 of 1977, resulting in the acquittal of the accused.

* 1. **Mahikeng CAS 165/01/2018**

Background of Case (Summary)

The Department of Health advertised a vacancy for the Head of the Department (HoD) post. The appointed HoD misrepresented himself by submitting false information during his application. Information was received that the appointment was irregular as he did not meet the requirements as per the advert of the post. Preliminary investigations were conducted, and it was proved that there was a *prima facie* case that needs further investigation.

Outcome:

The case was prosecuted in the High Court, and the accused was acquitted on 09 November 2021. The court found their versions to be reasonably possibly true.

1. It is submitted that, given the abovementioned context, the finalisation of these thirteen (13) cases does not represent serious under-performance.

**END**