

PARLIAMENT OF THE PROVINCE OF THE WESTERN CAPE

ANNOUNCEMENTS, TABLINGS AND COMMITTEE REPORTS

THURSDAY, 19 OCTOBER 2017

COMMITTEE REPORTS

1. (*Negotiating mandate stage*) Report of the Standing Committee on Economic Opportunities, Tourism and Agriculture on the Plant Breeders' Rights Bill [B 11B–2015] (NCOP) (S76), dated 27 September 2017.

The Standing Committee on Economic Opportunities, Tourism and Agriculture, having considered the subject of the Plant Breeders' Rights Bill [B 11B–2015] (NCOP) (S76) referred to it in terms of Standing Rule 220, and having considered the extensive submissions from its Public Hearings, reports as follows:

This Rule confers on the Western Cape's delegation in the NCOP the authority not to support the Bill for the following reasons:

1. Expanding the scope and duration of breeders' rights:

It is observed in the proposed Bill that the period of a plant breeder's right to protection is not only extended potentially to a period of 30 years, but the Bill also seeks to extend the protection to harvested materials from protected varieties. The impact of this extended period is that it not only stifles development of new varieties by small-scale and emerging farmers, but it also makes smallholder farmers beholden to large-scale commercial farmers, and in this way it creates monopoly.

(Refer to Clauses 7 and 8)

2. Exceptions to Plant Breeder's Right:

It has been submitted that it is unfair to subject small-scale farmers to a system of royalty payments. Clause 10(2) of the Bill provides for exceptions by empowering the Minister to devise regulations which will identify a category of farmers and plant varieties, which will be exempted from plant breeders' rights. However, in practice regulations can take an unreasonably long time to be devised and implemented through the legislative system. Therefore, in the absence of such regulation, small-scale farmers, who remain the most vulnerable community in agriculture, remain unprotected.

3. The Bill is incongruent with the aims and purpose of:

- a) The national Constitution; and the
- b) National Environmental Management Biodiversity Act.

The Constitution provides for recognition of customary law and thus for the rights of farmers to save and exchange, and to claim proprietary rights over seeds of traditional crop varieties and any associated knowledge. It is submitted that the proposed Plant Breeders' Rights Bill is also at odds with the intended purpose and effect as envisaged in Chapter 6 of the National Environmental Management: Biodiversity Act, No.10 of 2004. This Act provides for Access and Benefit Sharing (ABS) for indigenous biological resources and associated traditional knowledge, but excludes agricultural genetic resources listed under the International Treaty on Plant Genetic Resources for Food and Agriculture. Questions have been raised as to whether the Bill makes provisions to protect farmers' rights and local knowledge from being appropriated.

- c) Conflict with health targets as adopted at the United Nations Summit on Sustainable Development:

The Bill does not assist in creating an environment for small-scale farmers' input to help meet the Sustainable Development Goals health targets adopted at the United Nations Summit on Sustainable Development in September 2015. The government needs to look at all possible ways to address the root causes of rising non-communicable diseases in South Africa, malnutrition and food insecurity, while supporting small-scale and subsistence farmers. The United Nations has often called for agro-ecology as the best system for smallholder farmers.

Given the above reasons for not supporting the Bill, the Committee RECOMMENDS that:

- a) The entire contents of the proposed *Plant Breeders' Rights Bill* should be revised; and/or
- b) There should be separate legislation that speaks to and addresses the concerns and interests of "informal", small-scale, and part-time farmers.

2. REPORT OF THE STANDING COMMITTEE ON COMMUNITY SAFETY ON AN OVERSIGHT VISIT TO THE DELFT SOUTH AFRICAN POLICE SERVICE STATION, CONDUCTED ON 13 SEPTEMBER 2017

The Standing Committee on Community Safety, having conducted an oversight visit to the Delft South African Police Service Station on 13 September 2017, reports as follows:

The Delegation

The delegation of the Standing Committee on Community Safety included the following Members:

Wenger M M (DA) (Chairperson and leader of the delegation)

Dijana T J (ANC)

Kivedo B D (DA)

Lekker P Z (ANC)

Mitchell D G (DA)

The following parliamentary official accompanied the delegation:

Mr W Matthews, Committee Co-ordinator

Apology

An apology was rendered on behalf of Member F Christians (ACDP).

Background

The Committee resolved to visit the Delft SAPS as the Station services one of the most volatile precincts in the province. This oversight visit was rescheduled from 26 April 2017 due to a memorial service for a fallen SAPS member. Due to its set programme, the Committee conducted this oversight visit at the earliest available date.

1. Introduction

The Committee was welcomed by Maj Gen V Beaton, the Cluster Commander, and Brig P Ntungele, the Station Commander, as well as other senior officials at the Delft SAPS.

Hon MM Wenger provided a brief introduction on behalf of the Committee, as well as the reason for the visit.

Mr L Brown, Deputy Director of Police Oversight, led the delegation of the Department of Community Safety.

Pastor A Botha, in his capacity as the Project Coordinator, represented the Delft Community Police Forum (CPF)

2. Key points from the presentation

The presentation, led by Brig Ntungele, addressed the policing area, Domestic Violence (DVAs) related crime, drug and gang related crime, victim support, vehicle fleet management and staffing structure specific to the Delft SAPS.

The Delft SAPS precinct is comprised of five Sectors. The precinct spans 18km² with a population of 153 633, according to Census 2011. The area is bordered by Belhar, Mfuleni, Philippi East, Nyanga and Ravensmead. The 'lockdown operations' are more intense weekly interventions and partly targets the routes from these neighbouring areas as a means to minimise threats and illegal activities into Delft. There are 22 schools in the precinct, 15 of which are primary schools and the remainder are high schools. There are also six informal settlements and six taxi ranks. Taxi routes pass via the entrance to the Delft SAPS.

In terms of DVAs, the Delft SAPS reported high volumes of these types of cases. Brig Ntungele reported that for the 2016/2017 financial year, 1026 peace orders were issued and 312 were issued during the first quarter of 2017/2018. Subsequently, there were 1056 and 356 victim friendly referrals, for these reporting periods, respectively. The 152 illegal liquor outlets are large contributors to the high volume of reported DVAs.

The Delft SAPS initiated 86 domestic violence awareness campaigns and/or projects in 2016/2017 and the first quarter of the current financial year. These programmes included an array of topics such as girl gang violence awareness and prevention, prevention of rape, safety talks on women and child abuse, awareness of substance and domestic abuse, prevention of abuse of the elderly, teenage pregnancy and, cyberbullying, amongst a host of other matters. There were also events such as sports events specifically for women and girls, as well as various themed marches.

There are 10 NICRO trained volunteers providing support to the Victim Empowerment Programme (VEP) at the Delft Station. SAPS staff are also trained to deal with victims of DVA related cases. During its tour of the facilities, the Committee visited the Victim Friendly Room (VFR). The VFR is based in a shipping container-like structure located outside of the main building. The Committee interacted with volunteers, learning about the support given to victims of trauma. Pastor Botha stated that there are efforts to strengthen the VEP especially for victims who live in areas distant from the VFR at the Delft SAPS. Through creating more structured and safe spaces to assist victims of trauma, and through sustainable partnerships, it is hoped to strengthen the support to victims of trauma.

Brig Ntungele reported that there are several gangs operating in the precinct. These gangs include the 28s G-Unit, Young Gifted Bastards, Terrible Josters, Ghetto Kids, Junior Cisco Yakkies, Barbarians, Wonder Kids, Ugly Americans, Dixie Boys and Voorbrug. The SAPS has a Cluster Operational Command Centre (COCC) to monitor and address cross border gang threats, as well as TRIO crimes. In order to destabilise gang activities, weekly lockdown operations are facilitated.

With regards to addressing repeat offenders, especially those affiliated to gang related crimes, SAPS assigns officers to oppose bail for these perpetrators. Maj Ben Beaton stated that it is important that legislation be in place to counter the release of offenders of serious crime.

Figure 1, below, reflects the staffing establishment at the Delft SAPS from 2012/13 to 2017/18, across the three units, namely,

	2012/2013	2013/2014	2014/2015	2015/2016	2016/2017	2017/2018
VISPOL	134	129	126	131	158	134
DETECTIVES	45	41	41	46	47	48
SUPPORT	52	51	54	59	53	52
TOTALS	231	221	221	236	258	234

There is a significant decrease in the number of VISPOL members, where the current complement for this unit is 134, which relates to 24 fewer officers compared to the 2016/2017 financial year. A total of 22 VISPOL officers and four detectives are on various forms of duty arrangements. This means that despite being deployed elsewhere, officers on duty arrangement are still listed as being registered at a particular police station, in this case the Delft SAPS. Duty arrangements may include cluster deployments – be it other stations or the COCC - and specialised units/projects. Col Clark, Detection Head, reported that 28 of the 48 detectives have registered informants. Increasing the informer network is important. He added that the threat element that deters witnesses from testifying in court hinders many court cases. In addition, there is a high absenteeism rate for the VISPOL Unit in particular. At the time of the Committee's visit, 24 members of staff had already exhausted their annual sick leave allocation.

The overall summation of the staffing structure at the Delft SAPS is that the stark decrease in human resource allocation vis-à-vis the community that the Station services, is disproportionate. The (human) resource allocation does not address the safety needs of the community, which in itself are not fixed needs and/or challenges.

Table 2 below reflects the Vehicle Fleet Management across the units.

	Granted	Actual 2017/2018
VISPOL	17	27
DETECTIVES	22	21
SUPPORT	9	5
TOTALS	48	53

The most significant total is that there are 27 vehicles used by the VISPOL Unit compared to 17 granted allocation.

3. Input by the Department of Community Safety and the Community Police Forum

Mr Brown briefed the Committee on the status of the matters highlighted by the Department of Community Safety's August 2016 oversight report of the Delft SAPS. Several matters had been resolved including the improved access control, the implementation of better spaces for statement taking, solutions to relieve the pressures of document certification, compliant firearm processing measures, and improved custody management processes.

Mr Brown added that the previous CPF was not compliant on the Expanded Partnership Programme. However, the newly elected CPF is a lot more functional. Pastor Botha concurred and outlined the CPF's plans to reach out to different communities, with the help of the Delft SAPS, by using varying approaches. The reason for this is to avoid using a blanket approach to address different challenges affecting the communities within the precinct. As previously stated, Pastor Botha identified the need to strengthen the network of support for victims of crime beyond the VFR based at the Delft SAPS. He also requested more training for the CPF to ensure that it remains compliant and is able to conduct effective civilian oversight. He highlighted the involvement of the CPF in the precinct's walking busses, as well as the collaboration with the accredited Neighbourhood Watches, of which there are nine, with an estimated 292 members.

4. Tour of facilities

The Committee visited the VFR, the CSC and the holding cells. The Committee noted the long queue at the Community Service Centre (CSC), largely for the certification of documents. The Committee also engaged with volunteers who provide support to victims of crime, especially women and children. There are no cells for transgender detainees and juvenile detainees are taken to Bellville South SAPS for detention. There are three cells with an overall capacity for 32 detainees, however there are times where this space is not sufficient.

5. Recommendation

The Committee RECOMMENDED that the Department of Community Safety provide more in depth training to Community Police Forums (CPF's) on the roles and responsibilities CPF's have in oversight, as well as on the methodology of effective civilian oversight.

6. Vote of thanks

On behalf of the Committee, the Chairperson thanked Maj Gen Beaton and Brig Ntungele for the detailed presentation and for welcoming the Committee to the Delft SAPS. She also extended the Committee's gratitude to the SAPS staff, the Department of Community Safety officials, CPF representative, and the volunteers at the VFR.