

**IN THE EQUALITY HIGH COURT
(HIGH COURT, CAPE TOWN)**

Case No.: **Equality Court 3/2016**

In the application of:

SOCIAL JUSTICE COALITION	First Applicant
EQUAL EDUCATION	Second Applicant
NYANGA COMMUNITY POLICING FORUM	Third Applicant
and	
MINISTER OF POLICE	First Respondent
NATIONAL COMMISSIONER OF POLICE	Second Respondent
WESTERN CAPE POLICE COMMISSIONER	Third Respondent
MINISTER FOR COMMUNITY SAFETY, WESTERN CAPE	Fourth Respondent
and	
WOMEN'S LEGAL CENTRE TRUST	Amicus Curiae

**ANSWERING AFFIDAVIT OF STEPHANUS JOHANNES NELSON FILED ON
BEHALF OF THE FIRST, SECOND AND THIRD RESPONDENTS**

I, the undersigned,

STEPHANUS JOHANNES NELSON

do hereby make oath and say:



1. I am an adult male and the Head: Financial Services, Budget, Expenditure and Accounting Services in the Division: Financial and Administration Services in the employ of the South African Police Service (“SAPS”) and am based at the SAPS head office in Pretoria, Gauteng. I hold the rank of Major General. I am duly authorised to depose to this affidavit.

2. The contents of this affidavit are true and correct and unless otherwise indicated or clear from the context, fall within my personal knowledge. Where I rely on information provided to me by others, I indicate the source and verily believe such information to be correct and true. Where I make legal submissions I do so on the basis of advice given to me by the legal representatives of the first, second and third respondents, which advice I believe to be reliable and correct. I am duly authorised to depose to this affidavit on behalf of the first, second and third respondents.

3. My responsibilities include the following:
 - 3.1. Managing the budgetary process of the Department of Police (*“the department”*);

 - 3.2. Preparing the department’s budget documents which are then submitted to the National Treasury;

 - 3.3. Making representations on behalf of the department to the National Treasury Committees, including the Medium Term Expenditure Committee and the Parliamentary Committees. The latter comments



on the proposed budgetary allocation on the date upon which the budget is discussed in Parliament.

4. I understand that the key issue in these proceedings relates to the allocation of human resources for policing and that the applicants make a range of far reaching allegations in their endeavour to impugn the allocation process.
5. What the applicants fail to appreciate is that the allocation of human resources takes place within the context of a finite pool of resources. That limitation of resources, by its very nature, results in fewer human resources being allocated to policing than what the demand for policing services is.
6. The purpose of this affidavit is to provide an overview of the resource constraints within which the allocation policy operates.
7. In order to effectively police and to perform the constitutional obligations imposed on the SAPS, the National Treasury has to provide money for the rendering of such services. This is done through the mechanism of the Medium Term Budget Framework (which I outline below) and the appropriation process tabled in Parliament annually, in October each year.
8. As regards the MTEF, the following is pertinent:
 - 8.1. It comprises of stages starting during June each year and is concluded during February of a subsequent year when the Minister of Finance tables the Appropriation Bill in Parliament together with the Estimates of National Expenditure.



- 8.2. The extended year of the MTEF (new year three) is informed by a baseline allocation figure provided by the National Treasury to departments. This takes into account inflation forecasts and macro-economic developments at a given point in time.
- 8.3. The department is then requested to review the current baseline allocations for years 1 and 2, and then, within the framework of the baseline allocation provided for year three, reprioritise and cost the activities for the new year. The inputs received from cost centres inform the costing and resource allocation process.
- 8.4. The MTEF is compiled by the Component: Budget, Expenditure and Accounting Services, office of the Chief Financial Officer at National level.
9. Given the nature of the present challenge, I should explain that the question of resources emanates from the fact that any human, component, province, entity or country does not possess sufficient resources (financial or otherwise) or means to fulfil all of its needs and obligations. It is therefore a matter of scarcity underlying any economic system. This requires that managers, on a continuous basis, make intentional choices between needs which will most benefit his/her component with the resources at his/her disposal. The boundary of an amount (affordability) as well as the purpose for which an amount has been awarded, therefore have to be taken into account. This is an economic reality of all spheres of life; it requires that resources (and especially financial resources) should be utilized in such a manner that it is expended on the

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choices made between the different needs. It could be possible to fulfil all the needs partially or to fulfil urgent needs to its fullest extent and leave some less urgent needs out. The aforementioned requires the utilization of resources in achieving priority and definite objectives which are impacted upon by the decision maker in the application thereof.

10. Any budgeting system is therefore essentially concerned with the allocation of means i.e. what is referred to as the "allocation problem". The wants or needs for services are relatively unlimited whilst the means and resources at disposal are limited. An important aspect thus entails how the need for a service/ was product established and whether the extent of the need is justified in relation to other services, priorities, costs, implications, outputs etc. Some recourse as to whether resources are allocated in accordance with priorities thus exists namely the budgetary process. The key aspects of the budgetary process are as follows:

10.1. Prioritisation stage: Cabinet considers policy priorities.

10.2. Preparation of budget: Compilation of budget submission which is prescriptive in nature.

10.3. Review of macro-economic and fiscal framework and division of revenue ("DOR").

10.4. Recommendation stage: MTEC hearings / MinComBud / Cabinet.

10.5. Medium Term Budget Policy Statement.



- 10.6. Special Joint Committee on the Budget.
 - 10.7. State of the Nation Address.
 - 10.8. Budget Day: Estimates of National Expenditure (ENE) tabling by Minister of Finance.
 - 10.9. Appropriation (Parliament).
11. The above take into account relevant aspects of the National Development Plan (NDP), outcomes of Government, especially outcome 3 and its sub-outcomes, strategic priorities as embedded in the strategic plan, Annual Performance Plan (APP) which is also referred to by members of the SAPS as the annual operational plan, State of the National Address (SONA), key ministerial priorities, etc. (As a single Department, monies are appropriated by Parliament according to programmes and economic classification (Vote 23)).
 12. Personnel is the primary cost driver in the Vote: Police and also drive direct operational expenditures. Compensation expenditure is therefore annually determined from zero per category taking into account existing personnel and new personnel where they are apportioned between programmes.
 13. Operational expenditures are predominantly goods, services and machinery / equipment in order to perform services.
 14. Apportioning is performed according to priorities, specific allocations by Treasury, inputs received from centres (divisions / provinces), baseline analysis and personnel levels as the main driver of operational funds.



15. However, key to the budget approach is not to apply the budget too rigidly, thereby decreasing the utilization of unique opportunities as they arise, nor to apply the budget too leniently, thereby reducing the authority of the budgetary system and voted thresholds.

16. In respect of the internal apportioning funds for operational expenditures the following should be noted:
 - 16.1. Inputs are requested from divisions / provinces.

 - 16.2. All inputs are then consolidated and presented for consideration to an internal Finance Committee consisting *inter alia* of the National Commissioner as chairperson, two Provincial Commissioners.

 - 16.3. The main aspects that are considered to arrive at operational expenditures for divisions / provinces include:
 - 16.3.1. Strategic operational priorities embedded in the policy documents as indicated above.

 - 16.3.2. ENE aggregate growth for the Vote per category.

 - 16.3.3. Analysis of baseline operational expenditures which includes function shifts.

 - 16.3.4. Specific requests (inputs) from divisions / provinces above baselines for new or intensified needs.

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- 16.3.5. Discernible attention and focus on machinery and equipment specifically relating to vehicle needs and amounts to maintain and even enhance the personnel per vehicle ratio.
- 16.3.6. Demarcation of boundaries between provinces.
- 16.4. Allocation letters are then provided to the divisions / provinces which *inter alia* require centres such as provinces to apportion and cascade further to stations.
- 16.5. With regards to the supply chain process the specific needs for physical resources are captured as a demand from station level and ratified at provincial level. Planning for demand includes budgeting and determining the manner in which the need will be satisfied.
- 16.6. The requisitioning processes are followed to obtain the prioritized and approved needs according to the following mechanisms:
 - 16.6.1. requisition for items in SAPS provisioning stores;
 - 16.6.2. procurement on contract (SAPS or transversal); or
 - 16.6.3. procurement on quotations directly.
- 16.7. With regard to the provision stores, they provide the following items to police stations upon receiving requisitions for the items:



- 16.7.1. Uniform, firearms, ammunition, bullet resistant vests, official forms and registers, and operational items such as handcuffs, riot helmets, riot shields, reflective jackets, dog kennels, cell mats, evidence collection kits, evidence bags, blood alcohol kits, breathalysers, etc.
- 16.7.2. The various provisioning stores replenish stock based on methodology including certified needs by provinces and divisions, forecasting based on intake of students and similar priorities, and the approved analytical technique based on stock levels and historical consumption.
- 16.7.3. Police stations that require these items obtain financial authorisation from the relevant accounting station or province, and thereafter requisition the required items from the relevant provisioning store.
- 16.7.4. Approved requests are delivered to police stations and / or provincial provisioning stores via the SAPS Road Transport and / or Couriers.
- 16.7.5. As examples for instance, if monetary unit costs per person for operational expenditures are compared between provinces, the range of the nine provinces is reasonably similar of nature. Another example is the range of personnel / vehicle ratios of provinces which are also quite similar of nature.

17. Given the subject of the present matter, I respectfully aver that the following is also of relevance to the proper adjudication of the matter:

17.1. SAPS does not obtain its requested budget. Although additional funding is requested for allocation in addition to the baseline allocations over the medium term, the National Treasury, especially in recent times, have rather opted for reductions in baseline allocations rather than allocating additional funding.

17.2. This inadequacy of allocation in the first place allows for delivery of services by the SAPS on terms that are less than what the demand therefor is. Simply put, additional resources might allow for additional personnel, more training, vehicles and basic equipment needs will no doubt increase police visibility, improved investigation of crime and services to the communities it serve. The level of funding therefore determines the level of output in relation to policing services.

17.3. A breakdown of the SAPS' budget over the past 5 years demonstrates its budget allocations and actual spending over the last five years to be as follows:

YEAR	ALLOCATED	ACTUAL
2012/13:	R 63,388 billion	R 63,156 billion
2013/14	R68,791 billion	R68,791 billion
2014/15	R72,507 billion	R72,507 billion
2015/16	R76,720 billion	R76,720 billion
2016/17	R80,984 billion	Spend in process

17.4. The budget allocations over the next three years (MTEF) planning cycle, are estimated to be the following (Total Police budget):

17.4.1.	2017/18	-	R87,025 billion
17.4.2.	2018/19	-	R92,741 billion
17.4.3.	2019/20	-	R98,946 billion

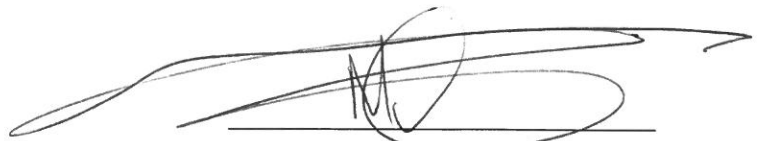


STEPHANUS JOHANNES NELSON

I hereby certify that on the 17th day of **FEBRUARY 2017** in my presence at **PRETORIA** the Deponent signed this Affidavit and declared that he: -

- (a) knew and understood the contents hereof;
- (b) had no objection to taking this oath;
- (c) considered this oath to be binding on his conscience and uttered the words:-

"I swear that the contents of this Affidavit are true, so help me God."



COMMISSIONER OF OATHS

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28 Church Square, Prudential
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