

PARLIAMENT OF THE PROVINCE OF THE WESTERN CAPE

ANNOUNCEMENTS, TABLINGS AND COMMITTEE REPORTS

WEDNESDAY, 25 JULY 2018

COMMITTEE REPORTS

1. (*Negotiating mandate stage*) Report of the Standing Committee on Local Government on the Traditional and Khoi-San Leadership Bill [B 23B–2015] (NCOP), dated 21 June 2018, as follows:

The Standing Committee on Local Government, having considered the subject of the Traditional and Khoi-San Leadership Bill [B 23B–2015] (NCOP) referred to the Committee in accordance with Standing Rule 220, confers on the Western Cape's delegation in the NCOP the authority to support the Bill subject to the following amendments:

1. **Clauses 5, 6 and 7**

- 1.1 The Western Cape acknowledges the importance of recognising Khoi-San communities, leaders and structures, however the Bill appears to differentiate between traditional communities and Khoi-San communities in various respects, including:

- 1.1.1 Recognition requirements;
- 1.1.2 Leadership hierarchies and structures;
- 1.1.3 Control of land; and
- 1.1.4 Territorial authority for traditional leaders compared to authority based on self-identification for Khoi-San leaders, and so forth.

- 1.2 While historical, cultural and geographical differences must be recognised, the principles of equality expressed in section 9 of the Constitution of the Republic of South Africa, 1996 must be maintained. These provisions of the Bill discriminate between traditional communities and Khoi-San communities.

- 1.3 The general view expressed by the residents of the Western Cape who participated in the public participation processes of the Committee on this Bill, is that this discrimination is unfair and unjustifiable and, therefore, unlawful.

2. Clause 24

- 2.1 The Western Cape is concerned that traditional councils and leaders are still able to transact and enter into partnerships and agreements regarding communal land contrary to the Interim Protection of Informal Land Rights Act, 1996 (Act 31 of 1996).
- 2.2 The risk of a conflict of laws between clause 24 of the Bill (which provides for agreements entered into on behalf of communities by councils), and section 2 of the Interim Protection of Informal Land Rights Act, 1996 (Act 31 of 1996) (which requires consent from the majority of a community for the alienation of informal land rights) must be addressed.
- 2.3 In terms of Constitutional Court case law, traditional leadership structures should be held to at least the same standard as government in terms of meaningful engagement with communities affected by decisions.

3. Financial implications

- 3.1 A comprehensive cost analysis in respect of implementation of this Bill must be done by the Department of Traditional Affairs and National Treasury to determine the cost to provinces which must be a direct charge against the National Revenue Fund.
- 3.2 This Bill has significant financial implications for provinces to support the recognised Khoi-San leaders and structures administratively and financially. In this regard, this Bill is non-compliant with section 35 of the Public Finance Management Act, 1999 (Act 1 of 1999), which provides:

“Unfunded mandates

Draft national legislation that assigns an additional function or power to, or imposes any other obligation on, a provincial government, must, in a memorandum that must be introduced in Parliament with that legislation, give a projection of the financial implications of that function, power or obligation to the province.”

- 3.3 Furthermore, the Minister of Cooperative Governance and Traditional Affairs must determine the resources to be made available **in** conjunction with Premiers, not **after** consultation.
- 3.4 Cognisance must also be taken of the financial implications of compliance with clauses 20(2) (b), 23 and 25.

2. **REPORT OF THE STANDING COMMITTEE ON COMMUNITY SAFETY ON AN OVERSIGHT VISIT TO TRANSPORT MANAGEMENT CENTRE SAFETY TO VIEW THE *SHOTSPOTTER* TECHNOLOGY, CONDUCTED ON 13 JUNE 2018.**

The Standing Committee on Community Safety, having conducted an oversight visit to the Transport Management Centre to view the *ShotSpotter* technology, on 13 June 2018, reports as follows:

The Delegation

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

Wenger M (DA) (Chairperson and leader of the delegation)
 Lekker P (ANC)
 Mitchell D (DA)

The following parliamentary officials accompanied the delegation:

Mr W Matthews, Committee Co-ordinator
 Ms L Delcarme, Social Cluster Researcher

Apologies

Apologies were rendered on behalf of Members F Christians (ACDP) and B Kivedo (DA).

Attendance

Please see Annexure A for the attendance list.

Background

The Standing Committee on Community Safety conducted an oversight visit to the Transport Management Centre (TMC) to view the operational setup of the *ShotSpotter* technology used by the City of Cape Town's (CoCT) Safety and Security Directorate. The TMC houses *inter alia* Provincial Traffic and Law Enforcement Services, the Cape Town Metropolitan Department (CTMPD), Emergency Medical Services and Disaster Management. The CCTV footage at the complex monitors the City's major freeways, MyCiTi bus routes, key railway stations, as well as streets where the cameras are installed. This visit was the second instalment of a series of committee activities geared towards better understanding the dynamics of this technology which has been used extensively in the United States of America, and since 2016, in Cape Town. On 9 May 2018, the Committee was briefed by Mr R Clarke, the *ShotSpotter* Chief Executive Officer (CEO) based in San Francisco, and Mr I Lester, CEO of *Beyond Wireless*, the local implementing agency of the technology. This presentation provided a background of the origins of the technology, its global implementation, the planned future rollouts in South Africa, the successes to date in proactively and reactively combatting firearm violence, as well as explanations of this system that detects auditory sensors in order to triangulate gunfire sounds and also provide the location from which the sounds emanate. The purpose of the visit to the TMC was therefore to view first-hand the use of the technology by law enforcement agencies in the Western Cape in response to the callous and illegal use of firearms in the province.

1. Introduction

Chief W Le Roux, of the CTMPD, led the presentation. He was supported by Mr R Roberts, Director Traffic and Law Enforcement, and Mr B Schuller, Director: CCTV, Radio Communication, Camera Response and Video Unit, as well as other officials.

2. Salient points emanating from the presentation and discussion

The CoCT piloted the *ShotSpotter* technology in 2015. Following a tender process in 2016, the CoCT entered into a tender process and subsequently awarded the tender to *ShotSpotter* as it was the only one of three the companies that applied for the tender capacitated to provide the technology according to the bid specifications. The original tender, which ends in 2019, only required rollout in Hanover Park and Manenberg. There are considerations for a national tender to implement the technology. There are currently 56 sensors installed in these two areas. In the three years since the *ShotSpotter* technology was implemented there have only been two sensors damaged as a result of indirect vandalism.

The *ShotSpotter* system builds up historical evidence. This means that the gunshots detected, its location and time, are stored in the database. This information, along with CCTV footage, could be used as evidence in criminal investigations. The technology has been offered to the South African Police Service (SAPS) in the Western Cape. Director Roberts informed the Committee that the Provincial SAPS Commissioner, Lt Gen KE Jula, has established a Priority Committee to review the *ShotSpotter* technology as part of SAPS' consideration to also use it. Director Roberts indicated that weekly reports are furnished to the Western Cape SAPS. These reports, containing the weekly incident reports, reflect statistics such as the number of gunshots fired, whether these were single gunshots or multiple rounds, a street-by-street analysis, heat maps of heightened firearm activity, as well as the location and time of the gunshots fired. He added that these reports should be used to assist deployment strategies as part of an integrated approach by SAPS and the CoCT's safety and security divisions. The heat maps in particular show how hotspots are not necessarily fixed but are in fact influenced by the status of the gang activities.

The *ShotSpotter* costs approximately R5 million per km². The CTMPD reported that Hanover Park and Manenberg collectively span roughly 7km². Since the inception of the *ShotSpotter* in 2016, the number of gunshots detected amounted to 13 252 for both areas. See Figure 1 below for a breakdown per area, per annum, of the number of gunshots detected. Chief Le Roux reported that a comparison between the *ShotSpotter* statistics and the number of incidents reported to the SAPS' 10111 Rapid Response Call Centre will reveal that despite the unacceptably high number of incidents, the public generally do not report gunshot incidents to the SAPS 10111. This view about low reporting by the public was also expressed by Messrs Clarke and Lester during their engagement with the Committee.

The alarming tally of gunshots detected, cognisant of the fact that gunshots fired from within close range of targets might not be audibly detected by the *ShotSpotter* sensors, underline several grave realities of the degree of criminal firearm activity in Hanover Park and Manenberg. Firstly, the availability of illegal firearms used in these areas is concerning. Secondly, the number of gunshots fired directly reflect the high volume of ammunition that is accessible to perpetrate criminal activities. Thirdly, the need for an integrated approach to crime prevention, reaction to crime, investigation and prosecution of perpetrators is essential to effectively combat the high number of firearm incidents that occur despite technology such as the *ShotSpotter* and CCTV. The capacity for law enforcement agencies' reaction as well as detection, is not sufficient. And lastly, the *ShotSpotter* statistics are relevant only to sensors installed in Hanover Park and Manenberg. The CTMPD reported that there 13 areas categorised as gang areas, which means that these *ShotSpotter* statistics may well be a minute reflection of the number of firearm related crime and access to ammunition in especially gang areas and high murder rate areas in the Western Cape.

CTMPD SHOTSPOTTER GUNFIRE DETECTION SYSTEM

Gunshots detected per Suburb (Excluding possible gunfire/firecrackers)

Date from: June 2016
Date to: April 2018



Summary	2016	2017	2018	Number of Gunshots detected
HANOVER PARK	675	3698	919	5292
MANENBERG	1290	4701	1969	7960
Number of Gunshots detected	1965	8399	2888	13252

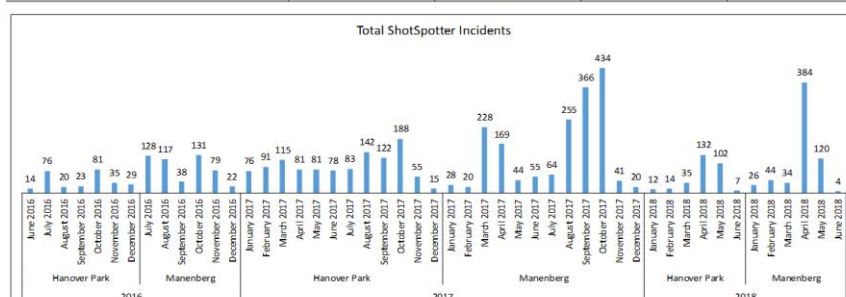


Figure 1

As can be seen in Figure 1 above, there were spikes in the number of gunshots detected in both Hanover Park and Manenberg across the reporting period. Using this data together with crime intelligence reports may well result in more informed strategic planning and action to counter gang and firearm activities. The approach towards policing such incidents therefore will adopt a different dynamic as improved and accurate reaction time, pre-emptive and reactive intelligence driven operations, improved crime scene management, the use of forensic analysis and better use of evidence gathering mediums such as *ShotSpotter* and CCTV footage, all contribute to more effective combat strategies. Figure 2 below illustrates how data from the *ShotSpotter* and CCTV was used to successfully apprehend a suspect accused of illegally discharging a firearm. The case is currently still on the court roll. The *ShotSpotter* sensors detected the location, time and direction of the gunshots fired. The CCTV provided the footage to identify the alleged perpetrator as well as his alleged accomplice/s. The information available therefore allowed safety agencies to respond speedily and have accurate details on the alleged assailants.



Figure 2

3. Input by the Department of Community Safety

Mr S George, Chief Director: Security Risk Management, highlighted that the absence of an official Memorandum of Understanding needs to be signed by the CoCT and the SAPS, as well as any other necessary role players. He added that such an agreement will ensure a sustainable and effective partnership and hugely improve all jointly coordinated operations.

4. Tour of the facilities

The Committee was given a tour of the facilities to view first-hand the operational hub of the various transport, safety and emergency services and the *ShotSpotter* technology. The Committee also interacted briefly with staff and spent time viewing the footage monitoring the transport routes.

5. Resolution

The Committee resolved to engage with the Office of the Western Cape Provincial Police Commissioner on the South African Police Service's role in coordinating an integrated approach that will maximise the capacity of the *ShotSpotter*, and other services available at the Transport Management Centre.

6. Vote of thanks

The Chairperson thanked Chief Le Roux, his officials, as well as representatives from the Department of Community Safety and the Department of the Premier, for their input.

3. Annual Report of the Standing Committee on Environmental Affairs and Development Planning for the 2017/18 financial year, dated 12 July 2018, as follows:

Members

The Committee comprised of the following members:

Simmers, TA (DA) - Chairperson

Beerwinkel, CF (ANC)
 Dijana, TM (ANC)
 Mackenzie, RD (DA)
 Schäfer, BA (DA)

Alternate Members

Hinana, NE (DA)
 Maseko, LM (DA)
 Mnqasela, M (DA)
 Olivier, RT (ANC)

1. Introduction

The mandate of the Committee is to -

- 1.1 maintain oversight over the Executive member and the Department and its Entity, of the way in which they perform their responsibilities including the implementation of legislation and to hold them accountable to the Western Cape Provincial Parliament; and
- 1.2 to consider and report on legislation, other matters and the Annual Reports referred to it by the Speaker.

In fulfillment of its mandate the Committee -

- 1.3 facilitated public participation and involvement in the legislative and other processes of the Committee;
- 1.4 conducted its business in a fair, open and transparent manner;
- 1.5 promoted co-operative governance; and
- 1.6 reported regularly to the House.

2. Reporting Department(s) and Entities

- 2.1 Department of Environmental Affairs and Development Planning
- 2.2 CapeNature

3. Overview of Committees Activities

Committee Meetings	12
Public Hearings	4
Oversight Visits	1
Provincial Bills considered	3

4. Oversight activities

The 2017/18 year was considered a productive year in which interactions with the Department and Entity and the many stakeholders consulted were both cordial and productive and ensured that Committee members could approach their oversight function with objectivity and insight.

The past year was eventful and several initiatives will lead to follow-up activities and meetings. The following is a summary of the Committee's activities during the year.

- 4.1 The Regional Socio-Economic and Violence Prevention Through Urban Upgrading RSEP/VPUU Programme, was a focal point of the Committee. The implementation thereof in collaboration with municipalities as well as the opportunities that arose from the Programme were highlighted. Various municipalities that participated in the Programme were showcased and the benefits of the Programme within these municipal areas were emphasised. The Programme's alignment and synergy to and with other initiatives and departments to ensure its success were provided to the Committee as well as details of the Programme funding. The Committee commends the Department on this Programme that is geared towards improving the living space of communities.
- 4.2 The water crisis in the Western Cape was and continues to be of grave concern to the Committee. The province was declared a disaster area on 22 May 2017. In an effort to exercise its oversight function, the Committee received a briefing from the Department of Environmental Affairs and Development Planning on their Water for Sustainable Growth and Development Plan. Following this engagement, the Committee requested that the Department brief it every six months after they have briefed the Premier's Coordinating Forum on the water situation in the Western Cape. In light of the above, and also to ensure an integrated understanding of the water situation, the Committee engaged with GreenCape on their Water Intelligence Report and the short, medium and long term solutions to the water situation in the Western Cape. The Departments of Economic Development and Tourism and Agriculture also participated in this engagement. In line with the drought situation in the Western Cape, the Committee also received a comprehensive overview of the Sustainable Water Management Plan, the Berg River Improvement Plan and the Breede River Environmental Resources Protection Plan.
- 4.3 The drought situation, the massive winter storm that struck the Province in June 2017 and the Knysna and Plettenberg Bay fires caused extensive damage to, among others, informal houses, road and other infrastructure as well as to the ecological system in the province. In response to these disasters, the provincial Minister responsible for finance, authorised the use of funds from the Provincial Revenue Fund on 15 June 2017, in terms of section 25(1) of the Public Finance Management Act, 1999 (Act 1 of 1991). An additional amount of R3 million was allocated to Vote 9: Environmental Affairs and Development Planning, Programme 5: Biodiversity. The Committee considered and deliberated on this Vote in the Schedule to the Western Cape Adjustments Appropriation (Emergency Funds) Bill [B 5–2017].
- 4.4 The Department provided the Committee with background information on Environmental Law Enforcement in relation to its mandate in terms of the Constitution and the Legal Framework in which it operates. The impact of environmental crime on the provinces' natural resources and bio-security was highlighted as well as the role of the Green Scorpions and the Biodiversity Crime Unit. Mechanisms to enforce compliance to Environmental Legislation as well as the related challenges were also addressed by the Committee. CapeNature also provided the Committee with background information on Biodiversity crime and

its role and function within this crime domain. The collaboration between CapeNature and the Department of Environmental Affairs and Development Planning as well as with external stakeholders was highlighted.

- 4.5 The national Department of Environmental Affairs provided an insightful presentation to the Committee on Operation Phakisa Chemicals and Waste Economy, outlining its role in the economy by emphasising the methodology employed to increase the contribution it could make to the Gross Domestic Product of South Africa.
- 4.6 Abattoir waste in the Western Cape was also the subject of discussion as well as the legislative framework in which abattoirs operate. The challenges experienced were brought to the Committee's attention as well as innovative options and provincial interventions for the management of abattoir waste. Of concern to the Committee is the lack of abattoir waste disposal data due to poor record keeping and the many conflicting and restricting legislation that seeks to regulate the industry.
- 4.7 The Committee formed part of the Cluster B Visit Week that took place from 16 to 19 May 2017. Here the focus area of the Committee was to gain an understanding of the biodiversity and conservation issues linked to the Rocherpan Nature Reserve and its impact on economic growth and tourism in the Velddrift area.
- 4.8 Two vacancies arose on the Western Cape Nature Conservation Board. Nominations were invited of persons with expertise and experience in Tourism Business and Biodiversity Conservation. The Department of Environmental Affairs and Development Planning and CapeNature briefed the Committee on the requirements and expectations in terms of these vacancies. After consultation, the Committee noted, with unease, the fact that one of the short-listed candidates was then serving as an Audit Committee Member at CapeNature. In light of this, the Committee expressed its concern when making recommendations to the Minister of Local Government, Environmental Affairs and Development Planning for appointment and further requested that representivity in terms of gender and race is taken into account when the appointments are made.
- 4.9 The Committee also evaluated the Annual Reports of the Department of Environmental Affairs and Development Planning and its Entity, CapeNature. The Western Cape Adjustments Appropriation Bill [B 6–2017] (Vote 9) and the Western Cape Appropriation Bill [B 3–2018] (Vote 9) was the subject of intense discussion.

5. Legislation

In the 2017/18 Financial Year, the Committee dealt with the following items of legislation:

5.1 Provincial Bills

- 5.1.1 Western Cape Adjustments Appropriation (Emergency Funds) Bill [B 5–2017]:
Vote 9 - Environmental Affairs and Development Planning.

5.1.2 Western Cape Adjustments Appropriation Bill [B 6–2017]: Vote 9 - Environmental Affairs and Development Planning

5.1.3 Western Cape Appropriation Bill [B 3–2018]: Vote 9 – Environmental Affairs and Development Planning.

5.2 NCOP Bills (Section 76)

There were no NCOP Bills referred to the Committee.

6. Facilitation of Public Involvement and Participation

In line with its mandate to facilitate public participation as part of the legislative process, the Committee held three public hearings in consideration of the Provincial Money Bills and one public hearing in consideration of the Department and Entity’s Annual Reports.

7. Financial Particulars

The Committee’s actual expenditure for the 2017/18 financial year was R78 545.00.