

South African Police Service



Suid-Afrikaanse Polisie

Private Bag X 94, Pretoria, 0001
Privaat Sak

Fax No: 012 393 3157
Faksnr:

Your reference/U verwysing:

THE NATIONAL COMMISSIONER
DIE NATIONALE KOMMISSARIS

My reference/My verwysing: 36/1/4/1(202000209)

PRETORIA

Enquiries/Navrae: Maj Gen Rabie

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Tel: 012 393 3082/3

Honourable Mr A Whitfield, MP
Member of the Portfolio Committee on Police
Parliament of the Republic of South Africa
PO Box 15
CAPE TOWN
8000

Dear Mr Whitfield

RESPONSE TO ENQUIRY: USE OF EXCESSIVE FORCE BY MEMBERS OF THE SOUTH AFRICAN POLICE SERVICE, CAPE TOWN, 24 JULY 2020

Your email, dated 24 July 2020, refers. The responses to your questions are as follows:

1	Was the South African Police Service (SAPS) notified of the peaceful protest?
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No, no notification of the protest was provided to the SAPS and the information was obtained via social media and crime intelligence.

2	Is SAPS aware of other peaceful protests outside Parliament, during lockdown and what was the response from SAPS?
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Yes, the SAPS dealt with protests outside Parliament, during lockdown and cases were opened, in terms of the Disaster Management Act, 2002 (Act No. 57 of 2002). All the protesters dispersed, without any action from the SAPS.

3 In terms of which law did the SAPS move to disperse the protestors?

All gatherings, with a few exceptions, are prohibited, in terms of Regulation 37(1) of the Regulations made under Section 27, of the Disaster Management Act. In terms of Regulation 37(2), the SAPS, as enforcement officers, must order the persons at a prohibited gathering to disperse, failing which, he or she must take the appropriate action, which includes dispersing the gathering.

4 Was the deployment of water cannons and flash bangs standard operating procedure for such a protest and if so, what factors must occur for such crowd control measures to be deployed and who issued such an instruction?

Yes, the SAPS administers a gradual approach and negotiates with the participants and, if this fails, the participants are audibly warned to disperse. Failure to comply, will result in minimum force being applied. However, in this instance the negotiations to disperse were unsuccessful and after multiple warnings were given to the participants to disperse, informing them that they were contravening the Disaster Management Act, Regulations 37(1) and (2), the minimum force, i.e. a water cannon was deployed to disperse participants.

In terms Section nine of the Regulation of Gatherings Act, 1993 (Act No. 205 of 1993), Powers of Police, (2)(a), a police officer, with the rank of a warrant officer and above, is authorised to give the instruction to disperse participants and on the day in question the officer that gave the instruction to disperse, was at the rank of Lieutenant Colonel.

5 Is the Office of the National Commissioner aware of the damage to property and injury to persons caused by SAPS' actions and what is being done, in this regard?

Yes, two cases have been reported and the details are as follows:

○ **Cape Town Central, CAS 641/07/2020 – Assault Common**

It is alleged that a water cannon shot water directly at the complainant and she stumbled over furniture. The above case docket is being investigated by the Independent Police Investigative Directorate (IPID).

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○ **Cape Town Central, CAS 704/07/2020 – Malicious damage to property**

It is alleged that water from a water cannon shot directly into a coffee shop, causing water damage to the interior. The above case docket is being investigated by the Office of the Provincial Commissioner: Western Cape, Crime Investigation Service.

Yours sincerely



NATIONAL COMMISSIONER: SOUTH AFRICAN POLICE SERVICE
KJ SITOLE (SOEG)

GENERAL

NATIONAL COMMISSIONER: SOUTH AFRICAN POLICE SERVICE
KJ SITOLE (SOEG)

Date: 2020-08-19