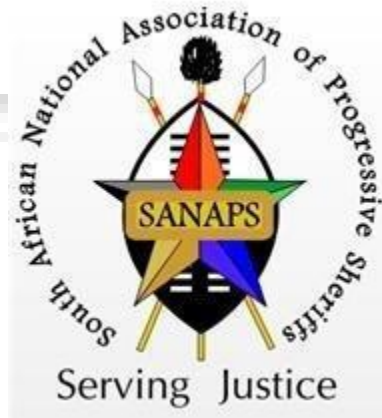


Date: 1 November 2013

Our Ref: Report 4 of 2013

Per: E-mail



Dear Colleagues,

### **Report 4 of 2013**

The following has transpired since our last report on the 19 July 2013.

#### 1. **Workshops:**

We have conducted workshops in the Western Cape, Eastern Cape (East London & Port Elizabeth), Bela- Bela (for Limpopo, Mpumalanga, Gauteng & North West), where 145 sheriffs and their staff benefited from the training. We have been invited once more to Limpopo Province for additional training. SANAPS website (A – Z of Sheriffing) was used extensively in the training. We are yet to conduct workshops in the Northern Cape, Kwa- Zulu Natal and Free State.

We are busy preparing new training material which will be distributed electronically. The material would require half an hours training weekly and answers would be provided. The training material would be required to be compiled in a file for future reference. The topics will deal with matters arising from our day to day practicalities.

Should any sheriff require any assistance regarding training, mentoring or anything else, we are just a phone call away.

## 2. **Meetings:**

We had the following meetings since our last report:

### ➤ **The AGM – 10 August 2013:**

Draft minutes are available on the website. The meeting was well attended and we express our gratitude once more to the Honourable Deputy Minister in addressing us. We take to heart the Deputy Minister's comments regarding the abuse of trust funds and dilatory service and we will re-enforce members knowledge and responsibilities regarding these by means of training.

### ➤ **Demarcation:**

A meeting was attended in Johannesburg on the 12 August 2013 and members have been informed of this.

### ➤ **Meeting with the Chief Magistrate Gauteng:**

We attended a meeting on the 4 October 2013 where many issues were discussed. The court pointed out to us shortcomings on our returns, problems with the handover process, operational concerns and case flow management, challenges experienced in courts with sheriffs and how could the sheriffs assist in the Maintenance Defaulters Project. We will highlight the problems relating to the returns via our training project.

### ➤ **The National Working Committee Meeting:**

This meeting was held on the 15 October 2013. The minutes and resolutions of this meeting are being prepared and will be forwarded to members shortly.

### ➤ **Banking Forum:**

We have attended a Banking Forum meeting on the 28 October 2013. Of great concern is the Rules Board's opinion to repeal Form 21 and that the contracting parties decide on the conditions of sale. It has been decided that the Banking Forum address a letter to the Rules Board objecting to this and fully motivating

same. All participants to the Forum which includes FNB, Nedbank, ABSA and Standard Bank as well SANAPS will endorse the letter.

**Other issues raised at the Forum:**

- **Residue and unclaimed funds in Sheriff's trust accounts.**

As per the Board's figures there is an amount between R65 million to R100 million in Sheriff's trust accounts that qualify for the above mentioned. We have brought this to the attention of the banks in order that the banks may investigate and place in their claims for any of these monies that may belong to them. This is to create a greater goodwill between sheriffs and the banks and to enhance the profession against the shame brought upon it by sheriffs who stole trust monies. We hope that the SABFS will implement a plan, like the Law Societies in informing other members of the public who may have lost out.

- **Indemnity and Mandate Form in Accordance with the Rules 45(3) – High Court**

Members are informed that this form is not a pre- requisite before any attachment or removal. The form only becomes necessary where there is sufficient evidence by way of return/s that the sheriff cannot e.g. get access to the premises despite several attempts at different reasonable times. The sheriff is well within his rights to demand such an indemnity provided the procedure is correctly followed.

- **Illegal Car Repossessions:**

This issue was specifically raised by SANAPS. The unlawful practice whereby tracing agents repossess vehicles with court orders and thereby pose to have some authority in the legal procedure has once again hit the spotlight with an incident where the tracer/bank representative entered the premises of a respondent and committed various criminal offences and unlawful acts at the detriment of the legal laid down procedure and the sheriff who is lawfully obliged to do this work as official of the court.

This type of practice was discussed at the latest Banking Forum and banks were requested to seriously investigate the way in which these matters are unlawfully dealt with by banking agents and tracers. Banks

were requested to follow proper procedure while we will ensure that sheriffs perform satisfactorily in the speedy performance of this duty. Sheriffs are requested not to allow this to happen and where it is identified to communicate this to the secretariat who will take it up with the banks and the police.

➤ **Consultative Forum:**

We will not be attending the Consultative Forum meeting set down for the 14 November 2013 until we are allowed to address the Board on many pressing issues. Should the Board reconsider, we may reconsider our position.

3. **Membership:**

We bid farewell to our retired colleagues Mr. T. P. Maulgas and Mr. B. J. Koen.

It has been pointed out to us that members retain a dual membership i.e. sheriffs are members of both SANAPS and another association. We have agreed, at an executive and national level that this is not possible. Whilst we appreciate your membership, dual membership is not possible, as we have difficulty in ascertaining our true numbers.

Given the circumstances we kindly request sheriffs to choose membership of a single association. We value your membership and encourage you to continue as SANAPS members. According to our records by way of signed membership forms the following are SANAPS members:

<b>PROVINCE</b>	<b>NAME</b>	<b>JURISDICTIONS</b>
<b>GAUTENG</b>	Mr. M. T. Mangaba	Johannesburg Central
	Mr. I. D. Mahomed	Roodepoort South/ Dobsonville
	Mrs. A. E. Lawson	Vanderbijlpark
	Mr. S. Dawood	Bronkhorspruit
	Mrs. M. Lephadi	Randburg South West
	Mr. M. N. Gasant	Pretoria South East
	Mrs. D. M. Buys	Centurion West
	Ms. M. Cibe	Soweto West
	Mr. A. Dawood	Cullinan
	Mr. K. R. S. Abrahams	Nigel
	Mr. P. J. H. D. de Bruin	Vereeniging/ Meyerton
	Mr. P. M. Ranamane	Randburg West
<b>FREE STATE</b>	Mr. D. J. Thateng	Witsieshoek

	Mr. T. J. Mthobeni	Odendaalsrus
	Mr. D. G. Morape	Botshabelo and Thabanchu
	Mr. P. K. Foka	Makwane Area
	Ms. Carry- Lee Seema	Jacobsdal
	Mr. C. Brown	Welkom
	Mrs. S. Gouws	Parys/ Viljoenskroon
	Mr. T. P. Chechela	Hobhouse- Ladybran
<b>MPUMALANGA</b>	Mr. E. L. Chuene	Kriel
	Mr. L. Machete	Graskop & Sabie
	Mr. G. A. Mahlangu	Kwamhlanga
	Mr. I. R. Swart	Victor Khanye Local Municipality
<b>LIMPOPO</b>	Mr. B. S. Raheptho	Waterberg/ Modimolle
	Mr. D. J. Herman	Phalala
	Mr. J. T. Mphahlele	Lephalale
	Mr. D. T. Ramaala	Bochum
	Mr N. B. Segwana	Bolobedu
<b>NORTH WEST</b>	Mr. F. N. Efalao	Moretele Lower
	Mrs. E. M. Petersen	Fochville
	Mr. J. H. Schreuder	Lichtenburg
	Mr. A. G. Mashele	Zeerust/ Lehurutshe
<b>Kwa-Zulu Natal</b>	Mr. R. R. Singh	Inanda District 2
	Ms. J. A. Thomas	Umzimkulu
	Mr. R. Rajkumar	Ladysmith
	Mr. N. Mabindisa	Kokstad
	Mr. G. Makondo	Newcaastle
<b>Western Cape</b>	Mrs. H. M. Helm	Mitchells Plain South
	Mr. P. Johannes	Wynberg East
	Mr. I. Jacobs	Goodwood 1
	Mr. F. van Greunen	Goodwood 2
	Mrs. T. A. Withers	Bellville North
	Mr. Mr J. A. Stassen	Bellville H. C.
	Mr. A. H. Camroodien	Wynberg South
	Ms. S. du Toit	Mossel Bay
	Mr. S. Ismail	Kuilsriver North
	Mr. N. Ntsibantu	Cape Town West
	Mr. C. vd L Fourie	Simon'stown

	Mrs. E. Carelse	Kuilsriver South
	Mr. C. A. Botes	Ceres, Prince Albert Lainsburg
	Ms. D. Cupido	Bellville South
	Ms. A. Tobias	Cape Town North
	Mr. A. Chabilall	Somerset West
	Ms. S. Naude'	Vredenburg
	Mr. G. Michaels	Heidelberg
	Ms. S. M. M. van Wyk	Caledon
	Mr. A. Witbooi	Grabouw
	Mr. M. Basson	Malmesburg
	Mr. J. E. Boltney	Hermanus
	Mr. J. Williams	Mitchell's Plain North
<b>Northern Cape</b>	Mr. M. H. Makgwane	Kathu
	Mr. D. Voges	De Aar Britstown
	Mr. A. Seema	Kimberley
	Mr. S. N. Kika	Barkley West
	Mr. J. P. Lombard	Groblershoop
	Ms. M. Burger	Kenhardt/ Pofadder
	Mr. J. Johannes	Noupoort/ Colesberg
<b>EASTERN CAPE</b>	Mr. N. Ndabeni	Humansdorp
	Mr. Z. A. Sigele	Uitenhage South
	Mr. G. Mbongeni	Cala and Elliot
	Mr. N. Z. Nozozo	Lady frère, Indwe Doro
	Mr. G. Mkwaqa	Cofimnaba
	Mr. P. Mlandu	Barkley East
	Mr. H. M. Ntsikeni	Mthatha
	Mr. J. Kritzinger	Uitenhage South
	Mr. D. H. Boucher	Somerset East
	Mr. A. M. Makwetu	Port Elizabeth South
	Mr. L. F. Sharp	Port Elizabeth North
	Mr. S. W. Ntshokoma	Peddie, Komsa
	Ms. N. Joya	Nqamakwe/ Tsomo
	Mr. H. Ayanda	Butywa
	Mr. C. B. Koti	Mqanduzi
	Mr. H. M. Mdusulwana	Qumbu
	Mr. L. Tonjeni	Libode
	Mr. I. C. Erasmus	Kirkwood
	Mr. C. L. Sikhundla	Middledrift/ Keiskammahoek
	Ms. L. B. Maulgas	Joubertina
	Ms. N. L. Bongo	Ezibeleni
	Mr. R. S. Wentzel	Fort Beaufort
	Mr. N. T. P. Nyabza	Engcobo

	Mr. B. R. Innes	King William's Town
	Mr. D. K. O' Connor	Chiselhurst East London
	Mr. G. H. Odendaal	Queenstown/ Tarkastad/Cathcart
	Mr. L. Balfour	Butterworth
	Mr. D. Godlwana	Bizana
	Mrs. A. Bouwer	Cradock/ Pearson/ Bedfurell
	Mr. V. W. Mashalaba	Tsolo
	Mr. M. Smous	Aliwal North
	Mr. J. McCarthy	Alexandria
	Mrs. A. C. Wolmarans	Grahamstown
	Mr. J. L. Leshosi	Adelaide/ Bedford
	Mr. J. R. Nieuwenhuizen	Graaf- Reinet & Surroundings

Should the above record in any way be incorrectly reflected, please notify us immediately for the necessary amendments.

Should your name not be reflected on the above mentioned list, and if you are a member whose name is omitted or you wish to become a member attached please find a SANAPS membership form which you should complete and return per fax. Membership is free.

There has been a disturbing trend of our members being approached to abandon us on the promise that joining another association would be considered favourably in the appointment of posts. SANAPS has always maintained that this is the prerogative of the Minister only and that any such promise is false or fraudulent. No association or the SABFS can appoint you. It is the DOJCD's policy for e.g., that where it is sustainable, a High Court and Lower Court post should be combined. No association can influence the DOJCD otherwise. Therefore do not confuse the Department's policies with false promises. However should any member require any assistance in motivating an application, we will gladly assist on the understanding that SANAPS does not appoint.

We reach out to the new appointees despite great impediments placed by the Board and we wish to welcome and congratulate all the new comers. We extend our helping hand and refer them to the A- Z of Sheriffing – which is to be found on our website [www.sanaps.org.za](http://www.sanaps.org.za) - which previous incumbents have found to be of great assistance.

#### 4. **Rules and other activities:**

We have commented on the following Rules:

- ❖ Rule 27 MC
- ❖ Rule 20 MC
- ❖ General review of MC Rules
- ❖ Rule 9(2) MC
- ❖ Rules 53 HC

- ❖ Rules 6(5) HC
- ❖ Rules 6(13) HC
- ❖ Rules 53(1) (b) HC.

SANAPS is also involved in:

- ❖ The drafting of the new sheriff's handbook,
- ❖ Researching on our fees
- ❖ In discussions of harmonising the service and execution rules of the High and Low court and
- ❖ Commenting on legal costs and the cost to access to Justice as requested by the State Law Advisors.

Some of the Rules do not affect the profession but we will keep members informed of those that do.

#### 5. **SANAPS Website:**

Those who have been using the advertising platform on the website have thanked us for increasing their revenue streams. Are you benefitting from this? – You can charge R250.00 for an immovable and R125.00 for a movable advert. SANAPS will not charge you anything for using the advertising platform. The website will be updated within the next month and there may be a few days when the site will not be available due to reconstruction.

#### **The statistics regarding the website to date are:**

The A – Z of Sheriffing - 4498 Hits  
Home - 1012 Hits  
Downloadable Documents – 895 Hits  
Constitution - 882 Hits  
Reports 733 - Hits

We hope that you are also benefitting from our website.

#### 6. **Additional Work:**

In response to the Deputy Minister's remarks regarding new revenue streams for the profession, we have requested him to assist us with the following:

- The return of maintenance subpoenas and family violence summonses to the profession.
- Consent to serve Section 57, 58 and 129 Notices.
- In obtaining AARTO work – summonses and warrants



We are pressing for this and other work.

7. **Tayob v SANAPS and I.D. Mahomed:**

The matter was set down for the 16- 20 September 2013. On the 17 September the matter was postponed sine die, costs reserved. The Judge refused to proceed with the matter until her earlier order that the Minister appoint an Inspector in terms of Section 56 and 57 of the Sheriffs Act - to look into allegations of wrong doings by certain members of the Board - is dealt with. The NPA and police have also initiated an investigation. Mr. J. B. Skosana, despite being subpoenaed, has once more failed to attend court. Members will be kept informed.

8. **Meeting with the SABFS:**

After a number of attempts over a number of years, we have at long last secured a meeting with the SABFS on the 20 November 2013 in Gauteng. A committee has been formed comprising of members of the Board and we are in the process of drawing up an agenda and forming a delegation.

The main objective of this meeting is to ease tensions between the Board and SANAPS, to improve our working relationship and to explain how certain individuals on the Board has undermined this association at the expense of the profession and the Board.

Is there anything else you would wish us to address the Board? Please notify us so in writing.

9. **Attachment of Motor Vehicles:**

A colleague from the Western Cape discovered, after paying the proceeds of an execution sale of a motor vehicle, that the vehicle was stolen. The licencing records did not reflect this. The purchaser is unable to take transfer and the sheriff is unable to refund as payment has been made some time ago to the instructing attorney. How do we resolve this? Whilst the bidder purchases in good faith at our execution sales it would seem that this in itself has not convinced the licencing authorities to pass transfer. Colleagues are advised, in addition to the licencing office, to also approach the SAP in order to establish whether the vehicle has been stolen or not. Members are also advised that an indemnity in terms of Rule 38 is required before any payment is made. The sheriff would then be able to recover the proceeds from the attorney and refund the purchaser.

10. **Diwali Greetings:**

We wish all our Tamil and Hindu colleagues a happy Diwali.

11. **Legal Obligations:**

Colleagues are reminded that the second phase of compliance had to be completed by the 31 October 2013. This is the completion of Form 4 with the Annexure together with the annual updating of the National Register Form. Should you not as yet received the form please inform the Board accordingly and attend to this urgently.

12. **Professional Indemnity Insurance:**

The SABFS has unilaterally decided to increase our Professional Indemnity from R1 million to R2 million rand. With the increment of the Fidelity Fund interest, it was previously suggested to the SABFS that the Fidelity Fund carry the full burden of this insurance. We express our regret in this high handed attitude of the SABFS in making decisions without consultation.

13. **UIHJ:**

J. Fourie represented SANAPS at the UIHJ – Africa – Europe meeting of Presidents in Lome, Togo on the 25, 26 & 27 September 2013. Various matters regarding the future development of inter- continental and global issues were discussed. The full report is available on the UIHJ website [www.uhj.fr](http://www.uhj.fr).

14. **Feedback:**

As usual, we kindly request any other issues to be dealt with or any comments. Please forward these to the Secretary at e-mail address [igubaldawood@gmail.com](mailto:igubaldawood@gmail.com).

Yours faithfully,

Mr. M. Mangaba.