

From: Paul O'Sullivan

Sent: Monday, January 8, 2024 11:27 AM

To: [REDACTED]

Cc: [REDACTED]

Subject: Unlawful Appointment of the current National Commissioner of Police

Importance: High

Greetings Cyril,

I hope you will have a great 2024. I also hope our country will have a great 2024 and that we will see a noticeable reduction in contact crime during the year and a reversal of the upward trend of contact crime.

The current Commissioner of Police is demonstrably problematic for South Africa. So too is the current head of Directorate of Priority Crime Investigations "DPCI".

You appointed the Commissioner of Police, Fannie Masemola, on 2022-03-31, and I believe that you were placed under unlawful pressure (by the Minister of Police, who had his own nefarious reasons) to appoint such an unfit candidate.

The head of the DPCI was appointed by the Minister of Police, *ultra vires* the Police Service Act, but I will come back to that later.

I attach a copy of the relevant legislation, **The Police Service Act, Act 68 of 1995**.

The relevant sections are set out below: -

NATIONAL COMMISSIONER OF POLICE

7 Terms of office of National and Provincial Commissioners

(1) Subject to this Act, the person who is appointed as National or Provincial Commissioner shall occupy that office for a period of five years from the date of his or her appointment or such shorter period as may be determined at the time of his or her appointment by-

(a) the President, in relation to the National Commissioner; or

Now let's look at your appointee. Masemola.

I made it clear in a March 2022 e-mailed document (to Bejani Chauke on your behalf) concerning an analysis of EIGHT candidates, that Masemola was NOT a suitable candidate, as he was clearly living beyond his means and utilising revolving credit loans, steadily increasing in value, to pay back loans.

Let us assume, in the absence of any sighting of the actual contract, that he was appointed for FIVE years, in terms of Section 7, of Act 68 of 1995, the Police Service Act “the Act”. On the date of his appointment, he was 58 years of age. He is now 60 years of age, which in terms of the Act, is retirement age. If he was given a Five-year appointment, it means he will be 63 upon retirement, which means we must endure more than three further years of his incompetence and lack of ethics.

I was therefore somewhat surprised when you appointed what appeared to be a totally unfit candidate to the position of National Commissioner. The results that have followed his appointment are: -

1. Police Morale is at an all-time low.
2. Crime levels have spiralled out of control, as is evidenced by the crime stats, with murder and other violent crimes having seen horrendous increases.
3. Police corruption is also out of control.
4. Service levels have deteriorated so badly that, many front of office police officials flatly refuse to open a criminal docket for a complainant, despite the Constitution requiring them to do so.

I am sorry to say that under the current Police Commissioner, and Police minister, there is little hope of seeing any improvement in the short term. We are TWENTY-ONE months into his term of office and he has achieved NOTHING!

This then leads me to my final analysis: -

Having known what a parlous financial state Masemola had back in March 2022, I decided to carry out an updated Lifestyle Analysis.

I was shocked to find that he has gone from living beyond his means, to having cleared all of his outstanding debt, save for the two outstanding judgments and now seems to have a lifestyle much better than what he had as of March 2022.

In the last 21 months, Masemola’s monthly outgoings to service loans have reduced from R68,000 to R56,000.

The ineluctable conclusion is that he has been handsomely rewarded for letting crime syndicates take over our country, and allowing the police service to drop its standards even further, to the extent where lazy or corrupt police officials now heavily outnumber the brave men and woman that want to do their job with pride.

I’m not even going to venture into the public disgrace of Masemola being ‘given’ a Louis Vuitton handbag for his wife, by a corrupt police supplier. See <https://www.news24.com/citypress/news/top-cops-louis-vuitton-bombshell-20230219> In my view the handbag for his wife is nothing more, or less than a ‘Gratification’ as defined in Section 3 of Act 12 of 2004. We’ve had enough corrupt chiefs of police in South Africa, it must stop now.

NATIONAL HEAD OF DPCI

It is common cause that, after the unlawful appointment of Ntlemeza had been exposed and set aside by the Helen Susman Foundation, (at my instance and financial contribution) we (being most South Africans) were generally quite happy to see the appointment of Godfrey Lebeya, as he was seen to NOT be a part of the State Capture project, which brought this country to its knees.

Lebeya was appointed on or about 2018-05-24. His ID No. 610916....., making him 62 years of age right now. The act is specific that the National Head of DPCI appointment **MUST be for a period of NOT less than SEVEN years**, nor more than TEN years. SEVEN years from 2018-05-24, will bring us to 2025-05-23, at which time Lebeya would be at the age of 64 years.

That age is part of the problem, (but not the whole problem) as it means he would have been obliged to retire before the end of SEVEN years, meaning his appointment was unlawful, as his appointment would have taken him well past his 62nd birthday and therefore could ONLY have been lawful with the consent of Parliament. Since it was your cabinet that APPROVED his appointment, they did not apply their minds. If they had of applied their minds, they would have realised that his appointment would take him past his 64th birthday and would therefore have required parliamentary approval, which approval cannot lawfully have been done retrospectively.

The act says the following: -

17CA Appointment, remuneration and conditions of service

(1) The Minister, with the concurrence of Cabinet, shall appoint a person who is-

- (a) a South African citizen; and
- (b) a fit and proper person,

with due regard to his or her experience, conscientiousness and integrity, to be entrusted with the responsibilities of the office concerned, as the National Head of the Directorate for a non-renewable fixed term of not shorter than seven years and not exceeding 10 years.

As for retirement of the incumbent, that act states the following: -

(15) The Minister shall with the consent of the National Head or Deputy National Head of the Directorate, retain the National Head, or the Deputy National Head of the Directorate, as may be applicable, in his or her office beyond the age of 60 years for such period which shall not-

- (a) exceed the period determined in section 17CA; and
- (b) exceed two years, except with the approval of Parliament granted by resolution.

Since General Lebeya reached the age of 62, on 2023-09-16, which is EIGHTEEN months short of his SEVEN-year mandate, parliament should have been requested to APPROVE his appointment. Since Parliament were not requested and did not approve his appointment taking him past his 64th birthday, his appointment is therefore invalid and stands to be set aside.

This means that Lebeya is, at this moment in time, unlawfully occupying the position of National Head of DPCI.

If the current age of the incumbent was the only problem, I guess one could be a little more pragmatic about the situation.

However, a recent lifestyle analysis of General Lebeya has revealed the following judgment registered against him at the High Court in Johannesburg: -

Case Number	Order Date	Plaintiff	Reason	Amount	Attorneys
42207/2023	2023-05-05	SARS	INCOME TAX	R3,125,848.23	SARS

To be on the safe side, I obtained a copy of the Final Demand, registered at the court by SARS on 2023-05-05, which effectively makes it a judgment, in terms of the law once it is filed with the court and remains unsatisfied. It is attached. I'm certain that any person occupying a senior position in law-enforcement, would be fully distracted from doing his work properly, in the face of a more than R3million judgment from SARS on his back.

Since the DPCI are responsible for law enforcement on high profile matters, it is inconceivable that General Lebeya would be able to retain his security clearance, until he has dealt with the SARS issue. Not least because he has personally (publicly) commented in the media on certain high value tax fraud cases.

Moreover, in January last year, General Lebeya was the signatory, together with Edward Kieswetter, of a joint accord aimed at reducing white collar crime. See: - <https://www.sars.gov.za/media-release/new-accord-further-cements-collaboration-between-saps-dpci-and-sars/> It is then very hard to understand how months later, he was required to pay an amount of more than R3 million to SARS, which surely MUST place the law-enforcement relationship under extreme pressure and lead to a lack of trust, during a period when closer cooperation is being sought, to effectively deal with crime.

WHERE TO FROM HERE?

The only possible cause of action that can flow from the above revelations are: -

1. Pre-dismissal suspension; of both the National Commissioner of Police and the National Head of the DPCI.
2. Ethical and transparent process to locate and appoint two eminently suitable persons.
3. Dismissal of the Police Minister, replacing with a person that has no baggage.

If properly managed, we will realise the following benefits: -

1. Ethical leadership in the police.
2. National and provincial accountability for a Police Service that serves the people of South Africa, instead of committing crimes against them.

3. Noticeable reduction in contact crime.

You need a groundswell of support to fire these two generals and fix the police, because you are surrounded by low-ethics people who have vested interests in seeing an ineffective police service.

Every murder, rape and robbery that takes place daily, makes the matter of significant importance.

I look forward to seeing some early action on this matter Cyril and, because of the high public interest, I am blind copying certain members of the media, in the hope that a ground swell of support for the steps you need to take, will speed the process up.

Best wishes,

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The only thing necessary for the triumph of evil is for good men to do nothing. - Edmund Burke

If you think hiring a professional is expensive, wait until you hire an amateur! - Red Adair

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