



Remarks at the SABFS Strategic Planning Session by Advocate Mandla Mathaphuna, the Chairperson of the South African Board for Sheriffs, on 12-13 September 2024, Kempton Park

Programme Director

Deputy Judge President of the Gauteng Division, and chairperson of the Magistrates' Commission, judge Ledwaba;

The Leadership of accredited Sheriffs' associations, Rre. Mangaba and Mme. Mashigo.

The Leadership of our sister Regulators, the Legal Practice Council, the Council for Debt Collectors, the Rules Board of South Africa, and others not listed;

Representatives of the mandating organ of State, the Department of Justice and Constitutional Development; especially our friend in upskilling, the Head of the Brigitte Mabandla Justice College, Mme. Masombuka.

Colleagues in the SA Board for Sheriffs;

Our Management team in the SABFS,

Facilitator,

Colleagues,

Thank you so much for taking a moment in your busy schedules to share this strategic occasion with us. We arranged this session to not only engage with ourselves on issues we may be familiar with.

As the South African Board for Sheriffs, we are legislatively responsible and accountable to the Minister of Justice and Constitutional Development for the maintenance of the esteem of, the enhancement of the **status of, and the** improvement of the standard of training of and functions performed by sheriffs". (s8).

Generally, Sheriffs undertake a diverse range of civil justice responsibilities that encompass law enforcement, legal process facilitation, public safety, and the protection of rights. Let's take a deeper look into each of the roles that Sheriffs fulfil in South Africa.

Serving legal documents

Serving legal documents is a critical responsibility of Sheriffs. When legal proceedings are initiated, such as in civil cases or criminal trials, various

parties need to be notified of their involvement. Sheriffs are entrusted with the task of delivering summonses, subpoenas, and other court orders to the relevant individuals. This process is crucial as it ensures that all parties have proper notice and the opportunity to participate in the legal proceedings. Timely and accurate service of documents upholds the principle of due process, a cornerstone of justice.

Executing court orders

Once a court makes a decision, whether it's in favour of a creditor, plaintiff, or defendant, the court order must be executed effectively. Sheriffs carry out the enforcement of these orders, ensuring that the decisions of the court are put into action. This may involve actions like repossessing property, seizing assets to satisfy debts, or other forms of enforcement as outlined in the court's ruling. When executing court orders, Sheriffs have the authority to seize and sell certain assets to satisfy the debt owed to a creditor. However, there are limitations and regulations in place to ensure that the rights of debtors are protected. Sheriffs must perform these actions within the confines of the law and with empathy, especially when dealing with vulnerable individuals.

Maintaining law and order

During actions such as evictions or property repossessions, emotions can run high, and conflicts may arise. Sheriffs are called upon to maintain law and order in such situations, ensuring that the process is carried out peacefully and without violence. Their presence can be a calming influence, preventing potential confrontations and protecting the safety of all parties involved.

The Board is thus seized legislatively with the task to ensure that as they carry-out their public duties, Sheriffs are diligent, ethical, effective, and are protected.

We are a regulator within the body of Justice system. Hence, we as the Board called upon the support and inputs of our key and vital stakeholders. We are aware of the strategic opportunities presented by collaboration and support. I see soon we may develop a Justice entity forum, led by the responsible chairpersons.

There is that modern adage that says **“if you want to go fast, go alone. But if you want to go far, go together!”**

Our choice is clear.

Colleagues, as we have already seen, our country has politically embarked on a different leadership path. A unity at governance become key in the delivery of good service. The Unity of the Sheriff’s Office become a crucible to the high esteem of that office.

An accessible and responsive body is able to first decipher internal and external environmental challenges.

One of our challenges recently spotlighted in the Order of the Constitutional Court following the SCA matter of **BG Bojosinyane and Associates v The Sheriff Vryburg and Another (1072/2022) [2023]**

ZASCA 174 (8 December 2023) is our Offices' security of economics. How is the Office of Sheriff suppose to plan and execute its operations and obligation, when there is no certainty of income. I restate what the SCA's Order says in essence:

“(a) Unless authorised by a magistrate in terms of section 14(7) of the Magistrates' Court Act 32 of 1944, the first respondent is directed to effect service and to execute any court process emanating from the office of the applicant without any unreasonable delay;

(b) The first respondent is interdicted from requiring payment of any part of his fees or charges in respect of the service or execution of a court process in paragraph (a) above before serving and executing such process;

(c) After the service or execution of any court process referred to in paragraph (a) above, the first respondent is directed, without delay and without first requiring prior payment of any part of his fees and charges relating thereto, to return to the applicant and to the court concerned whatever he has done by virtue of such process, specifying his fees and charges on the original and all copies of the returns of service;

The sum total of this order is that unless we approach magistrates in terms of section 14(7), we may be unable to withhold as Sheriffs' any part of our returns or functions for purposes of enforcing payment. That leaves Sheriffs with a cumbersome process of debt recovery. Now, DJP, we may be compelled to see the very people responsible for civil enforcements,

turning against the very legal practitioners that instruct them. We shall be discussing the various policy interventions required to create certainty of tenure and economy for the Sheriffs,

The Board, obviously has a desire to see that security of economics, because for its own functional and financial sustainability. We are member funded, without any Treasury grants.

Consultation and stakeholder engagement, bound at the seams with public image and accessibility. Our focus in the coming months, will be to give the Sheriffs their requisite regulatory support and supervision, yet engender public awareness and engagement with our processes. Sheriffs must be held accountable, and the public must know the relevant processes to report service-related complaints. So, as we engage the levers into this path, an effective stakeholder and public engagement plan must be developed and implemented.

What we foresee, colleagues, is an effective and efficient Regulatory body that is well-respected by both all who are its subjects, and those who expect to receive their services.

Programme director, as we approach our strategic planning, we are required to recall the words of the Minister, a vision for a Sheriff's office that has transformed both in terms of its appearance but more so in terms of its function. An enhanced level of training and functioning requires adopting a common and singular focus on performance enhancing tools.

As Chairperson, I see in the future, a Sheriff's Board that has adopted an innovative and creative system of administration, emboldened by a sustainable and secure work environment. The success of the Office should be supported by its visibility and spread throughout the Republic.

Sheriffs offices will need to be inter- connected through a singular and efficient administrative system that will ensure uniformity and standardized data and reporting and add to operational efficiencies.

As a Board, we may require to be protective of our public perception and image of the Office of Sheriff, and we will ensure that we hold one another to a higher standard of duty. We have long escaped the years of being "messengers of the court".

I see a Sheriff's office that is able to meet its statutory and public functions without any questions to its integrity and ethics. Our Sheriffs should continue to be held in high regard by society. Our Clients too, should be encouraged to honour their respective dues to Sheriffs. Lest we be called upon to engage in confrontation for dues. We avoid that low-road. Responsible clients need not be reminded of their obligations to Sheriffs.
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Just as much as Sheriffs must themselves not be coaxed for meeting their annual obligations to the Board. It must come from them as a matter of duty and loyalty.

In society today, our constitutional democracy, 30 years down the line, ought to have been thriving and paradisaical. There are inventions of an illicit nature that could hamper even our officers' work. Recent crime statistics show an increase in violent crimes, a surge in commercial and even private extortion cases-we seem to be steadily falling into some *cosa nostra* effects, especially in the public tender space. Gender-based violence and femicide are a challenge. How our Sheriffs experience these realities in their daily execution of duties and how we could mitigate against them in the profession must form part of the outcomes of this strategic session.

Without the Sheriff, Courts would be unable to carry out their section 169 and section 173 imperatives to uphold the rule of law in the Republic. We stand here....colleagues, a crucial buffer-zone in society where we prevent "self-help" and lawlessness. It is this Office that must ensure that the law remains respected and upheld at all instances.

On the international front, we may have to embark on a couple of things. We are unique position as the Republic. I have through the exposure had in my recent past at the Ministry of Justice, seen how South Africa is still a beacon of African excellence in international civil and criminal legal issues. The BRICS platform present a huge opportunity to us. The SABFS would have to leverage the hope that the rest of the SADC region, the Continent and the Globe put on us to drive Africa towards perhaps a new globally compatible civil justice system.

We should carefully review how we interact at the international level and seek out mutually beneficial relations. Those that are enhancing and developing in nature, yet are compatible with our country's international policy framework.

As we have done, colleagues, inviting our key stakeholders to this session, we do so confident of this, we see the future full of success.

We leadership, to not devise all imaginable or algorithmic solutions to the challenges and adversities that may come our way. There is no single panacea that can immerge from this session. This is not some session with "shumi-lama-kati" a famous healer of Mhlabuyalingana. It is a collaborative and deliberate effort to develop a road map for the future direction that the Board must traverse. We dare not fail to plan, as it was said that would amount to planning to fail.

As I conclude, I am reminded of Maurice Valerie said of his orchestral composition, "Bolero", which is a 17-minute repetitive crescendo. Though simplistic, it was not its repetition that it is to be appreciated, but rather in the varied tempo and oomph of its execution that it became a "true masterpiece".

The SABFS Women Sherrif's Day and charitable occasion it presents, has opened my eyes wide to the humitlity and goodwill of Sheriffs. WE agreed that this should be expanded to cover other aspects of our social responsibility. WE may soon have to establish a SABFS-led goodwill foundation.

As we engage in the work of the Board, we are not going to be judged on our words, but rather in the execution of our mandate. That will be the true test of our leadership.

I thank you.

BeKNene!