



9 June 2014

Per Email

Prega Govender
Sunday Times
Email: GovenderP@sundaytimes.co.za

Dear Ms Govender

RE: UNBECOMING CONDUCT BY SHERIFF'S WILL NOT BE TOLERATED

In response to the Sunday Times article: "Judge lashes out at sheriffs for 'insult' to black women", page 5 on 8 June 2014, the South African Board for Sheriff's (SABFS) wish to express its deep regret for the behavior of the identified deputy sheriffs and condemn their conduct as it is clearly in violation of our Code of Conduct and the recently launched Pledge that all Sheriffs are expected to adhere to.

The conduct of the two deputy sheriff's as outlined in the judgment by the honorable Judge Tati Makgoka indeed constitute conduct unbecoming as they are officers of the court. Their conduct also violates the Sheriffs act; the dignity of the persons referred to in the return of service and as pointed out by the honorable justice in his judgment. The SABFS will investigate the conduct of these deputies with the aim to consider appropriate action being instituted.

The SABFS will also write to all the voluntary sheriffs associations in this regard and bring this judgment to the attention of all Sheriffs and Deputy Sheriffs in SA. It must be noted that the sheriffs' profession has undergone profound change since the birth of our democracy in 1994. Before 1994, sheriffs had the power to arrest and imprison people, often the poorest of the poor, for their inability to settle civil debt, often very small amounts of civil debt. To say that sheriffs were not exactly the most popular officers of the court would not be a lie. It was an overwhelmingly white male profession having had a "skiet, skop en donner and Arrest" reputation. Much has changed since 1994 and great strides have been made in ensuring that the sheriffs' profession is more accessible and user-friendly. The sheriff, as an officer of the court, plays a pivotal role in the justice system; a justice system which has to be accessible to all our people, in particular the poor and marginalized. Access to justice is a fundamental right that unlocks access to all the other rights enshrined in our Constitution. We are committed to make the process easier and less daunting. Very often the first person that a defendant or judgment creditor will encounter at the start of a legal dispute is the sheriff. The sheriff is an important interface between the public and the justice system.

The sheriff or deputy sheriff should, in the execution of his or her duties not only serve court process simply like a messenger, but is expected to also inform the judgment debtor, who is often amongst the poorest of the poor and illiterate, of the duties and responsibilities of a sheriff and explain the contents of the summons, judgment or execution order and the rights of the judgment debtor in this regard. This becomes even more important as the summons or order of the court is most often not issued in the language of the defendant or judgment debtor. If a person understands the process, the process becomes less hostile and traumatic for them. The Office of the Sheriff, through its interaction with legal practitioners, court officials, the police, judgment creditors and debtors, provides an important interface between the public and the justice system. Sheriffs and their deputies are at the coalface of service delivery and have a direct impact on the realization of the rights of our people. As sheriffs and

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South African Board for Sheriffs - *Established Act 90 of 1986*
Charmaine Mabuzza (Chairperson), Hlako Choma, Laura Best, Abel Mawela, Freda Moeletsi,
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deputy sheriffs are also officers of the court, it is imperative that they not only share the values embodied in the Constitution, but also give effect and real meaning thereto in the execution of their duties.

The conduct of the sheriff or deputy sheriff therefor plays a big part in how people perceive the law and the legal system. If people view the law and the justice system as hostile, negative and ineffective, there will be no respect for the rule of law. All of our people must be able to have confidence in the justice system and have the belief that the system will protect their rights and that they will be treated fairly and equally.

It is for these reasons that we have placed out focus on our Code of Conduct. The Sheriff's Code was last updated in 1990 when the Sheriff's Act was amended (23 years ago). This resulted in the Sheriff's Code not being in line with the Constitutional imperatives of our democratic dispensation. We adopted a new Code of Conduct and Pledge for Sheriffs with effect 1 March 2014. This new Code seeks to explain how a sheriff should perform his or her duties, for example, that a sheriff must have regard to the rights of all citizens when performing their functions and to ensure that all citizens are treated with dignity and respect. The Code also regulates the relationships between sheriffs, for example, the Code makes it clear that a sheriff may serve or execute process only within the area of jurisdiction or the portion of an area of jurisdiction for which he or she has been appointed.

A sheriff entrusted with the service or execution of a process must act without avoidable delay in accordance with the Rules of Court and provided that any process, requiring urgent attention shall be dealt with immediately. Another important provision in the code is that trust money must be paid out to the person entitled thereto without avoidable delay. A sheriff may not perform any act as sheriff in any matter in which he or she has a direct or indirect interest. A Sheriff must at all times act in an impartial, unbiased and fair manner towards all parties and must ensure that deputy sheriffs in his or her employ do the same. A sheriff must serve members of the public in the official language in which he or she is addressed or otherwise communicated with.

Furthermore, a sheriff may not act in any way that will bring the good name and esteem of the office of sheriff in particular and the administration of justice in general into disrepute or cause it to appear in a bad light.

Central to the new Code is the requirement for all sheriffs to constantly hold in high regard the rights of all citizens in performing their functions. The need to respect and protect the citizen's rights in the administration of the sheriff's work will also be inspired by a pledge committing to constitutional rights. In terms of the new Code, sheriffs will be expected to undertake a Pledge before they can start practicing. In terms of this Pledge, the sheriff undertakes to uphold the constitutional rights of all citizens and to uphold the principles of good governance by maintaining a high standard of accountability, transparency, honesty and integrity. The South African Board for Sheriffs is currently in the process of training all Sheriffs on this new Code of Conduct and in ensuring that all Sheriffs have taken this Pledge.

There are new developments in the area of standards for sheriffs in the performance of their duties and the SABFS is in the process of drafting guidelines for the appointment of deputy sheriffs that will be submitted to the Department of Justice.

In conclusion, we would like to reiterate that the SABFS will continue to undertake the transformative steps in the sheriff's profession within the parameters of the constitution. We are confident that this new Code of Conduct and Pledge will go a long way in improving service delivery by the sheriffs' profession and will assist in renewing the public's faith in the profession.

Charmaine Mabuza



Charmaine Mabuza
Chairperson: SABFS