
REPORT NO. 18 of 2009/10

REPORT ON AN INVESTIGATION INTO AN ALLEGATION THAT THE SOUTH AFRICAN POLICE SERVICE IMPROPERLY HELD MR HLEZA LIABLE FOR PAYMENT OF A DNA TEST
<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Executive Summary</td>
<td>3</td>
</tr>
<tr>
<td>1. INTRODUCTION</td>
<td>5</td>
</tr>
<tr>
<td>2. THE COMPLAINT</td>
<td>5</td>
</tr>
<tr>
<td>3. POWERS AND JURISDICTION OF THE PUBLIC PROTECTOR</td>
<td></td>
</tr>
<tr>
<td>TO INVESTIGATE THE COMPLAINT</td>
<td>6</td>
</tr>
<tr>
<td>4. THE INVESTIGATION</td>
<td>6</td>
</tr>
<tr>
<td>5. CORRESPONDENCE WITH SAPS</td>
<td>7</td>
</tr>
<tr>
<td>6. INTERACTION WITH THE HOSPITAL</td>
<td>7</td>
</tr>
<tr>
<td>7. FINDINGS</td>
<td>9</td>
</tr>
<tr>
<td>8. RECOMMENDATIONS</td>
<td>9</td>
</tr>
<tr>
<td>9. CONCLUSION</td>
<td>10</td>
</tr>
</tbody>
</table>
Executive Summary

(i) This report deals with an investigation into an allegation that the South African Police Service (SAPS) improperly held Mr T S Hleza (the Complainant) liable for payment of a hospital bill that was incurred during a police investigation in which the Complainant was a suspect. The bill related to a DNA test that was conducted as part of an investigation by the Piet Retief SAPS, and the costs thereof should have been recovered from the SAPS.

(ii) From the investigation it was found that:

(a) The official who captured the Complainant’s details mistakenly overlooked the completed Form SAPS 308 that should have been captured in order for the costs to be recovered from the SAPS;

(b) The cost for the DNA test was erroneously billed to the Complainant’s medical aid scheme which declined to pay and the Complainant became liable for the unpaid bill;

(c) When the Complainant failed to pay his hospital bill, the hospital handed his account over to debt collectors;

(d) The hospital failed to act decisively to correct the error and have the payment made in relation to the particular account reversed; and

(e) The failure to correct the error resulted in the Complainant being improperly prejudiced.

(iii) The Public Protector recommended that Piet Retief hospital should:
(a) Ensure proper recording of all accounts so as to avoid a recurrence of mistakes of a similar nature;

(b) Ensure that the necessary authorisation is promptly given to the debt collector to reverse payment made in respect of the account billed for the DNA test conducted on the Complainant on 14 February 2005; and

(c) Investigate whether or not disciplinary action should be instituted against any hospital employee for failing to timeously rectify the error.
REPORT ON AN INVESTIGATION INTO AN ALLEGATION THAT THE SOUTH AFRICAN POLICE SERVICE IMPROPERLY HELD MR HLEZA LIABLE FOR PAYMENT OF A DNA TEST

1. INTRODUCTION

1.1 This report is submitted to the Head of the Department of Health in the Mpumalanga Province, the Acting Chief Executive Officer of the Piet Retief Hospital and the Mpumalanga Provincial Police Commissioner in terms of section 182(1)(b) of the Constitution of the Republic of South Africa Act, 1996 (Constitution) and section 8(1) of the Public Protector Act, 1994.

1.2 It deals with an investigation into an allegation that Mr Hleza (the Complainant) was improperly held liable for costs incurred for a DNA test conducted at the Piet Retief Hospital (Hospital) during the course of a police investigation.

2. THE COMPLAINT

2.1 The Complainant lodged a complaint with the Office of the Public Protector (OPP) on 22 October 2007.

2.2 He alleged that Captain Marivate of the Piet Retief Police Detective Services failed to utilise the South African Police Service (SAPS) 308 Form when he took him to Hospital for DNA tests on 14 February 2005.

2.3 The tests were allegedly conducted during the course of a criminal investigation in which the Complainant was a suspect.

2.4 The Complainant indicated that he received an invoice from the Hospital for a sum of R 104.00 being the amount due for the DNA test.
3. POWERS AND JURISDICTION OF THE PUBLIC PROTECTOR TO INVESTIGATE THE COMPLAINT

3.1 The OPP was established in terms of Chapter 9 of the Constitution to support constitutional democracy. The operational requirements of the Office of the Public Protector are provided for by the Public Protector Act, 1994.

3.2 Section 6(4) of the Public Protector Act, 1994 empowers the Public Protector to investigate, among other things, an act or omission by a person in the employ of government at any level, or a person performing a public function, which results in unlawful or improper prejudice to any other person.

3.3 The findings of an investigation by the Public Protector may, when he/she deems it fit but as soon as possible, be made available to the Complainant and to any person implicated thereby.

3.4 While the complaint of improper conduct by a member of the SAPS arose in 2005 and was referred to the Public Protector outside the two year period provided for in Section 6(9), it was decided to proceed with the investigation because the Complainant was in prison and his attempts to have the matter resolved had not succeeded.

4. THE INVESTIGATION

The investigation was conducted in terms of section 6 and 7 of the Public Protector Act, 1994 and comprised the following:

4.1 Assessment of the complaint;

4.2 Correspondence with SAPS; and
4.3 Interaction with the Hospital.

5. CORRESPONDENCE WITH SAPS

5.1 Preliminary written enquiries outlining the complaint were sent to the Station Commissioner of the Piet Retief Police Station. The Branch Commander: Detective Services responded by sending the OPP copies of the SAPS 308 Form and the J 88 Form that were completed the day the Complainant was taken to Hospital. The SAPS also furnished the OPP with the Complainant's account from the Hospital which account did not reflect any amount billed for services rendered on 14 February 2005.

5.2 The contents of the report from the Commander: Detective Services was transmitted to the Complainant who responded by furnishing the OPP with a copy of an invoice which he stated was issued to him by the Hospital indicating an amount of R 104.00 for services rendered on 14 February 2005.

6. INTERACTION WITH THE HOSPITAL

6.1 A letter of enquiry was sent to the Hospital seeking to establish whether there was an account created by the Hospital for the Complainant for services rendered on 14 February 2005. Several telephone calls were made to Accounts Section without success and messages that were left for officials, were not returned.

6.2 The Complainant contacted the OPP and reported that he has established that the account in question was handed over to the debt collectors, Vericredit. A telephone call was made to the debt collectors who confirmed that an account originally amounting to R 104.00 for services rendered to the Complainant on 14 February 2005, was among those that were handed over by the Hospital for collection from the Complainant.
6.3 Mr Ndlovu, the Hospital’s Head of the Accounts Section (the Head), indicated that an error had occurred when the Complainant’s details were captured on 14 February 2005. He said that the costs incurred on the day in question were captured under the Complainant’s name, which means that they were included as part of the costs to be paid by the Complainant’s medical aid scheme. As it appeared that the Complainant’s medical aid scheme did not cover all his hospital bills, these were then charged to him directly. When the Complainant failed to settle these, the Hospital handed him over to the debt collectors. The Head however conceded that the costs for the DNA tests should not have been billed to the Complainant’s medical aid scheme, but to the SAPS.

6.4 A meeting was held with the Head during which he phoned the debt collector. He then indicated that the account has already been placed on stand-by, meaning that interest would not be charged, and requested that the OPP fax the documents received from the Hospital to Vericredit.

6.5 The documents were faxed to Vericredit as requested, but apparently the debt collector could not reverse the payment that the Complainant had already made to settle the account as they had not received authorisation to do so from the Head.

6.6 After several unanswered phone calls and messages to the Head, Dr Masuku, the Hospital Superintendent and Acting Chief Executive Officer, was contacted and undertook to look into the matter.

6.7 The Head subsequently stated that he was surprised that the account had not been settled. He was informed of the debt collector’s contention that the reversal could not be made without authorisation from him. He undertook to contact Vericredit and report back to OPP, but failed to do so.
7. FINDINGS

7.1 The Hospital official who captured the Complainant’s details mistakenly overlooked the completed SAPS 308 Form that should have been captured in order for the costs to be recovered from the SAPS.

7.2 The Hospital erroneously billed the Complainant’s medical aid scheme for DNA testing that should have been billed to the SAPS.

7.3 When the Complainant could not pay his bill, the Hospital handed the account to debt collectors for collection.

7.4 The Hospital’s Accounts Section failed to take decisive action to correct the error and have the payment reversed even when the OPP brought it to its attention.

7.5 The failure to correct the mistake as aforesaid resulted in the Complainant being improperly prejudiced.

8. RECOMMENDATION

It is recommended in terms of section 182(1)(b) of the Constitution and section 6(4)(c)(ii) of the Public Protector Act, 1994 that the Hospital’s Acting Chief Executive Officer should:

8.1 Ensure proper recording of all accounts so as to avoid a recurrence of mistakes of a similar nature;

8.2 Ensure that the necessary authorisation is promptly given to the debt collector to reverse payment made in respect of the account billed for the DNA test conducted on the Complainant on 14 February 2005; and
8.3 Investigate whether or not disciplinary action should be instituted against any hospital employee for failing to timeously rectify the error.

9. CONCLUSION

The Public Protector will monitor the implementation of the above recommendations on a monthly basis.

ADV ML MUSHWANA
PUBLIC PROTECTOR OF THE
REPUBLIC OF SOUTH AFRICA

Assisted by: Ms M Mashigoane, Investigator: Nelspruit Office