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South African Police Service



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THE NATIONAL COMMISSIONER:
SOUTH AFRICAN POLICE SERVICE

PRETORIA
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The Premier
Western Cape Province

Dear Premier

**RE: THE SOUTH AFRICAN POLICE SERVICE RESPONSE TO THE
KHAYELITSHA COMMISSION OF INQUIRY RECOMMENDATIONS**

By direction of the Minister of Police, the response from the Department on the Khayelitsha Commission is follows:

1. BACKGROUND

- 1.1 On 15 August 2012, the Premier of the Western Cape Province decided to establish a Commission of Inquiry into allegations of police inefficiency and a breakdown in community relations in Khayelitsha. According to the Proclamation published in the Western Cape Provincial Gazette on 24 August 2012, the Premier made the decision in terms of s 1 of the Western Cape Provincial Commissions Act, 1998 read together with ss 206(3) and (5) of the Constitution of the Republic of South Africa, 1996.

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- 1.2 On 22 August 2012, the Premier issued a media statement announcing a decision to appoint the Commission. Citing news reports, the Premier motivated her decision, *inter alia*, on the basis that the alleged breakdown in relations was "believed to be the cause of vigilante killings in Khayelitsha because [the community had] no faith in the ability of the police to undertake thorough investigations, make arrests, or render the requisite assistance to ensure convictions in reported criminal cases".
- 1.3 The Minister of Police and the National Commissioner of the South African Police Service were amongst the applicants who challenged the Premier's decision to establish the Commission of Inquiry and moreover the Premier's decision to clothe the Commission with coercive powers of subpoena in respect of members of the South African Police Service ("the SAPS"). The majority of the Court *aquo* dismissed the application for an interdict to stop the Commission from issuing subpoenas against members of the SAPS finding that no case had been made out at the interim relief stage, but in a minority judgment, the view was expressed that the parties did not exhaust their Chapter 3 obligations, and therefore the parties were directed to do so.
- 1.4 The SAPS applied for leave to appeal to the Constitutional Court (CCT Case No: 13/13). The facts before the constitutional court were briefly as follows:
- This case concerned a dispute between organs of state in the national and provincial spheres. The Minister of Police (Minister) and the National Commissioner of the South African Police Service (Commissioner) contest the power of the Premier of the Western Cape province (Premier) to appoint a provincial commission of inquiry with powers to subpoena members of the South African Police Service (Police Service) to appear before it over allegations of police inefficiency. In turn, the Premier asserts that she derives the power from the Constitution and related provincial legislation.
 - The initial complaint was about the alleged inefficiencies in the performance of the Police Service and the City of Cape Town Municipal Police Department (Metro Police) operating in the community of Khayelitsha. The complaint cited "widespread inefficiencies, apathy, incompetence and systemic failures of policing routinely experienced by Khayelitsha residents."
 - Immediately after assuming office in early July 2012 and after extensive engagements with the Premier, the National Commissioner established a task team to investigate the issues raised in the original

complaint. The Provincial Commissioner requested the task team to broaden the scope of its investigation and to investigate "any other aspects they may consider helpful in improving the overall quality of service delivery in Khayelitsha." This was a clear sign that the National Commissioner took seriously the complaints raised and was willing to expeditiously address them. Despite this the Premier went ahead with her plans. (my emphasis)

- The Minister of Police wrote a letter to the Premier stating that the Commission was appointed "without either discussing the matter with [him] or notifying [him] of [her] intended actions" and that the appointment of the Commission was "premature and may impact on other initiatives currently underway". He further requested the postponement of the Commission's work so as to discuss the matter. The critical point is that it was clear that the Minister had a variety of concerns regarding the appointment of the Commission, including the ambit of the Commission's terms of reference and the subpoena powers of the Commission. It was also apparent that the Premier was unwilling to accede at that stage to the request for the postponement of the Commission's work. The Premier replied that she was open to further discussion but declined to postpone the work of the Commission at that stage. On 6 September 2012 the Commission published a notice of its provisional working methods.
- On 30 October 2012, the Commission issued a subpoena to the Provincial Commissioner requiring the production of certain evidence. The following day subpoenas were issued to three station commanders. Within a week, the applicants (PC and 3 SC) brought an urgent application in the Western Cape High Court (High Court) for an order restraining the Commission from issuing and giving effect to the subpoenas and directing it to suspend its activities pending a decision on the final review application to set aside the Premier's decision to appoint the Commission. The appointment was challenged on the basis that it was inconsistent with the Constitution, invalid, irrational or unlawful.
- The court *aquo* held that the power of the Premier to appoint a commission was an original and discretionary power derived from the Constitution. It held that the Premier was entitled to exercise the power by appointing a commission in terms of the WC Commissions Act in the manner she did. The provisions of that Act, the majority reasoned,

conferred powers of subpoena upon the Commission. Therefore, in the absence of a challenge to the constitutionality of those provisions, the Commission's subpoena powers were held to be constitutionally compliant. Further, the majority dismissed the contention of the Minister that the Premier had violated the principles of co-operative governance and inter-governmental relations as set out in section 41 of the Constitution. It concluded that in setting up the Commission, the Premier did not act irrationally or unlawfully and dismissed the urgent application.

- The minority judgment took the view that although the Premier had the power to appoint the Commission, the parties had not exhausted their obligations under section 41 to engage with one another to explore appropriate means of avoiding or resolving the dispute between them in relation to policing in Khayelitsha.

- 1.5 The constitutional court opined and concluded that the commission of inquiry appointed by a province under section 206(5) has the implied power to subpoena members of the police service to attend its hearings, testify before it and produce documents and other evidence that may be lawfully required of members of the Police Service. It follows that the commission of inquiry appointed by the Premier under section 206(5) on 24 August 2012, pursuant to a resolution of the provincial executive council to that effect, was lawfully appointed and has the power to subpoena members of the Police Service for the purposes envisaged in the section. The Constitutional court was of the view that Section 206(5) of the Constitution "targets a commission of inquiry" as one of the mechanisms which provinces have to hold the police to account. The Constitutional Court found in favour of the Commission, and that it had powers to subpoena members of the police service to testify.
- 1.6 The Constitution makes it plain that policing is a national competence. The political responsibility for policing vests in the Minister who must set the national policing policy after hearing out provincial governments on the policing needs and priorities of provinces. The President appoints the Commissioner. In the Commissioner lies the power to "control and manage the police service in accordance with the national policing policy" and the directions of the Minister responsible.
- 1.7 However, in Part A of Schedule 4, the Constitution provides for concurrent national and provincial legislative competence over the policing function. The Schedule makes it clear that the provincial legislature has legislative competence over policing only to the extent conferred on it by Chapter 11. In turn, that chapter explains that a provincial executive is entrusted with the policing function as set

out in the chapter or given to the provincial executive in national legislation or the national policing policy. Chapter 11 carves out the concurrent competence of a province in relation to policing.

- 1.8 The Constitutional Court made it clear that the powers of provinces with regard to policing were confined to monitoring, oversight and liaison. The Court also affirmed that these powers should be exercised with regard to the principles of co-operative governance as espoused in chapter 3 of the Constitution.
- 1.9 The Commission's first public hearing took place in January 2014 in Khayelitsha. More than 100 witnesses testified at the commission before Commissioners Kate O'Regan and Vusi Pikoli. *(It is interesting to note that the latter was subsequently appointed as the first Western Cape Police Ombudsman).* The Commission concluded its work and released a 500 page final report entitled "Towards a Safer Khayelitsha" which was handed over to the Premier of the Western Cape at the end of August 2014.
- 1.10 In its report the Commission concluded that there were serious inefficiencies in the way SAPS policed Khayelitsha and that there had been a breakdown in trust between the community and the police.
- 1.11 It is important to note that, while its mandate was only to investigate policing, the Commission also found that a lack of proper investment by the City of Cape Town and the Provincial Government in infrastructure such as toilets, street lights and roads had made policing more difficult and increased residents vulnerability to violent crime.
- 1.12 There are 20 recommendations that were in the Commission's report referred to in 1.6 above. Same is briefly discussed in paragraph 2 below and a short response is given with each recommendation.

2. RECOMMENDATIONS

2.1 RECOMMENDATION ONE:

Each Police station in Khayelitsha should adopt a community policing commitment in consultation with local residents.

This office does not agree with same as it suggests that the SAPS is not committed to work with the community in the fight against crime. The Commission failed to recognise and to appreciate the role played by local

structures together with the police in Khayelitsha. The SAPS has always been determined to work with all stakeholders to improve safety in Khayelitsha and elsewhere. It should be noted that Provincial Government, the City of Cape Town and the Provincial Secretariat are legally bound to provide support to the structures like the Community Police Forums and to establish the Safety Forums. This is not provided for properly in Khayelitsha. There is a lacuna in terms of the implementation of adopted policies since these departments are not delivering on their mandate, not only in Khayelitsha, but in other policing precincts across the province. In fact, there are about 15 established Safety Forums in the province and mostly are in rural areas. These parties are not creating an enabling policing environment which is not per se the duty of the South African Police Service.

The department has adopted and is implementing nationally a Frontline Service Delivery project which provides for, *inter alia*, a Service Charter that is negotiated with the communities in terms of their policing needs.

It should be noted that currently in the Khayelitsha cluster a Joint Forum was established. The Joint Forum is divided into eight sub-forums, namely: Youth and Gangs; Anti-Vigilantism; Business Safety; Transport and Road Safety; Safety for Women and Children; Alcohol Abuse and Liquor Regulation; Drug Abuse; and a Research Forum to manage the overall process. Each Sub-Forum is chaired by SAPS and brings together local government, civil society organizations, social movements, academics, community structures and other stakeholders to develop practical interventions to make people in the Khayelitsha Cluster feel safe. The forum had a strategic session at the University of Cape Town on the 18th of April 2015 and is currently in the process of drafting a strategic plan for the 2015/2016 financial year. A part of the plan consists of a commitment certificate that will be signed by every partner in the sub-forums and main forum. Each station in the Cluster is also having a Community Service Charter placed in the Community Service Centres to publically indicate the commitment from SAPS.

2.2 RECOMMENDATION TWO:

Adopt a procedural justice model of policing for Khayelitsha.

The Commission recommended the following steps when adopting a procedural justice model:

- “ training of all SAPS members stationed in Khayelitsha in the principles of procedural justice policing, which should include training on the history of

SAPS in Khayelitsha to illustrate the special challenges created for SAPS in Khayelitsha, as well as explaining to SAPS members why a procedural justice model of policing will make a difference to their relationship with the community;"

- "a revision of the station performance chart as it applies to the three Khayelitsha police stations to measure compliance with a procedural justice model of policing at the three police stations;"
- "a revision of performance agreements entered into with station commanders, managers at the cluster office, and the head of the FCS Unit in Khayelitsha to include measurement of whether a procedural justice model of policing is being effectively implemented;
- "the adoption of a tool such as the Community Scorecard system to provide police managers in Khayelitsha with regular feedback on the levels of trust in the community towards SAPS."

This office is not agreeing with this as it seems to be premised on wrong fundamentals. The overall finding and this recommendation in particular suggest that SAPS is running a flawed service in Khayelitsha. It also suggests that there is inappropriate leadership not only in Khayelitsha but in the Province as a whole.

This recommendation is not comprehensible, however on SAPS' side issues of appropriate leadership are always a focus. The "Annual Top 1500 Conference" that includes all Cluster Commanders and Station Commanders is held annually in the month of January. During this conference matters of performance solutions and governance are discussed. There is a myriad of measures that are put in place in order to gauge the performance of the department and the levels of community trust towards the SAPS. For instance, statistics are published annually showing how SAPS performed as mandated by Section 205 of the Constitution. On the other hand, massive Social Media (SAPS), Victims of Crime Survey (STATSSA), Citizen Based Monitoring (Department of Monitoring and Evaluation), GCIS Service Tracker (Government Communication Services) are among tools utilised to gauge feedback on public perceptions with regard to the service rendered by SAPS. Government through the Department of Monitoring and Evaluation also employs a tool and methodology the Management Performance Assessment Tool to evaluate all departments on management performance indicators and SAPS has shown great improvements in this area.

Further, in the absence of formal and informal training courses at station level, members are always sensitised during parades and during station lectures on customer service aspects. There are prescripts that regulate criteria arrests, custody management, detention and members are continuously trained on these aspects. The established Joint Forum and different sub-forums are currently used as a measurement tool to obtain feedback on the levels of trust in SAPS.

The CJS is a value chain which dictates that all stakeholders must play their role and SAPS is unduly always at a receiving end where such is lacking.

2.3 RECOMMENDATION THREE:

Monitoring and Oversight team to ensure inefficiencies at the three Khayelitsha Police stations and the Khayelitsha FCS Unit are eradicated.

There are already existing structures where monitoring can take place. There are monthly meetings between SAPS (PC) and Department of Community Safety (MEC and HOD) which are aimed at attending to monitoring and oversight and other issues. The Provincial JOINTS, Provincial Parliament and Cabinet briefings, as well as the MIMMEC convened by the Minister of Police are but some of the consultative structures/ avenues that are utilised to address same. Further, the following are steps that are, *inter alia*, implemented to ensure monitoring and oversight at local level in this regard:

- The minutes of Community Police Forum meetings are monitored to ensure that the concerns of the communities are addressed.
- The Joint forum and different sub-forums are currently used as a measurement tool to obtain feedback on the levels of trust in SAPS.
- Crime prevention operations are monitored through the Provincial Crime Combating Forum (PCCF) meetings
- The performance of the Detective Service is monitored through the Cluster and Station Crime Combating Forums.
- The performance of the Detective Service regarding court ready cases as well as quality of investigations is monitored through attending Case flow meetings with the Departments of Justice, the Judiciary and the Prosecuting authority.

- The arresting of possible crime groups and wanted suspects are also monitored on a weekly basis.
- Complaints from the community are monitored to ensure they are addressed in line with the Batho Pele principles.
- Crime scenes are managed effectively.

2.4 RECOMMENDATION FOUR:

Urgent Change Management Process by Leadership of Khayelitsha Cluster, Khayelitsha FCS Unit and three Khayelitsha Police Stations

Please refer to paragraph 2.2 above. A strong emphasis is however placed on compliance and consequence management by Commanders at all levels.

2.5 RECOMMENDATION FIVE:

Urgent strategic review of Detective Services at all three Khayelitsha Police stations and the FCS unit.

The Department has always engaged in modernisation and capacitation of detectives. In the recent past the SAPS declared two years as the "Years of Detectives". The focus was on skilling and training detectives, capacitating them with the tools of the trade, i.e. vehicles, cameras, computers, IT equipment, etc. There is a dedicated Detective Academy in Hammanskraal and Paarl for investigating officers.

It must further be noted that the SAPS has taken the following measures:

Annual Performance Plan was revised to sharpening the performance of detectives at national level;

Increasing the number of detectives as well as the reenlistment process is underway in order to recycle the need of expertise;

- Turnaround strategy of inspections;
- Performance workshops for detectives;
- Active management of dockets;

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- Established inquest backlog teams;
- Organised crime projects;
- Enhancement of command and control in the detectives environment
- Acceleration of achievement of the Criminal Justice System 7 point Review Plan to achieve the following:
 - A single Vision and Mission for the CJS leading to a single set of objectives, priorities and performance measurement targets for the CJS.
 - Legislation and protocols to align the CJS.
 - Practical and short- and medium-term proposals to improve the performance of the Courts.
 - Improve the component parts of the CJS that contribute negatively to the overall performance of the System.
 - An integrated and seamless national CJS Information System to facilitate more informed strategies, plans and decision-making.
 - Modernise the CJS by applying technology solutions to more effectively manage day-to-day operations, reduce costs and eliminate waste and automating paper-intensive systems.
 - Involve the population at large in the fight against crime.

At local level, in Khayelitsha in particular, the following steps were taken to ensure improvement in the detective service:

- A backlog team was established in the Cluster with the approval of the Provincial Commissioner via reference 4/3/2/3/2/155/444 dated 2014-09-04. The team consisted of one officer and 7 members who managed to decrease the workload for case dockets on hand for investigation between the 1st of August 2014 and the 31st of March 2015.
- A project will be implemented during this financial year to decrease the unsolved murder and inquest case dockets on hand.

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- The DCCO report is monitored weekly to ensure that case dockets are submitted to court in time and that case dockets are trial ready.

It is therefore fallacious of the Commission to state that the detective branches at Khayelitsha are not functioning well, even suggesting that SAPS fails to investigate crime effectively. The Department of Justice annual reports show that there is an increase in convictions as well as Correction Services Centres are full and this is due to good detective work.

2.6 RECOMMENDATION SIX:

Provincial Commissioner to issue guidelines for Visible Policing in informal neighbourhoods

Policing in informal settlements is not only difficult but also dangerous to both members and the public. The City of Cape Town and the Provincial government are duty bound to provide an enabling policing environment in such areas. The failure to enforce bylaws, enabling projected geo-spatial planning, street and house numbers, descent sanitation, street flood lighting make it practically impossible to conduct normal policing in these areas. These are pre-requisites for a proper policing model. Lack of focus nor willingness and commitment by the municipality and provincial government to these areas poses a threat to the security and wellbeing of the ordinary dwellers and SAPS is always unjustifiable at the receiving end.

It is not the duty of SAPS to provide such infrastructural amenities. There is a specific and definite role to be played by the city and the provincial government to create an enabling environment for policing. SAPS have performed well under such non-optimal difficult conditions. It is absurd that the Commission saw it fit to conclude that challenges with regards to policing in these untenable situations are attributed to SAPS. The Commission missed a golden opportunity to dwell on this in order to ensure that all citizens receive equal treatment from the province in this regard irrespective of whether they are located in informal settlements or in the suburbs.

Further, SAPS is neither consulted nor involved at the outset where spatial developments are initiated. This creates a serious challenge when it comes to the location of the police station to service a particular area, e.g. Harare Police Station.

In an endeavour to fulfil its constitutional and moral obligation, SAPS has derived means and ways of ensuring that the citizens enjoy protection and are and feel safe under such miserable conditions. For instance, foot patrols with community patrollers are conducted in areas which are not accessible with vehicles is but one of the good initiatives.

To improve better policing visibility as well as access, government has invested significantly in policing vehicles improving the overall car ratio to 1:4. The police citizen ratio has been improved on average to 1:347 and such compares fairly with UN recommendations that suggests a maximum of about 1: 400.

2.7 RECOMMENDATION SEVEN:

Revision of SAPS' system for determining the theoretical Human resource requirement of Police stations, and the urgent reallocation of Human resources to the three Khayelitsha Police stations.

The issue of the Fixed Establishment (the number of employees that can be appointed in terms of the approved budget *per annum*) is a legislative matter. The SAPS and other relevant Acts prescribe that the National Commissioner and the Provincial Commissioner, to a certain extent, pronounce based on predetermined financial constraints. There is a Fixed Establishment¹ for the SAPS, the Province and the said stations. In terms of our Organisational Development, over and above the Fixed Establishment, the organisation provides future projections (an ideal RAG) for planning. Provision of new posts depends on fiscal as to what has been allocated to the department. However, the SAPS always strive, in terms of establishment, to advocate 100% in that a post lost is a post filled. SAPS further targets maintenance of a minimum 80% of establishment talks to available resources, i.e. minimum resources that are necessary to deliver a service. In the new recruitment drive of the organisation, the Western Cape is one of the priority provinces. In the recent past, SAPS has provided additional allocations to the three Khayelitsha stations as the SAPS focus has always been on prioritisation of capacitation for its human resource.

2.8 RECOMMENDATION EIGHT:

¹ The SAPS Act clearly indicates that the National Commissioner has the powers to pronounce on the Fixed Establishment of the organisation, in terms of Section 11 (2) (b). This also applies to the delegated function for the Provincial Commissioner in managing the province in this regard. At all times, what guides appointments and filling of vacancies in the SAPS is the Fixed Establishment.

Other steps to improve relations between SAPS and people of Khayelitsha.

The law is clear in that it is responsibility and role of the Provincial Department of Community Safety to ensure good relations between the police and the community at large. It is very unfortunate that in the Western Cape the contrary prevails.

Resourcing of the Community Police Forums and other legitimate community structures is the legal responsibility of the Provincial Department of Community Safety and the Provincial Civilian Secretariat for Police. The SAPS plays a secondary support function and participation.

The following should please be noted:

Community Police forums: The General elections of these forums were finalised to ensure strong leadership. The Commission recommended that the monitoring team referred to in Recommendation three monitor the performance of the CPFs in Khayelitsha, and report to both DOCS and the Provincial Secretariat on the perceived benefits and shortcomings of the EPP programme as it operates in Khayelitsha. In particular, the Commission recommended that DOCS consider the needs of CPF's in socially and economically disadvantaged areas for additional start-up grants to provide basic facilities. There is really no need for such a monitoring team since if all systems are in place the CPF should submit reports as per its constitution.

- Publication of station-level crime statistics: There is a well and carefully considered National Cabinet decision to publish crime statistics once a year. Thus, the statistics policy is clear and unambiguous as to how capturing and reporting is done. In an endeavour to guard against possible abuse of unaudited crime statistics which was prevalent in the past, the SAPS proactively entered into agreement and signed a memorandum of understanding with a credible agency, Stats SA with regards to migration of station, national and official statistics and authentication thereof. The crime patterns and increases or decreases in crime are however provided monthly to all role players locally at SSSF /CCCF and at the JOINTS. It is therefore ridiculous of the commission to suggest that same should be made available and published on a monthly basis at all stations. There is no clear context, information or evidence led that form the basis of this recommendation.

- Introduction of community-based mediation initiative to resolve disputes: There is a well-developed strategy and policy on Alternative Dispute Resolution mechanisms whereby the Department of Justice is the custodian. This recommendation should be treated with caution as it can result in accusations of crime manipulations if implemented.
- Reservists: There is a reviewed policy on reservist in place and the recruitment season has already started.
- Furthermore, the new policy emphasises strongly that reservists must be employed and may only serve as volunteers. Should they intend to be employed by SAPS, they should follow formal processes that the organisation has put in place in terms of its Recruitment Policy that applies across the entire citizenry of South Africa.

2.9 RECOMMENDATION NINE:

Review of Human resource practices

The SAPS recruitment strategies are responsive and sensitive to the constitutional prescript. The community is very diverse as a result SAPS has engaged the CSIR in order to establish customised language labs.

The Commission also touched on the following points:

- Ensuring that SAPS members in Khayelitsha are able to speak isiXhosa: A diverse group of employees are appointed to serve the diverse community of Khayelitsha, which does not only consist of isiXhosa speaking individuals. An isiXhosa, Afrikaans speaking member is however always available to serve the community, like in any station.
- PEP: The performance management system is maturing and improving all the time. This comprehensive system is indicative of ones' performance and members are evaluated according to their individual performance.
- Discipline of SAPS members: The SAPS and government in general, place value on same and it is one of the transversals. The SAPS always strive to ensure the qualitative and quantitative discipline process with regards to the consistency in types of sentencing and duration of hearings. Substantive and procedural fairness is taken into account at all times. The disciplinary code is

negotiated with the organised labour. Currently the SAPS is in a process to establish Trial units in an endeavour, inter alia, to standardise sanctions and to ensure that discipline is instituted fairly, constructively and consistently without fear or favour.

- Accelerated processes for leadership appointment in Khayelitsha: The posts for Station commander and Detective Commander at Harare police station, as well as the post of Cluster Commander which were on acting capacity for a long time have been filled with permanent appointments.
- With regards to the wellbeing of members, SAPS is not apologetic for going beyond the call of duty in this regard. The EHW ensures that the human capital as well as family members is taken care of. For instance Polmed provides for members and their families. There is a mixed model available to members to either utilise in-house and/or external practitioners.
- Our government has a clear on language policy. The SAPS language policy is aligned to that of the Department of Arts and Culture. Furthermore, SAPS always ensures that all those that require the service of the SAPS, are always served in the language of preference.

2.10 RECOMMENDATION TEN:

Revision of the station performance chart.

As indicated in par 2.2 *supra*, this recommendation is not comprehensible, however on SAPS' side issues of appropriate leadership are always a focus. The "Annual Top 1500 Conference" that includes all Cluster Commanders and Station Commanders (including those from the Khayelitsha Cluster) is held annually in the month of January. During this conference matters of performance solutions and governance are discussed. There is a myriad of measures that are put in place in order to gauge the performance of the department and the levels of community trust towards the SAPS. For instance, statistics are published annually showing how SAPS performed as mandated by Section 205 of the Constitution. On the other hand, massive Social Media (SAPS), Victims of Crime Survey (STATSSA), Citizen Based Monitoring (Department of Monitoring and Evaluation), GCIS Service Tracker (Government Communication Services) are among tools utilised to gauge feedback on public perceptions with regard to the

service rendered by SAPS. Government through the Department of Monitoring and Evaluation also employs a tool and methodology the Management Performance Assessment Tool to evaluate all departments on management performance indicators and SAPS has shown great improvements in this area.

Furthermore, the performance management tools are also being renewed for alignment purposes.

2.11 RECOMMENDATION ELEVEN:

Vengeance killings and attacks (vigilantism).

There is a strong and active cooperation at national level with LGBT and other stakeholders. This has cascaded down to provinces and local station level. SAPS also participate in activities organised by sister department eg the Department of Women, etc.

All instances of so called vengeance attacks and killings in Khayelitsha are recorded and reported at CCCF meetings. The frequency of this kind of attacks was one of the reasons why the Anti- Vigilantism sub-forum was established. It can however be reported that a decrease is visible in attacks of this nature. The purpose of this sub-forum is to set the foundation for a strategy to address the issue of vigilantism. It is chaired by the Visible Coordinator for the Khayelitsha Cluster. This forum attended by representatives of the Cluster Community Police Forum, Community organizations, the City of Cape Town's Mayoral Urban Regeneration Programme, and traditional leaders. In building a strategy, this sub-forum intends to examine social and legal definitions of vigilantism; identify the causes of vigilante attacks; identify the nature of vigilante attacks; map hotspots for vigilante attacks; and build accurate profiles of the communities where these attacks mostly occur. It has been agreed that this process should be focused on public education.

2.12 RECOMMENDATION TWELVE:

A multi-sectorial task team on youth gangs to be established by docs

This recommendation was directed to the Department of Community Safety and due to its failure to perform its role, the SAPS proactively established the Joint forum as discussed under recommendation one in order to attend to same.

The purpose of this sub-forum is to identify interventions that could be used to reduce gang violence. It is chaired by SAPS and has been one of the better attended sub-forums, with participation by Community Organisations, the Department of Social Development; the Department of Correctional Services; the Department of Community Safety; and the University of Cape Town (UCT). Representatives of the City, the Department of Health, Local Councillors and School Principals have also been invited to participate. The forum agreed to build on the soccer and netball interventions to divert youth away from gangs. It is also currently evaluating the success of other diversionary programmes being rolled out in Khayelitsha by other departments.

It must be noted that provincial Department of Social development is supposed to be a lead agent with its drug master plan in this regard. We would like the Province to share the plans that they have indicated are available regarding the said matter in order for the SAPS to utilise them in their interventions in these stations.

2.13 RECOMMENDATION THIRTEEN:

Provincial task team to survey community attitudes to unlicensed liquor outlets in order to assist policy formulation.

This recommendation was directed to the Department of Community Safety. They have failed to address this together with the City of Cape Town regarding bylaw enforcement, eg zoning, health issues, etc. The main challenge is the problematic Provincial Liquor Act. SAPS submitted numerous inputs and even briefed provincial cabinet on the challenges that are presented by the Provincial Liquor Act. This has fallen onto deaf ears.

In the absence of participation by these departments and SAPS recognising that substance abuse is linked to many sorts of criminality a sub-forum for Alcohol Abuse and Liquor Regulation was established. Support for this sub-forum has been limited. It is again being chaired by SAPS. Participation has recently expanded and now includes Violence Prevention through Urban Upgrading, community organisations, the Western Cape Liquor Board and UCT. The sub forum identified the need to monitor both licensed liquor outlets and shebeens.

2.14 RECOMMENDATION FOURTEEN:

Domestic violence: various measures proposed

Noncompliance with the Domestic Violence Act is one of the major challenges in this regard. One of the observations is the skewed focus on implementation as opposed to satisfying the victims. The focus is not per se on the victim but on the prescribed burdensome administrative procedure and processes. There is a case for the Departments of Women and Children and Social Development to consider reviewing the Act as SAPS is not the primary custodian of the Act.

In Khayelitsha, a sub-forum for crimes against woman and children was also established. This purpose of this sub-forum is to reduce violence against women and children and ensure that perpetrators of such violence are apprehended and convicted. It is primarily focused on incidents of domestic violence. The sub-forum is chaired by SAPS. This sub-forum has seen participation by community organizations, academics, Department of Health and the City of Cape Town. Monitoring and managing compliance by SAPS in terms of the Domestic Violence Act is seen as very important.

2.15 RECOMMENDATION FIFTEEN:

a. Strategic task team on use of information technology and related matters.

Although SAPS participate in the production of maps the City Of Cape Town does not provide same. This is outside the remit of SAPS.

b. System to ensure public can reliably contact SAPS units

All police stations have reliable telephone systems that are accessible to the community. The FCS Unit is based at Khayelitsha SAPS and is therefore accessible. There is no need for additional systems. Telephone numbers of police stations are listed in telephone directories printed and electronically and is tested on a regular basis.

c. Attestation of documents

A safety kiosk is alternatively deployed at peak times at Nonqubela Link and Mangela Railway station at peak times where services of certification of documents are also conducted. Administrative personnel in other government departments are commissioners of oath. The burden on SAPS will be alleviated if the communities are served by all departments and not referred to SAPS.

d. Establish integrated case flow system

This is currently a National Project that is driven by the Justice Cluster

e. Establish relationship with Mobile Network Operators

In terms of Section 205 of the Criminal Procedure Act SAPS must apply for any information from cell phone companies. This procedure is followed when needed. The Act does not make provision for obtaining information informally.

2.16 RECOMMENDATION SIXTEEN:

Handling of complaints by Police stations in Khayelitsha, Nodal point and IPID.

There is an established protocol with IPID in terms of how to deal with its recommendations at the provincial level. The nodal point is situated at Human Resource Management.

Complaints in the Khayelitsha Cluster are dealt with in line with Standing Order 101 and the Standing Operational Procedures (SOP) developed for complaints against the SAPS in this Province. This SOP attempts to ensure that complaints are dealt with in a manner that is fair, thorough and objective.

This office is not in a position to respond on the recommendation made concerning the way that IPID deals with complaints.

2.17 RECOMMENDATION SEVENTEEN:

Governance and Oversight

This recommendation is directed at the Civilian Secretariat of Police and DOCS.

2.18 RECOMMENDATION EIGHTEEN:

Use of CCTV Cameras.

There is a serious challenge with regards to the failure by the City of Cape Town to install and service CCTV cameras at the high crime spots. A question begs to be asked as to why all the routes of the newly introduced MyCiti bus service are properly monitored by CCTV cameras in Khayelitsha. Are busses a priority of the City of Cape Town? This clearly indicates the attitude and the focus in this regard.

Part of the concerns we have is the observation that Cape Town has a full coverage of cameras, i.e. over 500 cameras. However, in a highly congested area, Khayelitsha, since September 2014 there is only one out of 8 cameras that is operational and is optimally utilized by SAPS to identify criminal groupings and individual suspects and the province needs to address this as a matter of urgency. This matter was escalated to the relevant authorities during 2014 and to our knowledge this has not yet been attended to.

2.19 RECOMMENDATION NINETEEN:

Physical infrastructure at Police Stations and proposed new Makhaza Police Station.

SAPS has an institutionalised approach which sets out a clear criteria to develop and build new stations. Competing priorities are taken into account vis a vis the availability of funds.

Please note that in Khayelitsha, a site to build a new station was released to SAPS and the building plans are currently in process to be drafted by the architects.

2.20 RECOMMENDATION TWENTY:

Urgent need to address backlogs In National Chemical Laboratories in Cape Town.

Since the commissioning of the new laboratory in Platekloof, Western Cape, the backlog has been addressed significantly. It needs to be mentioned that the real backlog lies with the Department of Health in respect of drunken driving cases.

3. CONCLUSION

- 3.1 It would appear that the basis for the establishment of the commission was mainly the issue of policing in Khayelitsha. The SAPS main contention is that the whole criminal justice system should have been investigated, which include NPA responsible for prosecutions as well as the Department of Justice responsible for the courts services and judiciary. Further, provincial as well as local government tasked to deliver an enabling policing environment should have also been robed in as subjects of the commission inquiry.
- 3.2 The Commission highlighted what was already known and buttress what the SAPS has been talking about all along and dealing with. This exercise negatively impacted on and further diminished the public's perception of the police. The South African Police Service holds a view that the commission of inquiry was not necessary since the National Commissioner undertook to address the issues that were raised by the Premier of the Western Cape.
- The National Commissioner instituted an independent investigation into the alleged complaints which came up with appropriate recommendations on how to deal with the same. The Premier, nevertheless, proceeded with the establishment of the commission besides efforts by the SAPS to revisit the matters complained of. This reduced the Commission to an expensive and resource hungry paper exercise. This office is of the view that the findings and the recommendations of the Commission are bias and misdirected.
- 3.3 The SAPS, in partnership with critical stakeholders, has established Provincial Crime Prevention Strategies across a number of Provinces, and the Western Cape is requested to also utilise this inclusive and integrated platform to address crime as this has demonstrably proven to be very beneficial over the years.
- 3.4 The SAPS is observing that there is a major issue around role confusion and role conflation. By its nature, the police is an environment that is highly regulated and it becomes imperative for this matter to be addressed in order to harness efforts aimed at serving the Khayelitsha community. There is also a level of legislation conflict that has to be addressed at another level as it is bound to generate unwarranted operational conflicts.
- 3.5 The SAPS is working towards implementing what the Constitution prescribes as a single police service. This demands all role-players in this space to partner in leveraging on each other's resources, including the clarification of roles and

functions across all law enforcement agencies at national, provincial and local levels. In this regard, there is keenness by the SAPS to be provided with, and to understand what the City's allocation of resources is in terms of metro police, traffic and law enforcement to complement the current police distribution of human resources.

- 3.6 There are ancillary services that assist the police in their mandate, such as by-laws enforcement, liquor inspections, health inspectors, inspections of business and rezoning. If these potential crime facilitators are not attended to by the City, there is a knock-on effect on crime. This vacuum in the Commission's recommendation has been noticed by the SAPS.
- 3.7 As we ponder on these recommendations, we recognise police-community collaborative patrol initiatives that have been stopped by the Provincial Government proved to be a very lucrative initiative measuring the Impact it had at the time. Therefore, SAPS urges the Province to reinstate this initiative.



GENERAL
NATIONAL COMMISSIONER: SOUTH AFRICAN POLICE SERVICE
MV PHIYEGA

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