

STATEMENT BY HELEN ZILLE

PREMIER OF THE WESTERN CAPE

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Appointment of Commission of Inquiry into policing in Khayelitsha

Today, I am announcing the appointment of a Commission of Inquiry into allegations of police inefficiency in Khayelitsha and of a breakdown in relations between the community and the police in the area.

This Commission is being established in terms of sections 206 of the Constitution, read with the Western Cape Constitution and our own Provincial Commissions Act of 1998.

The decision to appoint a Commission of Inquiry has been taken after a protracted period of communication between me and both the stake holders and the South African Police Service (SAPS); and after obtaining legal advice.

The basis for the decision to appoint a Commission of Inquiry

I was initially requested to establish a Commission of Inquiry into policing in Khayelitsha by a group of civil society organizations, represented by the

Women's Legal Centre, in a complaint lodged with my office on 28 November 2011.

The complaint alleged that there was systemic failure by the SAPS in Khayelitsha to prevent, combat and investigate crime, take statements, open cases and apprehend criminals, resulting in a breakdown in relations between the community and the police. This breakdown in relations is believed to be the cause of the tragic spate of vigilante killings in parts of Khayelitsha where residents have taken the law into their own hands to exact "mob justice" because they have no faith in the ability of the police to undertake thorough investigations, make arrests or render the requisite assistance to secure convictions in reported criminal cases. To date, there have been at least fourteen known acts of vigilante killings.

News reports of these vigilante killings quote a community member in Khayelitsha as saying *"We are tired of criminals, if killing them helps to reduce crime, let it be. Police are failing to arrest them, that is why residents are taking the law into their own hands."*

From November 2011 to June 2012, my office has sent the Provincial and National Commissioners of Police every complaint against SAPS and requests made to me in this regard, and which have been received by my offices from : the Women's Legal Centre (sent 09 December 2011), Khayelitsha activist, Nkwame Cedile (sent 05 June 2012) and the Social Justice Coalition (sent 22 June 2012) as well as three follow-up correspondences (14 February, 22 May and 22 June 2012) requesting their comment and response to the complaints and requests for the institution of a commission of inquiry made therein.

For those seven months, we received no response except perfunctory acknowledgments of receipt and notification from the Provincial Police Commissioner's office that they had referred my correspondence to the National Police Commissioner's office.

On 21 June, I received a letter from Lieutenant General Molefe, SAPS Executive Legal Officer, requesting an extension of the 20 June 2012 deadline I had set for a response from the police. I agreed and granted them the first of three deadline extensions.

It was only after the appointment of General Riah Phiyega as National Police Commissioner that we received the first substantive response from SAPS about

the complaints we had submitted to them. In a letter received by my office on Friday 29 June, the National Police Commissioner requested that I hold in abeyance (for three weeks) any process towards the establishment of a Commission of Inquiry, pending an investigation by her office into problems in the SAPS in Khayelitsha.

By this point, the crisis of vigilante killings had been escalating and the death toll stood at least 13 known murders, a completely untenable situation to say the least. General Phiyega's proposed action was a welcome development and given that she had only recently been appointed to her post as National Police Commissioner, it was appropriate that I afforded her the opportunity to get a handle on the issues. In the spirit of co-operative governance, I therefore extended the deadline for a response to 20 July. This was the second of my deadline extensions.

I believed that it was by far the preferable course of action for the new national Commissioner, the SAPS and ourselves to address the issues raised by the complainants in the spirit of co-operative governance, without having to resort to the establishment of a Commission of Inquiry.

I then received a letter from the Women's Legal Centre stating that they had met with the National Police Commissioner's office and that they were of the view that a further deadline extension to 31 July in order to give the SAPS more time for their investigation was appropriate. For a third time, I agreed to extend the deadline for a response from SAPS, notwithstanding that SAPS had failed to request this extension itself.

However, despite these extensions we have received no feedback from General Phiyega's office on the content of the complaints or which indicates that they are making real or substantial progress with an investigation into the rise of vigilantism and other alleged problems pertaining to SAPS in Khayelitsha.

In light of this lack of progress and SAPS missing the 21 July deadline, I called a meeting with the complainants on 06 August and all those who attended reaffirmed that they want a Commission of Inquiry to be appointed as per the initial request made to me in November 2011.

It is clear that decisive action must be taken to address the numerous complaints - some of which now date back nine months - alleging police inefficiency and a breakdown in relations between the Khayelitsha community

and the SAPS. I have therefore decided to accede to the complainants' request.

Details of the Commission of Inquiry

The people appointed to the Commission are Justice Catherine O' Regan and Advocate Vusumzi Patrick Pikoli as the commissioners, Advocate Nazreen Bawa and Advocate Thembalihle Sidaki are appointed to assist the Commission in gathering evidence and, if necessary, the leading of any evidence before the Commission and Ms Amanda Dissel has been appointed as the secretary to the Commission.

The terms of reference of the Commission are to investigate the complaints I have received alleging police inefficiency and a breakdown in relations and particularly the reasons for, and causes of them, if found to exist.

The Commission will compile a written report containing its findings and recommendations as to how any police inefficiency and breakdown in relations as may be found to exist, may be alleviated or remedied. This report will be submitted to me within 6 months. The recommendations contained in the report will be considered when the Western Cape Government makes recommendations to the National Minister of Police as contemplated in section 206 (5) (b) of the Constitution.

The appointment of this Commission is the first step in a process that I hope will ultimately result in recommendations being implemented which give rise to more effective and efficient policing being applied by SAPS in Khayelitsha so as to eliminate the scourge of vigilantism and restore the affected residents' respect for the application of the rule of law.

The appointment of the Commission aims to contribute to the realization of that positive change. I have every hope that SAPS will support and co-operate with the Commission's investigation given that the main purpose of this process is to assist the police in fulfilling their mandate.

It is critical that all stake holders work together to increase public safety and combat crime and to reverse public perceptions and experiences of corruption and dysfunction in the police in order to increase the public's trust and confidence in these institutions.

We must have a responsive police service that delivers on its constitutional mandate, which is to effectively and, efficiently prevent, combat and investigate crime. The Western Cape Government will continue to do all we can, within our limited constitutional powers, to help SAPS achieve that.

NB: The Terms of Reference for the Commission are attached.

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