

3 August 2015

Mr Nkosinathi Nhleko
Minister of Police

Dear Minister Nhleko,

RELEASE KHAYELITSHA REPORT AND EQUITABLE DISTRIBUTION OF SAPS PERSONNEL

We write on behalf of the Social Justice Coalition and Ndifuna Ukwazi regarding the Khayelitsha Commission of Inquiry in relation to SAPS, chaired by retired Justice Kate O'Regan and Advocate Vusi Pikoli. Their report and recommendations were released on 25 August 2014. We have learnt that your Ministry has drafted a report, which has been "classified" not for distribution.

1. The burden of crime faced by some of the most vulnerable people in our communities and the inefficiencies of SAPS were at the core of the Commission's work. The rights to life, dignity, equality and freedom, including freedom from all forms of violence, underpinned the original complaints by our organisations and others. In addition, the absence of safety because of criminal violence and inadequate social service provision has meant that people cannot access safe schooling, sanitation, transport, clinics and other constitutionally protected services.
2. In the last few weeks, the frustration felt by the community in Khayelitsha has led to increased vigilante attacks, including murder. On 28 July 2015, a Western Cape provincial ANC leader, Andile Lilli, irresponsibly called for criminals to be "killed immediately and brutally". After condemnation by SAPS, he has subsequently been arrested. Mr Lilli echoes the view of nearly one quarter of members of the Khayelitsha community. The failure of a response from your office to the Commission's report and recommendations related to vigilante killings has undermined the efforts of our organisations, SAPS and other government departments by failing to give assurance that crime will be brought under control.
3. Since 26 September 2014, we have written to yourself and your staff on the following occasions:
 - 3.1. 26 September 2014
 - 3.2. 15 January 2015
 - 3.3. 22 January 2015
 - 3.4. 3 February 2015
 - 3.5. 12 February 2015
 - 3.6. 19 February 2015
 - 3.7. 26 February 2015
 - 3.8. 31 March 2015
 - 3.9. 8 June 2015

These letters and emails all call for constructive and productive engagement with the Ministry and SAPS. We also recorded the good relationship and trust that is being constructed between the local and provincial SAPS leadership, community and social in movements in Khayelitsha, the Department of Community Safety and organisations based outside of Khayelitsha, including academic institutions. Our correspondence was also combined with numerous telephonic engagements with the Ministry's staff.

4. On 25 March 2015 we also met with the Ministry's Head of Stakeholder Relations, Mr Molate Moremi and your special advisor, Mr Vincent Simelane. The meeting was very constructive and a response from yourself was promised within two months, in other words the end of May 2015. In that meeting we pointed out the following critical recommendations that required action:
 - 4.1. First, the Commission found that the inequitable distribution of SAPS resources between Black African and Coloured townships on the one hand, and historically White suburbs on the other hand resembled Apartheid twenty into democracy. This was based on evidence provided by SAPS and the testimony of former Provincial Commissioner, Arno Lamoer, who admitted that the inequity was "fundamentally irrational" and had to be reversed immediately. In this regard, the failure to provide qualified, competent, skilled and experienced SAPS personnel to Khayelitsha undermines the constitutional obligations of government. We urge you to immediately implement this recommendation in Khayelitsha and the five police precincts with the highest number of serious contact crimes in the Western Cape. A plan needs to be provided urgently to address the need for redistribution of resources in all nine provinces. The Portfolio Committee on Police required the National Commissioner to undertake the same redistribution urgently on 15 April 2015. **(Recommendation 7)**;
 - 4.2. Rape, murder and aggravated assault and robbery plagues the Khayelitsha community and overburdens the police. This has led to a conviction rate of less than five percent in Khayelitsha. One former detective commander from Harare police station claimed that his precinct had an average conviction rate of 0.5%. Improving the quality of detective services and the Family Violence, Child Protection and Sexual Offences (FCS) Unit is therefore a constitutional imperative **(Recommendation 5)**;
 - 4.3. The Commission also pointed out that inequity and a failure by SAPS to provide adequate visibly policing resources in informal settlements undermined the fundamental rights of people living in these communities. A guideline for visible policing in informal settlements was required as urgent task. Our organisations believe that the Khayelitsha Cluster and other similar communities across our country face unfair discrimination, and this requires your immediate attention **(Recommendation 6)**;
 - 4.4. The Commission found that a breakdown in trust and inefficiencies was a result of a failure of leadership and management. Again it recommended an urgent strategy to build strategic management capacity as well as a Monitoring and Oversight Team. Once again, the absence of an adequate response to this recommendation has undermined the capacity of SAPS in Khayelitsha to fulfil their constitutional obligations through no fault of their own. Your urgent response to these recommendations is required **(Recommendations 3 and 4)**; and
 - 4.5. The local station commanders have been unable to implement the Commission's recommendation of a community-policing commitment, because the SAPS command structure requires a formal instruction from the national and provincial commissioners. We would appreciate an immediate response from your office in relation to this issue **(Recommendation 1)**.

5. The Commission was appointed in terms of Section 206 of the Constitution read together section 205 and section 237, which obliges the state to perform its obligations diligently and without delay. We therefore urgently request the following:
 - 5.1. The immediate release of the classified report from the Ministry responding to the Commission's recommendations. If you cannot do so, we request legally valid reasons this decision. We trust that the recommendations listed above will be addressed in such a report;
 - 5.2. We urge you to provide us with up-to-date police to population ratios for all police precincts in the country, as well as the number of officers allocated to specialised units such as the FCS unit.
6. While we have been mindful of the many crises that your office and that of the National Commissioner have had to deal with, the patience of our communities and organisations has been severely tested by the absence of a response to the Commission's report and recommendations. This absence has also provided an excuse to other provincial government departments, such as the Western Cape Education Department and the City of Cape Town, not to move forward with the Commission's recommendations or to address their obligations to build safe communities and spaces.
7. Tensions between various actors working on safety and justice are inevitable, but conflict can and must be prevented because our collective tasks are incredibly difficult. Our organisations once again reiterate that we wish to work with your office and SAPS at every level without rancour or conflict.
8. Therefore, we urge you to reply to this letter by no later than 5 August 2015.

Yours Sincerely,



Phumeza Mlungwana
General Secretary – Social Justice Coalition



Zackie Achmat
Director – Ndifuna Ukwazi