

COMMISSION OF INQUIRY INTO ALLEGATIONS OF POLICE INEFFICIENCY IN
KHAYELITSHA AND A BREAKDOWN IN RELATIONS BETWEEN THE COMMUNITY
AND POLICE IN KHAYELITSHA PHASE ONE

Vicki Igglesden

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COMMISSIONER: Ms Bawa are we going to Ms Igglesden at this stage?

MS BAWA: We are. Advocate Sidaki will be dealing with that. May I be excused because I need to just ...(intervention).

COMMISSIONER: Of course you may be excused yes. Mr Sidaki do we need a Powerpoint presentation or is Ms Igglesden going to be just giving direct evidence? Okay. Ms Igglesden present?

Welcome Ms Igglesden to the hearing of the Khayelitsha Commission. Are you aware that the proceedings of the commission are in public and that your name and the contents of your report may be made public?

MS IGGLESDEN: I am yes.

COMMISSIONER: And do you have any objection to that?

MS IGGLESDEN: I have no objection.

COMMISSIONER: I assume given the fact that your report was written in English that you intend to testify in English?

MS IGGLESDEN: Yes I do.

COMMISSIONER: Good and do you have any objection to taking the oath?

MS IGGLESDEN: No I don't.

VICKI IGGLESDEN: (Sworn States)

COMMISSIONER: Thank you very much Ms Igglesden, Mr Sidaki your witness.

EXAMINATION BY MR SIDAKI: Thank you madam chair. Ma'am you are a social anthropologist and an advocacy worker and researcher in refugee rights, correct?

MS IGGLESDEN: That is correct yes.

MR SIDAKI: And you have worked in this field for some 12 years, correct?

MS IGGLESDEN: That is correct, in the Western Cape yes.

MR SIDAKI: You were asked by the Commission to research and compile a report on foreign nationals experience of policing in Khayelitsha, correct?

MS IGGLESDEN: That is correct yes.

MR SIDAKI: And you have compiled a report in that regard?

MS IGGLESDEN: I have done.

MR SIDAKI: Please explain to the commission what you did and what your report says?

MS IGGLESDEN: Okay, thank you. I wish to greet everybody, good morning to commissioners, to representatives, to members of the public. Just very briefly apart from I want to give a very quick overview of how I come to be in a position to if you like speak for largely Somali refugees. I am social anthropologist, as

already said, I have a master in development and human rights, I have done advocacy and research work in the Western Cape for 12 years and I have done a number of reports relating to protection for refugees including the Ockham report on humanitarian assistance when refugees were displaced in the xenophobic violence in 2008, a report for the Human Rights Commission to support an equality case regarding violence in Zwelethemba and claims against police discrimination against foreign nationals and I did a report, a research report with UCT by the European Union, the Refugee Rights Clinic on access to justice for victims of crime in the Cape Town area.

In doing this report I have referred to the legislation that was highlighted in the original complaint, and looked at the kind of issues that that legislation raised in terms of the rights of refugees, in particular as members of the community of Khayelitsha. In addition there's also the Refugee Act, which largely stipulates that refugees have the same rights as citizens with a few exceptions, notably they don't have voting rights.

My focus was to be on the experiences and perceptions, it was a very short project, there was not time to check allegations, but it was how do refugees, particularly Somali refugees, see policing in Khayelitsha. I covered the past five years and I recruited 20 respondents, using leaders that I know from the area.

Each interviewee was informed on the purposes of the research, specifically to point out that they may well have positive responses, if they had positive experiences of refugee – of policing experience they should also inform us of that. They might also have a mixture of positive and negative experiences. Interviewees were – it was stressed they didn't have to answer, they didn't have to participate, and that we were allowed keep their identity protected.

Interviews were conducted between the 12th and 16th of December, on the whole most interviews took 20 minutes because we wanted to just get the people's impressions, not to mine for information where you end up encouraging people to fabricate or exaggerate, so it was just off the cuff, what are your experiences, and that was the single question asked, what is your experience of policing in Khayelitsha and at the end of the interview I asked respondents what are your future expectations of policing in Khayelitsha, looking at the issue of what sort of trust, what sort of hope could they have.

The majority – all the interviewees were male, the majority that is bar three was Somali, the majority had refugee status, the majority were spaza shop owners. 50% of respondents were under the age of 30, 50% live and work in Khayelitsha, and half of them admitted to owning one shop. The others either owned more than one or were employees in shops without ownership or no longer owned a shop at all, but services shops.

MR SIDAKI: Sorry the three foreign nationals who were not Somali which nationality are they?

MS IGGLESDEN: There were two Burundians and one Eritrean, they were all shop owners. Okay, the findings I will just quickly go through the findings, many complained about police attendance at the scene of crime, either that they failed to attend after reports, requests were made for assistance, or that attendance was very delayed. In two cases victims of crime reported that police admitted that

they were afraid to come to the scene of crime at the time of the commissioning of the crime. They were afraid that they would be attacked by what is often small armed gangs that rob spaza shops.

The second issue was registration of crime, many reported obstacles to registration, obstructions where they were told to go to the police station, go to the police station, go to the police station and the police would not take, would not assist, at the scene of the crime would not take statements, or in another instance where a victim went to the police station repeatedly and each time was told the officer who attended the scene of the crime is not here, come back later.

In a couple of cases there were reports that police refused to open cases on the basis that either the complainant was a foreigner, or that the complainant didn't have a case. What is noteworthy in the latter is that it was not explained to the complainant why their case was not – did not merit being registered.

A third issue was the follow up of registered crime. Many reported they received no follow up at all, no case number, no report of what was happening in the investigation. Some reported receiving a case number but nothing further. The – more broadly speaking I have heard police complain that the complainants are passive in following up crime, in following up the investigation into crime. It is the sense amongst many of the foreign traders that it's a waste of time to keep going to the police station and asking what's happening, what's happening, what's happening because they just get fobbed off and still receive nothing.

An important issue for foreign nationals is secondary victimisation. As I state in the report secondary victimisation is often spoken of or more generally spoken of in terms of crimes of violence and crimes of a sexual nature. However I take it in my report that secondary victimisation concerns responsive individuals and institutions to victims of crime that in themselves cause additional trauma. This quite often is reported by foreign nationals who call the police to assist them following crime. One of the issues that is quite often brought up is that the police arrive and rather than investigate the crime they investigate whether the people in the shop, the foreign nationals have papers, or whether there are illegal firearms in the shop and the concern of the victims is that by the time they've finished being searched and producing papers that any chance of following up freshly on the crime situation has passed. Moreover they're already traumatised by the crime, by the experience of the crime, they are then further traumatised by being pushed around by the police and then they no longer have an appetite to deal with the issue any further, they just want the police out, and the whole thing out of their hair.

There are other reports of theft of property, when police come to respond to request for assistance, particularly during searches for firearms, for illegal firearms, this would be theft of cash and airtime in particular.

In one case there was an exceptional situation where a group of people in a shop suffered secondary victimisation on three levels, they were robbed, there was an armed robbery, they called the police, the police arrived, the first thing the police did was look for illegal firearms, they didn't find it, one of the shop workers had been shot, the community called an ambulance, when the paramedics arrived the police refused the injured person medical assistance, they refused to allow the

paramedics to attend to him, and when the community responded, the community started to protest against police action they then allowed the medical attention to be given to the injured person, and – but they took the rest of the people in the shop to the police station to – on the issue of illegal firearms. They were convinced or they said they were convinced there was an illegal firearm and they took them away to the police station. That left the shop unattended for 24 hours which is a further stress and anxiety in terms of robbery, looting, etcetera, for the shop.

So that group were very, very traumatised by their experience of asking the police to assist them after an armed robbery.

More generally the foreign nationals I interviewed expressed consternation that when people that they recognised as serial criminals in terms of theft, robbery, were in the vicinity of their shops they sometimes asked police for assistance to – they asked for visible policing and they found that they very rarely got assistance in this respect. Furthermore it wasn't explained to them why assistance would not be provided, they were simply told – in one case they were simply told until you're robbed we can't come, we can't do anything until you are robbed. So there's a very strong request for more visible policing, but at the same time they do report that police don't arrest individuals that they believe were seen committing crimes or don't arrest individuals that are pointed out as perpetrators of crime, so there is a sense that the police are either unwilling, or unable to respond to these concerns in which case the issue is around whether the police are resourced, whether they have the motivation to assist, whether they are trained, whether they have the resources and so on.

There were some reports in these interviews of abusive language from police. I didn't get the impression that there was institutional xenophobia in the police force in Khayelitsha but I didn't – I can't say that I can – comprehensively say that there isn't, but I didn't receive any evidence. There was certainly individuals who made xenophobic comments to foreigners looking for assistance.

And as some of the people who reported this found it very traumatising to be asking for assistance and then to be told you're a foreigner, go home, or this is my country, this is not your law, it's up to me to decide what to do, you're just a foreigner.

An issue that I think is quite prevalent in the foreign national community, particularly the Somali shop owners, I need to say at this point that increasingly in Khayelitsha shop owners are Ethiopians. As time goes on different nationalities, different groups move into an area, and the Somalians I am told are increasingly selling shops to Ethiopians, so we assume that they're all Somalis but quite a lot of them are now Ethiopians which culturally is quite a different, we are talking about a different group of people, we are talking about Christians, we're talking about people who normally speak English.

COMMISSIONER: Ms Iggelsden can I just stop you here for a second, you did make a suggestion somewhere in your report that the majority of foreigner in Khayelitsha are Somalis and Ethiopian, on what basis do you have that? We have had some demographic evidence put before the Commission which said it is very difficult to determine that there's a sense that this is the area where the census is

most unreliable, that for a variety of people, people either self-identify as South African or avoid the census altogether, and I just wondered where you got your statistics or your information on the original nationality of non-South Africans in Khayelitsha?

MS IGGLESDEN: I think I say in the report that it's very difficult, there is claims for numbers are hugely inaccurate, hugely contested, so to some extent it is through times of working, through talking with people, through talking to leaders, I have talked to leaders and they have given me estimates, they're very cagey about estimates, for instance the Somalis know – some of the leaders know in their own tribal grouping how many shops are in an area but it is still very – you know I did also say in the report that there would be other nationals like Zimbabweans who are in other economic niches and I didn't address their concerns at all. So it is really about visibility and I think I possibly to some extent make the mistake myself of saying Somalians when to some extent some of them are Ethiopians.

Okay theft of property by police is a major concern amongst foreign nationals particularly in those that are interviewed. I have already spoke about theft of airtime and cash during searches and I need to say that in no instance have I ever heard any of these people say that the searches were done with a warrant. They are usually done when the shop is closed and a police officer comes to the security gate and says open up. They say the people in the shop say why and the police say they want to search, they don't say why they want to search, they say if you don't open up we will break the door down so people feel that they have no option but to let the police in. There are reports of theft of large amounts of cash by people that are understood to be police in uniform, there was one instance the only person who refused to speak to me claimed that he had been robbed twice in one year of large amounts of cash and he was so distrustful of how police operate that he felt that he should not speak to anybody in case he was an undercover person for the police.

In some instances there is malicious to property during searches. One respondent explained that they police had come several times and they just kicked the food around, knock over the oil, knock over the mielie meal and make a mess, say they are searching and then leave. Extortion is an issue with the foreign shops. There is often requests for cooldrinks or chips, this is particularly around the issue of early closing. Police have tried to put in force that shops should close at 8 o'clock and Somali's find this really restrictive on their business model and sometimes police come around and ask for a cooldrink with the either implicit or explicit suggestion that failure to or let's put it this way; provision of a cooldrink will save the shop being closed early. One gentleman whose car was stolen, he found the car himself but he needed police assistance to go and collect the car and he was asked for money for braai meat in order to have that assistance and he said he gave the police R150 because he said I needed my car what else could I do, he didn't complain he just wanted the job done and disregarded that the cost of getting it done. This was somebody who had had several statements about being a foreigner and not being entitled to police service in respect of other experiences.

The one major issue which wasn't explicitly brought out was vulnerability to gangs and this is a difficult one because many of the gangs operate over several

area. There is concern that this lack of police cooperation across precincts to amalgamate case numbers and information about gangs that are operating very effectively and almost with impunity, they either hijack traders as they leave the – on their way to the cash and carry because they know that their bakkies have got cash they tend to attack them from both sides at traffic lights, robots. Or else they hijack bakkies that are loaded with goods and take the vehicle and sell the goods. This has been going on now for probably about five years. There was one well known gang who were particularly successful in doing this. There was only one case on his docket for Khayelitsha but the investigation was very poor and it wasn't a Khayelitsha investigation but there was no-cooperation across the different police precincts and there are a lot more gangs now. I did receive reports that there has been some assistance with undercover activities, that the police had been working with some of the Somali leaders to try to catch some of the gangs and they have caught some of them. But this is working with the leaders and you know if it is just working with one or two vocal people who as a result would not participate in this research because they were concerned to lose that cooperation, that support they were receiving. It is still the everyday workers in the shop that end up being the victims of the violence.

I would just like to say that in my research I was not able to, I had no evidence regarding treatment of foreign nationals in police custody. I had no evidence in this research of their experience of the criminal justice system as perpetrators of crime. And I had no experience of the conduct of police complaints although there were several instances where people said there was no point in making a police complaint because they would be victimised. I just want to read a quote from an interview that I did 2010 from somebody whose shop was completely looted after the world cup. He said:

“What also makes Somalis not to complain is that they open cases again and again and again and nothing happens so they are sick and tired of opening cases so some of them bought illegal firearms to protect themselves when they see nothing is happening through formal protection channels and sometimes they try to protect themselves and when the gunshots are heard the gunshots are heard in the shops and so the police come and they search the shop and they take the shop gun and they arrest the Somali guy.”

In other words Somalis are trying to protect themselves because they don't believe police are going to come and the police arrive and they respond only to the question of an illegal firearm and then when people know there is no gun they then are able to rob again.

So in conclusion on my report I would say the respondents expressed pervasive lack of trust. They believe that police share case information with members of the public. They don't believe that police have either the capacity or the will to assist. They believe that false accusations are made in order to extort and sometimes to close down businesses and that it is dangerous to report police abuse. As a result there is a huge under reporting of crime as I have just quoted and attempts to provide their own protection in the end leads to the basis for further abuse in terms of focus on illegal firearms. There are high levels of trauma

and distress in relation to experiences of policing both to the response of police and the repeated non-response.

I did make some recommendations which are not in the report and I don't know if you want me to go ahead with it. And I also need to respond to the questions that were raised. I believe there is a major tension in legislation that leaves a gap for government institutions. Much of the legislation talks about rights of citizens and rights of South Africans whereas the refugees have those rights also under the Bill of Rights as in the rights of all who live in South Africa and very often legislation, policy documents and all sorts of opinions talk about rights of citizens and rights of South Africans which gives a huge gap for those who – and not thinking about it – to exclude refugees from those rights in the institutional context. So I believe that somehow, it is a bit late I suppose, but somehow this rights of all who live in South Africa has to be a much bigger issue than just rights of citizens or rights of South Africans.

I believe that policing would be hugely improved if SAPS were better understanding the population of foreign nationals. There is a huge number of assumptions about the way the foreign nationals operate, about what they do. It is a bit of dithering as they this, they that, they the other. Their culture and mode of doing business is not well understood and then stereotypes about how they make money are allowed to grow. I have spoken about the trauma. Police need to understand the history of trauma of refugees. They are very often identified in case law as a vulnerable group but I don't see very much in policing that recognises refugees as a vulnerable group. Sometimes there is lip service to it but it doesn't really come through in policy and stuff. So they are victims of trauma, they have suffered trauma as victims of war and disorder and often as serial victims of crime in South Africa. They are vulnerable politically and the fact that they may be, some of them, may be economically strong does not negate the fact that politically they are vulnerable. There are many other dimensions of vulnerability that need to be understood in policing. And I believe also one of the issues – the police management or on the basis that an attitude comes from the head police management need to be seen publicly to be even handed in treatment of foreigners in community relations, they must not allow South Africans to publicly abuse and threaten foreigners. I have been at a number of meetings – and I have to say that this is general, it is not specifically Khayelitsha, I am sorry that I cannot specifically relate this to Khayelitsha but it is in the vicinity where senior police officers stand up on the platform and then issue a whole slew of allegations as to what Somalis do in terms of bad behaviour and this is in front of the whole community and these are meetings that are supposedly called to mediate and generate social integration. So do not denigrate foreign communities in public forums and please they need to keep undertakings to foreign national communities, many undertakings are made of we will do a report, we will do a this, we will do a follow up, we will do a workshop and it doesn't happen and this just further undermines trust.

Stakeholder involvement – in Zwelithemba when I did the report there, there was a satellite police station but they very effectively ran a small inter-cultural business group and they provided space, they encouraged and they helped them

do agendas and they helped them understand how to run their meetings and it was quite successful for some time. It took a lot of energy but it was very useful to try to iron out differences between the different business people and to create understanding of the different models.

Community Policing Forums, generally foreign nationals are requested to come to the Community Policing Forums when it is seen that there is a problem with the way that they operate in the community, they are not generally part on the whole of community policing forums often because they don't have a recognised organisation in the community but they need to be included on community police forums all the time so that they are part of the information and feedback in the community. Street committees also but as other research has shown because street committees relate to property owners none of them ever get to be on street committees, I believe that that, although there are some street committees that allow it, generally speaking it doesn't happen.

Finally just the last quote from one of the people I interviewed in December. He said:

“The people will come to harm you when the police are not serious about you.”

And this is very much a feeling of the foreign nationals, that the police are not serious about them. It may be feelings in other communities but this is their feeling, they are just foreigners, they don't have networks in the community that will stand up for them, there is nobody – the police are not accountable for abuse. That is my report. I don't know about the questions now?

MR SIDAKI: Thank you Ms Igglesden. You will be asked questions by SAPS counsel.

COMMISSIONER: There is one question just before SAPS put its questions to you Ms Igglesden that I would like you just to clarify and that is the question of why the people who gave you this evidence were reluctant to have their names put into the public domain?

MS IGGLESDEN: Because they don't believe that they can be protected. That is one issue. They believe that the police will – that there will be repercussions. The other issue is frankly that they find the processes are so laborious and with such rare positive outcomes that they just don't want to be involved.

COMMISSIONER: In fact it is a more broad distrust of sort of state interventions generally just as well as there is a distrust of the police.

MS IGGLESDEN: Criminal justice interventions, they have seen the courts, to their understanding they don't understand the bail systems, they don't understand why people come out all the time and they don't understand why cases are dropped and they don't understand why they waste so much time in court. And they are businessmen, it costs a lot of money to stay in court and then have the case dismissed or deferred and all that sort of stuff. So it is two fold; they are fed up with participation, they see no value in it which is why it was difficult to get this research done, they didn't want to talk – why again what difference will it make. And the other thing is they are very worried about repercussions from the police.

COMMISSIONER: Retaliatory action?

MS IGGLESDEN: Yes.

COMMISSIONER: Thank you. Mr Masuku is it you or is it Mr Arendse?

MR HATHORN: Could we be permitted to put a question arising out of the Commission's question?

COMMISSIONER: Yes certainly.

MR HATHORN: Ms Igglesden, our clients the Social Justice Coalition, the Treatment Action Campaign and other NGO's tried very hard to get refugees and in particular the Somalian traders to come and present evidence before this Commission and they experienced a very similar response to the responses that you have been describing in your evidence about the reasons for the distrust of the criminal justice system, would or is it likely that the perception of participation in this Commission would be very similar to the perception of reporting crimes, going to court, would it all be seen as part and parcel of the same process?

MS IGGLESDEN: I believe so yes, I believe it would be seen as another talk shop and for what. The other issue is also that in dealing with Somali communities, with all foreign communities, they are here because of conflict in their home countries, they have mostly got more than one grouping from the original conflict here so in order to get people to speak you need to know the tribal dynamics, you need to know leadership politics, you need to get to the right people to understand who is in Khayelitsha and who is the rightly placed leader to get their cooperation to speak.

MR HATHORN: Thank you.

NO FURTHER QUESTIONS BY MR HATHORN

COMMISSIONER: Mr Masuku.

CROSS-EXAMINATION BY MR MASUKU: Thank you Ms Igglesden. Just following up on the question that the Commissioner put to you, you did testify that the leaders of the Somali community who had become quite vocal did not also want to testify because they thought well that might jeopardise the relationships the relationships they've established with the police, and that is a relationship that is beneficial, am I correct to say that?

MS IGGLESDEN: Yes, it is beneficial but it relates to very few people, it relates to some of the big businessmen, it doesn't relate to the general foreign population.

MR MASUKU: Yes, and when you say big businessmen what do you mean, in relation to Khayelitsha?

MS IGGLESDEN: I mean people who are community leaders in the Somali community who have maybe more than one shop, they may only have one shop in Khayelitsha but they other shops other places, so they are relatively wealthy people. So they have influence and it's possibly strategic that the police are working with them in terms of you know they are the voice of the community therefore they are receiving additional assistance.

MR MASUKU: In what form is that assistance?

MS IGGLESDEN: Well in terms of – big concern, I mean obviously if they're business owners their biggest concern is hijacking and theft, in relation to stocking their shops, that's their biggest concern and if they're businessmen they're running up and down daily with bakkies full of either money or goods they are concerned about the gang activity. If the police are assisting these people who are also community – are spokespeople for the community it keeps them quiet.

MR MASUKU: Yes because these community leaders they speak publicly isn't it?

MS IGGLESDEN: What do you mean publicly?

MR MASUKU: They are community leaders, which means they are known people in the community that you've described, so they are people who speak openly about police abuse and they engage with the police to deal with those kind of issues.

MS IGGLESDEN: I don't believe they speak openly, I mean if they are – if criticising the police compromises protection of their business transport arrangements they will not speak openly. I mean it was just proved, I had an arrangement to speak to some leaders and in the end they refused because they were worried about protection being withdrawn.

MR MASUKU: Right, so in a way the protection you are talking about is that protection being granted outside the normal parameters of how police protection is given?

MS IGGLESDEN: I believe so yes.

MR MASUKU: So can I be blunt, are they bribing the police in order to get the protection?

MS IGGLESDEN: I don't believe so, they could be but I don't have any information, I believe that they have made a lot of noise about gangs, the police themselves see that gangs are a problem, and I believe that the leaders suggested a cooperation to get some of these gangsters.

MR MASUKU: Yes, so is it possible that these leaders see cooperation as a solution to their problems that they face rather than coming to say the commission and talking about experiences that they have worked very hard to – basically presenting evidence that cast the police in a very bad light?

MS IGGLESDEN: I believe – I mean strategically it makes sense if a businessman can get the police to escort him to the cash and carry so he doesn't get robbed, he is not going to go and complain about that policeman.

MR MASUKU: No, but I'm talking about the cooperation between the police.

MS IGGLESDEN: Well that is cooperation.

MR MASUKU: And the Somali leaders.

MS IGGLESDEN: That is cooperation.

MR MASUKU: Yes. So the reason why they are not speaking to you is because, it's not necessarily because they fear the police, but they have cooperation, they have opened a line of cooperation with the police that enables them to feel a sense of security.

MS IGGLESDEN: The message I got from them is they don't want to be at risk talking about other issues that are not addressed by the policy because they might lose this particular area of assistance that have recently been put in place.

MR MASUKU: Because we – you see the attitude of the police has been that – or is that they are – they accept that there are lapses in the way in which policing by some members is conducted, and the concerns or the complaints that have been raised by the people you interviewed, they will be legitimate and that they are now obviously looking to hear what solutions they can give, and you suggest a number of solutions, but can I ask you about one solution which I'm not sure whether you dealt with but the idea that the integration of the Somali community within the communities where they actually live is that – would you consider that to be a

solution? That would bring in – in fact it’s a clumsily put question, let me put it this way ...(intervention).

COMMISSIONER: Is this your first question on your list of questions?

MR MASUKU: No, no, I actually I deviated a little bit from the questions that I wrote.

COMMISSIONER: Okay.

MR MASUKU: But I do talk about integration in my – sorry – yes I do ask about integration and the question I ask is do you agree that the integration of the Somali refugees can only be achieved through non-policing methods, public education about issues of refugees, rights of refugees and responsibilities of host countries?

MS IGGLESDEN: No, I don’t agree that it can only be achieved by non-policing methods, I believe that the police as an institution of government need to be seen to be even handed, need to be seen to be in the terms of that quote I gave “serious about foreigners” and at the moment they are not.

MR MASUKU: Yes, or in fact you will probably not be surprised to hear that there are community members who are in Khayelitsha who are not Somalis who believe that police are not serious about policing, it’s not just Somali problem.

MS IGGLESDEN: I realise that, but I’m talking about Somalis, I was ...(intervention).

MR MASUKU: Yes, but I am saying the issue is bigger than just a Somali problem.

MS IGGLESDEN: Fine.

MR MASUKU: So there will not be any policing that is specifically designed for Somalis but policing generally that is designed for the community that they – for the general community.

MS IGGLESDEN: Except that I think I was trying to point out that in order for policing to be effective the police need to understand the particular needs of this group as there are other groups also in Khayelitsha who have particular needs, and the particular needs are not very often taken account of.

MR MASUKU: Alright, so now you in paragraph 5 you say you disagree with that code. You don’t believe that public education about issues of refugees, the rights of refugees and the responsibilities of host countries would assist in general acceptance of the fact that the Somali community is part of the community in which they do business.

MS IGGLESDEN: I didn’t say that, I said that I don’t accept that only non-policing methods are appropriate, all those issues are appropriate and one of issues is in response to one of your earlier questions, is that the political discourse needs to improve, hugely, national, provincial, local levels, political discourse on foreign nationals has to improve enormously. When there’s a problem with attacks on foreign nationals it’s all about embarrassment, embarrassment, what will the world believe about South Africans but the issue should be these are people who have human rights, it’s nothing to do with embarrassment, it’s about upholding human rights.

MR MASUKU: Yes, we agree with that, I think maybe I should put it this way, it’s not something that the police would want to be known for, abusing the rights of citizens, basically. I don’t think that if you walked out and asked the most junior

police officer they would to know, they would like the police to be known as an institution that protects rights, so your suggestions and your recommendations that you make are fairly useful for how we reflect on how police officials should deal with that and all I'm suggesting to you is that the – part of what you do is not simply improved policing in their capacity to connect arrests and put them through criminal proceedings, but also to integrate society and to realise that there is a duty on society itself to assist with police work, so for example the Somali community would be if they felt protected they would be – it would be easy for them to report the crime and the trust, that system rather than go and buy an illegal firearm in order to protect themselves.

MS IGGLESDEN: Ja.

MR MASUKU: Because when they buy an illegal firearm and they use it or firstly, when they buy an illegal firearm they commit a crime, and so the police if the police get to know that an illegal firearm has been obtained by anybody including Somali refugees, they will be arrested, there will be no doubt about it, for whatever reason.

MS IGGLESDEN: I would like to ask a question, or just pose a question, why is it, or is it just that foreign nationals are not allowed to get gun licenses. In some areas somehow, and I haven't yet managed to find out how, foreign nationals do get a gun licenses, I believe in PE I heard police representative on the radio speaking about gun licenses, for foreign nationals, but generally speaking they're not allowed gun licenses. I don't know whether this is an issue – I appreciate that they're foreigners and there's always concern about the behaviour of foreigners, but on the other hand if they need to protect themselves and citizens are allowed to protect themselves, upstanding citizens, if refugees are proven to be upstanding why shouldn't they also have firearms?

MR MASUKU: I would be, if there was anything – I would be an anti-gun person, I don't believe that individuals should be carrying guns around, but I understand what your proposition in. The last ...(intervention).

COMMISSIONER: Mr Masuku it would be helpful, I haven't got the firearms legislation here, but it would helpful for us to just explore this question, of whether there is an expressed provision in the firearms legislation and if there isn't just to indicate to discover whether there's a particular policy adopted that makes foreign citizenship – foreign citizens ineligible for gun licenses, we should just pursue that issue. Thank you Ms Iggelsden.

MR MASUKU: Thank you madam chair. I think I don't have any other questions.

NO FURTHER QUESTIONS BY MR MASUKU

COMMISSIONER: Good, any further questions Mr Sidaki in re-examination.

MR SIDAKI: I have nothing madam chair.

COMMISSIONER: Mr Pikoli?

MR PIKOLI: Just one question Ms Iggelsden, you know given the in the national legal instruments and protocols that seek to protect refugees, and based on your own research in Khayelitsha and the way in which the police treat them, what will be your assessment in terms of our performance? Or the performance of SAPS against those protocols?

MS IGGLESDEN: I believe that the protocols are not fully realised, however I

believe that the public discourse and government discourse would assist an improvement in it, it would assist Home Affairs who frequently has quite xenophobic statements. Department of Trade & Industry in some of their proposed legislation they have targeted or spoken of targeting foreigners, and when we see in the Health Services we know there's quite a lot of exclusion when members of the public see – and police are at certain points in their life members of the public, when police as members of the public and as professionals see other professionals not upholding these rights it gives them a carte blanche, irrespective of what their management may be trying to suggest should be the case. So I think I mean there's varying levels, and the difficulty is that there are no community structures to help hold police accountable.

MR PIKOLI: Given the level of distrust that exist between the foreign nationals here in Khayelitsha and the police whom do they see as their protector?

MS IGGLESDEN: Their own tribal grouping, their own tribal grouping so you know if there's a problem they will refer to seniors, elders in the group, maybe, and they get helped out financially obviously with – I can't speak for the Ethiopians, for the Somalis they work in a traditional Moslem business structure where if one goes down the others in the tribal grouping will help them out, so those basically are their protectors, and the few people in the community who can speak English or a few of them Xhosa, then they also become protectors. And money, paying off is a protector, you know, you get arrested pay somebody get out.

MR PIKOLI: Thank you ma'am.

COMMISSIONER: Ms Iggelsden just on a factual question how many different tribal groupings are there of Somalis approximately in the Western Cape or operative in Khayelitsha perhaps?

MS IGGLESDEN: It's a moving – but basically also they don't particularly like this being discussed. The Ogaden who originally were Ethiopian were the first group to move into this area, and to move into the townships, then increasingly now in the townships are Abgal, who are from - who are based traditionally for Mogadishu often have suffered a lot more war and are not used to functioning governments.

COMMISSIONER: So you're really saying two large groups, or within the groups where they would prefer their kind of kinship structures?

MS IGGLESDEN: Yes, there's lots of sub-groups, but basically when we are trying to work in groups if we are trying to get full inclusion we have to try to say have we got Ogaden, have we got Abgal as broad family groups.

COMMISSIONER: Thank you very much. I thank you very much indeed for your report, which is very helpful to the Commission on a very important issue which is the experience of non-citizens in relation to policing in Khayelitsha. We will – you may now stand down.

WITNESS EXCUSED