

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

Kelly Gillespie

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COMMISSIONER: Ms Bawa where are we going to go now? We have got two witnesses left for the afternoon, Ms Gillespie? Perhaps you should just warn the other witness that we have evidence from - is it Ms Gillespie, I think, please come forward - who has to go back to Gauteng I gather later. We had two witnesses today from Gauteng so if all goes well Ms Mayosi we will then take your witness after Ms Gillespie just depending on our timeframe.

Good afternoon Ms Gillespie, thank you very much for your research report and for making yourself available to give testimony before the Commission. I am correct that you are going to testify in English?

MS GILLESPIE: That is correct yes.

COMMISSIONER: Great, good, and you are aware that these proceedings are public that they may be covered by the media that your testimony may be published in the Commission's report and you have no objection to that?

MS GILLESPIE: No.

COMMISSIONER: Good. Thank you very much. Do you have any objection to taking the oath or would you prefer to take an affirmation?

MS GILLESPIE: Affirmation.

COMMISSIONER: Okay.

KELLY GILLESPIE: (Affirms)

COMMISSIONER: Mr Sidaki.

MR SIDAKI: Thank you Madam Chair.

EXAMINATION BY MR SIDAKI:

Dr Gillespie you are a senior lecturer at the Department of Anthropology at the University of Witwatersrand, is that correct?

MS GILLESPIE: Yes.

MR SIDAKI: You are an anthropologist you know with a PhD and you have been practising for some twelve years, correct?

MS GILLESPIE: That is correct.

MR SIDAKI: And you have been working for about thirteen years in the criminal justice system including doing work in Khayelitsha.

MS GILLESPIE: That is correct.

MR SIDAKI: Now you were asked by the Commission to do research and provide a report on vigilantism and the wide subject of vigilantism in Khayelitsha. You did that research and compiled a report which has been provided to the Commission, correct?

MS GILLESPIE: That is correct.

MR SIDAKI: Now please take the Commission through the report that you compiled.

MS GILLESPIE: Certainly. First let me say thank you very much for having me here and also just to say that sometimes it is quite difficult for a social scientist to fit into the terms of a Commission of Inquiry. I studied some of the history of Commissions in South Africa and Commissions themselves are often delineated and mandated in ways that can often constrain general critique so I hope that I will be of help, but I also want to say something about my work on the criminal justice system which has predominantly focused on the Western Cape. I started working about thirteen years ago on the prison system and since then I have been doing more and more work on what is called “popular punishment” because increasingly more and more forms of punishment in this country as elsewhere but particularly in this country are falling outside of the formal criminal justice system so what I think we have seen recently across the country including in Khayelitsha is a surge in forms of popular punishment and after many years of working on criminal justice in this region I am now part of a critical tradition that really questions whether the use of criminal justice of the criminal justice system can fix problems that are essentially social in nature. I worry that any easy call for the escalation of criminal justice measures particularly in a country like ours will be of service to the project of transforming the social problems that we have, so I want to just say upfront that I work particularly in prison contexts which are deeply violent institutions that are predominantly full of poor black South Africans whose contexts have entailed them at vastly higher rates than their white middleclass counterparts into the criminal justice system and I want to say upfront that I am politically and intellectually obliged before I talk about the research that I did on Khayelitsha to say that I would hope that our work here on the criminal justice system should not be an extension of the criminal justice system more unfairly into the lives of poor black South Africans; the incarceration of more and more people because what kind of democratic project is that? I would hope that what I have to say would contribute to the work of the prevention of crime and violence and that if we are working here in service of making the police more efficient it would not be in service of the further incursion of a violent criminal justice system into the lives of poor black South Africans. I would like to say that upfront.

So my object of study is what has been called “mob justice” in Khayelitsha and I have also included in the report to some extent some of the readings that I have done from many other parts of the world and many other parts of the country.

COMMISSIONER: I don't want to interrupt you too quickly Dr Gillespie, I mean one of the things we are grappling with is terminology here. I see that you use the language “mob justice” but the police have used the language “bundu courts”. Have you got a comment on the terminology?

MS GILLESPIE: It is very difficult. Mob justice has implied in it I think the concept of the mob which I think I worry about precisely because it seems to imply a kind of irrationality to behaviour and I don't think it is one of the things that I will speak about later. I don't think this action is irrational. I think it is highly explainable. “Popular justice” which is another word that has been used, seems to imply a

whole range of criminal justice practices that are outside of the formal justice system. Vigilantism has very particular connotations in the history of South African township life which are more or less appropriate to use so I don't think we have any clarity on which is the best term. They are all problematic, so hopefully we can - I will sort of circle around that as I go, but for purposes of this presentation I will use "mob justice" but with the proviso that I don't think the mob is necessarily an appropriate term.

I conducted over one month of ethnographic research which is detailed daily experience of the lives of many of the people that I spoke to in Khayelitsha. I probably interviewed and had informal conversation with about fifty people from all over Khayelitsha; police, community workers, members of Sanco, activists, artists, schoolchildren, school teachers, ordinary residents of Khayelitsha. In particular I worked with a research assistant who is a community activist who does a lot of drama workshops in schools and in after-school programmes all over Khayelitsha so he was able to introduce me to people from really across the township of Khayelitsha.

Probably the least - just to say upfront - the least researched area in this study were the informal settlements and yet I did manage to do two interviews in informal settlements with residents but just to say that some of the findings will be need to be read predominantly for the sort of formal areas of Khayelitsha.

So in 2012 a series of very brutal murders of alleged criminals were reported in Khayelitsha and it has been my task to try and explain why this happened and to give some sense of the meaning of what we call mob justice in the context of Khayelitsha and what I want to touch on here is for purposes of this Commission, four key findings from that research.

The first finding is really a finding about the dramatic extent of violence in Khayelitsha, the dramatic extent of everyday violence that happens in this place. Let me just flag upfront that one of the most extensive forms of violence that occurs is sexual violence. It is often underreported. It is ongoing. It is everywhere. This has not been the subject of my report but it certainly comes up a lot in the research. What residents tend to talk about more though is around the daily incursions of housebreaking, robbery, petty thieving, muggings that occur as people go to and from work, to and from shopping, to and from friend's houses that there is a constant sense of anxiety that people living in Khayelitsha face every day in terms of the extent of this kind of violence.

The perpetrators of this kind of housebreaking, thieving mugging are generally individual young men who the residents often call 'skollies' and it is the kind of ongoing everyday violence that afflicts almost everyone in the community but the kind of violence that a lot of people really wanted to talk to me about and was really worrying people, residents of Khayelitsha were the escalation of two issues that they hadn't seen in Khayelitsha before and the first is proto-gangsterism and the second is drug related violence and I think this is something that we really need to be focusing on and worrying about because this is something that almost everyone said is quite new to Khayelitsha and it is something that I think if not really dealt with very seriously now it could land in very dangerous, an increasingly dangerous situation particularly for young people

living in Khayelitsha. So gangs - there is a section in the report that I deal with gangs and we can speak about that potentially more in the questioning but really what I think we are seeing in Khayelitsha is the emergence of a gang culture. A lot of teachers and parents and activists that I spoke to said that gangsterism seems to be coming from the schools and particularly coming from young people who are going to other schools where levels of gangsterism are very high, coming back to schools and having a sort of teaching or a copycat formations going on in Khayelitsha schools. When I speak to schoolchildren and say: "well, you know, how do gangs get going, how do they start?" They say, well, you know, it will start with someone who just starts hanging out with another group of guys and then they start getting their own style and then that style starts to develop and then another group starts to wear a different style and then they start to compete over their commodities and their styling and then eventually this develops into a more and more aggressive and violent standoff if you like, between different groups.

I was very interested in hearing police speak about these emerging formations that police quite deliberately had quite a firm line on this emerging gangsterism in Khayelitsha. They said these are not gangs, these are groups. Every single person that I spoke to in Khayelitsha said these are not groups, these are gangs, and so it feels like one of the things that is happening is that the police are not taking seriously enough the anxieties of Khayelitsha residents around these proto-gangsterism formations that are emerging.

COMMISSIONER: Is that some of that potentially the differentiation that needs to be made between gangs that happen elsewhere on the Cape Flats and gangs that are happening here in Khayelitsha, but in other words they do, certainly the testimony we have received seems to suggest that they are very different phenomena, that there are no connections between them. They may both be gangs but they are very different sorts of gangs, and it is potentially the police's response rooted in a differentiation rather than perhaps a denial that these are in fact gangs?

MS GILLESPIE: It is a good question. I think they are from what I could tell, the two major proto-gang formations in Khayelitsha are not deeply connected to other gang structures on the Cape Flats so for example the Hard Livings, the Americans are not here. Right now Ama-Vatos and Ama-Vura are the two main formations of gangs and there is from what the schoolchildren were explaining to me there are very, very complicated systems of micro-formations that happen around those two groups so you have a kind of these two major groups and then a kind of recursive formation of micro groups that spin out of those two groups and that act as a kind of support for those two groupings. From the research that I have done on gangs and that I have read in other parts of the Cape Flats this is pretty much how gangs get started everywhere, right, so this is why I think I prefer to call them proto-gangs than groups because I think and it also alerts one to the fact that I think if not checked this could escalate quite quickly into something very similar to what we see elsewhere.

I also know from research on gangs on the Cape Flats that what has happened particularly around the transition in the mid- to late 90s was that the organised drug trade entered into the Cape Flats in a really dramatic way and has

from that time been making incursions into the structures of gangs so the relationship between gangs and the drug trade in many areas of the Cape Flats is very dense. In fact some people say in some areas they overlap almost entirely so that gangsters become kind of soldiers for drug merchants and this gets to the other point of what Khayelitsha residents are really worrying about and that is the escalation of drug use amongst young people in Khayelitsha and particularly people speak about the rise of Tik and this I think is also something quite new in Khayelitsha and has not been a feature of the majority of so called black African townships in Cape Town and it is this combination, I don't think that these kind of young schoolboy and schoolgirl formation proto-gang formations are trading in drugs. I think at the moment they are quite separate but the potential for them to come together is very strong.

MR SIDAKI: Now you made mention of the feedback that you received from residents calling this formation groups and police calling this formation groups ... (intervention)

MS GILLESPIE: Gangs.

MR SIDAKI: The police call them groups and the residents call them gangs. In what circumstances did you receive this feedback on the one end from the police and on the other end from the community?

MS GILLESPIE: I think it was most clearly, I heard it several times but it was most clearly instantiated. I went to a holiday programme for a group of young people in a community centre and the police were invited to come and speak to these young people as a way of outreach to community, as a way of reprimanding them for doing anything wrong and two policemen came together to talk to these young people and the talk predominantly centred around how there was no gangsterism in Khayelitsha and one of the things that was striking to me was how that didn't seem to fit at all with what ordinary residents of Khayelitsha have been telling me for the duration of my research.

MR SIDAKI: Now just the profile of these gangs, you have made mention of Ama-Vura and Ama-Vato. They all seem to be Italian names. What is the age group of youngsters that engage in these gangs?

MS GILLESPIE: It seems to be mostly 12 to 18-year-olds so high school students and the schoolchildren however also alerted me to the fact that there were groups that are sometimes called the Baby-Vatos or the Baby-Vura who are younger, seven to ten years old, they said, who are starting to play a kind of supporting or preparatory role for these gangs.

MR SIDAKI: And what is the feeling of the community of Khayelitsha about gangs?

MS GILLESPIE: I think people are terrified and very, very confused. People don't understand why nothing is being done to stop what sounds from the many reports that I got like pitched battles after school in open areas.

MR SIDAKI: And what is being done to deal with the problem on the community's side?

MS GILLESPIE: You know I met a lot of amazing people who are doing work at an individual level or in small groups or with NGOs who are trying to do violence prevention work in Khayelitsha. It tends to be at a very local level. I met women who are having youth groups at their houses after school. I met people all over

Khayelitsha who collect weapons from young people, the number of weapons that I saw during the month of research was extraordinary, mostly homemade weapons of kitchen knives tied onto poles or golf clubs or various kinds of cobble together weaponry that young people take to school and use after school in proto-gang violence.

MR SIDAKI: And these weapons are being kept in people's homes, do you know why they are not being handed over to the police?

MS GILLESPIE: This is I think part of the fourth point that I wanted to get to, but I think we should just go into conversation probably. There is a very, very deep mistrust of police in Khayelitsha and that was clear from everything that I - almost every person that I spoke to and that there is a sense that when you go to the police it is very likely that nothing will be done so I think people were more likely to lock the various small caches of weapons that they reclaim from young people in their rooms, in their bedrooms, put them under their mattresses, put them under their beds, lock them up in drawers than approach the police for help. The people that are often approached for help are the Taxi Associations and the Taxi Associations are also - they have also recovered a great number of weapons from young people particularly in schools.

MR SIDAKI: Now can you tell the Commission a bit more about that; about schools and Taxi Associations in dealing with this gang problem?

MS GILLESPIE: Alright, so I think probably then to go to give a bit of a context, there is a rare - one of the striking features that I have found from my research is the extent and the range of the non-policing criminal justice techniques that are at play across Khayelitsha. It was really striking from the research, the extent to which people are not using the police for resolving criminal matters in Khayelitsha so and those ranged from more or less established and formal mechanisms like Taxi Associations to quite spontaneous practices like mob justice so the Taxi Associations are probably the system of criminal justice that Khayelitsha residents use a lot to resolve criminal matters whether it be the theft of a cell phone or a housebreaking or even a very rude child that needs to be reprimanded, civil matters. There are ways in which people don't if for example I buy a car from you and you don't pay me for the car, people will much prefer to go to the Taxi Association to try and mediate and resolve the issue than they will be to go to the police so there is an extensive use of the taxis for which people pay a price, a fee. Often that fee is negotiated in terms of the objects that is being mediated or transacted so if it is - you know Taxi Associations are not also afraid to stand outside of the jurisdiction of the law sometimes so if it is 1 500 Mandrax tablets that are being transacted then they will extract a section of that. If it is a cell phone that is being transacted then they maybe will take R 50.00 so it depends on what commodity is being negotiated and what the extent of the violence is.

COMMISSIONER: Can I just interject there, you talk about associations, so this is not dealing with individual taxi drivers, and this is actually dealt with at some kind of organisational level?

MS GILLESPIE: Individual taxi drivers are the ones that do the mediation and brokering but they get the power to do that by association with the taxi rank, by owning a lot of taxi and being associated with the Taxi Associations and

transactions seems to occur with the individual taxi driver or taxi owner who participates in the mediation process or in the criminal justice technique.

MR SIDAKI: And the participation of the Taxi Associations at schools, how - what happens in that regard?

MS GILLESPIE: I heard from a number of people that I spoke to how either parents or teachers or principals would approach taxi owners for help in regulating the levels of violence that go on in Khayelitsha schools. So how - someone will approach the taxis. They will negotiate some kind of fee. Sometimes the taxi drivers if they feel particularly committed to an area of Khayelitsha or a school will do this as an act of service, will go into the schools and predominantly search for weapons and reprimand the children for involvement in gangsterism or in violence in schools.

MR SIDAKI: But why would schools principals go to Taxi Associations for help and not to the police?

MS GILLESPIE: Taxi Associations are known by residents of Khayelitsha of being effective in solving criminal justice matters.

MR SIDAKI: And the police, I mean, do they have knowledge of this of Taxi Associations participation in this?

MS GILLESPIE: You know I did speak to one or two police and one or two taxi drivers. The police didn't talk about that relationship but the taxi owners said that sometimes they would work with police. I can't corroborate this because I don't know the cases but there is evidence that the taxis have some relationships to the police so I will assume that the police know that the Taxi Associations exist as an alternative justice mechanism in the township.

MR SIDAKI: But on the police's side could you find out what it is that they do to deal with this issue? How do they police the issue, the problem of gangs?

MS GILLESPIE: Gangs or taxis?

MR SIDAKI: The police, the South African Police Service, do they do - I mean are they aware of the gang problem and what are they doing about it?

MS GILLESPIE: From what I heard from police there was - I was told that police do send police cars to schools particularly after school. I did not see that during my research but I was told by police that they are attempting to try and regulate violence particularly as school comes out at the end of the day which is when a lot of violence happens. I did not hear from many residents that they had much faith that the police were in fact providing that kind of service.

MR SIDAKI: The Commission has heard evidence from a number of witnesses amongst which Ms Ncaphancapha who testified that gangs groupings when they engage in fighting, you know, the police would be called and when police do respond you know they come in a police van and as they approach the area of the fighting that the gangs would disengage and then the police would - the moment the police drive away the gangs would re-engage in fighting. Have you seen anything of that nature?

MS GILLESPIE: My research was not specifically on gangs in Khayelitsha so I did not have that as something that I was looking at specifically. What I am relaying is what people speak about when they speak about gangs in Khayelitsha and there is the sense that people are at a very high level of frustration because there is very

little that seems to be done around schoolchildren and how exposed they are to levels of this kind of violence in schools and I mean parent after parent that I spoke to were really scared of their children going to schools in Khayelitsha. A lot of parents are trying to move their children around to try and make sure that they are not being exposed to this kind of violence so it does - it didn't seem from the residents of Khayelitsha that there was much being done to really address this violence.

MR SIDAKI: Would it surprise you that and that was the evidence of one of the witnesses Jean Redpath. We heard when Khayelitsha police report on crime statistics nothing in their reporting reflect gang activity, a gang problem in Khayelitsha. Is that something that surprises you at all?

MS GILLESPIE: Again crime statistics are very complicated things so if things are recorded as murder or as assault they may not also be recorded as gangsterism and I think this partly comes down to the problem of definition. If police are not understanding this as a form of proto-gangsterism then it would not necessarily be recorded in the cases as they get recorded on dockets.

MR SIDAKI: You touched on the issue of drugs. Please explain to the Commission the full extent of your research in relation to drugs you know from the typical person who sells drugs in the community etcetera.

MS GILLESPIE: I will give you a piece of evidence from an interview that I was having. We were sitting with a young man outside of his shack and there was an open field. It was a field of occupied land and there is an open field just beyond his shack and we were busy talking about a friend of his whose brother had been the victim of mob justice. We were talking about this and he looks over and he says: "Do you see those young people walking up and down that field?" He said: "They are all going to get Tik." I said: "How do you know?" He said: "Because around the corner there is a home that sells Tik", and I said: "What do you mean a home?" He said: "Well the majority of places that are selling Tik at the moment in Khayelitsha are ordinary homes, ordinary families, parents, mothers", and I was surprised by that and he said: "People say they do it just to get by; that they are trying to find some way of making ends meet and when they are criticised by neighbours they will say to their neighbours 'just keep to yourself, I am just trying to get by'..." So there is not from what my research showed there is not the sense that there is a kind of highly organised drug cartel and I don't know who is dropping the drugs off at the homes and how they are getting there but certainly it seems that drugs are being sold from ordinary homes in Khayelitsha and it seems like neighbours know about this.

MR SIDAKI: Again that was the evidence of one of the witnesses, Ms Ncaphancapha, who when she testified, made what seemed like a startling statement at the time. She said well it is parents that sell the drugs in the community.

MS GILLESPIE: Yes, people say it is parents but they won't let their old children take Tik.

MR SIDAKI: But that is what you found, that it is people - it was sold by people who were parents in the community from their homes?

MS GILLESPIE: That is what the evidence will suggest yes.

MR SIDAKI: But surely this information should get to Khayelitsha Police?

MS GILLESPIE: One of the things that came out quite clearly was that there was a major problem with intelligence gathering in Khayelitsha police and that there is not a kind of proactive preventative policing mechanism that happens in Khayelitsha. Often when police do arrive at a scene they will arrive often late and often with a great deal of force and I think that is partly then the history of policing in South Africa more generally is that police intelligence has not been a forte of the South African criminal justice system. It is certainly playing out in Khayelitsha at the moment.

MR SIDAKI: And again you seem to suggest that drug related crimes in Khayelitsha are a problem but when one opens the Khayelitsha police statistics drugs don't feature. Do you think that is surprising?

MS GILLESPIE: Yes it is surprising.

MR SIDAKI: Yes, because they ought to feature, would you say?

MS GILLESPIE: Yes.

MR SIDAKI: And you highlight the issue of domestic violence also in Khayelitsha. What did your study find in that regard?

MS GILLESPIE: I didn't focus specifically on domestic violence but in asking people about the problems that were happening in Khayelitsha and the kinds of violence that were happening a number of people said to me they were really worried about gangs, they were really worried about drugs; they really did not like the way in which 'skollies' were holding residents to ransom in muggings and housebreaking and theft and then they said all this on the side, but of course the worst problem is domestic violence so there is a sense that this is an ongoing problem. Residents I am not sure were as willing to talk about it in part because it has been a problem for - it is not a new problem in the way that gangs and drugs seem to be a relatively new phenomenon in Khayelitsha, but almost - there is the acknowledgement that this is a very serious and ongoing problem in Khayelitsha.

MR SIDAKI: And so the question is you know how do domestic violence, drugs, gangs relate to each other, if at all, relate to vigilantism?

MS GILLESPIE: One of the most important findings I think from my research and I know that mob justice can take different forms at different moments and in different parts of Khayelitsha but repeatedly what people would say about mob justice is that it was the most spontaneous form of criminal justice technique in Khayelitsha so the majority of reporting that I had when I asked people to explain how it works, how it happens, people would say to me someone would catch a thief, and then they would call "Isela!" and then neighbours would come running and as neighbours would come running other people would see them running and there would be a convergence on the site and a meeting would take place or a murder would take place and in trying to make sense of this kind of spontaneousness of this event I was asking people what goes in, why are people so quick to kill or beat people that they perceive to be criminals or in particular thieves or 'skollies' as people call them, and a lot of people said to me, they explained that there is a very, very deep level of frustration and anger in Khayelitsha and it was particularly activists who would speak to me about this and activists from all levels and in a range of different organisations that the

unchecked level of everyday violence in Khayelitsha as well as the failure of a number of promises, political promises around service delivery, around the right to a decent kind of life tend to compound very dramatically in ways that make levels of frustration and anger very, very high in this place and that layering and that compression of sustained poverty, of sustained inequality, of people not being protected by the criminal justice system that people don't see as serving them, by long histories of violence and inefficient policing that come from the origins of the township that the lack of being able to fix this creates a kind of morale outrage and a kind of anger that expresses itself in the kind of last resort of mob justice violence and it was striking to me how many people would describe this anger and sense of frustration and the fact that people felt like there was nothing else that they could do.

COMMISSIONER: Just on that I mean one of the things that strikes me is that probably terminologically it is better to talk in terms of vengeance actually because you know you are worried about mob, I am worried about justice, and it does seem to move from a sense of vengeance but what has been very interesting is that we have had two sets of surveys, social surveys which have suggested - both of them coming to exactly the same number that 75% of people in Khayelitsha really don't like it. There is a sort of sense that although it may be an instantaneous anger, which frankly everybody would feel, and likely worse when being violated personally or over your property, it is understandable that vengeance is a deeply human response to that kind of experience but that large portions of people in Khayelitsha really actually want a criminal justice system that works which may not resolve all the problems. You are quite right, but in a sense and it does not mean sending everybody to jail either, but it means a deterrent, effective responsive accountable criminal justice system which people can trust and which they feel that they are not going to be harmed by if they do turn witness or whatever. Do you have a comment on? I mean to me what struck me was the identity of the figure, that it was 75% of people across this community despite the high levels of acts of vengeance actually don't really believe in acts of vengeance as a way to deal with the problem?

MS GILLESPIE: I think that is accurate. I think that people that I spoke to said there are times when they know that when they are witnessing an act of vengeance of mob justice that what is happening is wrong and that they don't want to be involved and then they say two things. The one is that it is very difficult to step out of that kind of crowd behaviour because when people do they often become victims of the same crowd, and so I mean I think that is striking. A lot of people said how they just have to go along with the momentum that builds because of how difficult it is to turn that momentum around and I do feel for the police that are arriving at the scene because when people are angry and have that level of frustration and there is a clear victim, there is a clear aggressor who has been turned into a victim, it is very difficult to turn that and the second thing that people say is "we know it is wrong but what else can we do", and I think those two responses speak of a kind of the lack of a responsive accountable deterrent system that can support people. I think it is probably one of the clearest signs that there is that people are desperate for some kind of way out of an everyday life that

is marked by violence.

MR SIDAKI: Now you dwell a bit in your report on Khayelitsha police and what they do and how they are perceived. Would you like to take the Commission through your findings?

MS GILLESPIE: Well I think I said earlier that almost everyone I spoke to said that they don't trust the police. I think one of the reasons for this is the long history since the origins of the township on the way in which police have figured in everyday township life so you know, from the very beginning of Khayelitsha in the early 1980s there were political formations that took on a lot of the role of what we would now assume to be police work so there were alternative political and justice formations that fell outside of the kind of formal apartheid policing structures and that certainly I think is one of the origins of the persistence of this plural form of justice in Khayelitsha. Another is that the history of apartheid policing particularly apartheid policing of townships is one that I mean it was always marked by the reputation of being a collaborator; the reputation of being someone not to trust; the reputation of being a handmaiden of the apartheid regime, alright, so for many years people did not trust the police during apartheid and people said to me repeatedly: "We did not trust them in the past and we still don't trust them", so there is a sense that the transition did not bring a sufficiently reformulated police structure to Khayelitsha and that there is a kind of apartheid policing that persists here that for example people said of the police they are both violent and inefficient and at least the taxis are violent but they are efficient, alright, so this kind of a combination of being inefficient and violent at the same time doesn't make for a trusting relationship between police and community.

MR SIDAKI: You make mention also of - you speak about the mistrust of the police and the criminal justice system. Is that what informs that?

MS GILLESPIE: I think to some extent the police sometimes stand in for - they are the first moment of people's interaction with the formal criminal justice system in total and so sometimes I think police get a bad name and people don't like the police in part not because some of it is the fault of the police. Some of it is people's response to the criminal justice system more generally and I do think that this is an important consideration for the Commission is that a lot of people that I spoke to said you know the problem with the police is that when they arrest someone and then they send them to court they just come back again a week later and some of the police that I spoke to said people don't understand how the criminal justice system works, that we can arrest and even if we do get them to court in 48 hours sometimes they are released on bail and so it seems like a lot of people are angry with bail mechanism right, and I think that it gets read as a problem of policing. Of course sometimes release on bail has a lot to do with the inefficiency of the police because the police are not providing enough evidence that allow the courts the right to keep people in detention. Of course sometimes police are not keeping suspects longer than 48 hours and then they have to, they are obliged to release them in terms of the Constitution but certainly the criminal justice process and the duration of it, right, the extent of the time that is required to deal with the case is part of the levels of frustration that I think people directed the police sometimes unfairly.

MR SIDAKI: You talk about the 48 period within which police have to - an accused arrested person has to appear before the court and you say that you saw that as a problematic area.

MS GILLESPIE: There were certainly instances in my research when I heard of people who were automatically released because they had been kept for 48 hours and they hadn't been taken to court in time.

MR SIDAKI: And you make mention in your report of the corrupt culture of dockets. Would you like to explain what you mean by that?

MS GILLESPIE: This is something that is not unique to Khayelitsha. It is something that has been written about quite extensively by researchers of the police is that there is a "culture of dockets", the dockets are not simply managed as a matter of procedure but that dockets can be misused, can be bought, can be exchanged and I did not - my research was not particular to, I did not do research with the Khayelitsha police stations so I can't speak to that in particular about Khayelitsha but I certainly heard from people that dockets go missing and that this is a feature of policing in Khayelitsha.

MR SIDAKI: And also you talk about either badly collected or mismanaged evidence, collection of evidence. What was the feedback on that?

MS GILLESPIE: Again it is not something that is unique to Khayelitsha. It is a systemic problem with policing across the country and policing service does not have enough investigating officers. There is not a very good relationship between investigating officers and state prosecutors. There is huge amount of slippage that happens between the investigating officer and the state prosecutor and often those investigating officers that do do good work are overwhelmed with cases and so can't pay the kind of attention that they need to those cases.

MR SIDAKI: And you also discuss that you know community members you know when they find themselves in these situations they then feel they need to protect themselves among others by use of night patrols. What did you find in that regard?

MS GILLESPIE: It was really striking to me, the number of hyper local formations of criminal justice mechanisms, preventative mechanisms most often demonstrated in the street patrol so these would be formations in different parts of Khayelitsha that it takes of different kind of formation in some parts I heard about groups of older men who patrol streets at night with sjamboks and not knobkerries. I heard in other parts NGOs who have been working on violence prevention mechanisms by giving groups of women whistles and walkie-talkies and bright bibs to patrol at night, sometimes patrols are done by members of the community police forum or ex-members of the community police forum. Sometimes these are people who had belonged to street committees in the past, the kind of old struggle alliance street committees of the past who feel that something needs to be done and who are organising in local areas patrols.

MR SIDAKI: And did you find that people who end up doing these patrols may end up perpetrating vigilante activity themselves?

MS GILLESPIE: I did not hear of any deaths from those patrols but I certainly heard of a lot of beatings and I had one man who said that - you know he was saying: "No, these patrols are really good, but sometimes they get the wrong

person and they beat them, but I don't mind, because in general what they are doing is making sure that there is some sort of control on the streets in the evening particularly after dark." So he said: "You know I was beaten once when I was coming back a bit drunk from the shebeen but it was okay in the end because I know broadly they do good work", alright, so there is kind of also this ambivalence about and a lack of procedure in how a lot of how these sort of extra policing activity happens, which can be - some residents see as a good thing and some residents see as a bad thing. There is often that kind of contradiction of vacillation built into the very nature of these forms.

MR SIDAKI: You made mention of the community police forums. What is the view of the community around the CPFs?

MS GILLESPIE: I am not sure; this is a part of the research that I am not entirely clear about but what I was struck by in the research was how little people made mention of the community police forums that it seemed like they were a form that had more relevance in the late 1990s early 2000s than they do now and people were much more willing and offered much more information around structures like street patrols and taxis than they did about community police forums which I take to mean that community police forums are not a major part of people's everyday experience around crime control in Khayelitsha.

MR SIDAKI: And was there any feedback that you received in regard to the South African National Civics Organisation, Sanco?

MS GILLESPIE: Yes. Sanco was really created as a transition organisation, as an organisation that was supposed to capture a lot of the work that street committees had done in the past in townships and almost everyone that I spoke to about street committees and the history of street committees in Khayelitsha said that Sanco is a shadow of what those formations were in the past and that Sanco seems to have become more a vehicle for political career than a real service to community safety. Now of course there are individuals within Sanco that do amazing work but and I met one or two people in Sanco that I thought were responsive but the way in which a lot of residents of Khayelitsha spoke about Sanco is that and I will use the political language that I was told, when the ANC demobilised the street committees Sanco became a fairly toothless form.

MR SIDAKI: And the Khayelitsha Development Forum, KDF, did it feature at all, was there any feedback on that?

MS GILLESPIE: I might have heard mention of it once or so but I don't remember it from the research.

MR SIDAKI: And so what were your conclusions on what you call mob justice in Khayelitsha in how it operates?

MS GILLESPIE: This is a Commission on police inefficiency and I think one of the key things that mob justice indicates is that there is certainly a problem with policing in Khayelitsha but that mob justice is an indication of a whole range of ways in which residents of Khayelitsha are systematically failed. So police inefficiency is certainly a component of the anger and frustration that is vested in mob justice but there are also a number of other factors that produce this kind of layering that express itself in mob justice.

MR SIDAKI: Now you had, you were given a report that was compiled by the

Cluster Commander of the Khayelitsha police. It is called the "Bundu Court Report". Madam Chair if I can refer the Commission to Bundle 8, Folder 4 under 4.1 "SAPS Cluster" and that is where the report is to be found. We shall not go in too much detail in the report but you had, you were given a copy of this report. Please share with the Commission what your impressions were on it?

MS GILLESPIE: The report is titled "Bundu Courts", 1st April to June. The first of April, is it 2011 to June 2012, Khayelitsha Cluster, and from what I can ascertain the document reflects the police's collation of information of 78 incidents of mob justice, vigilantism, murders between April 2011 and June 2012 and firstly I was quite surprised at the fact that there was this report and that it seemed that the police were taking seriously the problem of mob justice in Khayelitsha but when I look more carefully at it there were two things that really stood out for me. The first was that the way in which that information had been organised, it was not consistent so there was for example there were some categories in one report that weren't in another report. There was information missing. There was little sense of what had happened to the case once the case had been described. So the way in which information was managed in that report was not clear and seemed to imply a kind of inefficiency in the way in which information was managed on those reports and the second thing was that only 26 arrests were made from 78 cases and it was striking how the vast - it was a minority of incidences of mob justice where arrests had actually been made by the police, so you know you just saw in the documentation "arrests: none; arrests: none; arrests: none" and there was a sense that even though the document itself stood as some kind of indication that the problem has been taken seriously the evidence in the report seems to imply that not enough information is being collated and there are not arrests that are ensuing from these incidents.

MR SIDAKI: And also the fact that it doesn't seem like any of those cases proceeded to trial stage or ... (intervention)

MS GILLESPIE: There were some, there were some. Again of the information in the actual report itself it is not clear whether, in some instances the report states that it went to trial but was thrown out or it was withdrawn or in other instances there is no information at all, so it is quite difficult to assess the report because the information is not well collated in the report.

MR SIDAKI: Now in closing you speak of this term of "mob justice" as you say it is not irrational behaviour or culture. Please expound on that.

MS GILLESPIE: I think it is very important that these instances are extremely disturbing; extremely disturbing and they are disturbing for any number of reasons because there is very little due process because of the extent of violence that occurs in them because of the levels of crowd frustration and anger that occur, because they are witnessed by so many people including young children. They happen in public. For any number of reasons these instances are extremely disturbing but I think it would be a real mistake for the Commission or for anyone from the public to understand this action as irrational as what some people call barbaric, right, but I think there are very clear ways to explain that the slow accrual over many years and through very different fora of frustration, resentment and anger that erupts in these moments. I think it is quite clear that one can trace

that and if one pays careful enough attention to what people are saying in the aftermath or how people describe these or how people explain these events, they are unacceptable but they are explainable and I think that is one of the major conclusions that came out of this research.

COMMISSIONER: One of the things is the question is to how particularly prevalent patterns of this form of violence are in Khayelitsha as opposed to in other communities who have had a similar apartheid history, who have a similar marginalisation, similar levels of unemployment and suffering really. Do you have a thought on that?

MS GILLESPIE: it is very difficult to say precisely because there isn't really information to be able to compare very well and certainly this is a phenomenon that is happening all over South Africa and as I said in the report it is a near-daily occurrence. If you open - I live in Johannesburg. I read. I often read working-class newspapers in Johannesburg and that you know the Voice and the Sun and almost every time you open it there is a reportage on a similar incident. The thing that was so striking about Khayelitsha was the levels of violence in these acts and particularly the use of necklacing and for me that signals a degree of outrage and a degree of frustration that whilst present in the other parts of the country there is something quite particular about the extent of the expression in Khayelitsha. It is certainly not to say that it isn't happening all over the country and in other townships around Cape Town, but there is something I think particular to the degree of violence in Khayelitsha.

MR SIDAKI: Thank you Dr Gillespie. Thank you Madam Chair. I have nothing further.

NO FURTHER QUESTIONS BY MR SIDAKI

COMMISSIONER: Thanks Mr Sidaki. Ms Mayosi?

CROSS-EXAMINATION BY MS MAYOSI:

Thank you. I am interested in your thoughts about the strategies that could be effective in ending this kind of vigilante attacks. What strategies have worked in similar jurisdictions? You talk in your report about Mexico, India where acts of vigilantism similar to this occur. Can you talk to us about that?

MS GILLESPIE: The majority of the writing on this doesn't deal with how to fix it. Most - much of the literature is around a description and an explanation of these forms that are emerging in South Africa and in other places, but certainly from what I have read policing is an element in ensuring that these are not - these acts of mob justice don't proliferate and quick arrival of police at the scene of the crime, I mean one - but again to be fair, one of the issues of mob justice is the spontaneity of these events and they happen when someone is caught very often and so for police to be notified and get to the scene of the crime quickly can sometimes be difficult but I have heard of instances when police come and park the police vehicles nearby but don't intervene, right, and again it is difficult because when police intervene they seem to be, often seem to be on the side of the person who is being beaten, alright, so there is this very delicate encounter that police need to learn how to stabilise and diffuse the situation and this is more a technique of crowd control and of very careful mediation work and these are not skills that the police are very good at. We see that with the policing of protests in

South Africa that - Marikana is obviously the extreme example but police are not very good. South African police are not very good at arriving at a scene and being able to diffuse a situation and I think that kind of skill is extremely necessary and it is a very particular policing skill and it takes a very particular kind of training and those are skills that are not endemic to the South African Police or even skills that elite units who are trained to do this kind of work can be deployed to do.

MS MAYOSI: So in other words are you saying it would involve a kind of paradigm shift on the side of SAPS in terms of acknowledging these acts of vigilantism and dealing with them in a particular way?

MS GILLESPIE: I think that is right, that is one thing, a very particular method for approaching a scene like this. The other thing is of course the everyday work of prevention so if people's levels of frustration, if the levels of everyday violence in Khayelitsha were lower I think these instances would happen much less frequently so there is something about the kind of rigorous preventative work of policing and of responsiveness that would serve to mitigate the conditions for mob justice.

MS MAYOSI: Would a well resourced more efficient police service end active vigilantism or is that too simplistic and too linear a logic to apply?

MS GILLESPIE: I think it is too simplistic and I think this is one of the ways in which my research falls outside a bit of the mandate of this Commission. There are certainly a policing element to the prevention of incidents of mob justice but unless there is sustained and serious political engagement with the kinds of conditions of township life that produced the levels of frustration that emerge in mob justice I don't think we are going to fix the problem, so whereas policing is one part of it and an important part of it, I also think that one of the recommendations has to be to understand what it is that fuels the kind of frustration and it is just, it is layer upon layer upon layer of failed promises of the lack of service provision for poor people living in the City. It is a failure of political imagination. It is a failure of political will and unless that gets addressed I think the - and policing is of course one of those elements of service delivery but unless that gets addressed I think the conditions of township life will not be altered substantially enough that these kind of events will simply cease.

MS MAYOSI: The issue around taxi drivers or Taxi Associations and how they are perceived to be more effective, how should SAPS be dealing with this issue and I ask this question not just based on what you've said in your report but also it would seem that there is an awareness from SAPS or an acceptance of this other alternative way of dealing with disputes. When the Commission did inspections of Khayelitsha earlier on before the hearings began we went to Site C and the complainant organisation representative who was with us said that that area at the taxi rank was a hotspot and that the Colonel the SAPS Colonel who are based at Site B Khayelitsha who was with us said they don't regard this as a hotspot partly because the taxis are here at the taxi rank and they maintain the law, so it would seem there is an acceptance, but is that the appropriate response in your view on the side of SAPS of dealing with the fact that taxi drivers step in and effectively police where the police should be policing?

MS GILLESPIE: I think residents of Khayelitsha want exactly the same as residents of middleclass neighbourhoods in Khayelitsha they want to be safe and

they want to live a dignified life and the difference is that the capacity to do that in a township life in Khayelitsha is greatly diminished and so people want to find the most efficient way to try and produce the feeling of safety and the experience of safety in their lives and this is one of the complexities of criminal justice in Khayelitsha. Sometimes the very law that we value does not seem efficient enough to the people living in Khayelitsha to solve their problems, right, so when you talk about efficiency I think there are two different meanings of efficiency. The one is an efficient criminal justice system that operates according to procedure. The other is the efficiency in the minds of someone who has been robbed, who needs her stuff back and she wants to find the quickest way to do that and because there are procedural mechanisms and delays and unresponsive actors in the former criminal justice system often people will approach taxis because it is the most efficient way to resolve a problem. That does not necessarily mean it is the most legal way to respond to a problem or to fix a problem but I think this is one of those complicated conditions of township life that when people make a choice about whether to go to the taxis or not it is not necessarily because they have a principle about agreeing with procedure, the procedures of the law or not. It is often about "I need my things back or I need to make sure that I am safe." Alright, so it is difficult to make a judgement on taxis on the Taxi Associations and in fact on all of these alternative justice mechanisms that people use in Khayelitsha because they work for people and they work for people when a formal criminal justice system doesn't work for people so to say that the taxis shouldn't do their work and police should be in that jurisdiction is complicated because in the conditions of township life as they live right now taxis are often more efficient way or resolving a problem than the police are and sometimes they are often more efficient precisely because they don't follow legal procedure so it is one of these complex moments where of course the formal legal criminal justice system should serve everyone equally but in the kind of City that this is with deep inequalities with very different access to all forms of services people have to make a plan and sometimes that plan is not legal and so in the condition of life right now it is difficult to say that the taxis shouldn't do what they do.

COMMISSIONER: (indistinct - no microphone) Sorry, what I was saying, yet the victims of these processes are young black men very often dead people. How do you weight that in your comment in response to Ms Mayosi?

MS GILLESPIE: You know there is a comment in my and I think it goes to the heart of this complexity. There is a quote in the report that I gave where someone described to me, I said: "what is mob justice" and he says "it is when the victim victimises another victim", and I think that goes right to the heart of the difficulty of resolving this issue is that the young black men that are stealing are not stealing because it is just fun to steal, right, there are conditions of life that persist in this place that make it actually very difficult to get by for everyone and the kinds of strategies that people are using are ones that are about the hustle of getting by in this place and so it is very difficult to make a judgement on what people do and how people use or don't use the criminal justice system and the variety of different formations of justice work in this place because it is part I think of the conditions of life in the township and that for me is why it cannot just be about police

inefficiency. It has to be about the conditions of life and policing is one of those conditions of life.

MS MAYOSI: SAPS has stated that it treats vigilante acts no differently to kidnapping, assault, murder. Would you say that in proceeding in that fashion they are losing in not acknowledging the vigilante acts as exactly that; are they losing an opportunity to understand the context in which they must police?

MS GILLESPIE: You are asking me a question about why police don't intervene or why they ... (intervention)

MS MAYOSI: No, if SAPS were to - I am putting this sort of hypothesis of mine to you. If SAPS were to acknowledge vigilante acts as exactly that, vigilante acts, surely that would then necessitate a deeper engagement with the source of the problem and the difficulties that lead to the problem. My proposal to you is that SAPS's failure to acknowledge acts of vigilantism as acts of vigilantism rather than as kidnapping, assault, murder, it leads to them losing the opportunity to interrogate the context and to better understand the context and therefore to police more efficiently and effectively. What do you say to that?

MS GILLESPIE: I would agree with that. I think the severity and the intensity of incidents of mob justice should serve as a very significant point of reflection for the South African Police Service.

MS MAYOSI: I don't have any other questions. Thank you Dr Gillespie.

NO FURTHER QUESTIONS BY MS MAYOSI

COMMISSIONER: Thanks Ms Mayosi, Mr Arendse.

MR ARENDSE: Thank you Madam Commissioner.

CROSS-EXAMINATION BY MR ARENDSE:

Dr Gillespie I wanted to take you back to something that was put to you by the honourable Commissioner presiding, that given that there are some service - I think you mentioned two, which indicates high levels on the one and high levels of dissatisfaction with so called mob justice or vigilantism and indication that people want the criminal justice system to work and on the other hand you tell us in your paper and your research that Khayelitsha is a community which is marked by high significant levels of violence and deep inequality and in answer to a question that was put to you by my colleague, Advocate Mayosi, you said well, increased efficiency on the part of the police is really just going to mitigate some of these issues, but it is not going to deal with it or resolve it. Instruction hat in a nutshell how one can understand your evidence?

MS GILLESPIE: I want to be clear that if one is explaining the sociology of what we call mob justice that police inefficiency is not the only thing that can explain it, but I do think it plays a very serious role in the levels of frustration that lead to incidents of so called mob justice.

MR ARENDSE: I think what I am trying to understand is like a chicken and egg, you know, what the cause and effect is. Is a level or a high level or just a complete incompetence on the part of the police, is that a root cause of what you call mob justice? Does it contribute to mob justice?

MS GILLESPIE: It does contribute.

MR ARENDSE: Does it contribute to mob justice?

MS GILLESPIE: It is a contributing factor for the context in which mob justice

becomes possible.

MR ARENDSE: But your conclusion in your paper is also that in fact let me just read back to you what you say in your paper, that you talk about poverty, inequality and the urban condition of poor black Capetonians. Then you say:

“It is this systemic failure and the deep anger that ensues from it that erupts in moments of mob justice.”

Then you go on to say on the last page of your paper:

“But to imagine that simply fixing policing would amount to a change in the broad conditions that fuel the frustration, resentment and anger that is at the heart of mob justice would be a mistake.”

MS GILLESPIE: That is correct.

MR ARENDSE: And then you are almost critical of some residents because you say:

“Residents’ criticism of the police is a superficial engagement with the problem.”

MS GILLESPIE: I don’t think that contradicts what I said earlier, that there are multiple factors that are contributing to the emergence of mob justice in Khayelitsha. The policing and the failure of policing and the criminal justice system to ensure the safety of Khayelitsha residents is one of the services that is contributing to levels of frustration and anger in Khayelitsha. I think it is clear from what I have been saying that I really don’t believe that that is the - if you fix policing you are going to fix the problem. It is one element of a range of problems that residents are facing in Khayelitsha. I think it is an important one. My take is that there are others that are also very important including the failure of a political vision to include people in the City.

MR ARENDSE: Because it seems to me that as things stand from the research from yours and other research that many residents here in Khayelitsha prefer forms of almost extra judicial sanctions. They prefer to catch the criminal or the perceived perpetrator, the perpetrator or the perceived perpetrator, as you pointed out rightly sometimes they get it wrong, you know, then people just shrug their shoulders and say “oh well, you know, but that happens”, and the most effective form or rather entity that performs these extra judicial sanctioning would be the taxis and the taxi owners so it seems to me or let me ask you a question. Would the community prefer this democratic or this police that has now been established since 1994 that they are supposed to conform to a culture of human rights, treating victims, survivors, complainants with dignity. Must they go back to what maybe what we used to have and people will tell you today in my community or where I come from anyway, you know they prefer, you know they miss the good old days, when you would just take people and beat them up and throw them in jail and they must just rot there in jail, you know, because they felt safer. Is that still a contradiction here in Khayelitsha that one must grapple with?

MS GILLESPIE: I don’t think we must - again I don’t think we must pathologise what is going on here. I think people living in Khayelitsha want the very same thing as people living elsewhere. People want to be safe. People want to live dignified lives. The access to that in this place is less possible than it is in other parts of the City, in other parts of the country and so people reach for what they

know will work. I don't think that you can say residents of Khayelitsha want to use the taxis and not the police. I don't think that holds. I think under conditions where criminal justice system does not serve the residents of Khayelitsha this becomes then an avenue for some kind of service provision that people are not experiencing in their lives without that formation so it becomes a way to if you like stop-gap a fault in the system so it is not that people want a return or people are wishing for another kind of method. People are looking for a method that will work often in the short term, often to make sure that they can get by to the next day or the next week and under conditions where that is what life is like living in this township it makes sense that people will try avenues that work better for them so it is not that people don't want to use the police. It is that the police are not serving people that other options are more efficient in terms of getting done what people want to get done.

MR ARENDSE: is it your sense that the police don't serve people? Is the resort to extra-judicial methods of such a nature that they don't trust the police at all that they feel that there is a completely dysfunctional police here in Khayelitsha?

MS GILLESPIE: I think part of the - I am always surprised at how many dockets are opened at the police stations in Khayelitsha and I think this says something about the willingness of people to have faith in the system even as it often doesn't work for them so I think that it is not that people have completely written off the police. Sometimes people will say in the reports, sometimes alternative justice measures stand as a replacement for police; sometimes they are in addition to the police; sometimes they are a criticism of the police. I think they can be any one of those so it is not that people don't see the police as one option in a series of criminal justice techniques but it is an option that many people find does not serve them very well.

MR ARENDSE: Yes because if the surveys are correct that the majority overwhelming 75% in one survey of people they do oppose mob justice and extra-judicial killings then it says to me two things and I want your comment on it. The one is that the majority of people they do want to believe in a fair and an effective criminal justice system. They want to put their faith and they do given the high levels of reporting even though there is - we know there is underreporting especially in cases involving sexual violence and violence against women. They want to believe. That is the one thing and then the second thing seems to me that if the majority of people want to believe in the system then mob justice and vigilante killings are being perpetrated by a minority or doesn't the two go together?

MS GILLESPIE: As I said earlier some people get caught up in the event of mob justice and don't know how to stop it even though they want to. Some people regret being involved in these kinds of acts. Some people think it is the right thing to do. I think there is a difference of opinion amongst Khayelitsha residents but certainly many people would not see this as the ultimate form of criminal justice practice. I think many people would prefer a formal criminal justice system that serves people.

MR ARENDSE: Yes, and without witnesses coming forward and saying they are prepared to testify it seems to me when people respond to the call "Isela" then a

lot of them are what you would call innocent bystanders. They are not participating in the act of actually killing or assaulting the perpetrator or the alleged perpetrator but the sort of end result seems to be that there is a mob in every sense of the word in the sense of a group of people, a desperate group of people who had just come together and standing around a body and it appears to be a mob justice situation. So my question is again in terms of your research would you say that this group that responded to this call are actually condoning what has happened or what is happening or do they just happen to be around out of curiosity?

MS GILLESPIE: Again I think it is a mixture. I think some people are there just to look. Some people are there to be part of the beating. I think there are degrees of complicity in those kinds of events.

MR ARENDSE: Thank you Doctor.

NO FURTHER QUESTIONS BY MR ARENDSE

COMMISSIONER: Any re-examination Mr Sidaki?

MR SIDAKI: I have nothing Madam Chair.

NO RE-EXAMINATION BY MR SIDAKI

MR PIKOLI: Thanks Dr Gillespie. Thank you for trying to explain to us this complex subject. You see post 1994 we have had an impressive legislative framework to address crime in South Africa. We are not in want of legislation. We have come up with a number of strategies, the national crime prevention strategy and then the national crime combating strategy. We have Poss. We have Opus, all sorts of acronyms that one can think of. We have established a civilian secretariat. All these were aimed at restoring the legitimacy of our police services given our most recent past where we had a police force that lacked political and moral authority. We have spoken also in our criminal justice system of alternative dispute resolution mechanisms. Our criminal justice system has been also been perhaps criticised for not being victim-centred, concentrating on punishing the perpetrator and you have spoken of the restorative justice system as well. Some of these have not really been mainstreamed into our criminal justice system. Now on page 8 of your paper you make reference to multiple criminal justice formations. Now this is twenty years down the line and on page 9, a direct quote that says:

“There is a strong sense that the police do not resolve issues.”

Now I would understand if you may not want to comment on what I have said because it is not a question, given how complex the issues are that we are dealing with but if you would like to comment I will appreciate your comment on the issues that I have raised, thanks.

MS GILLESPIE: Thanks Commissioner that is probably the hardest question there is, even though it wasn't a question, but what do we do because we have really good policy. We have really amazing political imagination often in that policy and yet things have not changed sufficiently on the ground and there are two things that I would say. The first is that the national crime prevention strategy is actually quite a progressive document. It makes mention of the fact that much of the prevalence of crime and violence in South Africa is because of social issues that have been inherited from the apartheid era and that those need to be substantially addressed if we are going to do anything to resolve the levels of violence in our

society. The question is how to implement that, alright, so the first point is that we actually we have fantastic policy that leads us I think to some very, very important and very progressive positions on what to do but the second point is that I don't see and this is part of I think the irony of the Commission is that it became a battle about national and provincial, whereas in fact I think at both of those levels the seriousness of engaging the task of how you undo the social conditions of apartheid that would seriously get at; the diminishment of levels of violence in the society is not addressed sufficiently. It simply is not addressed sufficiently and I would hope that one of the recommendations of the Commission would be that the problem of violence in Khayelitsha cannot be read simply as a problem of one fact of service provision, that it is a deep systemic issue that needs dramatic political attention and some of that call is in the very policy documents that have produced. They haven't been taken seriously enough and how we get to a point where we can actually have the political will to implement that kind of progressive political imagination that resides in some of those documents is I think the political question of the moment and something that we all need to be taking extremely seriously.

MR PIKOLI: Thank you.

COMMISSIONER: Thank you very much Dr Gillespie both for your report and for your testimony this afternoon. It has been most helpful to the Commission. We are grateful for you having come down from Gauteng to be here. Thank you. You may stand down.

WITNESS EXCUSED