

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

Brigadier Nkoshilo Hosiah Seimela

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COMMISSIONER: I think we'll now take a tea adjournment until 4, and then we'll reconvene and I'm not sure if Mr Masuku or Adv Arendse is going to be leading Mr – is it Brigadier Seimela.

MR ARENDSE: I'm going to lead Brigadier Seimela.

COMMISSIONER: Okay. Good. Thank you. Well, we'll adjourn now until 4 o'clock.

TRIBUNAL ADJOURNS (at 15:55)

ON RESUMPTION: (at 16:00)

COMMISSIONER: Good afternoon, Brigadier Seimela.

BRIG SEIMELA: Afternoon, Commissioner.

COMMISSIONER: Welcome to the proceedings of the Commission. What language are you going to testify in?

BRIG SEIMELA: Sorry?

COMMISSIONER: Are you going to give evidence speaking English?

BRIG SEIMELA: I'm struggling.

COMMISSIONER: Struggling to hear me? Our echo seems to have got worse. ... What language are you going to testify in?

BRIG SEIMELA: English.

COMMISSIONER: In English.

BRIG SEIMELA: Ja.

COMMISSIONER: And you are aware that the proceedings of the Commission are in public ...

BRIG SEIMELA: Yes.

COMMISSIONER: And that members of the media are present and that your evidence may be put into the public domain.

BRIG SEIMELA: Yes. I'm aware.

COMMISSIONER: And you have no objection to that?

BRIG SEIMELA: No objection.

COMMISSIONER: Do you have any objection to taking the oath?

BRIG SEIMELA: No, I don't.

NKOSHILO HOSIAH SEIMELA (Sworn states)

COMMISSIONER: Thank you very much. Advocate Arendse?

MR ARENDSE: Thank you, Madam Commissioner.

EXAMINATION BY MR ARENDSE:

Brigadier Seimela, you have been employed in the South African Police Service for the past 14 years, and you've actually been employed all this time in the Crime Research and Statistics component of the South African Police. Is that correct?

BRIG SEIMELA: That's correct.

MR ARENDSE: The Crime Research and Statistics component used to reside under Crime Intelligence but now is under ...

BRIG SEIMELA: Strategic Management.

MR ARENDSE: Sorry?

BRIG SEIMELA: Strategic Management.

MR ARENDSE: Strategic Management, that's correct.

BRIG SEIMELA: Ja.

MR ARENDSE: And that was since what, a month last year, 2013.

BRIG SEIMELA: It's in 2012, November.

MR ARENDSE: 2012, November.

BRIG SEIMELA: November, ja.

MR ARENDSE: Now, I'm going to come back to this, but you had sight of a report that was compiled by Major General Dr C P de Kock.

BRIG SEIMELA: Yes.

MR ARENDSE: Dated 3 August 2012. And in that report, Madam Commissioner, it still indicates that Crime Research and Statistics falls under Crime Intelligence, but that has now shifted to Strategic Management.

Now, the – you report to General Menziwa, who's the head of Strategic Management, is that correct?

BRIG SEIMELA: That's correct.

MR ARENDSE: You in fact now act as the head of Crime Research and Statistics – is that correct?

BRIG SEIMELA: That's correct.

MR ARENDSE: And you've been acting since May 2013.

BRIG SEIMELA: That's correct.

MR ARENDSE: Your – the previous head of Crime Intelligence was in fact Major General de Kock.

BRIG SEIMELA: That's correct.

MR ARENDSE: For the period 1995 to the end of April 2013.

BRIG SEIMELA: That's correct.

MR ARENDSE: So you were always reporting to him before you became the acting head?

BRIG SEIMELA: That's correct.

MR ARENDSE: You have approximately 30 or so officials who work under you now.

BRIG SEIMELA: That's correct.

MR ARENDSE: Now, the South African Police Service publishes in September every year crime data per police station. Is that correct?

BRIG SEIMELA: That's correct.

MR ARENDSE: So your last – the last publication of crime data would have been for 2012/2013, which would have been published in September 2013.

BRIG SEIMELA: That's correct.

MR ARENDSE: Does that mean that you're not in a position to give us any up to date statistics or data on crime?

BRIG SEIMELA: No, I'm not in a position to give you any information that is not published.

MR ARENDSE: Now, the crime categories that you report on are murder, sexual crimes, attempted murder, assault GBH, common assault, robbery, robbery with aggravating circumstances, arson, malicious damage to property, burglary at non-residential premises, burglary at residential premises, theft from vehicles and motor cycles, theft out of motor vehicles and theft of motor vehicles, stock theft, illegal possession of firearms, ammunition, drug-related crimes, driving under the influence of alcohol or drugs, theft, generally commercial crime, shoplifting, culpable homicide, crime injuria, neglect and ill treatment of children and kidnapping. Is that more or less the broad category that you report on?

BRIG SEIMELA: More or less, yes.

MR ARENDSE: Now, would you agree with this statement:

"The reported crime data is highly influenced by reporting and recording rates. The

reporting rate is the rate at which people who are victims to crime choose to report crime to the SAPS, while the recording rate is the rate at which crimes reported to the SAPS are actually recorded.”

BRIG SEIMELA: I agree with that statement.

MR ARENDSE: Now, Madam Commissioner, that statement comes out of Professor Redpath’s Affidavit at paragraph 15.

Now, I want to deal with that just now, but just before I go on to deal with that, you confirmed that you were reporting to Major General de Kock before he retired or left.

Now, you’ve had sight of a report that was compiled by him, dated 3 August 2012. It was headed Serious Crime in Khayelitsha and Surrounding Areas. Is that correct?

BRIG SEIMELA: That’s correct. On Sunday when I consulted the legal team.

MR ARENDSE: You had sight when you consulted with us about ...

BRIG SEIMELA: Ja. Ja.

MR ARENDSE: About giving evidence here.

BRIG SEIMELA: Ja.

MR ARENDSE: This report, were you – did you make an input into the report, or did you contribute to the report, or were you a co-author of the report? What was your role in the report?

BRIG SEIMELA: Okay. The figures are from my office. When Dr de Kock was still there I was the head of Crime Statistics. So the figures that are in that report are from my office.

MR ARENDSE: Now, having – well, you would obviously not have known what – what Major General de Kock did with those figures or how he utilised or employed those figures, but you have now subsequently read the report. Do you associate yourself with his findings in this report?

BRIG SEIMELA: Ja. No, I don’t have any problem with the report.

MR ARENDSE: So, for example, he says that the – and I’m reading from the report, Madam Chair, on page small Roman two:

“The crime profile of Khayelitsha has actually not changed over the past 12 to 13 years. It still remains a dominantly social contact crime station.”

Would you agree with that?

BRIG SEIMELA: I still agree, ja.

MR ARENDSE:

“This type of crime is less police-able in terms of the conventional policing methods or procedures such as focus patrols, road blocks, cordon and search operations. It still exhibits a complex mixture of factors influencing its crime situation such as a high influx of people not knowing one another, and a result lack of social cohesion, unemployment, dire poverty, a lack of proper housing, privacy and recreational facilities and activities.

The way to address the situation also still remains the same. Only an integrated Government/ community response can really address the high levels of social contact crime.”

BRIG SEIMELA: No, I agree with that statement.

MR ARENDSE: And then he says it seems as if nothing happened in this regard since 1999.

BRIG SEIMELA: I also agree with that statement.

MR ARENDSE: Now, he then also goes on to mention, for example, because it’s a subject matter of the enquiry, on page small Roman three, paragraph – big paragraph 3:

“Vigilantism, which according to a national docket analysis done two to three years ago contributes plus/minus 5% to the murder figures of South Africa actually contributed to at least 17% of the 160 murders recorded at Khayelitsha during 2011/2012. Between 1 April 2011 and 30 June 2012, at least 31 vigilante-related murders were recorded in Khayelitsha, and another 26 more in Harare.”

BRIG SEIMELA: Those were the findings of the docket analysis that was conducted by the

researchers from our office.

MR ARENDSE: Okay. And then – but then Dr de Kock takes issue with an article that was written by Gareth Newham, the head of Crime and Justice programme of the Institute of Security Studies, who wrote that – or he wrote an article entitled Khayelitsha’s rapid Social Decay due to Law Failure that appeared in the New Age on Tuesday, 31 July 2012.

Then this is what Dr de Kock says in his report:

“Newham’s article and the whole new concern about vigilantism allegedly resulting from a law failure or actually a collapse of the law, is quite a simplistic view of a much more complex problem.”

BRIG SEIMELA: I would go with that statement.

MR ARENDSE: But your – your job, your function, your core function, is not to address these problems. Your job is actually to highlight the fact that these problems exist. You look at trends, and it is then other components of the police who use your statistics and data to, one, identify what problems are, and then they use this as a tool to assist in trying to resolve these problems.

BRIG SEIMELA: Ja. Our responsibility is basically to understand crime, to analyse crime and understand it.

MR ARENDSE: Ja. Now, again, Dr de Kock, and just for your comment, he acknowledges on the first page of this report, Madam Chair, in the introduction, that – he says:

“The best place to do a station assessment is at the station itself. The members who are in the best position to do a detailed and quality assessment, including historical perspective, are the former CIO/ CIAC members at station level. In the past, this office would usually have either referred an assessment such as this to the Station CIAC/CIO, who at least have consulted them.

This was not done in respect of the present assessment, since that would, in the first instance, have meant that the request would have had to be sent through a long channel of command.

Secondly, the objectivity of the station personnel can no longer be left unquestioned. Over particularly the past two years, this office has become aware of the significant role of [what he calls quote, unquote] ghost tendencies, resulting from a historical manipulation of crime registration which then started to be rectified recently.”

Do you associate yourself with those remarks?

BRIG SEIMELA: Yes, I do.

COMMISSIONER: Perhaps, Advocate Arendse, it would be helpful for me to have some understanding of the statement which says that that’s – the last sentence in the first paragraph:

“Secondly, the objectivity of the station personnel can no longer be left unquestioned.”

Is that – why is that?

BRIG SEIMELA: Because currently those CIO members, now they report to the Station Commander. So their resources are coming from the Station Commander, and if they don’t agree with the Station Commander, they don’t get anything. They don’t get resources. So they are dependent on the Station Commander, not independent.

COMMISSIONER: Sorry – while we’re at this (indistinct), could I also just ask, the CIO is the Crime Information Officer. The CIAC is that – what title is that?

BRIG SEIMELA: Is the same office. Previously it was called CIAC.

COMMISSIONER: Oh, I see. So the new name is the CIO.

BRIG SEIMELA: CIO, ja.

COMMISSIONER: That we’ve been working with the CIO.

BRIG SEIMELA: Ja. It’s the same office.

COMMISSIONER: Was there some time in the not so distant past when the crime information/crime intelligence aspect of a police station did not fall under the control of a Station

Commander, but under crime intelligence source literally?

BRIG SEIMELA: Ja. Ja.

COMMISSIONER: I see. Thank you.

MR ARENDSE: Madam Chair, perhaps you've just pre-empted me with those questions, because what I wanted to link that last aspect to the objectivity of the station personnel and these ghost tendencies resulting in historical manipulation, was to move on to what is described in both General de Kock's paper, and by Jean Redpath, which is this error rate.

Now, usefully – certainly I found it useful – an error rate is calculated – I'm not going to tell you, Madam Chair. It is described at the bottom of page 2 of General de Kock's report, how it is calculated.

Now, this – or maybe just elaborate a bit on this error rate and how you calculate it and what it all means, and whether it holds any significance in terms of the integrity of crime statistics that are then eventually published, and then we'll move a bit closer home to Khayelitsha.

BRIG SEIMELA: Okay. The – maybe I must start with the task team on crime statistics that was established by the former National Commissioner, General Cele. And the purpose of that task team is to look into the issues that affect crime data in the South African Police Service.

So the task team recommended, with regard to that integrity, they recommended that we must look into three things; the first one being the classification error. If the information in the docket or the charge in the docket correspond to the charge on the system, and the recommendation there it's the acceptable error rate should be 10%.

The second one, the second area there, it's additional charges. Say, for an example, there is a multiple murder. Three people are murdered in one incident. On the system you should get three counts of murder. If you get one count of murder, then there's a problem; there are two missing there.

And the recommendation there, it's the acceptable error rate should be 5%.

The third one, it's non-registration of crime. Some crimes are recorded in the occurrence book, but they are never recorded on the system. And in this regard we say the acceptable error rate is zero. We don't want any crime in the OB and it's not on the system.

The process that we follow, it's – we sample stations and the criteria that we use to sample stations it's, one – we look at stations that have these big fluctuations in crime, the increases or decreases, the big fluctuations.

The second issue is, we look at stations that reported unacceptable error rate previously. So these are the two types of stations that we're looking at.

We get to a station and we sample 300 dockets for the last six months. So for each month we'll have 50 case dockets. 50 multiplied by 6 will give you 300. This is our sample.

In that sample we're looking for these two things: is the information in the docket corresponding to the information on the system? Are additional charges registered on the system? From there we go to the OB and IB and check if there are crimes that are recorded in those registers; they are registered but they are not on the system.

MR ARENDSE: Now, this task team, let's then move quickly closer to home. Was such a task team despatched here to the three stations to Khayelitsha?

BRIG SEIMELA: Yes, they – we have got – it's not a task team as such. We have got teams, provincial teams, that are responsible for that function, and also a national team, so there's a team here in the Province that is doing those checks.

MR ARENDSE: I mean, it's just part of a normal function that they have.

BRIG SEIMELA: It's just part of a normal function.

MR ARENDSE: Is it – is it part of your component?

BRIG SEIMELA: It's part of my component, yes.

MR ARENDSE: And they will feed back to you in Pretoria?

BRIG SEIMELA: Ja.

MR ARENDSE: Are you in a position to tell us, did they detect any error rates in the way that it's calculated or described by General de Kock and by you now? And, if so, can we get some sense of – or are you not in a position to testify on that?

BRIG SEIMELA: No, no, I've got the figures of the three stations under review. I'm not just sure if I must give it in public the figures. But I've got the error rates for the three stations. But I can provide the figures.

MR ARENDSE: Well, let me first ask, what – is this error rate, is this internationally recognised or acknowledged? And if so, what is this rate?

BRIG SEIMELA: It's internationally recognised. What I did is I checked at other countries how are they dealing with the issue, this issue of that integrity. I took the UK, the home office in the UK. They commissioned the audit commission in that country to check that they are – that integrity, and the conclusion of that commission was there are three – no, no, four levels, or four categories, that they use, the first one being if their information is 95% correct, accurate, and higher, they will say that information, it's excellent.

If it's between 90% and 94.9%, they will say that information is good.

Between 80% and 89.9%, they will say the information is fair.

Below 80%, from 79.9, they will say it's a poor information.

MR ARENDSE: So anything from between 80 to 100%, it's either fair, good, or excellent.

BRIG SEIMELA: That's correct.

MR ARENDSE: So it allows for an error rate of some 20% before information becomes poor and probably not to be used because it's not reliable.

BRIG SEIMELA: That's correct.

MR ARENDSE: What is – are you able to comment on what is the average error rate in our country?

BRIG SEIMELA: In our country the average error rate is around 10, 11%.

MR ARENDSE: 11%.

BRIG SEIMELA: Currently, ja.

MR ARENDSE: Currently.

BRIG SEIMELA: Ja.

MR ARENDSE: And now come to the three stations. What ...

BRIG SEIMELA: One of the stations is below 10%. The other two are between 10 and 20%.

MR ARENDSE: Madam Chair, may I suggest that these – that the actual figures only be made available to the Commission.

COMMISSIONER: So what is the secrecy of this? Why would this be ...

MR ARENDSE: Because – because it forms part of the current statistics which have not been – it's only going to be released in September this year, and (intervention).

COMMISSIONER: I understand.

MR ARENDSE: And it's still being fed into the process.

COMMISSIONER: I see.

MR ARENDSE: It is not entirely – there may be some other – as I understand it, there may be some other variables, and that figure may change by the time it is published.

COMMISSIONER: I think for the moment we would prefer not to have any information that is not available to the public, so we would prefer to work off the 2013 figure, or the figures that were published in September 2013. And the issue of whether this – you know, I think the issue of the secrecy around this kind of information is something we are going to want to have evidence on in the second phase, or at least some conversation as to why this is important, because it's certainly not always self-evident.

But for the minute can we work off 2013 figures which can be publicised.

MR ARENDSE: Thank you Brigadier, the – that brings me to an aspect that was highlighted in the Tshabalala report which we also took you through, and that is the apparent lack of compliance

with National Instruction 3 of 2011. Do you recall that?

BRIG SEIMELA: I recall that.

MR ARENDSE: Now, Madam Chair, what the witness had described as the process of crime reporting is recorded in annexure A to his Affidavit. It is the process of reporting crime. And that, is my understanding, is really what is describe in National Instruction 3 of 2011. Is that right, Brigadier Seimela?

BRIG SEIMELA: That's correct.

MR ARENDSE: Now, this is also what Tshabalala found has not been followed.

BRIG SEIMELA: That's correct.

MR ARENDSE: Now, what is the – is there a problem if, if for you as a crime statistician, is there a problem when this process is not followed? And if so, what is the nature and extent of such a problem?

BRIG SEIMELA: There would be a problem in the process if it's not followed. My understanding, it's that maybe some of the crimes will not be registered on the system. If you go to the crime office, and you are convinced at the crime office that what you're trying to report, to them it's not a crime, then you go back home. You have not reported that crime. I think that will be the issue with me. Non-registration of crimes, convinced by the crime office to say you don't have a case there, there's no crime. That's my issue.

MR ARENDSE: Because when you – when, as a member of the public you're walking in to the CSC and you want to report a crime, the CSC officer who will be a visible person, is supposed to only check the manual to see whether this fits the description of a crime, and then that must be recorded, and it goes onto the CAS system and is then sent through to the crime office.

Would that be just very basically how it (intervention).

BRIG SEIMELA: Ja, that basically – it is the Vispol that is responsible for the registration of crime. And there is a CSC Commander who must check if everything is right, it's correct, in the docket, and also on the system.

MR ARENDSE: And what (intervention).

BRIG SEIMELA: Before it's registered on the system.

MR ARENDSE: Ja. And what has been described in the Tshabalala report is a system where the member of the public is sent, as they say, from pillar to post. You come to the front, they send you to the back and then they send you back to the front. In other words, you go to the – they send you to the crime office, there an interview takes place, and a detective there decides whether this is a crime or not.

And the difficulty with that approach may or may not be that the crime is registered.

BRIG SEIMELA: Ja.

MR ARENDSE: Which is not what is required by National Instruction 3 of 2011.

BRIG SEIMELA: That's correct.

MR ARENDSE: And that then affects – that then affects the data that eventually is released to the public.

BRIG SEIMELA: Yes. That's correct.

MR ARENDSE: And it may or may not add to this error rate that you spoke about earlier.

BRIG SEIMELA: Ja. Ja, ja.

MR ARENDSE: Madam Chair, I think those are my questions.

COMMISSIONER: Can I just ask, a point of clarity, whether the information that's in the report of Major General de Kock is going to be referred to by any of your other witnesses, the material in the report that you discussed with Brigadier Seimela, or is this the –this is your witness on that.

MR ARENDSE: Well, we – I think, I speak under correction, but we had mentioned earlier, and I'm not even sure whether the Commission has granted us leave, but we had indicated that we would prefer to receive these expert reports first, and maybe to respond.

COMMISSIONER: Right.

MR ARENDSE: So at this stage the report was shared with Brigadier Seimela. He's read them, he associates himself with the – and I don't – so the point is, I don't know whether Dr de Kock is going to be called by the Commission and is going to come up with additional or fresh or other reports. And, if so, we'll then deal with it on that basis.

But as we speak ...

COMMISSIONER: Okay.

MR ARENDSE: The only other issue that I wanted to ask Brigadier Seimela, the – Dr de Kock mentioned that this report was commissioned on the 9th July 2012, which is also around about the time of the appointment of the current National

Commissioner. Who commissioned this report?

BRIG SEIMELA: My understanding is it was commissioned by General Tshabalala.

MR ARENDSE: So this is the Tshabalala report marked ...

BRIG SEIMELA: Yes, it's part of the ...

COMMISSIONER: It makes sense from a timing point of view, trying to understand what was happening.

Thank you very much, Mr Arendse.

NO FURTHER QUESTIONS BY MR ARENDSE

COMMISSIONER: I can't remember – I that's right; we're going to go Ms Myosi.

MS MYOSI: First of all, Madam Chair, my leader, Advocate Hathorn, asks that I place it on record that he asked to excuse himself.

COMMISSIONER: Thank you for that courtesy, but that's not a problem at all.

MS MYOSI: Yes.

COMMISSIONER: Please proceed.

CROSS-EXAMINATION BY MS MYOSI:

I don't have a lot of questions for Brigadier Seimela. I think most of the questions I had have largely been dealt with by Advocate Arendse – thank you, Advocate Arendse. And also by his indicating that he associates himself, Brigadier Seimela, with the de Kock report, conclusions and findings.

Your statement at the end there, when Advocate Arendse was leading you, about the error rate, you stated that the non-compliance with National Instruction 3 of 2011, the sending of people from pillar to post, your concern with that non-compliance is the very real result that crimes may end up not being registered at all if people are then convinced by SAPS members at the CSC that what they are here to report is not in fact a crime. Is that right?

BRIG SEIMELA: That's correct.

MS MYOSI: That's too is a concern of the complainant organisations, because there's evidence of such instances that have been led here.

If I may just refer you to two of these ...

BRIG SEIMELA: Okay.

MS MYOSI: And have your input as to what problems you see in those scenarios.

There was evidence led at the Commission by Welcome Mgeke, who had the following to say about an experience of his, I think in 2012 or 2011. He says:

“While I was walking in P Section, a group of seven young boys wearing school uniforms approached me, carrying guns. They pointed the guns at me and they robbed me of all my money and my cellphone. I went to Site B Police Station in order to report the incident. There I spoke to a policeman who told me that I needed to be able to identify the perpetrators in order to open a case. I wasn't able to give them any details because the incident had happened so quickly, and also because I was in a state of shock. The policeman kept asking me detailed questions, for example, the IMEI number of my cellphone, which I didn't know.

After the police officers continued to question me about that, I eventually left the police station, frustrated and without having been allowed to open a case.”

Now, what do you say to that scenario, and how it ultimately then affects crime statistics?

BRIG SEIMELA: What I can say about that scenario is, they should have opened a case of robbery with a firearm. That is very clear. And I'm just not sure – but I think what they are trying to do is to – sometimes they fight figures. They are not fighting crime. That's the reason why they did not register that crime.

MS MYOSI: What do you mean when you say they fight figures, they're not fighting crime?

BRIG SEIMELA: What I mean is, you can have the figures going down, but crime, the crime levels, are still very high. So there's a distinction between the statistics and the reality on the

ground. So this time they are fighting the figures, not the reality.

MS MYOSI: And that distinction between the figures and the reality, really means that the crime statistics often don't reflect the reality of people on the ground. Is that right?

BRIG SEIMELA: That's right. That's why we conduct this crime data quality checks, and we say our average error rate is around 10%.

MS MYOSI: Alright. Now, I said to you I just wanted to refer to two incidents where complainants were prevented from reporting crimes, and so crimes are not registered at all.

The second witness who came to the Commission is Nondembeko Nduna who speaks about an incident that occurred where her cousin was robbed. She was in a shebeen that is run or owned by her cousin. Two police officers came to the shebeen, and they wanted to – they had a bone to pick with the owner of the shebeen. They then went to him where he was sleeping in a room with his cellphone and some money. After they left the cellphone and the money disappeared.

Nondembeko then went to the police station to report her strong suspicion that the two members who had attended at the shebeen were responsible for the missing cash and cellphone. They were then told at the police station that they didn't see the police take this cash or these cellphones, and therefore they couldn't open a case.

Now, where members of the public are complaining about the conduct of police officers, is there a different procedure to how a complaint should be registered, or is it basically the same as when the complaint involves an ordinary member of the public?

BRIG SEIMELA: It should be the same procedure, but I think that that members can do is to go to the IPID.

MS MYOSI: Yes. I understand, though, that the relief Commander, standing order 256 if I may read it to you at paragraph 3.5(f), says the following about the obligations of a relief Commander:

“He must take a statement from any person who lodges a complaint about the conduct of a member, and make any provisional enquiry which must be necessary, and subsequently submit a report to the Station Commander for further investigation, instruction and/or disposal.”

Now, in this scenario of Nontembeko's that I've just read to you, this standing order was clearly not complied with.

BRIG SEIMELA: I agree.

MS MYOSI: Now, again, from a statistics, crime statistics perspective, you have here a crime which is not registered at all, which then also then leads to the ultimate distortion between the crime stats and the crime which is ultimately experienced.

BRIG SEIMELA: No, no, I agree with you 100%, but I still maintain that our error rate is around 10%. And for me 10% is acceptable.

MS MYOSI: Is this the error rate for 2012/13?

BRIG SEIMELA: Ja. Ja, Twenty – ja. Twenty – looking at the stations, what station is that one, if I may ask?

MS MYOSI: The station for Nondembeko Nduna – for Welcome's issue was Site B.

BRIG SEIMELA: Mm. Site B is which station?

MS MYOSI: Khayelitsha Site B.

BRIG SEIMELA: Oh, Khayelitsha Site B.

MS MYOSI: Yes. That's a Khayelitsha station.

BRIG SEIMELA: Oh, Khayelitsha. For 2012/2013, it was 11.9%, which is still between the range of zero to 20.

MS MYOSI: And for Nondembeko's incident – sorry, I'm just checking ...

COMMISSIONER: Just while Ms Myosi is checking that, the error rate presumably would pick up errors in – inconsistencies between the OBs and the dockets, situations when a docket had, as you mentioned, three murders, but it was only reflected as one – but it wouldn't pick up, would it,

circumstances where it had never been reflected in the OB or had never been reflected in a docket.

In other words, the problem, it's really the problem that Advocate Arendse put to you at the outset, of the distinction between recorded or reported and recorded crime, and not reported at all.

So you're wanting to make sure that once a crime is reported, it's recorded. You're closing that error gap.

BRIG SEIMELA: Mm.

COMMISSIONER: But closing the error gap between not reported – and that, you know, the situation of Mr Mgeke, for example, where we refused to take the statement, it has been reported but it's probably not even an OB – maybe it is an OB, I don't know, but that would be – there would be many crimes where they wouldn't be reported, not appear in the OB.

Would the Mr Mgeke example that we talked about, would that have gone into the OB? He went into the CSC, was sent to the back ... No, it probably wouldn't have, would it if they didn't open a docket.

BRIG SEIMELA: I'm not sure what happened in that case.

COMMISSIONER: You don't know.

BRIG SEIMELA: I don't know.

COMMISSIONER: Ja. But the point I'm really putting to you is that the error rate is measuring those factors, not the ones that aren't reported at all.

BRIG SEIMELA: Ja. We're dealing with reported crime. If the crime is not reported, then we won't know about it.

MS MYOSI: Yes. Just on the same point, Brigadier Seimela, your annexure A which describes the process of reporting crime, in paragraph 18 you say there:

"Immediately after a case docket is captured on the CAS, and the case number is generated, the crime will automatically be reflected in the statistics."

BRIG SEIMELA: Ja. That's correct.

MS MYOSI: So these two examples that I've given you, where the members refused to register the crime, there would not have been this process of even opening a document or giving them a case number, and so these are the sorts of experiences of crime which are not reflected or recorded in any manner in the crime stats, in any error rate or anywhere.

BRIG SEIMELA: That's correct. You're 100% correct.

MS MYOSI: If we go to the findings of the task team report, at paragraph 8.2.3, there was a finding that not all complaints are captured directly on the IR – on the Incident Report system. Would this have an implication at all on the ultimate crime stats?

BRIG SEIMELA: I don't think so. From that register the only thing that will be captured on the system will be those incidents that are positive. That's when you open a docket.

MS MYOSI: Yes.

BRIG SEIMELA: Ja.

MS MYOSI: And you give a case number.

BRIG SEIMELA: Ja, give it a case number.

MS MYOSI: Another finding, and it may be covered the evidence you've given is that it was also found that occurrence book entries are not made of all complaints received. How would that impact on the ultimate statistics?

BRIG SEIMELA: That's the other – I have said we check in three things; classification, additional and also the OB and IB. So we're checking that one.

MS MYOSI: Ja. So that is the kind of thing which should be caught in the error rate analysis.

BRIG SEIMELA: Ja It's there. It's covered.

MS MYOSI: Now, the task team then concluded that the data integrity of police reaction times as indicated in the performance charts was questionable, owing to the poor record keeping of complaints received.

Do you agree that these findings justify this conclusion?

BRIG SEIMELA: The reaction time, I wouldn't know about the reaction time.

MS MYOSI: The reaction time.

BRIG SEIMELA: No, I wouldn't know.

MS MYOSI: Another report that has been presented to the Commission as evidence is the tender report. Do you – are you aware of the contents of that report?

BRIG SEIMELA: No.

MS MYOSI: I just want to put a finding, because one of the – they made a finding relating to the high levels of crime, and the crime statistics as they are reported in Khayelitsha, and they surveyed some – they surveyed people who live in Khayelitsha across the three police precincts, and in relation to results about high levels of crime in Khayelitsha, this consultant concluded as follows:

“Half of all survey respondents indicated that either they themselves or a close friend or family relative had experienced crime in the past year, generally on one or two occasions. The prevalence of these crimes, according to the respondents, is far greater than that captured in the SAPS' statistics.”

What do you say to this in light of the fact that, one, a lot of crimes go unreported at all, and, two, even crimes that, as in the case of Welcome Mgeke, are reported, are not registered?

BRIG SEIMELA: No, it's going to be difficult for me to comment on the victim surveys because I didn't see that report, I don't know the sample, what was the sample size, the kind of people that were sampled. So it's going to be difficult for me to comment on that report.

MS MYOSI: Fair enough. But in light – just to end off then, you are in agreement with me, though, that because of the non-compliance with National Instruction 3 of 2011, which results in certain crimes not being registered or recorded at all, certain crimes not even being given a case number, there may be a large group of crimes experienced by community members which don't feature at all in the crime statistics.

BRIG SEIMELA: I wouldn't know, and the term that you're

using, “large”, it’s a relative term. So I wouldn’t know the number. I am a statistician, I need to get an exact number.

MS MYOSI: Alright.

BRIG SEIMELA: So if you say “large”, for me I don’t know what is large.

MS MYOSI: But you do accept that there are crimes that are not reflected in these statistics, large or small, or whatever?

BRIG SEIMELA: No, I accept that.

MS MYOSI: Because of that (intervention).

BRIG SEIMELA: I accept that one.

NO FURTHER QUESTIONS BY MS MYOSI

COMMISSIONER: Thank you, Ms Myosi. Mr Sidaki?

MR SIDAKI: Thank you, Madam Chair.

CROSS-EXAMINATION BY MR SIDAKI:

Brigadier, can you tell the Commission what methodology was used in the compilation of the de Kock, Dr de Kock report?

BRIG SEIMELA: I don’t know. I was not involved in the compilation of the report. What we did as an office, at the Crime Statistics office, is to provide the figures to Dr de Kock, because then he was the head of Crime Research and Statistics. So we only provided the figures to him.

MR SIDAKI: Certainly. So when you say you’re associating yourself with the report, you read it and I suppose you agree with what’s written in it, but you had no involvement in its actual compilation. It’s not your report.

BRIG SEIMELA: It’s not my report.

MR SIDAKI: Correct.

BRIG SEIMELA: Ja.

MR SIDAKI: Now, you – you therefore are not able to give any substantial answers in relation to the substance of the report – do you agree?

BRIG SEIMELA: I agree, ja.

MR SIDAKI: Now, when you say that you – when you go to a police station and – to assess error rates, you say you do it on a basis of sampling of about 300 dockets. Would that be a constant number that you’d use for any police station?

BRIG SEIMELA: Ja, that is a constant number.

MR SIDAKI: And why 300?

BRIG SEIMELA: We – sampling, or a sample, it’s in size – a sample size, it’s influenced by resources. And a sample size, it doesn’t matter the size, as long as it’s representative of the target population. So 300 – because our members go to a station for only one day – so they can only manage to do 300 dockets per day.

MR SIDAKI: Now, if I can take you to the process of crime report that you attached to your statement, at paragraph 9 of that process. You state the whole process, and in paragraph 9 you state:

“The case docket must then be electronically scanned to record the details on the e-Docket system.”

Why is it important for that leg to take place?

BRIG SEIMELA: May before I even answer this question, I must state that this process of registering crime, it’s not the responsibility of my office.

MR SIDAKI: Certainly.

BRIG SEIMELA: But I know what is happening. I think the issue there, it’s if they lose a docket, then they can go back to the system. The information will be on the system.

MR SIDAKI: Yes. What motivated for that particular leg or stage to be included in the – in this National Instruction?

BRIG SEIMELA: I don’t know what motivated it.

MR SIDAKI: Would it be because there's a particular problem in the disappearance, the loss of dockets at stations generally?

BRIG SEIMELA: I'm not sure. I don't know if there – how many dockets get lost or if there is any dockets that get lost.

MR SIDAKI: Yes.

BRIG SEIMELA: Ja.

MR SIDAKI: Now, when dockets are not scanned, as required in that stage 9, what is the consequence?

BRIG SEIMELA: I don't think there's any consequence. If the docket is there, the hard copy's there.

MR SIDAKI: Well, what is the point of having that point nine then, sir, if it's not – if there's no consequence for complying with it? Why have it in the first place?

BRIG SEIMELA: That's why I'm saying I don't know what motivated visible policing to include that in the process.

MR SIDAKI: But it must have been something important for it to be included in a National Instruction.

BRIG SEIMELA: Mm. Unfortunately, I was never informed of the purpose of that.

MR SIDAKI: Yes.

BRIG SEIMELA: Ja. So – so I don't know.

MR SIDAKI: Yes.

BRIG SEIMELA: Yes.

MR SIDAKI: Now, at paragraph 13 of your – paragraph 13 of that process of crime reporting, it's stated that the case docket must then be transferred to the detective service for further investigation. Receipt should be acknowledged on the CAS system by the detective service member receiving the docket.

What is the need for that instruction?

BRIG SEIMELA: That it must be acknowledged?

MR SIDAKI: Yes.

BRIG SEIMELA: I will try to answer the question even though it's not my responsibility.

MR SIDAKI: It's part of your – it forms part of your – of your Affidavit.

BRIG SEIMELA: Ja. Ja.

MR SIDAKI: So we assume that you should be able to talk to this document.

BRIG SEIMELA: Okay. I think it's very important for record keeping, just to know where is this docket. If you're looking for the docket, who has the docket.

MR SIDAKI: Why is that important?

BRIG SEIMELA: For – I'm trying to think now, trying to think because ... as I've indicated, that it's not my responsibility, but...

MR SIDAKI: Yes.

BRIG SEIMELA: Ja.

MR SIDAKI: Well, it's important for other things so that dockets can be traceable, one can be able to follow ...

BRIG SEIMELA: Ja.

MR SIDAKI: Where dockets are at a given – at any given point. Correct?

BRIG SEIMELA: Ja, correct. Correct.

MR SIDAKI: And when that instruction is not followed, there's a possibility that dockets could get lost and could not be traceable. Do you agree with that? It would be easy to trace dockets (intervention).

BRIG SEIMELA: Ja, it would be easy to trace dockets.

MR SIDAKI: There's no acknowledgement of receipts from one person to the next.

BRIG SEIMELA: No, it would be easy to trace them, ja.

MR SIDAKI: I'd just like to give you a copy of – Madam Chair,

it's the SCCF minutes at Harare Police Station which we covered yesterday.

COMMISSIONER: Mr Sidaki, I just want to remind you that my colleague has an aeroplane to catch, and we still have to give Mr Arendse some response time. So I – unless you think it's absolutely crucial, I think we need to give Mr Arendse an opportunity to do re-examination. Do you think this is central?

MR SIDAKI: Okay. I have nothing further, Madam Commissioner.

NO FURTHER QUESTIONS BY MR SIDAKI

COMMISSIONER: Is that alright? I'm sorry to cut you short. I know we'd given you till 5, but we had forgotten to give Mr Arendse a reply, and I certainly don't want Advocate Pikoli missing the plane.

Mr Arendse, do you have any questions in re-examination?

MR ARENDSE: Just two (inaudible).

COMMISSIONER: If you can put your microphone on.

MR ARENDSE: Sorry. Not even two questions. Just sort-of re-directing the focus of Brigadier's Seimela's evidence.

RE-EXAMINATION BY MR ARENDSE:

And just to confirm, Brigadier. The crime statistics which is your area of expertise, is really subject to two things. The one is there is what is described as an "error rate". Now, that error rate can be determined by, for example, doing a random check at a police station and going to sample 300 dockets, and then you're able to see by looking at the occurrence book, for example, where there's any entry, and then maybe a crime docket was in fact not opened and then you can see the difference.

And I think that is what the Commission also picked up and said. But the other issue, and my colleague, Adv Myosi, also said then there's the other problem where crime is just not being reported at all. And that is maybe an area which is now being enquired into by the Commission, why, and that could relate to confidence in the police, police inefficiency, even corruption. There may be reasons why a matter is just not being recorded at all. That is how I understand your evidence to be.

BRIG SEIMELA: That's my understanding also.

MR ARENDSE: And the error rate, what appears to be – I know that Advocate Sidaki asked you about it, but it seems to me that the error rate is – there's an attempt to address that by this National Instruction 3 of 2011.

BRIG SEIMELA: That's correct. Also the task team that was established by the former National Commissioner.

MR ARENDSE: Okay. So that's that issue.

Then the only other issue is, relates to National Instruction 3 of 2011. It seems that it does address one – it

seems to want to ensure that nothing is missed in terms of the recordal and registration of crime. That should result in the opening of a case docket, and then it goes on to describe – and this is really for the detective service commander, and it's not really your area of expertise, how they should then ensure how case dockets are inspected, and how they are dealt with, etc.

BRIG SEIMELA: That's correct.

MR ARENDSE: Thank you, Madam Commissioner.

NO FURTHER QUESTIONS BY MR ARENDSE

COMMISSIONER: I just have one question, Brigadier, and that – or maybe two – but the first is that am I right in understanding that one of the operational reasons for the delay in the publication of crime stats to April – September of every year, is to ensure that the process you've described to us to identify error rates and so on has been done so that the crime statistics are accurate?

BRIG SEIMELA: That's correct. We purify them. Ja.

COMMISSIONER: Sorry?

BRIG SEIMELA: We purify the stats.

COMMISSIONER: Okay. And you do that between April and September in particular, do you?

BRIG SEIMELA: It's a continuous process.

COMMISSIONER: A continuous process. Okay.

BRIG SEIMELA: Ja, a continuous process.

COMMISSIONER: So that the delay is not only as a result of that. It's for other reasons as well.

BRIG SEIMELA: Ja. That policy is the policy of the Minister. He's the only (intervention).

COMMISSIONER: That's the policy of the Minister. Okay.

BRIG SEIMELA: Ja, The Minister, ja.

COMMISSIONER: And the other question which is related to that is that one of the things, it seems, that we've had evidence on, is that the confidence of the community is actually about knowing that they're safe and about knowing about crime. So there is a tension between providing information to the community and ensuring that it's accurate. Would you agree with that?

BRIG SEIMELA: No, I agree.

COMMISSIONER: And that in identifying just 20 crimes, which is, I understand, what the annual crime statistics do, it's a process of, in some ways, simplification of the crime picture, that we don't – we don't list all crimes; we just identify 20. Is that correct?

BRIG SEIMELA: Ja, but there're other crimes that are on the – on the police website.

COMMISSIONER: On the police website. So it's just the 20 that are published and the remainder (intervention) the website.

BRIG SEIMELA: In the – ja. Ja.

COMMISSIONER: Thank you. ... Thank you very much indeed, Brigadier. We're very grateful for your testimony.

WITNESS EXCUSED

COMMISSIONER: And I think that brings us to a close today, absolutely spot on 5 o'clock, so congratulations to all, and that you to all the legal representatives for their hard work today to make that possible. And we will try to issue similar timeframes for next week to try to ensure that we do finish within the times.

What we'll try and do is do them in an informal way initially so that legal representatives can come back to us and say, actually, I need a bit more time here, or in fact I need less - I hope you might even sometimes say! And we will then finalise those.

Oh, yes. And the starting time next week, we should start at 9 o'clock each day unless we make a different ruling, but we'll start at 9 o'clock on Monday morning and will expect to run until 5.

So the proceedings of the Commission will now adjourn until Monday, the 24th of March.
Thank you.
TRIBUNAL ADJOURNS TO 24 MARCH 2014 (at 17:00)