

Commission of Inquiry into Policing in Khayelitsha established in terms of section 206(5) of the Constitution

HANDOVER STATEMENT BY COMMISSIONERS

1. This Commission of Inquiry was established in terms of section 206(5) of the Constitution and asked to investigate complaints of police inefficiency and an alleged breakdown in relations between the South African Police Services and the Khayelitsha community. The Commission has now concluded its work, and today we have returned to Khayelitsha to give you a brief account of what we have found.
2. Before turning to outline our findings, it is important to explain, as we did at the start of the Commission's public sittings, that the Commission's roots lie in two different but equally important parts of our Constitution. The first relates to the rights of citizens. Section 12 of our Constitution states that everyone has the right to freedom and security of the person, which includes the right "to be free from all forms of violence from either public or private sources". The right to be safe from violence in one's community and elsewhere is thus a key constitutional right.
3. The second relevant aspect of our Constitution is the constitutional principle that the exercise of all public power must be consistent with the law and the Constitution and give effect to the constitutional values of accountability, responsiveness and openness. In order to ensure that public power is exercised accountably, responsively and openly, the Constitution creates a range of checks and balances on the exercise of power. A system of checks and balances in a constitution is often referred to as the separation of powers. Checks and balances in our constitution take many different forms: for example, the national Parliament is entrusted with the task of "scrutinising and overseeing executive action". Chapter 9 institutions such as the Auditor General, the Public Protector and the South African Human Rights Commission have specific powers and tasks all aimed at creating checks and balances on the exercise of power to promote accountability, responsiveness and openness in our constitutional democracy.
4. The mandate of this Commission thus needs to be understood in the light of the constitutional rights of citizens and of the broader constitutional framework of checks and balances. Chapter 11 of the Constitution (where the power to establish this Commission is found) regulates the security services: the Defence Force, the Police and the intelligence agencies. Its opening clause (section 198(a)) states that "[n]ational security must reflect the resolve of all South Africans, as individuals and as a nation, to live as equals, to live in peace and harmony, to be free from fear and want and to seek a better life". Moreover section 199 makes plain that the security services, including SAPS, and their members have a duty to act without favouring or prejudicing any particular political party.
5. Section 205 provides that the objects of the SAPS are to prevent, combat and investigate crime, to maintain public order, to protect and secure the inhabitants of our country and to uphold and enforce the law. SAPS, therefore, has a key role to play in ensuring that people's constitutional rights to security of the person are respected.
6. Although the Constitution makes plain that the police service is a national institution under the control of the national executive, the monitoring of the police service is not an exclusive national power. Instead the Constitution provides that provincial governments are entitled to monitor police conduct, oversee the effectiveness and efficiency of the police service, promote good relations between the SAPS and the community, assess the effectiveness of visible policing and liaise with the national Minister responsible for policing

in respect to crime and policing in a particular province. The power to establish a commission of inquiry to investigate complaints of police inefficiency is closely related, therefore, to the constitutional role of provincial governments in monitoring and overseeing policing.

7. The Commission undertook its work conscious of the constitutional principles which inform its mandate, and especially conscious of the constitutional right of the people who live and work in Khayelitsha to safety and security. The Commission established its offices in Khayelitsha, held its hearings here and returns to Khayelitsha today to describe its findings because the work of this Commission is primarily concerned with the safety of the people who live and work here. It is their safety and their rights that have been at the centre of the work performed the Commission.

8. As most of you know, the Commission was appointed almost exactly two years ago in August 2012. Shortly thereafter it opened offices in Harare, here in Khayelitsha to start to investigate allegations of inefficiency and a breakdown in the relationship between the community and the SAPS. The Commission's offices remained open to the public for many months and many members of the public came to make statements to the Commission.

9. The Commission has a website which contains all the information relevant to the work of the commission: www.khayelitshacommission.org.za It contains the notices of the Commission, its terms of reference, photographs taken during the inspection in loco, the transcripts of its hearings, and from today it will also host the substantial documentary record compiled by the Commission, and of course our report.

10. It is important to realise that the Commission was not a court. It was undertaking an investigation, not determining whether any person has committed a crime or whether any person is liable to any person for harm caused. The focus of the Commission is forward looking. The fact that the Commission was conducting an investigation, and that its focus was forward-looking was material in determining its processes. Another consideration that was key in designing our processes were the constitutional values of accountability, responsiveness and openness, that the Commission had to embrace, as all public institutions must.

11. The work of the Commission was delayed for almost a year by a court application challenging its establishment and powers. In October 2013, the Constitutional Court handed down a unanimous judgment dismissing the challenge. Since then, the Commission has held two phases of public hearings: the first took place between January and March, and the second in May. The Commission also called for documents from SAPS and other key role-players, including DOCS, the City and IPID. The Commission compiled an electronic record, which is a richly informative database on SAPS' performance in Khayelitsha. It is vast, probably containing at least 50 000 pages, and probably far more.

12. In the first phase, the Commission heard the evidence of 87 witnesses. 14 were individual members of the community who had approached the Commission to lay complaints about the conduct of SAPS. They constituted only a small proportion of such people: in all the Commission received statements of 170 complainants, either directly, or from the complainant organisations. A selection of these had to be made, but all the statements are available in the Commission's record. In addition to the 14 individual witnesses, the Commission heard the evidence of 8 community activists, 5 community elders or leaders, including a priest, two school principals and two members of the

Khayelitsha Development Forum and 7 witnesses who were members of Community Police Forums, 5 of whom were from Khayelitsha.

13. Then the Commission heard testimony from 15 experts on a range of issues including the history of Khayelitsha, its social and economic conditions, as well as the effect of exposure to excessive violence on young people, the problems of policing of domestic violence in Khayelitsha, the experience of foreign nationals of policing, and the troubling issue of vengeance attacks or vigilantism.

14. In the first phase as well, the Commission heard the testimony of 15 witnesses who work for key government departments with a responsibility for Khayelitsha: Dr Lawrence, the head of DOCS, Mr Thabo Lehlo from IPID in the Western Cape, Ms Rochelle Harmse, the Senior Public Prosecutor in the Khayelitsha Magistrates' Court, Dr Genine Josias from the Thuthuzela Care Centre, Ms Thompson, Professor Wadee and Mr Jones from the Forensic Pathology Service at Tygerberg Hospital, Mr Phumzile Papu from the Emergency Medical Services, Mr Richard Bosman, from the City Safety and Security Division, and Mr Giles and Ms Mtwana from VPUU.

15. Finally, in the first phase, the Commission heard the testimony of 23 SAPS witnesses, starting from the three station commanders, and detective commanders from Khayelitsha Site B, Lingelethu West and Harare, the cluster detective co-ordinator and two former cluster commanders, three senior police officers from national office, and then nine senior officers from the provincial office, including the Provincial Commissioner and four Deputy Provincial Commissioners. The testimony provided by the 23 SAPS witnesses, together with the thousands of pages of documents provided to the Commission by SAPS, gave us unique insight to the working of SAPS as an institution.

16. In the second phase, we heard the testimony and received reports from more than 25 expert witnesses. Their insights and recommendations have been of great assistance to the Commission in drafting its recommendations.

17. The Commission has concluded that Khayelitsha is a particularly difficult area to police. There are several reasons for this: Khayelitsha was established in the last days of apartheid, as part of a struggle to establish the right of African people to live in this City. It was a hard and bitter struggle, whose legacy has not yet been eradicated. As Josette Cole told the Commission –

‘At one level, Khayelitsha can be viewed as a living spatial symbol of the thinking, attitudes and kind of apartheid urban planning logic that prevailed in the late 1970s and 1980s. At another level it is also a testament to the power of the human spirit, and of social agency, and determination in the making of a place city, especially for those classified black African under apartheid.’

18. Secondly, Khayelitsha is very poor. Its residents take home half the income of the residents of the rest of the City, R20 000 per year, while the City median is R40 000. More than half of the approximately 118 000 households in Khayelitsha live in informal dwellings. Many people have no toilet in their homes, nor running water. Moreover, Khayelitsha is not a long-settled community. More than 85% of residents in the informal neighbourhoods of Enkanini and Endlovini were born in the Eastern Cape. The social cohesion that comes from longstanding neighbourly relations and from living in conditions of comfort, is absent in many parts of Khayelitsha.

19. Thirdly, Khayelitsha has a very high crime rate. If the three police stations' recorded murder rates are tallied, greater Khayelitsha has the highest murder rates in the country, as well as the highest rates of aggravated robbery, of assault with intent to do grievous bodily harm and of sexual offences. Even disaggregated, Khayelitsha Site B and Harare are in the top five for murder. Moreover, it seems clear to the Commission that a large number of crimes are not reported in Khayelitsha. The survey we commissioned suggests that reporting rates are only 60%. Crime rates are therefore probably much higher than the SAPS recorded figures suggest. The daily experience of crime was described by Ms Phumeza Mlungwana, the SJC general secretary, as follows –

“... robbery in Khayelitsha is something more; you get robbed. You go into the shop, you get robbed. You go into school, you get robbed; you go into work, you get robbed.”

And Mr Sifiso Zitwana, an SJC member said –

“No one walked to school alone because there would be a 100% chance the gangs would take you down. If we walked in groups sometimes they would not rob us, only harass us. If they came to rob us, and we were in a group, we could run in different directions and the gangsters would not be able to catch all of us.”

20. The Commission was not surprised then when the Mthente survey showed that most people in Khayelitsha feel unsafe most of the time. An alarming 62% of people feel unsafe in their own homes during the day.

21. These three factors – a difficult history, the heavy burden of poverty, and the high rates of crime make Khayelitsha particularly hard to police. And so the SAPS members who testified before us told us . Colonel Nel said coming to Khayelitsha was like coming to a “police university”. Brigadier Mlenga told us that “Khayelitsha demands too much from a person that works in Khayelitsha, you don't rest”.

22. The Commission has identified serious, overlapping inefficiencies in policing at Khayelitsha. They are set out in great detail in the report. They include –

☒ SAPS does not appear to conduct regular patrols of informal neighbourhoods in Khayelitsha, despite the large number of people who live in such neighbourhoods. One of the reasons for this is that it is difficult and personnel- intensive, as the ordinary “two SAPS members in a vehicle” model of patrol, is not possible in informal neighbourhoods. One of the former station commanders said this means that the policing of informal neighbourhoods is “neglected”. Many community members told the Commission that they were unhappy with levels of visible policing. The Commission is of the view that there are two reasons for the failure to patrol informal neighbourhoods, one relates to shortages of personnel, a matter to which we return in a minute, and the other to the absence of clear guidelines as to how patrols in informal neighbourhoods should take place.

☒ SAPS does not answer telephones reliably at the three police stations. Witness after witness complained of this.

Witnesses also complained of the fact that SAPS often did not respond at all to emergency calls for assistance, or often responded only after a long delay.

☒ The evidence overwhelmingly suggests that the quality of detective work in Khayelitsha is very poor. Many cases are simply not investigated properly or at all. This does not mean that no cases are investigated properly, but the proportion of cases reported to Khayelitsha that result in convictions is tiny – possibly as few as 1%. Moreover, detectives very rarely provide regular and comprehensive feedback to complainants or bereaved family members. There is a range of reasons for this: the first is that the detectives are simply overburdened with work. As Brigadier Dladla said in his testimony –

“You know in the movies, when you see in the movies, you see a team of detectives descending to a crime scene attending to a docket, but here in Khayelitsha you have a team of dockets descending on a detective”!

And Colonel Marais said --

“the reality is there is not enough hours in a day, there is not enough days in a week, there is not enough investigators”.

Many detectives are carrying more than 150 dockets some more than 200. It is not manageable. In addition to the shortage of detectives, there also appears to be problems with training of detectives, and with the facilities provided to them. Detectives, for example, are not given SAPS email addresses, nor access to the Internet, although they do have tablets. The Commission notes that the Public Service Commission identified the problems with the detective service in 2011, as well as the shortage of detectives, and problems relating to both recruitment and training were also mentioned in the 2013 Policing Green Paper.

☒ Detectives also fail to take dockets to court which results in the charges being withdrawn or the cases being struck off the roll. The Commission has established that there are dockets every week that do not get delivered to court. This is a serious inefficiency that has grave implications for complainants, witnesses and family members.

☒ Policing at the three Khayelitsha police stations does not appear to be intelligence-based. Although each of the police stations has a crime intelligence officer, the system of crime pattern analysis, case linkage analysis and investigation by CIOs seems not to be done, which led Dr De Kock to describe policing as being “policing by chance and luck” rather than intelligence-led policing. The Commission concludes that the reason for this relates to lack of training of the personnel.

☒ Crime scenes are often not secured and managed properly in Khayelitsha, which impairs the process of the gathering of forensic evidence. This failure appears to have several causes, including inadequate training, as well as the challenges that police face in informal neighbourhoods, where houses are closely packed, and there is not adequate lighting at night.

☒ Evidence before the Commission also suggests that a number of people are arrested, detained and then released without charge at each of the police stations. It appears that there may be a practice of arresting people who are not suspected of having committed an offence, perhaps in order to meet performance targets or for other reasons. Moreover, it is also clear that detainees are sometimes held for longer than is permitted by the Constitution or the Criminal

Procedure Act. Both of these problems are worrying and require attention.

☒ The Khayelitsha Family Offences Sexual Violence and child Protection Unit (the FCS Unit) is clearly dysfunctional. Colonel Harri who is the head of FCS Units in the province told the Commission that it is the worst performing FCS unit in the province. Other witnesses, including Dr Josias of the Khayelitsha Thuthuzela Care Centre and Ms Harmse the senior public prosecutor at Khayelitsha Magistrates' Court confirmed this. Dr Josias noted that the FCS unit was not well managed, and also suggested that the detectives at the FCS Unit may be burnt out.

☒ The Commission has concluded, on the evidence, that vengeance attacks, or vigilante attacks are widespread in Khayelitsha. SAPS does not keep separate statistics of these attacks so their prevalence is uncertain. Many of the witnesses who testified about these attacks suggest that the poor quality of policing in Khayelitsha is a contributor to such attacks, but that there are other contributing factors as well. Dr Gobodo Madikizela told the Commission that the shared sense of grievance and anger amongst the community at the high levels of crime is one cause. Another was mentioned by Mr Tyhido a senior member of the KDF who said –

“I will tell you, because I am young, I am in my early 40s here in the township, we talk when we're having beers, we talk about what is the quickest measure to get your thing back when it is stolen ... just give him a few knocks and get it back before you go the long route of the police.... I am not saying they are right ...”.

Yet the evidence also suggests that 75% of residents of Khayelitsha consider vengeance attacks to be wrong, and they do not approve of them. It is also clear that when a vengeance attack is happening, it is difficult to intervene and stop it. It is also clear that it is hard for SAPS to find witnesses to such attacks. Colonel Nel said –

“with the arrival of the marked vehicle, they disappear into the structure. Witnesses don't want to identify anyone. It's like it's being committed by ghosts.”

One young Khayelitsha resident told Dr Gillespie, one of the researchers who testified on these attacks, that

“I became involved in the campaign to stop vigilantism because people will be cheering when young black people were killed, and no one seems to mind because they were so-called criminal. People cheering like their favourite soccer team had scored a goal.”

The Commission shares the concern that the victims of these attacks are often young men who are suspected of committing offences such as theft and housebreaking. The Commission also notes that vengeance attacks constitute criminal offences, assault, attempted murder and murder. Viewed as a form of retribution, they are generally entirely disproportionate to the nature of the offence and moreover they sometimes target the wrong person. SAPS appears to have no policy for dealing with vengeance attacks in place in Khayelitsha despite the frequency with which they occur.

☒ The Commission also concludes that the three Khayelitsha police stations are not fully compliant with the Domestic Violence Act, and National Instruction 7/2009

that regulates the policing of that Act.

☒ There is an established relationship between alcohol abuse and contact crime. A high proportion of the contact crimes in Khayelitsha happen on weekend nights when perpetrators and victims are drunk. There are apparently 1400 unlicensed taverns in Khayelitsha and only 35 licensed ones. The CEO of the Western Cape Liquor Authority told the Commission that licensed taverns tend to be more compliant with rules regulating the sale of liquor than unlicensed taverns. Yet SAPS does not appear to have a clear policy on the policing of unlicensed taverns in Khayelitsha.

23. There are many reasons for the inefficiencies identified by the Commission. These include –

☒ The fact that at least two of the Khayelitsha police stations, (Khayelitsha Site B and Harare) seem to be substantially under-staffed. Human resources are allocated within SAPS on the basis of a mechanism called the THRR (Theoretical Human Resources Requirement). Harare has the lowest police to population ratio in the Western Cape (at 111,32 police per 100 000 residents) and Khayelitsha has one of the lowest at 190, 46 per 100 000. SAPS could provide no explanation why police stations that have very high crime rates and extremely difficult policing environments should have the lowest police to population ratios in the province. The Commission considers that the problem lies with the THRR's design, which appears to display a systemic bias against poor areas, particularly those inhabited by African and Coloured people. The Commission notes that this problem has persisted partly because the THRR is not in the public domain and so is shielded from scrutiny.

☒ Management issues: SAPS knows about many of the inefficiencies that the Commission has identified in the SAPS units in Khayelitsha and yet SAPS management in Khayelitsha (both at the police stations and the cluster office) and in the province have not fixed them. In this regard, the Commission notes that it has found that basic SAPS management practices such as first and second level inspections of registers are not reliably performed at the three police stations. There are many reasons for management's failure to address the inefficiencies at the three police stations. They include the fact that there is no strategic management plan in place to remedy inefficiencies, that human resources systems are weak at least in application in Khayelitsha and the fact that the use of information technology is noticeably sub-optimal.

☒ The SAPS Station Performance chart is a sophisticated measurement tool but a significant portion of its measurement relates to the reduction of crime, a matter, by and large, that is beyond the control of SAPS, so setting an "impossible mandate" for police stations, as several witnesses pointed out. Moreover, the Chart does not measure external indices of community satisfaction with SAPS service, which means that there is no benign incentive upon SAPS measures to ensure customer satisfaction.

☒ There has been a failure of oversight of SAPS at the three police stations. One of the reasons for this has been the disagreement between SAPS and DOCS as to the constitutional mandate of DOCS.

24. The Commission has also concluded that there is a breakdown in relations between the Khayelitsha community and the SAPS members stationed in Khayelitsha. In reaching this conclusion, it should be noted that the Commission does not find that there is an irretrievable or irreparable breakdown, but a breakdown that is characterised by a significant level of distrust amongst members of the community in Khayelitsha. Reasons for the breakdown, in the view of the Commission, include the following –

☒ Khayelitsha's difficult history and the burden of poverty it still bears;

☒ widespread perceptions that SAPS does not respond promptly to calls for assistance; and does not investigate crime properly or at all;

☒ Community Police Forums in Khayelitsha have not contributed significantly to improving relations between the community and SAPS for a variety of reasons;

☒ complaints against members of SAPS in Khayelitsha have not been dealt with thoroughly, fairly or promptly, by either SAPS or IPID – and there is a worrying pattern whereby most complaints are found to be unsubstantiated after very little investigation even where the complaints are very serious and involve injury to a member of the public caused by a SAPS member;

☒ many SAPS members do not act consistently with an understanding that policing is a “service”, and members of the public are often not treated with respect by SAPS members; and

☒ vulnerable groups such as LGBTI people and foreign nationals report particularly high levels of discourteous and discriminatory treatment by SAPS members.

25. In the light of its conclusions, the Commission has made a range of recommendations. Key recommendations include –

☒ Each police station adopt a Community Policing Commitment in consultation with members of the community in which SAPS pledges, amongst other things, that its members will treat people with respect, that undertakes to respond to calls for assistance within specified times; that undertakes to provide feedback relating to the process of criminal investigations regularly to complainants; that undertakes to conduct visible policing patrols in both formal and informal neighbourhoods, as well as providing support to Neighbourhood Watch patrols; that asserts that vengeance or vigilante attacks by community members constitute criminal offences and will be dealt with by SAPS accordingly.

☒ The adoption of a procedural justice model of policing in Khayelitsha in which SAPS acknowledges that the manner in which policing is performed is important to

building a relationship of trust with members of the public, and that accordingly, SAPS will take steps to ensure that every interaction between a member of SAPS and a member of the public will be respectful of the rights of the member of the public; that policing strategies will be assessed to ensure that they are procedurally just; and that SAPS will treat its own members fairly and with respect.

☒ The establishment of an oversight and monitoring team to ensure that the inefficiencies identified at the three Khayelitsha police stations are eradicated. The team will comprise senior SAPS officers from the province, the police stations, and a member of the provincial secretariat as well as an independent policing expert from civil society or academia. The team will report both to the SAPS National Commissioner and to the Western Cape legislature.

☒ A change management process for leadership within the Khayelitsha cluster, the Khayelitsha FCS Unit and the three Khayelitsha police stations to develop a 3 – 5 year strategic plan to address inefficiencies and the breakdown in relations between the community and SAPS in Khayelitsha.

☒ A strategic review of detective services in Khayelitsha by the Provincial Commissioner, as well as the urgent redeployment of at least ten experienced detectives to Harare and Khayelitsha Site B police stations, as well as backlog teams to be allocated to all three police stations and the FCS Unit.

☒ The review of the SAPS mechanism for determining human resource allocation (the THRR) to be initiated by the National Commissioner immediately. The allocation system that is adopted must be published in the SAPS Annual Report and available to key oversight agencies, including Parliament, the Civilian Secretariat, and provinces.

☒ The review of the SAPS station performance chart to ensure that it contains external measures of public confidence in SAPs, and reduces its weighting of crime reduction targets.

☒ The development of a policing strategy to deal with vengeance or vigilante attacks in Khayelitsha based on the premise that such attacks constitute criminal offences and aimed at preventing such attacks.

☒ The establishment of a multi-sectoral task team to address the problem of youth gangs in Khayelitsha to be convened by DOCS.

☒ A provincial task team to survey community attitudes to liquor licensing, unlicensed liquor outlets and the distribution of liquor generally in residential neighbourhoods with a view to developing a policy to regulate liquor outlets.

☒ Various recommendations to improve the policing of domestic violence.

☒ A recommendation that SAPS appoint a strategic task team in the province to investigate the use of information technology in relation to identified issues.

☒ Review of the procedures by which complaints against members of SAPS are dealt with both by SAPS and IPID, and in particular that complaints against members of SAPs in Khayelitsha be investigated by the Khayelitsha cluster office rather than the police stations or units operating in Khayelitsha.

☒ A memorandum of understanding to be entered into between DOCS and SAPS to facilitate DOCS carrying out its constitutional mandate to monitor police conduct and oversee police efficiency and effectiveness, especially to regulate police station visits by DOCS and investigation of complaints of police inefficiency by DOCS.

☒ An investigation by SAPS, the City of Cape Town and the Metro Police as to the optimal use of CCTV cameras in Khayelitsha to take place as a matter of urgency.

☒ SAPS takes step urgently to improve the physical infrastructure of the Lingeletu West police station; and also prioritises providing further office space to the Harare and Khayelitsha Site B police stations.

☒ SAPS build the Makhaza police station as a matter of urgency, and ensure that the building of a new police station will increase the personnel in Khayelitsha considerably, and not merely reallocate personnel from Harare to Makhaza.

26. The Commission points out that the fact that there are serious inefficiencies in the three Khayelitsha police stations and the Khayelitsha FCS Unit does not mean that there are not many committed and diligent members of SAPS posted in Khayelitsha who are seeking to perform their duties to the best of their ability within available resources. The Commission accordingly requests that those who read the report should bear in mind that the Commission has, as its mandate requested, focussed on identifying the inefficiencies of policing in Khayelitsha. That there are such inefficiencies does not mean that there are not aspects of policing that are efficiently performed, nor that there are not members of SAPS, of every rank, who strive to provide a professional policing service in Khayelitsha. It is important, in fairness, to acknowledge that there are members of SAPS who perform their duties daily in difficult circumstances in Khayelitsha.

27. The Commission also requests that those people who read this report, in the first place, you Madam Premier and the members of your provincial Cabinet and provincial legislature, as well as members of the opposition in the province, as well as the national Minister of Police, members of the national Cabinet, and Parliament, to remember, as you formulate your response to the report, that the most important consideration in assessing this report is the need to improve the safety of people who live and work in Khayelitsha.

This is a strategic goal of both national and provincial government.¹ It is unlikely that those strategic goals will be advanced if those who read and comment on this report, forget that its recommendations are aimed solely at improving the quality of life of the people of Khayelitsha, and instead comment on the report in a manner that engages in a transient dialogue focused on political point-scoring. Mr Welcome Makele noted in his testimony that –

“We do try and work together but if we could just remove politics from the issues of crime and violence in Khayelitsha. Our biggest issue in Khayelitsha is involving politics in our crime and violence issues because crime is not a political issue, it is a problem that we all experience here in Khayelitsha.”

¹ National Planning Commission, Strategic Outcome 3 (2010), “that all people in South Africa are and feel safe”. Cited in 21st Century Pay Solutions expert report Record Bundle 12(1), Item 4, at para 16. Also see SAPS Strategic Plan 2010 – 2014, Outcomes Oriented Goal 1: “All people in South Africa are and feel safe.” Cited in 21st Century Pay Solutions expert report Record Bundle 12(1), Item 4 at para 16. See also Strategic Objective 5 of the Western Cape provincial government “increasing safety to drive an objective of safety and security broadly with diverse stakeholders”. Dr Lawrence’s Statement Record Bundle 2(3), File 13, Item 6 at para 55.

28. A similar point was made by Lieutenant General Lamoer when he said that SAPS found it hard to build relationships with the community because

“... every political person wants to push his or her own agenda, and we are not in that. We are there in service delivery for the community.”

29. In this regard, the Commission agrees with the British NGO Liberty, which told a recent commission into policing in the UK that –

“... the political independence of the police is as important in a democracy as the political independence of the courts. Political parties come in and out of power but those responsible for delivering public services, like the police, remain in post regardless of the ebb and flow of political opinion. This is what allows every individual in a community to feel protected by the police regardless of their race, religion or political affiliation. It is therefore vital that the police maintain their political independence. If the police become too closely associated with one political party, it is inevitable that faith in the police will be damaged.”

30. As described briefly in Chapter 3, the work of the Commission was made more difficult by high levels of political contestation about its mandate, not only at the national and provincial level, but also within Khayelitsha itself. The Commission has nevertheless sought to carry out its mandate fairly, expeditiously and in the interests of enhancing the safety of the residents of Khayelitsha, a goal that both national and provincial government share. The Commission hopes that that the shared object of enhancing the safety of Khayelitsha residents will be the only object that informs the response to this report both at national and provincial level and within SAPS itself.

31. We note that SAPS told the Commission that it has been looking forward to the Commission’s recommendations. Indeed, the Provincial Commissioner, Lieutenant General Lamoer told the Commission that –

“My management accepts and welcomes any intervention from anybody to better the service to the community and we really look forward to the outcome of this Commission so that we can see and evaluate how can we better the service to the various communities that we serve because we will not only use the outcome of this Commission for the three police stations but we will look broader in the Western Cape itself ...”.

32. At this stage, we wish to note that the campaign to establish a commission of inquiry was ignited by the brutal murders of several young women here in Khayelitsha, who were lost to their families, their loved ones and their friends in the flush of youth. Since we have learnt of the murders of Zoliswa Nkonyana, Nandipha Makeke, Lorna Mlofana, we have learnt of the murders of many others. Each leaves a circle of loss and pain. To name but a few: Andile Ntsholo, Lethabo Thosholo, Xolisile Tame, Andisiwe Msongelwa, Ntombozi Ngqono, Thulani Ngqono, Alude Ngqono and Siphosetho Magadla. Please may we ask you to rise for a minute to remember them.

32. The Commission notes that the complainant organisations called for a partnership with SAPS to address the problems of crime and violence in Khayelitsha. Phumeza Mlungwana said –

“I think all communities should acknowledge that SAPS cannot do this alone.”

And Funeka Soldaat, of Free Gender, told the Commission how important SAPS is to the gay and lesbian community. “They are the most important people in our lives”, she said.

33. This was acknowledged by the Task Team established by the late Lieutenant General Tshabalala and led by Major General Rapudi –

“It is of fundamental importance to acknowledge that the community is still reaching out to the SAPS and has a dire need to forge mutually beneficial partnerships. ... SAPS should embrace the opportunity created To reach out to the community.”

34. As Commissioners, we think the Task Team was right. We hope that our investigation into the problems of policing in Khayelitsha will provide a solid foundation for a new partnership between the people of Khayelitsha and SAPS. We are sure that that is what the people of Khayelitsha hope will emerge from this Commission, and we also think it is what SAPS hope for as well.

35. In conclusion, we would like to note that as Commissioners we only had a small team to assist us: two evidence leaders, Nazreen Bawa and Lihle Sidaki, its secretary, Amanda Dissel and an administrator, a post first filled by Ronald Menoe, and latterly by Khangelani Rawuza. To say that all these people went the extra mile is an under-statement. They worked day and night and weekends to make sure our work could be completed expeditiously, but without compromising the breadth or depth of our investigations. We would like to thank all of them for their dedication, imagination and sheer hard work.

36. But it is as important to note, and we pertinently draw this to the attention of SAPS, that although we had a tiny team, there were many people from all walks of life who, out of their concern for the safety of the people of Khayelitsha and their commitment to the idea of a democratic, responsive, open and accountable police service, helped us at every step in the road. Almost no doors were closed to us. Nearly every time we asked, assistance was generously provided. We are sure that if SAPS, and the people of Khayelitsha, ask for that assistance they too will find that willingness to help. South Africa is blessed with a committed civil society, engaged and thoughtful research scholars and remarkable good

will in many places in government and civil society. In building the partnership between SAPS and the community of Khayelitsha, these resources will be of immense value and we encourage both SAPS and the people of Khayelitsha to draw upon them.

37. In closing these remarks, we record our hope that the vision set out in the Preamble of our Constitution may, as we go forward, be brought a little nearer for the people of Khayelitsha: a vision in which the quality of life of all citizens may be improved and the potential of each person may be freed.

Kate O'Regan and Vusumzi Pikoli Cape Town 25 August 2014