

*Mr. Premier
Office of the Premier
Cape Town*



PM 1/4 [2011/4980]

3 September 2012

The National Minister of Police

Attention: Minister EN Mthethwa

Per Fax: 012 393 2819


And per email : MashegoAmeliah@saps.gov.za ; XubaN@saps.gov.za

Dear Minister Mthethwa

**COMPLAINTS REGARDING ALLEGED POLICE INEFFICIENCY AND A BREAKDOWN
IN POLICE-COMMUNITY RELATIONS IN KHAYELITSHA, CAPE TOWN:
COMMISSION OF INQUIRY**

1. I refer to the above matter and your correspondence in this regard dated 30 August 2012 and reply thereto as is set out hereunder.
2. Whilst I note you have referred to the content of my previous letter to you of 28 August as "allegations", the content thereof is, to the best of my knowledge and belief, an accurate summary of the facts pertaining to, *inter alia* our communications on this matter to date. As such your declining to deal with or in any way refute the points I made, implies a concession as to the correctness thereof.
3. However, and notwithstanding your steadfast refusal to deal with me at all on this matter i.e. with respect to either the complaints themselves or the process I have applied - as detailed in my correspondence to you of 28 August - until after the establishment of the Commission had been decided upon and announced, I repeat that I am happy to meet with you at our mutual convenience so as to discuss the matter. My office has already approached your office with proposed dates to this end.

4. In this regard however and in light of the fact that you have now averred that you have various, as yet undisclosed, reasons for your assertion that the establishment of this Commission is "premature and unnecessary", I am of the opinion that we must ensure that the original complainants to me in this matter, i.e. the Women's Legal Centre and the various clients it represents, also attend this meeting. I say this because it was these complaints that first initiated my communication to you on this matter and eventually contributed to the establishment of this Commission of Inquiry. As such, in my opinion that a consideration of any reasons you intend to now provide as to why you suggest the work of the Commission should be postponed, can only be properly done after taking into account the comment which the WLC and its clients may have in this regard.
5. I trust you agree with me on this and accordingly suggest that we agree to meet in Cape Town at the earliest mutually convenient time and ask that you let our offices have a response to the proposed dates for same which have already been provided to you, so that we can ensure the attendance of the WLC and/or its clients at our meeting.
6. As regards your implied threat of legal action being taken by you in the event of my not agreeing to postpone the work of the Commission pending this meeting, I find this most unfortunate and in this regard confirm that:
 - a. I have not been provided with any reasons by you or any member of SAPS as to why you assert this Commission is either premature or unnecessary. Indeed I have still not been provided with comments from your office or SAPS pertaining to (1) the complaints which were sent to you; or (2) the process followed by us leading to the establishment of the Commission, all of which took place after extensive communication with both SAPS and your office, which to date remains unanswered.
 - b. I can see no possible prejudice to SAPS or your office by the Commission continuing with its work, taking into account the interest which SAPS too must have in getting to the bottom of any complaints as regards its service-delivery in Khayelitsha, as well as the interests of the broader affected community which will be served by any investigation and recommendations the Commission may make in this regard.
 - c. Any basis for the legal action stopping the work of the Commission, which you intimate I can expect if I do not agree to postpone the Commission, will, I am advised, necessitate an allegation and finding of unlawfulness on our part. From the content of your last two letters it appears that it is with respect to the area of our co-operative governance obligations where you consider an allegation of unlawfulness to perhaps have some merit. In this regard I wish to state that the lead-up to and establishment of this Commission was at all times done in a transparent, lawful manner, with both your office and



that of the Provincial and National SAPS Commissioners being kept informed at each stage of the process. Indeed it was due to the exhaustive manner in which we approached this aspect - and my repeated requests to SAPS asking for comment - which caused the process of establishment of this Commission to take over 9 months, during which period approximately 13 people died in Khayelitsha from acts of vigilanzism, allegedly driven by a loss of trust by the community in SAPS.

- d. As such our obligations with respect to the application of the principles of co-operative governance were fully satisfied prior to the establishment of this Commission. Whilst I am happy to consider the postponement of the Commission's work, should it be clear that this is rational and prudent action for me to take, it is my opinion that doing so now for the reasons you have given and under a threat of legal action, would not be a rational basis for me to do so. Indeed it would be manifestly unfair to the complainants and the residents of Khayelitsha for me to postpone the work of the Commission now.
7. Given that the new National Commissioner of SAPS appears to currently be focused on more high level nationwide strategic remedial action within SAPS as a whole (and which she has advised me will give rise to "a progressive long term turnaround strategy"), the focused area of investigation which this Commission has (as well as its limited life span) will assist her in achieving this outcome vis a vis SAPS in Khayelitsha. As such it is my opinion that it is in the interest of SAPS, the community of Khayelitsha and your office to provide the Commission with your full support and co-operation, so as to ensure that its work is now completed without unnecessary delay.

I look forward to hearing from you as to when you would like to meet.

Yours sincerely


**PREMIER
(HELEN ZILLE)**

1. The National Police Commissioner Phiyega

Fax number (012) 393 2616

