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TERMS OF REFERENCE FOR AN INDEPENDENT POLICING PANEL INTO
NON-DELIVERY OF SERVICES BY SAPS AND THE METRO POLICE IN
KHAYELITSHA AND OTHER AREAS

The Premier of the Western Cape has been requested by Civil Society Organisations on 4 April 2012 to implement a Commission of Inquiry into the failure of the Khayelitsha Police to deliver services to the people of Khayelitsha. The organisations requesting such a Commission of Inquiry includes: The Social Justice Coalition, The Treatment Action Campaign, Unequal Education, Triangle Project and Ndifuna Ukwazi

The new National Commissioner of Police, General Phiyega has met with the Premier of the Western Cape, Helen Zille and has indicated that prior to such a Commission being called together; she should have the opportunity to address it with SAPS. The decision by the National Commissioner to call together an Independent Policing Investigative Panel was taken to obviate the need for a full Commission of Inquiry.

The proposal to make the Independent Policing Panel (IPP) examine the failure of police in Khayelitsha is based on the complaints that have been received from the Social Justice Coalition. Amongst others, the Coalition and its partners have made the following allegations:

- That the relationship between SAPS and the community in Khayelitsha have broken down;
- There is no effective policing service delivery from SAPS to the people of Khayelitsha as far as public safety is concerned;
- That Victims of Crime have not been treated with the necessary dignity;
- SAPS members have refused to open cases when requested to do so by the community members;
- SAPS and the Metro Police have been jointly responsible to apprehend perpetrators of crime and have failed to do so.

In order to take the request for an investigation seriously, SAPS should proceed in the following manner:



1. Convene an independent policing panel that investigates the issues relating to non – delivery of policing services to the people of Khayelitsha as alleged by the civil society organisations
2. Allow for the independent policing panel to produce a report within three months of its formation and make use of public hearings of the people of Khayelitsha
3. Take seriously and implement the recommendations that the independent policing panel recommends
4. Prosecute police officers where it finds that there are grounds for non implementation of police regulations and standing orders

Such an independent policing panel should ideally consist of the following people:

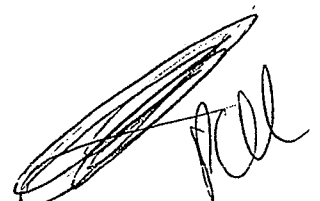
- An senior independent legal practitioner that will serve as Chairperson
- A policing researcher/ conflict resolution practitioner
- A member of the Civilian Secretariat for Police
- A member of the Khayelitsha Community Police Forum
- A member of the Social Justice Coalition

The SAPS will provide logistical support and a senior provincial deputy will have the responsibility of ensuring the required support and cooperation to the IPP is

3.4.1 Terms of reference of the Independent Panel on Policing

The terms of reference for the Independent Panel on Policing should be to:

1. Investigate all complaints of a breakdown of relationships between the police in Khayelitsha and the communities they serve;
2. Investigate the relationship between SAPS and other criminal justice partners including government and civil society partners;
3. How victims of crime are treated by members of SAPS;
4. Investigate the systemic failure of the Khayelitsha police, including the Cape Town Metropolitan Police Department, to prevent, combat and investigate crime, take statements, open cases and apprehend criminals also violates the provisions of section 195 of the Constitution which requires that all public administration be conducted professionally, ethically, impartially and with the effective, economic and efficient use of human, material and financial resources;



5. The panel has to be seen as being independent and should have the power to subpoena police officers and members of the public to provide evidence and testify under oath;
6. It should be able to allow people to call witnesses;
7. Call private and public hearings;
8. Should have a Secretariat attached to it to record the hearings and provide Secretarial support to the panel members; and
9. Provide a report with recommendations within three months after its formation to the National Commissioner of Police

As with other such panels or tribunals, the hearings should generally be open to the public in order to show good faith in the process unless the panel designates a hearing as private where the identities of witnesses should be protected. Logistical and security arrangements should be taken care of by the Province and the Provincial Commissioner should ideally also attend such a hearing.

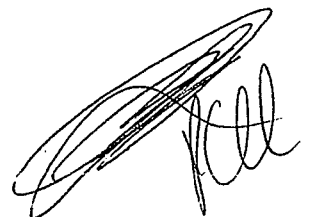
Establishing the independent policing panel will assist SAPS in coming up with strategies to correct service delivery deficiencies and simultaneously address negative perception of its role. It has an important role in turning around the negative perception of policing:

1. It will reduce opportunities for others to determine the policing agenda of SAPS and place the strategic initiative back into the hands of SAPS
2. It will allow SAPS to show its bona fides in establishing trust and community support for the police
3. It will demonstrate that SAPS is taking the complaints seriously and doing something about it.

The independent panel into policing should be used as a precursor to the real turnaround strategy for SAPS in the province which eventually should be cascaded to every province in the country with respect to service deliver and returning SAPS to its core mandate in the country. In reality, the Independent Panel on Policing will become a change management team whose skills SAPS will be able to draw on going forward.

Possible people to include on such a Panel

- Advocate Dumisa Ntsebeza (member of the Secretariat Reference Group)
- Zelda Holtzman (National Planning Commission)
- Irvin Kinnes (Conflict Resolution Practitioner)

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- Joel Bregman from the Social Justice Coalition
- Secretariat for Police member (at least Director)

The secretarial (transcriptions etc.) and logistical support for the Commission should be drawn from SAPS in the Province. It should be noted that the smaller the independent panel, the more likely it will be that it will work more effectively.

The Independent Panel on Policing should also as far as possible meet with other government partners to ascertain why it has not been responsive to the community of Khayelitsha.

The timelines for the Independent Police Panel is attached as annexure A.

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Steps	Deliverable	Timeframe	Completion date
1.	Agree on members of Independent Policing Panel	By end July	End of July 2012
2.	Public announcement of Panel members and TOR	1 August	1 August 2012
3.	Convene Independent Panel on Policing: Set up office; Set up translations; Arrange transcriptions; plan hearings venues	15 August	17 August 2012
4.	Draw up investigative and public hearings plan	16 August	17 August 2012
5.	Commence investigations and hearings (public and private)	20 August	28 September 2012
6.	Compile Draft Report	1 October	10 October
7.	Consult principles and get comment	15 October 2012	19 October 2012
8.	Finalise Report	22 October	30 October 2012
9.	Public announcement of the outcomes of the investigation	2 November 2012	2 November 2012

