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REPORT ON COMMISSION EVIDENCE

“SAPS station-to-provincial commanders must be held accountable” – experts

On Monday 10 February the Commission of Inquiry into Khayelitsha policing heard evidence from two retired high-ranking SAPS members, **General Glenn Schooling** and **Mr Martin Leamy**. They described the management structures and day-to-day procedures that should be common to all SAPS stations; and in doing so exposed many more of the shortcomings influencing police performance in Khayelitsha’s three precincts: Harare, Site B and Lingeletu West.

General Schooling served with SAPS for 36 years and 4 months, beginning in Port Elizabeth before moving to Cape Town. In 2010 he retired from his position as Station Commander at Bellville, and has since been an active member of the Durbanville Community Police Forum (CPF). Mr Leamy served with SAPS for 32 years, during which he held senior positions in the Nyanga, Philippi and Lansdowne stations. He retired from the rank of Lieutenant Colonel in 2008.

Having studied a ream of reports relating to the Khayelitsha stations, the two men, first led by Advocate Nazreen Bawa and later cross-examined by Advocates Peter Hathorn and Norman Arendse, gave revealing evidence as to the situation on the ground. They explained that, although extremely significant, these challenges are not limited to insufficient resources, personnel and working space, or to the incompetence of individual members. The problems, instead, are systemic.

Each SAPS station is controlled by a station commander. All station commanders within a delineated cluster are overseen by a cluster commander. Cluster commanders in turn fall within larger delineated regions which are overseen by a provincial commander. Between each of these levels, when inspection and supervision do take place, Schooling and Leamy

alleged that there are virtually no mechanisms in place to enact real, lasting change. 'They have no bite,' Leamy said.

This then raised the fundamental question of accountability. Both Schooling and Leamy agreed that, as the SAPS reports themselves show, from the highest to the lowest levels, commanders are not providing adequate oversight. If a station is underperforming it is the station commander who must be held accountable; if a station commander is incompetent it is the cluster commander who must be held accountable; and if a cluster commander is, for instance, guilty of mismanagement it is the provincial commander who must be held accountable.

Commissioner O'Regan added that, year after year, the station reports show minimal, if any, improvement. In Site B, for instance, between 2010/11 and 2012/13, the total number of non-commissioned officers dropped from 200 to 150 members, before taking into account the average absentee rate of 30%. In Site B in January 2014, according to statistics presented to the Commission by the Institute for Security Studies, there were 189 police members per 100,000 people. In Camps Bay, on the other hand, there were 887 members per 100,000 people.

Masked behind these numbers is an additional problem: that within the ranks of Khayelitsha's police stations there is a poor provision of experienced personnel. An excess of poorly-trained lower-ranked members is not being counter-balanced by a sufficient number of qualified, higher-ranked officers. In addition, for the first time in the Commission, it was put on record that the Khayelitsha police stations are used as '*strafstasies*' – stations where police officers from other clusters are re-deployed as a form of punishment for their misconduct.

None of this helps morale; and with low morale come greater absenteeism and procedural non-compliance, in addition to un-proactive policing. Schooling and Leamy made it clear to the Commission that, while the Khayelitsha stations are riddled with these problems, the problems are far from particular to Khayelitsha. They are national and systemic, and can only be resolved through a radical overhaul of the South African criminal justice system.

SAPS failures systemic but City of Cape Town also lets down black working class communities

The Commission has now heard the testimonies of long-standing Social Justice Coalition (SJC) members **Zackie Achmat** and **Joel Bregman**.

Zackie Achmat was involved in the co-founding of four of the five complainant organizations – the Treatment Action Campaign (TAC), the SJC, Equal Education (EE) and Ndifuna Ukwazi (NU). In the latter decades of apartheid, though particularly during the late 1970s, Achmat endured imprisonment and torture at the hands of the South African police.

In his testimony on Monday afternoon, he described the role of the TAC in the origin of the Commission into Khayelitsha policing. In 2003, with the support of MSF, a TAC campaign led to the establishment of the Simelela Rape Survivors' Centre in Khayelitsha. Achmat said that central among its founding aims were the needs for a comprehensive systemic solution to the scourge of rape in Khayelitsha and to abolish 'secondary victimization' – the maltreatment, abuse and stigmatization of rape survivors.

Also significant to the context was a series of appalling hate crimes carried out against TAC members during the intervening years – three of whom include: Lorna Mlofana, sexually assaulted and murdered by a group of young men after they discovered she was HIV positive; Nandipha Makeke, raped and murdered in a Khayelitsha toilet; and Zoliswa Nkonyana, stabbed to death by nine men for being a lesbian.

These cases painfully, repeatedly demonstrated that SAPS is not equipped to address gender-based violence. The policemen involved could not take statements, they failed to convey the appropriate courtesy to the complainants and families and they lacked investigative skills. When the cases did reach the courts, the families of the victims were callously subjected to near-interminable postponements. The case of Zoliswa Nkonyana, for example, who was murdered in 2006, was finally concluded in 2012, after as many as fifty postponements.

In Achmat's affidavit, he details the unacceptably high crime rates throughout Khayelitsha's three precincts – statistics which set them apart from other informal districts. The 2013 national crime statistics for period ending April 2013 show that Khayelitsha has the highest number of reported crimes in the country for murder, sexual crimes, attempted murder and assault with the intent to do grievous harm. Whereas police stations in other informal suburbs with high crime rates – such as Nyanga and Gugulethu – are each responsible for between 3 and 7 square kilometres, Khayelitsha's three stations are together responsible for an area of about 40 square kilometres which, if split evenly, means that each station is each responsible for about 13 square kilometres.

Achmat criticized the City of Cape Town for failing black working class communities. He stated categorically that there is not 100% sanitation coverage (as claimed in the City's affidavit) and that in poorer areas a higher proportion of pedestrians are still being struck down by cars owing to a shortage of speed bumps. These failures, he added, are representative of the MAYCO Member for Safety and Security JP Smith's attitude when he twice insisted that 'Khayelitsha has more than its fair shares of resources'. Achmat then expressed his gratitude to both the Commission and the upcoming elections for motivating the City to finally repair the potholes on Mew Way between the highway and Lookout Hill.

Advocate Anton Katz objected to these comments, declaring Achmat a liar and insisting that his accusations be struck off the record. His request was subsequently rejected by Commissioner Kate O'Regan.

Joel Bregman works for the Policy, Communications and Research department at the Social Justice Coalition (SJC) in Khayelitsha. This morning, Tuesday 11 February, the Commission heard his evidence in relation to the SJC's historical involvement, and future plans for engagement, with SAPS and the Community Police Forums (CPF's).

In 2009, the SJC realised, through its campaigns to eradicate xenophobic, gender-based and social-contact crimes, that to address issues of criminal justice on a case-by-case basis was not enough. The only solution to such a widespread problem is instead a systemic overhaul at every level, beginning with a commission of inquiry.

For SAPS and the CPF's, Khayelitsha is a politically contested terrain. Drawing on personal experience in his testimony, Bregman explained that the CPF's are neither sufficiently independent nor do they have the necessary skills and knowledge for the work required of them. There was a strong sense, he said, that the CPF's had been co-opted by SAPS and that, by extension, SAPS do not respect their structures.

Like Achmat, Bregman highlighted the failures of government in addressing such systemic problems. He described an event held by Minister of Police Nathi Mthethwa and Commissioner Lamoer at Lookout Hill in March 2012. After the Minister arrived an hour late, he heard complaints from the people of Khayelitsha relating to the scale of crime, but subsequently failed to report back on progress at any level.

Bregman concluded by looking ahead. He acknowledged that the SJC needs to take responsibility for engaging with both SAPS and the CPFs as much as possible. He hoped for more robust contact with SAPS, especially given what the SJC, the TAC, NU and EE can offer through their huge bodies of knowledge from experiences within the Khayelitsha community.

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