



25 August 2015

Att:

**Mr Nathi Nhleko**

Minister of Police

Cc:

**Mr Francois Beukman**

Chairperson of the Portfolio Committee on Police

**Mr Dumisani Ximbi**

Chairperson of the Select Committee on Security and Justice

## **KHAYELITSHA DEMANDS A FAIR SHARE OF QUALITY SAPS RESOURCES!**

### **MEMORANDUM FROM THE SOCIAL JUSTICE COALITION, EQUAL EDUCATION AND NDIFUNA UKWAZI**

1. The struggle of a mother and grandmother as told to the O'Regan-Pikoli Commission of Inquiry into SAPS Khayelitsha is a symbol in our struggle for gender justice, quality policing and decent housing. On 30 January 2014, Ms Vuyiswa Mpekweni, a 52-year-old woman working as a domestic worker and residing in Makhaza Khayelitsha, told

the Commission about her experience of the extreme and violent nature of crime and about the moment she lost trust in the police.

2. In October 2007, Ms Mpekweni's niece, Ntombomzi Ngqono and three children – Thulani, a boy aged 17 years, and two girls, Aluta and Siphosethu, aged 9, were gruesomely murdered in a shack in Makhaza. The door to their house had been secured with a wire so that they could not escape, and then petrol had been poured around the house and lit. The next day, Ms Mpekweni heard that her niece's husband had gone to the Harare police station to confess to having committed the murders. The perpetrator appeared in court once, but apparently the docket was mislaid on that day, and he was released. Ms Mpekweni went to the police station to tell them that the perpetrator had moved to Johannesburg –

“I told him [the detective] that I didn't know exactly where but I heard that he was in Johannesburg, and the detective said to me that I should try and investigate exactly where in Johannesburg he was, because Johannesburg is big. That day I left just like that, but my heart was broken, because at this time he was making me do the work of the police.”

3. Ms Mpekweni went on to testify that she had not heard from the police since 2008. Six months after Ms Mpekweni's testimony to the Commission, the perpetrator was arrested and in March this year, Mphumzi Mangena was sentenced to 30 years direct imprisonment for four counts of murder and arson. Ms Mpekweni's told the world:

“I want to thank the people of the commission. I want to say to the people, if it wasn't for this commission, he would still be free.”

4. The struggle faced by the Mpekweni family shows a society where women's lives do not matter and this is a problem our society must address not the police. The family lived in a shack from which they could not escape a fire that took their lives. In this context, the murder shows how unequal our City is where a house with a thousand bedrooms can be sold for R254 million while millions live in shacks. The life of a working and poor domestic worker was shattered by a terrible crime and where she works long hours for little money in a traditionally White suburb life is safe.

5. When Ntombomzi Ngqono and her children were murdered, they suffered a further and terrible injustice inflicted by the state whose duty remains to protect life and ensure justice. The South African Police Service failed them until they were heard by the Khayelitsha Commission of Inquiry.
6. Blame is easy to apportion to the Harare SAPS in Khayelitsha in this case but a closer look at the police shows a complex reality. Harare police station had 164 murders in 2013/14 while the 10 richest suburbs from Camp Bay to Rondebosch had 6 murders. Worse still is the fact that Harare police station had 3 times less police than these stations and many of their detectives were student constables. In seeking justice, for her family, Ms Mpekweni had to deal with overburdened, burnt out, uncaring and probably unqualified officers.
7. This one example of why the Khayelitsha Commission was important, why it was necessary and why we need to ensure that its recommendations are taken forward.

### **The Khayelitsha Commission of Inquiry**

8. As we mark the first anniversary of the O'Regan-Pikoli Commission of Inquiry, we recognise that the leadership of SAPS in Khayelitsha and the Western Cape management have spent a year building trust with our organisations and the broader community. We also admit to our anger and disappointment that the Minister of Police has not responded to the report and recommendations.
9. The Commission's report released on 25 August 2014 aimed at improving safety and policing in Khayelitsha and South Africa. The burden of crime faced by some of the most vulnerable people in our communities and the inefficiencies of SAPS were at the core of the Commission's work. The rights to life, dignity, equality and freedom, including freedom from all forms of violence, underpinned the original complaints by our organisations and others. In addition, the absence of safety because of criminal violence and inadequate social service provision has meant that people cannot access safe schooling, sanitation, transport, clinics and other constitutionally protected services.

10. We have now moved beyond the Commission in our work and demands. The equitable allocation of quality SAPS resources including detectives and in the Family Violence, Child Protection and Sexual Offences Units; the need for visible and community policing in all informal settlements and a clear change management strategy requires attention across the Western Cape and our country. These questions must be addressed diligently and without delay.

### **Resource allocation**

11. The Commission found that there is inequitable distribution of SAPS resources between Black African and Colored townships when compared to historically White suburbs. This resembles apartheid twenty years into democracy. The SAPS provided the evidence showing poor communities have fewer police and the most crime. In his testimony former Provincial Commissioner, Arno Lamoer admitted that the inequity was “fundamentally irrational” and had to be reversed immediately. In this regard, the failure to dramatically increase qualified, competent, skilled and experienced SAPS personnel to Khayelitsha and other police stations in Black working-class communities undermines the constitutional obligations of government.

12. There have been more than 600 reported rapes in Khayelitsha every year. Unequal resources discriminates against rape survivors. Colonel Sonja Harri, the Provincial Commander of the Family Violence, Child Protection and Sexual Offences (FCS) Unit, testified to the systemic under-staffed nature of Khayelitsha FCS cluster. In her testimony she attributes the failure to identify that there was a serial rapist operating in Endlovini to this. By the time that the perpetrator was arrested, twenty serious assaults and rapes, including of “little girls”, and one murder had taken place. The impact of this gender discrimination is not only unjust and unlawful, it is also immoral.

13. The conviction rate for murder, rape and robbery in Khayelitsha and most Black African and Coloured working-class communities is less than 5%. The absence of sufficient competent, qualified, experienced and motivated police is a direct cause of discrimination. Urgent and immediate redress in this regard is necessary.

## Visible Policing

14. Apartheid denied Black African and Coloured working-class families the right to live as families in our cities. The pressures of urbanisation have resulted in hundreds of informal settlements across South Africa, which, on best estimates available, accommodate around 1.9 million *households* (Statistics South Africa 'Census 2011' (2012)). Given these numbers the Constitutional imperative of developing these operational guidelines and directives is clear. The Commission concluded that the failure to patrol informal neighbourhoods on a regular basis results, in part, from the lack of personnel at the police station, as well as from the absence of a clear directive that sector policing should routinely include patrols of informal neighbourhoods, and operational guidelines as to how such patrols should be undertaken.
15. The failure of the City of Cape Town and Mayor Patricia de Lille to reverse spatial inequality; provide land for housing, roads, pedestrian safety and street lights; plan for decent sanitation services among others provides countless opportunities for crime and a safety plan is necessary. However, the SAPS and Metro Police have a duty to ensure visible policing *all informal settlements*. Our demands today are directed to SAPS but we warn the City of Cape Town that our patience has run out and unless they address these questions our struggle in the streets across the City and in the Courts will enforce the Constitution.

## Vigilantism

16. In the last few weeks, the frustration felt by the community in Khayelitsha around a lack of safety and security has led to increased vigilante attacks, including murder. On 4 August 2015 the media reported that a 21-year-old was left to die, tied to a pole after his attackers had tortured him by pouring boiling water over his body and forcing him to drink a chemical substance found in portable chemical toilets. The 21-year-old, Jerome van Rooyen, had been accused of breaking into a house and stealing CDs. The failure of a response from your office to the Commission's report and recommendations related to vigilante killings has undermined the efforts of our community, organisations, SAPS and other government departments by failing to

give assurance that crime will be brought under control. The outline of a strategy is emerging through our work with SAPS in Khayelitsha but the Minister of Police must agree to a national policy and strategy on vigilantism.

17. Addressing the resource discrimination, patrolling informal settlements, solving crime and increasing conviction rates will also assist in restoring confidence in the SAPS.

### **SAPS' response**

18. We reiterate our full support for the Joint Forum initiated by SAPS in Khayelitsha with support from community organisations and the Western Cape government.

19. Despite a year of sustained attempts to meaningfully engage with the National Minister of Police on the Commission's detailed 500 page report containing findings and recommendations, the complainant organisations would only become privy to the SAPS' response when a document, signed by Police Commissioner Phiyega, marked "Strictly Confidential" was released to the public by the Premier of the Western Cape on 7 August 2015.

20. The response fails to affirm the dignity and right to safety and security for the residents of Khayelitsha. It is also an attack on the dignity of SAPS officers working in Khayelitsha and other poor and working class areas who continue to work under extremely difficult conditions with limited and inequitable resources. The position adopted is also an attempt to absolve SAPS of any responsibility and is a denial of the challenges, some outlined above, faced both by the community and the police.

21. We learnt of a joint task team between the Office of the Premier and SAPS to discuss the implementation of the Commission report. In anger, the SJC, EE and NU reluctantly will give this task team the benefit of the doubt even though we have little confidence in a process which arose out of our struggles since 2003.

## **We Demand**

22. The urgent and equitable reallocation of resources – including qualified, competent, skilled and experienced SAPS personnel to the police precincts in Khayelitsha and the five police precincts with the highest number of serious contact crimes in the Western Cape. This is immediate and must include the FCS units dealing with gender-based violence.
23. Develop a plan to urgently address the need for a rational, equitable redistribution of resources in all nine provinces within six months.
24. Commit immediately to developing and implementing guidelines for visible policing in informal neighborhoods to ensure the right to life, safety and bodily integrity of the vulnerable households that call these neighborhoods home within two months.
25. A commitment to finalise and implement a national policy on vigilantism within two months of this memorandum.
26. Ensure that the Western Cape Education Department along with other relevant departments and the City of Cape Town address the safety of learners. We will engage the Provincial and City administrations directly on these demands.

## **Mass and Court Action**

27. Our organisations have embarked on community action and we will sustain this action not only to combat crime and support the SAPS, but to ensure that our demands are met. We do this to ensure that the Minister of Police and the Joint Task Team provides us with a positive response by 25 September 2015. In the event that the above demands are not addressed, we will proceed directly to the Western Cape High Court for relief.