

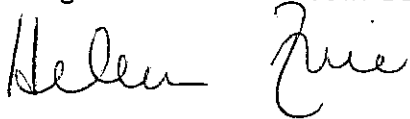
PROCLAMATION

NO. .... /2012

PROVINCE OF THE WESTERN CAPE

**COMMISSION OF INQUIRY INTO ALLEGATIONS OF POLICE INEFFICIENCY IN  
KHAYELITSHA AND OF A BREAKDOWN IN RELATIONS BETWEEN THE  
COMMUNITY AND THE POLICE IN KHAYELITSHA**

Under section 1 of the Western Cape Provincial Commissions Act, 1998 (Act 10 of 1998), I hereby appoint a commission of inquiry as set out in Schedule A and make the regulations as set out in Schedule B.

A handwritten signature in black ink, appearing to read 'Helen Zille', written in a cursive style.

**HELEN ZILLE, PREMIER**

DATE: 22/8/2012.

## SCHEDULE A

### COMMISSION OF INQUIRY INTO ALLEGATIONS OF POLICE INEFFICIENCY IN KHAYELITSHA AND OF A BREAKDOWN IN RELATIONS BETWEEN THE COMMUNITY AND THE POLICE IN KHAYELITSHA

SINCE section 206(3) of the Constitution of the Republic of South Africa, 1996, ("the Constitution"), provides that each province is entitled to monitor police conduct, oversee the effectiveness and efficiency of the police, promote good relations between the community and the police and assess the effectiveness of visible policing;

AND SINCE section 206(5) of the Constitution provides that a province may, in order to perform the functions in section 206(3), appoint a commission of inquiry into complaints of police inefficiency or a breakdown in relations between the police and any community;

AND SINCE the Premier has received complaints alleging police inefficiency in Khayelitsha and a breakdown in relations between the community of Khayelitsha and the South African Police Service; and regarding acts of vigilantism that may be attributable, in whole or in part, to such alleged inefficiency or breakdown in relations between the community of Khayelitsha and the South African Police Service;

NOW THEREFORE a commission of inquiry ("the Commission") is hereby appointed as follows:

1. The Commission comprises the following persons:
  - (a) Justice Catherine O'Regan, as Chairperson; and
  - (b) Advocate Vusumzi Patrick Pikoli.
  
2. Ms Amanda Dissel is appointed as the Secretary to the Commission, who will receive such additional support she may reasonably require from the Western Cape Provincial Government's Department of Community Safety.

3. Advocate Nazreen Bawa and Advocate Thembalihle Sidaki are appointed to assist the Commission in the gathering of evidence and, should the Commission consider it necessary, the leading of any evidence before the Commission.
4. The terms of reference of the Commission are:
  - (1) To investigate complaints received by the Premier relating to allegations of—
    - (a) inefficiency of the South African Police Service stationed at Site B, Bonga Drive, Khayelitsha; Steve Biko Road, Harare, Khayelitsha, and Makabeni Street, Lingelethu West, Khayelitsha and any other units of the South African Police Service operating in Khayelitsha, Cape Town, (“Khayelitsha”); and
    - (b) a breakdown in relations between the Khayelitsha community and members of the South Africa Police Service stationed at the aforesaid police stations in Khayelitsha, or operating in Khayelitsha.
  - (2) The investigation must include:
    - (a) an investigation into the allegations; and
    - (b) an investigation into the reasons for, and causes of, the inefficiency and breakdown in relations, if found to exist.
  - (3) The Commission must compile a written report containing—
    - (a) the findings of the Commission pertaining to the investigation; and
    - (b) recommendations as to how any inefficiency in the delivery of police services, or a breakdown in relations between the community of Khayelitsha and the South African Police Service, as may be found by the Commission to exist, may be alleviated or remedied.
  - (4) The recommendations contemplated in subitem (3), must include appropriate recommendations for the Province to consider when it makes recommendations to the Minister of Police, as contemplated in section 206(5)(b) of the Constitution.
  - (5) The Chairperson of the Commission must submit the report contemplated in subitem (4), to the Premier no later than six months after the date of the

appointment of the Commission, which date may be extended by the Premier, at the written request of the Commission.

5. The Western Cape Provincial Commissions Act, 1998 (Act 10 of 1998) applies to the Commission.
6. The Commission must perform the inquiry within its terms of reference and may exercise the powers and perform the functions of a commission as referred to in the Western Cape Provincial Commissions Act, 1998, and in accordance with the regulations in Schedule B.

## SCHEDULE B

### REGULATIONS

1. In these regulations, unless the context otherwise indicates—

**“Chairperson”** means the Chairperson of the Commission;

**“Commission”** means the commission of inquiry appointed in Schedule A;

**“document”** includes—

(a) any paper or other object on which there is writing or images;

(b) any object from which writing, sounds or images can be reproduced or retrieved; or

(c) any electronically stored information that is transmittable;

**“inquiry”** means any inquiry conducted by the Commission; and

**“the Act”** means the Western Cape Provincial Commissions Act, 1998 (Act 10 of 1998).

2. The proceedings of the Commission must be recorded in a manner determined by the Commission.
3. Every person employed in the execution of the functions of the Commission, including any person appointed or designated to take down or record the proceedings of the Commission in writing or by mechanical means, or employed to transcribe the records so taken down, must preserve the confidentiality of any matter or information that may come to his or her

knowledge in the performance of his or her duties in connection with the said functions, except in so far as the publication of such matter or information is necessary or incidental to the report of the Commission.

4. Subject to section 2(2) of the Act, and unless the relevant document or material has become public record by virtue thereof, no person may communicate to any other person any matter or information which may have to come to his or her knowledge in connection with the inquiry of the Commission, or suffer or permit any other person to have access to any records of the Commission, except in so far as it is necessary in the performance of his or her duties in connection with the functions of the Commission or by order of a competent court.
5. The Chairperson may, subject to the prior written consent of the Premier, designate one or more knowledgeable persons to assist the Commission in the performance of some of its functions, in a capacity other than that of a member of the Commission.
6. Where, at the time of any person giving evidence before the Commission, members of the general public are excluded from the proceedings by virtue of section 2(2) of the Act, the Chairperson may direct that no person may disclose the name or address of such person or any information likely to reveal his or her identity.
7. No evidence regarding any fact or information that comes to light during the proceedings of the Commission is admissible in any civil or criminal proceedings, except in criminal proceedings where the person concerned has been charged with an offence in terms of section 4 of the Act.
8. Except insofar as is necessary for the workings of the Commission as envisaged in the Act, read with the terms of reference of the Commission, no person may publish or furnish any person with the report or any interim report of the Commission, or information regarding the consideration of evidence by the Commission before the publication of any such report has been approved by the Premier.

9. No person may insult, disparage or belittle the Chairperson or any member of the Commission or prejudice the proceedings or findings of the Commission.
10. Any person who contravenes or fails to comply with regulation 3, 4, 6, 8 or 9 is guilty of an offence and liable on conviction to a fine not exceeding six thousand rand or imprisonment for a period not exceeding six months or both.

