REPORT OF THE INDEPENDENT BOARD OF INQUIRY


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I. INTRODUCTION.

The last two months have been marked by the appointment of an increasing number of Commissions by Mr. Justice Goldstone. Evidence has also been heard in a number of Commissions which were sitting prior to July 1992. Possibly as a result of the vast workload which the Commission now carries, Judge Goldstone announced that a separate investigative team would be established to assist the Commission.

A major development relating to the question of political violence in South Africa is the decision of the United Nations Security Council to deploy monitors in South Africa. The fact that this move has been welcomed by the Government is also significant. This attitude reflects a softening of the Governments previous stance that South Africans alone should deal with South Africa’s problems.

Finally during the months of July and August further allegations of security force involvement in covert operations have arisen. A South African Defence Force unit known as Hammer has been accused of being involved in the murder of Matthew Goniwe and three other Eastern Cape activists in 1985. In addition a former officer in the Defence Force, Gert Hugo, has claimed, amongst other things, that the SADF had planned a coup in 1990.
II. STATE INSTITUTIONS.

2.1 The South African Defence Force (SADF).

2.1.1 Dirk Coetzee.

In a report which appeared on July 15 1992 the London based newspaper, The Independent, claimed that two South African Military Intelligence (MI) operatives had been foiled in a plot to assassinate former security policeman, Dirk Coetzee. The agents had reportedly colluded with Ulster loyalist paramilitaries in the attempt. The agents, named as Captain Pamela du Randt and Leon Flores were arrested in the United Kingdom on April 15. They were allowed to return to South Africa three days later, after interrogation by British authorities.

On July 16 State President, FW de Klerk, announced that he had been fully informed on the alleged plot at the time and had instructed that full co-operation be given to the British authorities investigating the matter. The SADF stated that the operatives had been sent to London to investigate links between the Irish Republican Army (IRA) and the armed wing of the African National Congress (ANC), Umkonto we Sizwe (MK).
According to the SADF, one member of the team, acting without any official sanction, allegedly decided to arrange for the monitoring of Coetzee. This explanation has been greeted skeptically at Scotland Yard, as sources there indicate that the logical persons to approach for information on IRA links would be those at the Yard.

It subsequently emerged that du Randt had been personal assistant to Chief of Staff Intelligence, Lieutenant General Christoffel van der Westhuizen and that Flores was formerly a member of the C1 unit of the South African Police (SAP). This was the unit to which Coetzee was attached in 1981 and about which Coetzee and Almond Nofomela made allegations at the Harms Commission.

Both Coetzee and Durban lawyer Bheka Shezi remain convinced that the two agents had been sent to London to kill Coetzee. They claim the reason for this was that Coetzee was about to give evidence in a civil case between the family of Griffiths Mxenge and the Minister of Law and Order. Coetzee alleges that members of his unit were responsible for the murder of Mxenge in Durban in 1981.
On August 25, following an internal inquiry, the SADF announced that Leon Flores had been found guilty of misconduct, more specifically "overstepping his line function" and had been fired. Du Randt was found to be innocent.

2.1.2 Gert Hugo.

Commandant Gert Hugo served in the SADF for twelve years, mainly in intelligence posts, before resigning in 1990 and becoming head of the Ciskei's intelligence service. He was subsequently fired from this post in 1991. After this he began co-operating with human rights organisations in the area but first spoke to the press in August 1992.

In these interviews Hugo claims that: in 1990 the SADF drew up contingency plans amounting to a coup should the ANC reach the thresholds of power; senior officers have become untouchable because of what they know about covert operations; and political violence is being exploited by officers in the SADF because it weakens the ANC's bargaining position in negotiations.

This prompted a response from the Chief of the SADF, General "Kat" Liebenberg.
Liebenberg said that plans drawn up in 1990 were normal contingency plans which provided for the SADF to assist the SAP in areas where violence had escalated. He denied any notion that certain officers had become untouchable due to their knowledge of covert operations. He added that Hugo was welcome to take any other matters to appropriate mechanisms, such as the Attorney Generals office or the Goldstone Commission.

2.1.3 The Murder of Matthew Goniwe and others.

(For details thus far, see earlier reports)

In early August it was revealed in the press that Eastern Cape Attorney General, Michael Hodgen, was in possession of documents indicating that the State Security Council (SSC) took an interest in the future of Matthew Goniwe before he was murdered. Hodgen is heading the investigation into the killings. According to the document the meeting was chaired by the then Minister of Law and Order, Adriaan Vlok. Vlok, now Minister of Correctional Services, admitted that he chaired the meeting but claims that only Goniwe's job was discussed. He emphatically denied that he was in any way involved in the murder of Goniwe.
One of the units which was allegedly involved in the assassination is a unit known as "Hammer". This was a SADF unit set up by the then commander of Eastern Province command, General Christoffel Van Der Westhuizen. Former police agent and self confessed gun runner, Jennifer Du Plessis, claims that through her activities she came into contact with members of the Hammer unit and knows about some of their activities. She alleges that Hammer member, John Scott, was in possession of an extremely rare type of sniper's rifle, a Gervarum .22, the same type of weapon that was used to kill Sparrow Mkonto, one of the activists killed with Goniwe.

According to Du Plessis, Scott described to her who was at the scene of the murder and how the murder was carried out. The four activists were allegedly tortured before they were killed.

The SADF has denied the unit was involved in any political killings and claims that it was only used in Black Townships in support of the SAP. John Scott has refused to comment on the allegations claiming that he is bound by the Official Secrets Act. He has stated that the unit did not receive the level of training necessary to have carried out the murders.
He claims that Hammer were nothing more than a glorified infantry unit and believes that a highly professional team, not from the Eastern Cape, had murdered the activists.

A further dramatic turn in the Goniwe case has been the murder of Andre De Villiers at his Addo farm in the Eastern Cape on the evening of August 17. De Villiers had been giving the ANC and the press details about Hammer operations. Eastern Cape Police Regional Commissioner, Major General Koos Calitz, stated on August 19 that the SAP believed that the motive for the murder of De Villiers had been robbery. However, Port Elizabeth Member of Parliament, Eddie Trent, said that in his dealings with De Villiers it was quite clear that De Villiers was convinced that his life was in danger. De Villiers had told Trent that whenever Trent made inquiries about Hammer, De Villiers was not to be referred to by name.

Furthermore, De Villiers' son, Louis, claims that whilst he was rushing his father to the doctor, De Villiers senior said that he knew who was behind the murder and that it was politically motivated.

On August 23 the SAP announced that two trained MK operatives and a third man had been arrested in connection with the killing.
The arrest of a fourth person was expected shortly. The SAP claimed that the arrests confirmed the initial presumption that the motive for the murder was robbery. The next day Hodgen announced that he had appointed a special team to "keep an eye on" the investigation into the De Villiers murder despite the fact that arrests had been made. On August 25 the names of the three men, Xolani Ngcinane, Thamsanqa Oliver Mali and Lindile Sitemela were released. The next day the ANC confirmed that Mali and Ngcinane were junior operatives for MK in the Eastern Cape.

2.2 The South African Police (SAP).

2.2.1 The Waddington Report.

At the request of Mr. Justice Goldstone a team of British police experts came out to South Africa in July, to compile a report on the effectiveness of the police investigation into the Boipatong massacre. The team was made up of Dr. Peter Waddington, Director of Criminal Justice Studies at the University of Reading, and Commander Tom Laidlaw and Detective Superintendent David Don, both of the London Metropolitan Police. The team investigated both the police actions immediately following the massacre and the subsequent investigation into the murders.
The team completed their assessment in mid July. The report which was eventually released on July 23 was sharply critical of the SAP. Whilst Waddington could find no evidence of police complicity in the attack he described police actions as "woefully inadequate" and "seriously incompetent". General criticisms made of the SAP were: inadequate command structures; lack of contingency planning; inadequate investigative procedures and lack of community relations. Some of the specific criticisms relating to the Boipatong incident were: no cover shifts of policemen patrolling the area, thus as one shift came off there were no policemen available to respond to residents' calls for help; too few officers to protect crime scenes, thus hindering effective detective work; limited efforts were made to contact members of the Boipatong community in order to calm the situation; and the police investigators negotiated with the Kwa Madala Hostel dwellers whilst they used birdshot, rubber bullets and tear-smoke on the residents of Boipatong, this gave rise to perceptions of discrimination.

Another aspect which Waddington looked at were the events following the visit of State President FW de Klerk to the township on the Saturday following the massacre. He found that "lining police officers in front of hostile crowds, unprotected and holding a lethal weapon in both hands, seems to be a recipe for over-reaction".
The report was also, critical of the ANC for encouraging Boipatong residents not to co-operate with the police investigation. This, Waddington felt, was ultimately "self defeating" and he called on the organisation to reverse its stance.

Police Commissioner, General Johan van der Merwe, responded to the report by saying that some of the criticism was justified. He added that various steps would be taken to increase police efficiency in this area. However he believed that the Waddington team had not taken all the facts and surrounding circumstances into account and the SAP could thus not accept all the points made in the report.

A comprehensive police response to the report was delivered to Judge Goldstone by Major General W Grove on August 7 1992. Grove criticised certain parts of the report and certain actions of the Waddington team. The main objection to the report was that it made generalised findings based solely on the Boipatong massacre investigation. Grove stated that "to regard these shortcomings as normal, unavoidable and acceptable is absurd."
Yet Waddington states in his report that the Boipatong investigation should be seen as a "best case" scenario for the SAP as it had prompted a major constitutional crisis, two hundred investigators had especially been assigned to the investigation and the SAP knew that the investigation would be subject to scrutiny from an independent group.

III. THE GOLDSTONE COMMISSION.

3.1 The Alexandra Commission.

The terms of reference of this commission are: to establish the circumstances in which people were forced by violence or intimidation to vacate their homes or hostels in the township; who was responsible and whether any compensation should be paid. The Commission is chaired by Advocate R Nugent.

Testifying before the Commission, Rev Busani Ngubane of the Reformed Presbyterian Church, said that he believed that the Madala Hostel in Alexandra had become an armed fortress for Inkatha Freedom Party (IFP) supporters. He claimed that the IFP was continually attempting to draw Zulu speaking Alexandra residents to its ranks.
He added that many Zulu speaking residents, including himself, were angered by these attempts.

The chairperson of the Alexandra branch of the IFP, Lucas Khoza, alleged that many IFP supporters had come to live in the hostel due to the fact that they had been attacked by ANC supporters in the township. According to Khoza this lead to hostility between IFP and non IFP supporters in the hostel, causing the latter to leave. He conceded that there might have been some intimidation involved.

Two displaced persons have also given evidence to the Commission. A witness known as Mr. B told the commission that on March 9 1991 a large group of armed men had forced all non IFP supporters to leave the hostel. He said that he would only return to the hostel if this group were forced to leave. A witness known as Ms. C alleged that she had had to leave her house on March 16 1992 after threats were made against her and her family by hostel dwellers.

Captain Albertus Britz claimed that the SAP could protect the residents of Alexandra if they were given more personnel and could thus increase patrols in the area.
He conceded that IFP supporters had turned the Madala Hostel and the surrounding streets into an IFP stronghold, but added that many IFP supporters had had to leave their homes and come and stay in this area because of intimidation. Advocate Nugent asked Britz why the police had not interviewed those persons who had been displaced from the hostel and from their homes. Britz replied that these people had not laid any charges of intimidation.

Another police witness, Captain Carel Van den Bergh of the Internal Stability Unit (ISU), said that the police would assist displaced persons in returning to their homes but could not guarantee that such persons would not be shot at. He believed that basic socio-economic problems should first be addressed before displaced persons could return.

The Commission's hearings continue.

3.2 The Boipatong Commission.

At the preliminary hearing of this commission, chaired by Mr. Justice Richard Goldstone, which was held on July 2, Major Christo Davidson, one of the officers involved in the investigation into the massacre said that all allegations of security force involvement in the massacre were false.
He claimed that police investigations indicated that the attackers, between two and three hundred men, had all come from the KwaMadala Hostel which housed predominantly IFP supporters. He added that there was no evidence of official IFP involvement.

The actual hearing of the Commission started on August 5, 1992. The Chairperson, Mr. Justice Goldstone said that the Commission would originally concentrate on allegations of security force involvement in the massacre before turning to other aspects of the attack. The other tasks of the Commission are: to identify those responsible for the attack; to examine the role of the SAP and the SADF before, during and after the attack and to determine steps which could be taken to prevent the recurrence of such an incident.

The first witness to be called was Mr. Meshack Theoane a petrol attendant in the township. He alleged that, on the night of the massacre, he saw groups of armed men moving from KwaMadala Hostel towards the township. He then rang an alarm bell at the filling station which was connected to the Vanderbiljpark Police Station. Two policemen then arrived on the scene and Theoane told them what he had seen. The men seemed uninterested and left.
On the same day two witnesses alleged that they had seen white men amongst the attackers. One of the witnesses, who cannot be identified, claimed that she saw three white men, dressed in camouflage uniforms and wearing balaclavas, murder her brother. The other, Mr. Themba Khoti, alleged that he had seen two white men amongst the attackers and that he had seen armoured vehicles dropping off some of the attackers in the township.

On August 10 further allegations of security force involvement in the massacre were heard. A witness, known only as Ms. B, said that she had looked out of the window of her house during the attack and seen a group of about two hundred armed men. She claimed that behind the group she could see a SAP casspir with its lights on. Mr. Ishmael Mahasella told the Commission that when he had come of shift at around 22H00, he and his fellow workers were told that there was trouble in the township. Mr. Mahasella worked at the Cape Gate factory, which is across the road from the township. His group had stopped a SADF vehicle and asked them to accompany the group into the township. The occupants had refused as their vehicle was not bullet proof.
The vehicle later returned with another armoured SADF vehicle. The driver of the latter vehicle told the group that nothing was happening in the township, despite the fact that the sounds of gunshots could be heard.

On August 12 Major Davidson told the Commission that all tape recordings of messages between security forces on the night of the massacre had been erased accidentally. He admitted that the tapes contained crucial evidence which was needed by the Commission. The Chairman ordered that the relevant tapes be submitted to the Commission and Davidson agreed to this. On August 13 the SAP claimed that the tapes had been wiped clean because the equipment had been used incorrectly.

Further evidence was given on August 12 by Special Constable Ntietsa Xaba. He said that, on the night of the massacre, he had seen a police casspir following two men carrying automatic weapons. Despite the fact that these men repeatedly fired shots into the air, no action was taken against them. According to Xaba, he later saw a group of about fifty armed men standing near his house whilst three casspirs drove down the adjoining street. Again, no action was taken against the armed men.
The Commission concluded its initial sitting on August 14 and will resume hearing evidence in November.

3.3 The Hostels Commission.

On July 30, Judge Goldstone announced that a Commission of inquiry into the issue of hostels would be established. He stated that the commission would be chaired by Advocate R Nugent.

The Commission held its preliminary hearing on August 26 and heard evidence from the Minister of Housing, Mr. Leon Wessels. The Minister claimed that the power struggle between the ANC and the IFP in the Witwatersrand was preventing negotiation on the upgrading of hostels.

He added that the Government had the capacity, funds and manpower to address community needs, including the issue of hostels, but that it did not want to act unilaterally. He stressed that Judge Goldstone's recommendation that hostels be fenced off could not be enforced as this might affect integration of hostel dwellers into the community.
Minister Wessels said that the Government hoped that negotiations would get under way as soon as possible to address the whole hostels issue.

3.4 The SADF funding Commission.

(For more details on this commission see previous reports).

On August 18 counsel for the SADF, Advocate P Rabie, told the Commission that the SADF saw no need to call any witnesses. ANC counsel, Advocate David Soggot, contended that the SADF had come to this decision because they were afraid that their witnesses would not survive cross examination.

Eventually, on August 20, the Commander in Chief of the Defence Force, General "Kat" Liebenberg took the stand. Liebenberg testified that he was not at any stage aware of the training of 200 IFP members in the Caprivi.

He claimed that he had not been informed of the project when he took over the army as it had already been completed. According to Liebenberg the first he heard of the project was when he read about it in the newspapers.
Liebenberg said that the project had been run by SADF Staff Intelligence. Liebenberg alleged that SADF "front companies" and the training of the 200, were entirely separate projects. The front companies were now privatised and used to provide the SADF with "reality training".

The Commission will resume later in the year.

3.5 The Train Violence Commission.

This Commission released an interim report on July 28. The Commission was unable to determine who was responsible for the attacks on commuter trains. The report did identify several secondary causes including poor access control and the carrying of weapons in public. The report stated that whenever a group of attackers could be identified they were hostel dwellers but that other groups had been involved in the attacks. The report stressed that the whole issue of hostels should be urgently considered.
The IFP rejected the findings of the report. West Rand IFP secretary, Humphrey Ndlovu, claimed that the Commission’s identification of hostels and hostel dwellers as sources of the train violence was false. Ndlovu added that people from the hostels never took part in any violence.

A second sitting of this Commission was held from August 24 to August 27. The purpose of this sitting was to find out what new measures had been introduced to safeguard commuters since the last sitting and to deal with the evidence of the witness 01 (for more details on the evidence of 01, see earlier reports).

Witnesses from the South African Railway Commuters Organisation (SARCC) claimed that comprehensive plans had been drawn up to make both stations and trains safer, all that was needed was funding from the Government. Police witnesses claimed that a new unit had been brought into being to deal with train violence. However under cross examination it emerged that the unit was only established to collect statistics on train violence, to analyse such statistics and then to brief the mobile unit on what patterns had emerged.
The mobile unit is the SAP unit which is responsible for the patrolling of trains and stations. Furthermore, only statistics on the ethnic identity of the dead and injured in train attacks was kept. No information was kept on incidents like weapons seized on trains or policemen injured on trains and stations. Finally, statistics had only been kept from June 1992 and the police saw no need to go back any further.

Witness 01 stuck to his original evidence through three days of cross examination. Police witnesses claimed that whilst 01 had been a police informer he had at no stage been prepared to testify or make a statement. The witnesses added that it had been clearly explained to 01 that he would only receive rewards if persons were convicted. They also denied that 01's identity as an informer was deliberately exposed to the hostel dwellers.

The Commission will resume hearing evidence, particularly from police witnesses, in the last week of September.
3.6 General.

Judge Goldstone issued an interim report on June 6. The Judge criticised the Government for failing to act on certain of his recommendations.

Points which the Judge highlighted were that: no action had been taken with regard to the fencing off of hostels; recommendations relating to the carrying of weapons in public had been "partially but inadequately implemented"; recommendations regarding 32 Battalion had been met "with what can generously be described as an unhelpful response from a senior SADF member"; and recommendations regarding policing in Mooi River had "been ignored with no reasons furnished". In response to this it was announced later in the month that the SADF's 31 and 32 Battalions would be disbanded, as would the SAP's Koevoet unit.

On July 23 the Judge rebuked the IFP after they refused to agree to the banning of the carrying of weapons in public. Judge Goldstone said that "the display in public of any dangerous weapons is unacceptable. On that broad principle the Commission is unable to compromise."
On August 29 Judge Goldstone announced that he would be appointing a special police investigative unit which would be accountable to the Commission. The Commission would also appoint attorneys and advocates to its staff to assist in and monitor investigations. The announcement was welcomed by both the ANC and the Government.

IV. INTERNATIONAL MONITORING.

Following a United Nations (UN) Security Council debate, held on July 15 and 16, which focused on the violence in South Africa, Resolution 765 was passed. Amongst other things, the Resolution called on the Secretary General to appoint a special representative who would, after investigation, make recommendations which would assist in bringing an end to the violence. The representative appointed was Mr. Cyrus Vance. The appointment was welcomed by both the Government and the ANC.

Vance and his four assistants arrived in South Africa on July 21. Over the next ten days the group held discussions with parties across the political spectrum.
On August 2, a further seven observers flew in to South Africa to assist in the monitoring of the ANC's mass action campaign. Following Vance's report to the Secretary General of the UN, the latter recommended that at least thirty UN peace observers be sent to South Africa in an attempt to lower the levels of violence. On August 17 this recommendation was endorsed by the UN Security Council, but the number of observers was left to the discretion of the Secretary General.

The Security Council also resolved that the UN observers act in co-ordination with the structures set up under the National Peace Accord (NPA).

V. CONCLUSION.

The presence of UN observers in the country is a positive step which could have an effect on the levels of violence in South Africa. However, steps must be taken to ensure that such monitors have "teeth" and that they are in no way obstructed in the performance of their duties by any party.
They should thus have right of access to premises and documentation at all times. Similarly the appointment of a special investigative team to report solely to the Goldstone Commission is a positive move. The same caveat applies here as does to the UN observers.

On the negative side the Waddington report raises serious doubts about the overall competence of the SAP. Whilst it is accepted that the SAP says it has taken notice of the report and that changes in the force will flow from it, it must be stressed that these changes must be more than superficial and that they should be brought into operation as soon as possible.

The SAP admit that they have a community relations problem, especially with regard to township residents. Speedy convictions of perpetrators of political violence would go some way to improving the image of the SAP in the eyes of the Township communities.