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REPORT ON COMMISSION EVIDENCE

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## Shocking SAPS failures justify community distrust

This week the **O'Regan-Pikoli Commission of Inquiry** has resumed its hearings after a three-week adjournment. The Commissioners have now heard the testimonies of senior past and present members of SAPS Harare, having already heard those of the Station and Detective Commanders at Lingeletu-West and Khayelitsha, Site B.

Between March 2007 and December 2012, **Colonel Andrew Tobias** served as the Detective Commander of SAPS Harare in Khayelitsha, before transferring to Stellenbosch in January 2013. In 1987 he began his career as a student constable at SAPS Kraaifontein. He then served at Elsie's River for almost 15 years, before commanding the detective branches at Bellville and Bishop Lavis. From March 2001 up until his tenure began at SAPS Harare, he then commanded Operation Slasher, a SAPS unit set up to target the escalating gang violence in Mitchells Plain, Philippi, Manenberg, Elsie's River and Bishop Lavis.

Between September 2008 and September 2011, **Colonel Gert Nel** served as the Station Commander at SAPS Harare. Despite thirty years of policing experience between KwaZulu-Natal and the Western Cape, he described the Harare station as a "police university" where the nature of the work is "very demanding". In January 2012, **Colonel Tshatleho Raboliba** assumed his post as Station Commander at SAPS Harare. Both colonels agreed that the station's members are operating within an area that in fact requires two police stations. Currently there is one policeman to every 903 residents in Harare. In addition, almost 40% of the precinct consists of informal settlements which are poorly-lit and inaccessible to vehicles.

Thus far SAPS witnesses have tended to deny the alleged breakdown between the community and the police in Khayelitsha. Under cross-examination, Colonel Tobias argued that residents often fail to understand that the police cannot simply arrest suspects on the basis of unconfirmed reports. However, as many testimonies have shown, the basis of the community's distrust extends far beyond the police's inability or reluctance to apprehend suspects. Evidence Leader Advocate Thembalihle Sidaki illustrated this by drawing on a shocking case of domestic violence that took place in Harare in October 2008 (during Colonel Tobias's second year as the precinct's Detective Commander).

Reading the affidavit of a family member of the deceased, Advocate Sidaki described how a man had set fire to a shack in which four of the witness's family members – a man and three children – were asleep. They were unable to escape because the perpetrator had locked the door using barbed wire, and therefore were burned to death.

The following morning, however, the perpetrator turned himself in at SAPS Harare. He was arrested and then appeared in court, but there the case was remanded and transferred to the Regional Court. During this time he remained in custody. On 21 February 2008, the case was then struck off the roll because the docket had been lost. The accused was released and the family members of the deceased were informed that the case would only be reopened once the docket was found.

A day later the accused left Khayelitsha for Johannesburg, where allegedly he planned to live with his aunt. Members of the community responded by marching to the accused's house and throwing stones. The same evening the police arrested six members of the witness's family, including a two-month-old baby, all of whom had been present at the stone-throwing. They were incarcerated for an entire weekend then released on free bail. On the Monday, the witness and her cousin visited SAPS Harare to inquire about the missing docket. In the office of the court docket custodian it was promptly recovered.

When the witness and her cousin then notified an investigating officer that the perpetrator had fled to Johannesburg, the police visited the perpetrator's home and questioned his mother but she denied any knowledge of his whereabouts. Later in 2008, having received no feedback, the witness returned to SAPS Harare. There she discovered that, since her previous visit, the investigating officer had left the station. When she found the officer who had assumed responsibility for the docket, she requested that he upload the perpetrator's photo into the wanted-persons police file. He insisted, however, that she first provide more detailed information about the perpetrator's whereabouts because "Johannesburg is a big city". Her affidavit went on:

"This made me lose hope, because how can a police investigating officer tell me, an aggrieved lay-person, to go and do his job . . . I am still traumatised and it's even worse that a perpetrator was never brought to justice to face punishment due to police inefficiency here in Khayelitsha . . . The Khayelitsha community at large do not entrust their lives into [sic] the police because they are corrupt and inefficient."

In response to these words, Colonel Tobias, the former Harare Detective Commander whose role it had been to oversee this investigation, responded soberly: "Yes, Commissioners, that is unacceptable; you cannot work like that."

But this case is not a rare exception. During the first half of 2011, 23.46% of the cases reported at SAPS Harare reached the court. Of these, only 3.38% resulted in a conviction. Put differently, for every 100 cases that were reported at SAPS Harare, less than 1% resulted in a conviction.

Earlier in the Commission's hearings, **Dr Genine Josias** of the Thuthuzela Care Centre spoke powerfully about her experiences of police failures in Khayelitsha. Between April and August 2010, through her treatment of five rape victims under the age of nine, Dr Josias came to the conclusion that a serial rapist was operating in the poorly-lit bushy areas of Endlovini, an informal settlement in Harare. When she expressed these concerns to a local senior SAPS member, no action was taken, so out of desperation she phoned the Provincial Commissioner Mzwandile Petros:

"I told him exactly the same story, if these were white little girls believe you me . . . he would have pulled resources . . . That was August. In September in the very next month they formed a special task team."

It was not for another year, however, until September 2011, that the serial rapist was finally apprehended. During this time, there were many more victims:

". . . It ended up being 21 rapes including the five; there was one little girl that died . . . before they apprehended the suspect . . . So many more girls were raped and I just think that they could have done something earlier, you know, to prevent that."

When Commissioner O'Regan asked Dr Josias whether, during this period, SAPS Harare had made any attempt to alert the community about the threat of a serial rapist in the area, she replied that the police had not done so, despite her requests, because they believed it would result in the rapist fleeing from the area. Similarly, Colonel Tobias, who at that time was Harare's Detective Commander, testified that, to the best of his knowledge, there had not been a community awareness campaign.

Colonel Nel, who incidentally left Harare in September 2011, insisted that certain measures had been carried out – such as the distribution of pamphlets, announcements at church services and a larger deployment of visible police along the walkways between schools and informal settlements. Advocate Hathorn, however, brought the Colonel's attention to a paragraph in an inspection report from September 2011 in which it was recommended that an anti-rape strategy be immediately implemented in order to advise community members about how they could better protect their children. Two months later, in a written response to the Report, Colonel Nel's successor stated vaguely that "an anti-rape strategy will be put in place".

All three colonels have acknowledged that Harare detectives carry an unacceptably high docket-load. In the same SAPS inspection report from September 2011 it is revealed that, within the Harare detection unit, each investigator carried an average of 133 case dockets. More recently, in what is referred to as the 'Schooling Report' – a study conducted in the build-up to the Commission by two retired high-ranking SAPS members, **General Glenn Schooling** and **Mr Martin Leamy** – statistics show that, at the time the survey was conducted, 21 out of 50 detectives at SAPS Harare were carrying more than 200 dockets. This situation has been further exacerbated, as the Commission's Evidence Leader Advocate Nazreen Bawa pointed out, by a disproportionately high number of under-qualified students and constables who require supervision from senior detectives.

The Commission hearings will resume on Monday 24 March with, among others, the testimony of **Lieutenant-General Arno Lemoer**, the Provincial Commissioner of the Western Cape.

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