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B13

COMMISSION ON THE PREVENTION

OF PUBLIC VIOLENCE AND

INTIMIDATION:

INQUIRY INTO THE BOIPATONG MASSACRE

ARGUMENT ON BEHALF OF THE MINISTER OF LAW AND ORDER  
AND THE SOUTH AFRICAN POLICE

1. After a preliminary hearing the committee determined the terms of reference to be:
  - 1.1 the identity of the persons directly responsible for the massacre;
  - 1.2 the cause of the massacre and the nature, time and place of the planning of the massacre and the persons responsible for the massacre and the planning thereof;
  - 1.3 the action taken by members of the South African Defence Force who were in the vicinity of the Kwa-Madala Hostel immediately after the massacre;
  - 1.4 whether any steps could or should have been taken by the South African Police to prevent or avert the massacre;

- 1.5 the nature and efficiency of the investigation by the South African Police after the massacre;
- 1.6 steps which should be taken to prevent or avert any recurrence of such acts of public violence.

Record, Vol 1, p. 67.

#### IDENTITY OF PERSONS RESPONSIBLE

2. 2.1 We submit that there can be no doubt that only residents of the Kwa-Madala Hostel were responsible for the attack on the residents of Boipatong. This fact was conclusively proved by independent witnesses and other evidence.

(See: inter alia para. 13 of the statement of T.L. Steyn submitted by Iscor).

2.2 The most important witness in this regard was Mr C. His evidence establishes that the attackers all came from the Kwa-Madala Hostel. His evidence further proves without any doubt that the attackers moved on foot from Kwa-Madala to Boipatong.

2.3 We submit that this witness' evidence was unshaken and generally had a ring of truth about it and should be accepted.

2.4 The above witness was substantially supported by another independent witness, Lengana, the night watchman at the filling station during the night of the massacre. It has to be borne in mind that this witness was approached by the investigating team on behalf of the Committee for the first time the day prior to him testifying. He had not given a statement to or consulted with any of the parties who appeared before the Committee. He can therefore

truly be described as an independent witness.

2.5 This witness, in broad terms, supported the evidence given by Mr Kruger (of the firm Misdaadvoorkoming) as well as some of the evidence of Mr C.

2.6 According to this witness' testimony, the attackers came from the direction of the Kwa-Madala Hostel, crossed the Frikkie Meyer Boulevard on foot and went in the direction of Boipatong.

2.7 Several statements of other witnesses who did not testify indicate that these witnesses observed a group of black people, either moving from the direction of Kwa-Madala Hostel to Boipatong or later moving from Boipatong towards the Kwa-Madala Hostel. These witnesses are: Crous, de Jager, Wilken, Marx, Viljoen and Radebe.

ALLEGED POLICE COMPLICITY

3. 3.1 The South African Police has for the last number of years consistently been accused of actively assisting members of the Inkatha Freedom Party during attacks on opponents, more particularly persons who are supportive of the ANC. These allegations have throughout been denied by the South African Police and have consistently been proved to be untrue. It is therefore highly improbable that members of the South African Police would openly, and with the assistance of Casspirs and dressed in uniform, have assisted the Kwa-Madala residents to carry out the attack. This version is also so inherently improbable that it can be discarded as false. The rhetoric question can be posed: Why would the attackers require transport to move from Kwa-Madala Hostel to

Boipatong which is a short distance of some 2 kilometres away?

- 3.2 Several witnesses gave evidence of (or implied) either direct or indirect complicity in the attack by members of the South African Police. These witnesses are: Theoane, Koti, Ms A, Mthombeni, Molete, Ms B, Xaba, Sello and Mabuza. Several persons, some of whom were unidentified, whose statements were handed to the Committee, also imply such complicity. It is submitted that the evidence of these witnesses cannot be accepted for the reasons set out hereinbelow.

THEOANE

4. 4.1 The only evidence of police complicity by this witness consists of a statement that two police Casspirs were parked in the open veld opposite the service station, whilst the attackers moved

into Boipatong whilst passing in close proximity to these Casspirs, without the occupants of these Casspirs taking any action. He also saw these two Casspirs in the veld when the group of people returned from Boipatong to Kwa-Madala. According to him the Casspirs remained in the veld at least until the stage when he returned from Baldwins, at which stage, according to the witness himself, several other police vehicles and ambulances had entered and emerged from the township.

Theoane, Vol p. 149 - 150.

4.2 We submit that this version is inherently improbable.

4.3 The version is further controverted by other credible witnesses. Mr C testified that there were no security force vehicles in the vicinity, save for one Buffel, when his group of people returned to Kwa-Madala. This



vehicle was parked on the verge of gravel of Frikkie Meyer Boulevard near the steel bridge.

Mr C, Vol IV, p. 165 - 166.

We submit that Mr C would certainly have noticed such Casspirs had they been parked in the veld as described by Theoane. It will be recalled that Theoane alleged that the group of attackers passed a short distance from these Casspirs.

Theoane, Vol 1, p. 47.

- 4.4 The evidence of Mr Kruger contradicts the witness. We submit that Mr Kruger would certainly have seen such vehicles parked in the veld had they been there. Mr Kruger was pertinently asked which vehicles, if any, he observed when arriving at the service station and his reply clearly indicates that there were no vehicles in the veld.

Kruger, Vol 12, p. 786 - 787 and p. 794 and p. 815 - 816.

It was never suggested to Mr Kruger in cross-examination that two such vehicles were in the veld opposite the filling station.

- 4.5 Lengana testified that when the attackers entered Boipatong there were no police vehicles in the vicinity.

Lengana, Vol IV, p. 205.

KOTI

5. 5.1 This witness allegedly saw white people dressed in camouflage uniforms.

Koti, Vol. 3, p. 121 - 122

Later when standing at the corner of Senque and Bapedi Streets, he allegedly observed a Casspir emerging

from Thaba Bosiu Street and turning into Bapedi Street in the direction of Lekoa Street where it stopped and some fifteen black men wearing white headbands disembarked.

Whilst hiding in the veld, he later saw many men coming out of the township from Amatola and Bafokeng Streets with two "Hippos" moving slowly behind them.

5.2 The distance from which the witness allegedly observed the white headbands and the colour of the persons was paced off during the inspection in loco and found to be approximately 270 paces.

We submit that regardless as to whether all the lamps were in working order or not, the witness could not have observed such details as testified to by him.

Recollections and Impressions of  
Inspection in Loco at Boipatong on 14

August 1992 (handed in by the South African Police), p. 3.

Compare the assessment compiled by L.A. Dicks of Eloptro, p. 24, 25, 36 and 41.

From this report it is also clear that Koti would not have been able to make these observations as testified to by him.

5.3 We submit that the version by Koti that a Casspir stopped at the intersection of Bapedi and Lekoa Streets, in order to off-load attackers becomes highly suspicious when regard is had to the statement handed in on behalf of the ANC (the name deleted) wherein that unnamed witness describes the route followed by the Casspir off-loading these people in an entirely different manner than the description given by Koti.

5.4 Bapedi Street is one of the streets along which Mr C and his group moved that evening. Mr C observed no movement of Casspirs along that street and in fact denied the presence of any white persons and/or security force vehicles during the attack.

5.5 If Koti did make the observations which he allegedly made, it is surprising that he did not see how the attackers set the motor car alight. Had he seen such an event, he certainly would have testified that he saw the vehicle being set alight. This omission is even more surprising by virtue of the fact that he went to his parents' home, which is situated directly opposite the Church where the vehicle was set alight.

5.6 Whilst Koti professes to have seen the people emerging from the Casspir attacking the house next to the Church in Bapedi Street (House 627) (Koti, Vol 3, p. 130) he is wholly

contradicted by Mr C who testified that members of his group damaged the particular house and other houses along Bapedi Street.

Mr C, Vol IV, p. 163.

5.7 Having regard to these serious criticisms of Koti's evidence, his evidence to the effect that two white men in camouflage uniforms attacked houses in Slovo Park must also be subject to serious doubt. We submit that it is inherently improbable that white men in police camouflage uniforms being transported with police Casspirs would have partaken in the attack in such a manner and without any attempt to disguise their identity as policemen.

6. 6.1 She testified that she and her family were attacked by a group of seven men, three of whom were white and wearing balaclavas.

6.2 We submit that her description of the manner in which her family was attacked was in itself somewhat peculiar.

6.3 It is improbable that this witness could have and would have observed the detail which she testified to in the circumstances and conditions where she found herself when allegedly observing such detail. This is the probable reason why she omitted any reference to firearms or shots in her statement, whilst in her evidence she described in great detail how each of the three white attackers were armed with long rifles and spears. When asked about this omission she explained that she did in fact tell the person whom she made the statement to about the firearms and shots. We submit that

this important fact would not have been omitted from the statement by the person taking it had it been disclosed at the time.

6.4 The witness was also afforded the opportunity to add to or correct possible mistakes in her statement, whereupon during an adjournment, she virtually changed the entire statement. Despite this, she still omitted to refer to firearms or shots. It is therefore submitted that the witnesses' reference to white people with firearms is a fabrication.

6.5 In her original statement she did not even mention the fact that the white men were armed at all.

Ms A, Vol. IV, p. 204.

6.6 This witness unashamedly embroidered her evidence and original statement. For example, in her statement she made



no mention of the fact that the white men were armed in any way.

Compare Ms A's statement.

In her evidence she added that the white men each had a gun in the one hand and a spear in the other hand, with which they were stabbing.

Ms A, Vol. 4, p. 186 - 187.

- 6.7 Not long afterwards she said that in addition to the guns and spears the white men also had other weapons which she initially was unable to describe.

Ms A, Vol 4, p. 187 and 205.

Her version develops to such an extent that she later alleges that she saw objects like swords or axes which were sharp.

Ms A, Vol 4, p. 205.

She went further to say that these people were carrying many different weapons which she was unable to describe.

It is submitted that it is inherently improbable that the attackers would each have been carrying a gun and a spear and in addition several other weapons.

6.8 We submit that this witness' extensive alterations to her statement and her unashamed embroidery as described above results in her, at the very least, being a totally unreliable witness.

6.9 It also has to be borne in mind that the attackers were allegedly facing her when she made her observations. That results in the Apollo light being behind the attackers.

6.10 This witness attempted to discredit the South African Police by alleging that

three white policemen arrived at the scene of the massacre, but merely observed the covered bodies and left. p179

6.11 We submit that this is indicative that the witness wished to discredit the South African Police. It is clear from the evidence of Schlebusch and Kruger as well as the statement of Morrison that members of the South African Police did not visit Slovo Park that night, as they had no knowledge of any attack that occurred in that area. Having regard to the fact that Schlebusch and Kruger saw to it that all the bodies of which they bore knowledge were removed and that the houses where people were killed, were photographed, it is highly unlikely that they bore any knowledge of an attack in the Slovo Park area.

6.12 The most glaring and peculiar aspect of her evidence can be found in the objective fact of the locality of the

premises where she alleged this attack occurred in relation to her narrative. Most surprising is the fact that she was the only witness from that area (whether called as a witness or whether to be gathered from the submitted statements) who alleged that white people made their way through a maze of shacks to the premises where she was at the time.

**MTHOMBENI**

7. 7.1 He testified that he, after opening a door, saw a large group of people moving along Bapedi Street and that he later again observed this group moving along Bapedi Street in the vicinity of Senqu Street, when this group, according to him, was now followed by a Casspir which was moving slowly behind them. He described the Casspir as a camouflaged-coloured vehicle with the letter T and the

figure 2 on the back door. Later on he stated that the T was on the one door and the 2 on the other door and that the T2 was white in colour.

Mthombeni, Vol 5, p. 223

- 7.2 (Significantly, this witness did not notice any white persons.

Mthombeni, Vol IV, p. 220).

- 7.3 The only vehicle to which this witness could have referred was the vehicle in which Schlebusch travelled that night. Having regard to the fact that there is no Casspir marked with T2, save for the green Casspir in which Schlebusch travelled and having regard to the veracity of Schlebusch's evidence as a whole, this witness' alleged observation of a Casspir during the attack must be described as false.

Vol 12, p. 738.

7.4 The witness attempted to strengthen his alleged observation of the T2 vehicle on the night of the massacre by suggesting that he saw the same vehicle on the Saturday following the incident, whilst the vehicle marked with T2 was not used on that Saturday.

Davidson, Vol 7, p. 378.

7.5 The result of the aforementioned is that this witness' evidence of the time and place when he observed the Casspir marked with the T2 is clearly incorrect and false. It can never be argued that Schlebusch accompanied any group of people in Boipatong on the night of the massacre.

7.6 Once again the observations allegedly made by Mthombeni was made along Bapedi Street which is the street along which Mr C and his companions moved.

MOLETE

8. This witness was so confused that no regard can be had to her evidence.

Molete, Vol 5, p. 270.

MS B

9. 9.1 Ms B testified that when she heard shots, she looked out of a window and observed a Casspir approaching along Hlubi Street. She assumed that the Casspir had turned left into Ngwenya Street.

Ms B, Vol 6, p. 291 - 292.

- 9.2 It is submitted that the Casspir seen by this witness was probably the one in which Schlebusch was travelling as his vehicle did travel along Hlubi Street for some distance whereafter he

returned to the corner of Hlubi and Lekoa Streets.

XABA

10. 10.1 According to this witness he saw two black men dressed in white overalls walking in front of a slow moving Casspir which in turn was followed by two white men dressed in camouflage uniforms. Before this vehicle and persons could reach his home, he returned to his room at the back of the premises. When he heard that the Casspir had passed his house, he again went to the front of the premises from where he observed a group of people attacking a house a few houses away.

Xaba, Vol 10, p. 620 - 624.

10.2 At the inspection in loco it became quite apparent that "standing in the position at the gate where Mr ... Xaba



had taken up position and looking up the road, one would look directly into the lights of the Casspir and it would be extremely difficult in those conditions to make out any details. One would be able to see the figures and it may not be an appropriate word, I would call it more of a silhouette because of the people in front who had the bright lights shining on their back, you would not be able to - the people standing in the front were dressed in darkish clothes, not in whitish clothes, certainly last night, looking at those people, it would not have been possible to identify clearly their clothing or headbands. It would also not have been possible from the distances which were pointed out to see behind people, behind the Casspir in the position in which the witness had indicated."

Record, Vol 12, p. 729.

Recollection and Impressions of Inspection at Boipatong on 14 August 1992 (handed in by the South African Police, p. 5 and 6).

10.3 According to the assessment of Dicks it would have been impossible for Xaba to see red headbands, to recognize weapons being carried or to see a person in camouflage uniform or that such persons were carrying weapons. It would also have been unlikely for the witness to observe camouflage markings of the vehicle.

Dicks, p. 41.

10.4 We submit that the very fact that the witness was adamant that he observed that which he allegedly observed at 23h00 raises the immediate question as to whether he observed anything at all. It being common cause that the incident occurred before 22h30 that evening.

Xaba, Vol II, p. 708, 709, 711 and 714.

10.5 We submit that it is highly improbable that a policeman who observes a Casspir would flee in fear of it for no apparent reason. The likely action would have been for the witness to approach the Casspir or call its occupants in order to draw their attention to the shots which he heard in the township.

10.6 In the past when Xaba heard shots being fired he was too afraid to investigate,

Xaba, Vol II, p. 678.

but strangely enough on this occasion he was brave enough to leave the sanctity of his house in order to investigate.

Xaba, Vol 11, p. 678.

10.7 He disputed the fact that the position of the policeman as shown on photograph exhibit 26 was identified by him and also alleged that the camera lens somehow or another causes the person in the photographs to seem further away than it would be in real life. This was obviously done in an attempt to create the impression that he, the witness, was closer to the oncoming Casspir when he observed it.

Xaba, Vol 11, p. 680, 681, 701 and 702.

10.8 His evidence in relation to his pocketbook and the signing thereof was so contradictory and unsatisfactory that it is indicative of his ability to improvise.

P655  
P659  
661-670

10.9 There are further discrepancies in his evidence which is not specifically dealt with, which we submit, detracts from the veracity of his evidence.

SELLO

11. 11.1 He testified that he saw a group of people approaching the gate of his house where one of them said that it was the house of a policeman, whereupon they proceeded further along Amatola Street in the direction of Slovo Park. Thereafter he observed two Casspirs travelling along Amatola Street in the same direction in which the group of persons moved. Later he allegedly observed two other Casspirs also moving in the same direction in Amatola Street as the previous two vehicles, whereafter he went and stood at the front gate. From there he allegedly saw that the first two Casspirs turned left into Seiso Street, driving up to Noble Boulevard, where they turned right into Noble Boulevard and proceeded along that Boulevard. The second two Casspirs also turned into Seiso Street and stopped

immediately after they did so, whereupon the group of people previously observed by him emerged from behind a grapevine and boarded the two Casspirs which drove off in the same direction as the first two Casspirs. Shortly thereafter, he observed a Nyala travelling along Noble Boulevard in the direction of Slovo Park which joined the lastmentioned two Casspirs. These vehicles then disappeared in the direction of Slovo Park. Some thirty minutes later he heard shots being fired. He was clear that these events occurred at 22h00.

Sello, Vol 1, p. 15 - 18.

- 11.2 His evidence to the effect that four police vehicles moved along Seiso Street directly towards Cape Gate at 22h00 and that shortly thereafter a Nyala went past the main gate of Cape Gate, is directly contradicted by the witness Mahasella. The latter witness

*the main  
gate of  
Cape Gate*

*Mahasella  
made a good  
impression*

testified that he was at the main gate of Cape Gate from 21h55 where he stood for about 5 - 8 minutes. Thereafter he proceeded with a group of people on foot along Seiso Street to the junction of Seiso and Botsoana Streets where they turned left and then right again into Thaba Bosiu Street. Immediately after turning right they heard shots, whereupon they ran back to Cape Gate where they arrived shortly after 22h00. It will be noted that Mahasella followed the very same route along which the four Casspirs allegedly moved according to Sello and also at the same time. Mahasella saw no police vehicles save for a Big Six Cortina allegedly belonging to the Dog Squad. This witness moved on foot and he was accompanied by a group of other people all of whom would have seen the four Casspirs and the Nyala as alleged by Sello.

Mahasella, Vol 6, p. 297, 303 - 320.

Statements were handed in of witnesses such as de Jager, Wilken and Viljoen who were also at the gate of Cape Gate at about 22h00, who also saw no police vehicles as testified to by Sello.

11.3 It is submitted that Lengana would also have been able to see these four vehicles had they moved along the roads and in the direction as described by Sello. The Nyala on Sello's description should have passed the service station where Lengana was on duty. He too saw none of these vehicles allegedly seen by Sello.

11.4 A statement was handed in of y Buthelezi, a municipal policeman stationed at Boipatong and who lives in Amatola Street, a few houses away from Sello. Buthelezi was awake at the time and unaware of the five police vehicles described by Sello.



11.5 We submit that it is inherently improbable that a group of people bent on attacking houses would walk past several houses along Amatola Street before they reached Sello's house and would then single out his house as a possible target but, after being informed that it is a house of a policeman, would leave and not attack any houses in that vicinity whatsoever.

11.6 The rhetoric question can be asked why Sello did not invite Buthelezi on the inspection tour of the township examining the damage caused the previous night. Having regard to the fact that Sello testified that this tour was for policemen who lived in Boipatong, it is most surprising that Buthelezi was left out, especially having regard to the fact that he lives close to Sello. One immediately forms the impression that some of the policemen acted in this way with their own ulterior motive.

Sello, Vol I, p. 28 - 34.

11.7 He also testified that some of the people who accompanied the Casspirs wore blankets, whilst witness Mr C saw no attackers wearing blankets.

**MABUZA**

12. 12.1 Although generally supporting the version of Schlebusch he testified that he observed a group of people turning into Hlubi Street whilst he was knocking at the door of House 757. When the attackers observed him, they made some comments whereupon he fled to the rear of the house where he hid. From there he observed this group of people attacking houses. He thereupon moved to the front of the house where he observed a second group of people entering Hlubi Street closely followed by a Casspir. This group also attacked houses and fired several shots. When

this group had passed him he proceeded to House 761, but before doing so he observed the second group of people with the Casspir following them some distance along Hlubi Street at which stage further shots were fired. Whilst in the house at 761 he heard a Casspir approaching along Lekoa Street and he ran out to seek help. According to him this Casspir stopped and two white policemen forced him at gunpoint to enter the Casspir, whereupon the Casspir travelled some distance along Hlubi Street and thereafter reversed back to House 761. He further testified that the police refused to call an ambulance because they first wanted to take photographs and they also behaved unsympathetically and did not treat the situation with any degree of seriousness.

Mabuza, Vol II, p. 52 - 62.

12.2 His evidence is directly contradicted by Schlebusch.

12.3 His evidence of a Casspir following a group of people firing shots is also directly contradicted by Ms B, who only observed a Casspir approaching in Hlubi Street. Had there been a group of people firing with rifles she certainly would have observed such a group. Having regard to the report of Dicks, Ms B was in a position to properly observe along Hlubi Street as a result of the well-lit area.

Assessment of Mr Dicks, p. 41.

12.4 Both Schlebusch and Kruger testified that the first ambulance arrived at House 761 before 23h00.

12.5 It is highly improbable that Schlebusch would have told Mabuza that he first wanted to take photographs before calling an ambulance if, on Mabuza's

own version, Schlebusch and his crew had no photographer with them at that stage.

12.6 His evidence that photographs were taken of the injured people is also contradicted by Schlebusch, Kruger and by the statement of Morrison. According to these witnesses photographs were only taken of the deceased people.

12.7 He denied that the municipal Casspir proceeded in front of Schlebusch's vehicle and that he attempted to stop that Casspir.

Mabuza, Vol III, p. 84.

In this regard the evidence of Khanye is clear and supported by Schlebusch.

12.8 We submit that one of the most improbable aspects of his evidence is that he allegedly ran out of the house

to seek assistance from a police Casspir shortly after he had allegedly observed a Casspir following a group of attackers without taking any action against them and implying that it was in fact accompanying the attackers.

Mabuza, Vol III, p. 82 - 84.

**MONARE**

13. 13.1 He testified that he accompanied a Casspir from the Boipatong police station into Boipatong to investigate certain complaints. At the intersection of Hlubi and Lekoa Streets he saw a Casspir approaching Lekoa Street along Hlubi Street as a result of which the vehicle in which he was travelling stopped and a policeman in the other Casspir instructed the occupants of his Casspir to attempt to ascertain the number of dead and injured. They thereupon drove towards

Bafokeng Street where they saw the body of a woman lying in Bafokeng Street where his Casspir came to a standstill and the occupants disembarked and ascertained that the woman was dead. Thereupon they proceeded along Bafokeng Street, where they stopped at other houses and went into some of these houses which had been attacked. They were advised that the attackers were from Kwa-Madala Hostel whereupon they proceeded to the hostel. According to the witness they came across two Buffels at the service station where they were informed that a group of people had been seen crossing Frikkie Meyer Boulevard in the direction of Kwa-Madala. They proceeded to Kwa-Madala as did the two Buffels where they found two Nyalas and a police sergeant ordered them to leave Kwa-Madala and return to the township to ascertain the number of dead and injured. Prior to leaving Kwa-Madala he observed three white policemen

carrying balaclavas. According to him the occupants of his Casspir were dissatisfied with being sent away without any attempts being made to enter Kwa-Madala in order to arrest the attackers. On the way back to the Boipatong police station they stopped at various houses in Bafokeng Street and also at a house in Bapedi Street where he left the Casspir and proceeded home along Bapedi Street.

Monare, Vol III, p. 109 - 123.

- 13.2 This witness was contradicted on every material aspect referred to above by the driver of the municipal Casspir, Khanye, as well as two other occupants of the Casspir, Lesibo and Maseko, whose statements were submitted to the Committee. He was also contradicted by Kruger and Schlebusch.
- 13.3 This witness endeavoured to place the police in a bad light wherever



possible, even to the extent of alleging that he was suspended from duty because of an alleged assault by him on a white policeman and despite the fact that he had been acquitted on that charge. As at the date of him giving evidence, he had not been reinstated and he was informed that he had to re-apply for appointment as a policeman and that he could only do so in January 1993. All the above proved to be false when it emerged that he had in fact been dismissed on account of having confessed that he assaulted a member of the public whom he had arrested.

Monare, Vol III, p. 147 - 150.

- 13.4 He further went out of his way to attempt to find evidence to the effect that some policeman whom he believed to be Khanye, had made a Casspir available to some white men for purposes of carrying out the attack on

Boipatong. This is significant especially in view of his original evidence where he never suggested that any white persons were involved in this attack.

KOEVOET

14. We submit that the allegations earlier this year that employees of the South African Police (ex-Koevoet members) were transported from the Witbank area to Boipatong in order to partake in the attack has clearly been proved by the evidence before this Committee to be false. The allegations were also decisively controverted by witnesses on behalf of the South African Police. The extent of the allegations against the ex-Koevoet members were so gross and serious that it merits a strong censure from this Committee by expressing its dissatisfaction and dismay at the continuous attempts to implicate the South African Police in untoward conduct. The allegations which were made at the time before members of the

Commission under the chairmanship of Mr Steyn received wide media publicity (similar to the police complicity allegations in regard to the Boipatong attack) causing the reputation of the South African Police irreparable harm and further deteriorating the relationship between members of the South African Police and members of the community.

EVALUATION OF EVIDENCE

15. 15.1 We submit that of all the witnesses who testified before this Committee none were more impressive than Sergeant Schlebusch. His evidence should be accepted in toto. We also submit that the evidence of Sergeant Kruger, Roos, Khanye, Davidson and all the statements submitted on behalf of the South African Police should be accepted. The evidence of these witnesses prove undoubtedly that members of the South African Police or

white persons were not involved in the attack.

15.2 The South African Police was at all times ready to prove the whereabouts of each of its Casspirs countrywide, but did not do so by virtue of the fact that the Committee decided that no further evidence was to be heard.

15.3 The evidence of Mr C proves that there were no members of the South African Police (or for that matter any white persons) present when the group left the hostel, when the attack commenced or during the attack. This witness was one of the group of approximately nine people who traversed virtually the entire length of Boipatong from west to east and a substantial portion of Boipatong from south to north during the attack. At no stage did he observe any members of the South African Police or vehicles belonging to the South African Police or any white persons.

In this regard see the route followed as depicted on exhibit 4.

15.4 Mr C further testified that the attack lasted for approximately thirty minutes, during which time he observed no police vehicles. The only security force vehicle observed by him was a SADF Buffel which was parked close to Frikkie Meyer Boulevard whilst the group was returning to Kwa-Madala Hostel.

15.5 Mr C testified that the attackers were afraid of the police and when somebody shouted a warning to the effect that the police was approaching, he and members of his group made off in great haste. When asked why they hurried off he stated that they (his group) had done mischief.

Mr C, Vol V, p. 194.

His evidence was that they were afraid of being arrested for what they had done. This evidence negates any suggestion of complicity in the attack by members of the South African Police.

15.6 We submit that Mr C's evidence was unshaken and generally had a ring of truth about it and should be accepted.

15.7 Having regard to the evidence of Lengana, it is quite clear that at the stage when the attackers entered Boipatong there were no police vehicles in the vicinity. This results in Theoane being shown to be untruthful.

15.8 There were several other witnesses who testified that they observed a group of people either moving from the direction of Kwa-Madala Hostel to Boipatong or later moving from Boipatong towards the Kwa-Madala Hostel. None of these witnesses suggested that any members of the South African Police were present.

These witnesses are, inter alia, Crous, de Jager, Wilken, Marx, Viljoen and Radebe. None of these witnesses saw any police vehicles accompanying the group of attackers.

16. 16.1 Having regard to the various witnesses called on behalf of the ANC and the Vaal Council of Churches in an endeavour to prove the presence of Casspirs during the attack, there should have been numerous Casspirs driving around Boipatong during the attack. If an attempt was made to analyse the number of Casspirs which should have been in the area according to all the various witnesses who testified about Casspirs in the area during the attack, it seems that there should have been a considerable number of Casspirs and Nyalas in the area.

- 16.2 If this was the case a substantial portion of the population of Boipatong

should have been aware of Casspirs roaming around in Boipatong during the attack. The 95 statements in the possession of the ANC and not made available, is probably indicative of all the witnesses who did not see Casspirs in the area that night at the relevant time.

- 16.3 Dr Waddington could uncover no information that suggested any complicity on the part of the South African Police in the attack.

Waddington report, p. 44.

#### PERCEPTIONS

17. We submit that many perceptions could have arisen during the course of the evening as a result of police presence in the area some time prior to the attack and especially shortly after the attack. We further submit that some of these perceptions were also fostered in a



mala fide manner by people with their own (political) motives in attempts to further perceptions of police complicity for their own goals. These perceptions were furthered by individual witnesses, organizations and the media. "..., the press can and should be censured for what seem to have been mischievously inaccurate or precipitate reporting of gossip, tittle-tattle and unsubstantiated rumour". Dr Waddington's report, p. 32 (Exhibit 16).

TERMS OF REFERENCE REFERRED TO IN PARAGRAPH 1.2 ABOVE

18. We submit that there was no evidence led before the Committee indicating the cause of the massacre, nor the nature, time and place of the planning thereof. This would probably only emerge during the criminal trial. At the most, one can only speculate that the attack flows from the constant and ongoing violence between the different political groups of the townships.

ACTION TAKEN BY THE SOUTH AFRICAN POLICE TO PREVENT  
/ AVERT THE MASSACRE

WHETHER THE POLICE COULD HAVE TAKEN ANY STEPS TO  
PREVENT OR AVERT THE MASSACRE

19. 19.1 Statements of witnesses which were submitted clearly indicate that no member of the South African Police had any prior knowledge of the impending attack upon the residents of Boipatong. In this regard reference is made to the statements of Gous, de Klerk & du Pont. We further refer to the evidence of Roos and Sergeant Kruger, which also clearly controvert any allegation that members of the South African Police had prior knowledge of the impending attack.

19.2 The information conveyed to the police by Verryn was so general in its terms that the action taken by Gous, Roos and De Klerk was appropriate and sufficient in the circumstances. There

is not one iota's evidence that Verryn's call had any bearing on Boipatong. If anything, it establishes the possibility of an attack in Sebokeng some 10 kilometres away from Boipatong.

- 19.3 The statement that ambulances were placed on standby is controverted by Nkuna and is in itself far-fetched and finds no support in any of the evidence led before the Commission. Assuming such rumours having had a factual basis, it would not have assisted the South African Police in avoiding the Boipatong incident.

See: Paragraph 6 of the statement of the senior matron of the Sebokeng Hospital, Nkuna.

- 19.4 Even if the South African Police had more vehicles and personnel available that night it does not necessarily follow that the attack could have been

prevented or averted. This is so - especially having regard to the fact that the South African Police had no prior knowledge of any imminent attack in the Boipatong area.

- 19.5 The fact that the South African Police had no prior knowledge of the intended attack in order to enable them to possibly avert the massacre, is also supported by Dr Waddington.

Dr Waddington's report, p. 6.

WHETHER THE POLICE SHOULD HAVE TAKEN ANY STEPS TO PREVENT OR AVERT THE MASSACRE

20. The ability of the police to gather intelligence was severely inhibited as a result of a media exposé of alleged police covert activities in the Vaal Triangle. Dr Waddington in his report took note of the effect of the exposé on the police's ability to gather intelligence.

See: Dr Waddington's report, p. 25.

21. According to the statement of De Klerk none of the various police units in the area received any information from their informers as to the possibility of such an attack.

21.1 The Crime Intelligence Service of the South African Police has been adversely affected by:

21.1.1 the killing and intimidation of members of the South African Police;

21.1.2 the active undermining of the image of the South African Police;

21.1.3 the policy of non-co-operation with the South African Police of various groups;

See: Dr Waddington's report,  
p. 32;

21.1.4 the actual violence in certain  
areas;

21.1.5 intimidation of residents who  
are believed to be informers  
of the police.

See: The Progress Report,  
submitted by Major-General  
Grove during the last day of  
the hearing, p. 11.

21.2 There is no evidence whatsoever to  
indicate that the attack was planned  
some time in advance of the day in  
question which could have resulted in  
the police receiving information  
through its intelligence network. The  
evidence presently available to the  
Committee would seem to indicate the  
contrary. In the absence of any  
evidence to the effect that the attack

was planned long in advance, no inference can be drawn that the police should have been aware of the impending attack. There is nothing to show that this attack was not planned and executed on the spur of the moment. In the latter event, no amount of intelligence gathering would have forewarned the police of the impending attack. Evidence as to the nature, time and place of the planning of the massacre would in all probability emerge during the criminal trial.

21.3 The factors referred to by Dr Waddington which should have caused the South African Police to increase its efforts to gather intelligence (Waddington Report, p. 26) are unfortunately very commonplace factors throughout the Republic of South Africa as a result of the political power struggle underlying the violence in this country. These factors have no specific bearing on Boipatong, i.e.

the stay-away on 16 June was countrywide; the Zulu funeral in Soweto could certainly not have affected any aspect in Boipatong; the finding of two handguns at the Kwa-Masisa Hostel, an ANC controlled hostel, had nothing to do with the attack under discussion; (Waddington report, p. 5) the trial verdict which had not been made known at the time of a massacre which occurred in Sebokeng can similarly not be linked to the massacre in Boipatong.

21.4 A greater effort for purposes of intelligence gathering would not necessarily have led to an advance warning of the massacre by virtue of:

21.4.1 the fact that the attack could have been planned on the spur of the moment; and

21.4.2 that information in relation to the proposed attack might



not necessarily have been forthcoming.

21.5 It is clear from the available information that the police simply did not have sufficient vehicles and personnel available to patrol every township in the area on a 24-hour and intensive basis. This is logically and physically impossible even with the increased manpower presently in the area.

21.6 It has not been shown that in the event of Kruger having sent the faster Nyala along a longer route that it would have reached Boipatong sooner than the slower Casspir which took the shorter route.

Compare report of Dr Waddington, p. 7.

21.7 A change-over of shift within the townships would not necessarily have resulted in a police presence in

Boipatong. The result is that the suggestion by Dr Waddington that such a change-over could have caused an immediate response to calls for assistance presupposes:

21.7.1 duplication of all equipment including vehicles; and

21.7.2 such a change-over would have occurred close to or in Boipatong itself.

The first supposition is not logistically feasible and the second would not necessarily have resulted in a police presence in or close to Boipatong at the relevant time.

#### NATURE AND EFFICIENCY OF THE INVESTIGATION

22. 22.1 The criticism levelled by Dr Waddington has in some respects been acknowledged and accepted. In this regard, the

preliminary report and later report by General Grove is relevant. Some of the suggestions made by Dr Waddington cannot be implemented. It is further clear that criticism, which was constructive, was responded to by the South African Police in an endeavour to improve the police efficacy.

22.2 The evidence of Sergeant Kruger also indicates that the members of the South African Police immediately reacted to reports received in relation to the attack, in that Schlebusch was sent to the area and Sergeant Kruger followed shortly thereafter.

22.3 The statements of Morrison and du Pont prove that members of the South African Police visited the scenes immediately after the massacre, when photographs were taken and other information gathered; that it was again visited by Morrison and his team during the course of the next day and that du Pont

personally took charge of the situation early the following morning. It is conceded, however, that steps ought to have been taken to enter the Kwa-Madala Hostel much earlier than it was in fact done in order to procure evidence of complicity in the attack by individuals of the hostel.

Despite this, our submission is that the outcome of the criminal trial will really establish whether this omission by the South African Police materially affected the efficiency of the investigation.

22.4 It is submitted that the steps taken (as set out by Major-General Grové his progress report) indicate that the South African Police is continually adapting to changing circumstances in order to improve its service to the general public.

22.5 It is not intended to discuss the various steps taken by the South African Police as stated by General Grové in detail, but it is submitted that his progress report indicates that many of the deficiencies have been attended to or is in the process of being attended to.

STEPS TO AVOID RECURRENCE

23. 23.1 Evidence has been placed before the Committee to the effect that the Internal Stability Unit in Vereeniging has been substantially upgraded. These facts appear from the second report by General Grové and from the evidence of Roos.

23.2 According to a memorandum submitted on behalf of Iscor (Exhibit 7), the Kwa-Madala Hostel is to be demolished entirely. At present, a large portion thereof has already been demolished and

the security in respect of the remaining portion has been substantially upgraded and access control has been improved.

23.3 In addition, the hostel is regularly visited and patrolled by the South African Police and the South African Defence Force in order to avoid a recurrence of the events under discussion.

23.4 The entire future of hostels, as well as the management thereof, is presently not only the subject-matter of negotiations between the South African Government and the ANC, but also the subject-matter of a Committee of this Commission, specifically dealing with hostels. We do not wish to pre-empt the findings of that Committee nor to venture on the political field in this regard.

RECOMMENDATIONS

24. 24.1 We submit that this Committee should express its disapproval of the interference by political organizations in police investigations into inter alia massacres such as the one under discussion (Waddington Report, p. 32 and 47 - 48). This interference not only consists of discouraging witnesses from making statements to the police but also assisting them in furthering incorrect perceptions, both within the community and in the general media. A typical example of this is the statement recently received from representatives of the ANC, to the effect that the identity of one of the attackers was known to the witness. This information was never divulged to the South African Police or to the Attorney-General in order to assist with the arrest and prosecution of one of the persons responsible for the attack.

24.2 This Committee, it is submitted, should call upon all parties to discard any policy of non-co-operation with the South African Police or at least to reconsider such policies and rather to follow a policy of co-operation in the interests of the maintenance of law and order.

DATED AT JOHANNESBURG ON THIS THE        DAY OF OCTOBER  
1992

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P.A. HATTINGH S.C.

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W.L. WEPENER

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J.L.C.J. VAN VUUREN



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