

Regional Profile Western Cape

■ OVERVIEW OF THE REGION

- 1 The region referred to as the western Cape for the purposes of this report comprises the western part of the old Cape Province – that is, the areas now covered by the Western Cape and Northern Cape provinces. In the past, the northern regions contained some of the larger fragments of the ‘independent state’ of Bophuthatswana. The region has international borders with Namibia and Botswana. For the remainder of this chapter, the term ‘western Cape’ is used to include what is now the Northern Cape, unless otherwise specified.

The Western Cape province

- 2 According to the 1995 government statistics, the province now known as the Western Cape has a population of 3.7 million people, comprising 9 per cent of South Africa’s total population. The major languages are Afrikaans (62.5 per cent home language), English (20 per cent) and Xhosa (15.3 per cent). The 1995 figures also reveal that the majority population group in the region is coloured (at 57.1 per cent), followed by white (23.8 per cent) and African (18.2 per cent). Relatively few Asians are present in the province (0.9 per cent). The Western Cape has the second highest degree of urbanisation (86.5 per cent) of all provinces. While it has the highest Human Development Index (HDI) in the country, the region is marked by extreme inequalities. Three sub-regions can be distinguished, namely the Cape Peninsula, Boland and surrounds, and Southern Cape.
- 3 Around 68 per cent of the population of the province (2.5 million people) live in the Cape Peninsula area. There is little heavy industry, mainly light industries such as garments, textiles (employing over half a million) and food processing with small factories. Only 57 per cent of the labour force is engaged in the formal sector; the remainder work in the informal sector, or are self- or unemployed.

- 4 The Boland and surrounding areas include the Breede River area, the winelands, the Overberg and the West Coast. The Breede River area consists of rural farmlands and agricultural towns of which Paarl and Worcester are the largest.
- 5 The main towns in the Southern Cape are George, Mossel Bay, Oudtshoorn and Beaufort West. The region includes the Little Karoo and the Central Karoo. A substantial migration of coloured families out of the Karoo desert to urban areas has led to a population decline in Karoo towns.

The Northern Cape province

- 6 The Northern Cape is the largest province in the country and also the most sparsely populated, comprising 1.8 per cent of the total South African population. The main home languages are Afrikaans (65 per cent) and Setswana (22 per cent). The annual population growth rate lies far below the South African average, indicating a steady outflow of people. Like the Western Cape, the majority population group is coloured (53.5 per cent), followed by African (29.9 per cent), white (16.3 per cent) and Asian (0.3 per cent).
- 7 The major city is Kimberley; larger towns are Upington and De Aar. The main economic activities are mining (diamonds, asbestos, copper) and farming, mainly cattle and maize. Industrial and commercial activity is limited to areas around Kimberley, Kuruman, Sishen and Postmasburg. Migrant labour comes mainly from the former Bophuthatswana, Transkei and Ciskei. The largest African settlement in the province is Galeshewe near Kimberley, accommodating almost half the African population of the Northern Cape.
- 8 The Northern Cape has a long history of land dispossession and forced removals. Africans were removed mainly to Bophuthatswana, often making way for South African Defence Force (SADF) military camps. Later in the 1980s, independent communal farming settlements such as Leliefontein, Steinkopf and Richtersveld in Namaqualand were privatised by the House of Representatives, leading to impoverishment and protest.

Socio-political features

- 9 Five features distinguish the political and social terrain of both Western and Northern Cape from the rest of the country:
 - a a distinct formulation of apartheid policy declaring the Cape a 'coloured labour preference area';

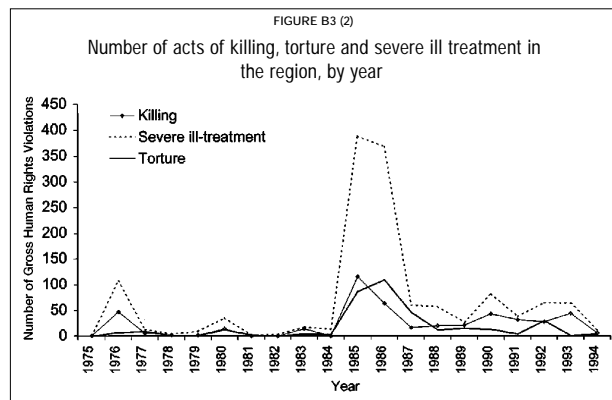
- a unique demographic profile with a coloured majority and an African minority;
 - c extreme social and spatial engineering through the Group Areas Act;
 - d significant divisions amongst Africans between rural migrants and urban residents;
 - e an historical diversity of political groupings and ideological approaches.
- 10 As elsewhere in the country, organisations and protests were silenced in the 1960s. The 1970s saw the emergence of the South African Students' Organisation (SASO) and associated Black Consciousness activity amongst African and coloured students alike in the Western Cape. The 1976 revolt and the 1980s' school protests showed unprecedented militancy amongst coloured people and solidarity with Africans, with a high number of deaths and injuries.
- 11 Specific issues such as the red meat strike, the Fattis and Monis strike and the bus and school boycotts provided the impetus for organisational development and the focus for organisational activities from the early 1980s. Many such organisations made up the core of affiliates for the United Democratic Front (UDF), launched in Cape Town in 1983, giving momentum to the explosion of resistance in the Western Cape in the latter half of 1985. Both protest and repression became violent, and affected coloured as well as African areas. During 1986 the violence was focused on the tension between pro-government squatter leaders and those aligned to the liberation movements. In 1989 the Western Cape played a leading role in the Defiance Campaign and initiated support for the hunger-striking detainees and prisoners, leading to increased repression.
- 12 After the unbanning of organisations in 1990, local communities, particularly in Khayelitsha, the Boland and the Northern Cape, began protests against conservative local authorities. Shadowy 'balaclava' gangs, renegade self-defence units (SDUs) and warring taxi groupings left a trail of killings in the African areas.

Overview of violations

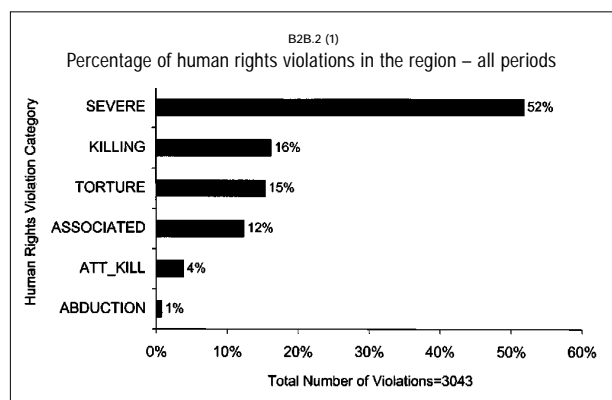
Violations reported

- 13 Of all submissions to the Commission received nationally from victims alleging gross violations of human rights, only 8.4 per cent per cent were from the western Cape.

- 14 Most (57 per cent) of the deponents in this region were male. Male deponents tended to talk about violations that happened to themselves, whereas female deponents much more frequently spoke about others. Statistics show that 36 per cent of women deponents were the primary victims in their submissions, whereas 72 per cent of male deponents spoke of themselves as victims.
- 15 The average age of deponents in the Western Cape is estimated at forty-one years. Female deponents were generally older than male deponents, averages being forty-seven and thirty-nine years respectively. This reflects the tendency for older women to testify about violations to their family members such as their children.
- 16 The incidence of gross human rights violations in the western Cape over the Commission's mandate period reached two sharp peaks in 1976 and 1985/86, while maintaining a fairly constant level in the 1990s. The reasons for these peaks are discussed in the sections dealing with the relevant periods.



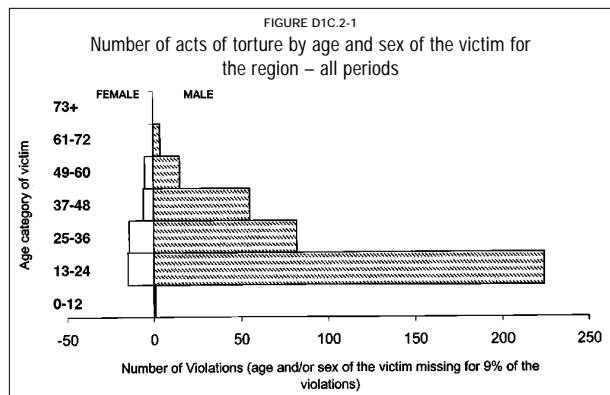
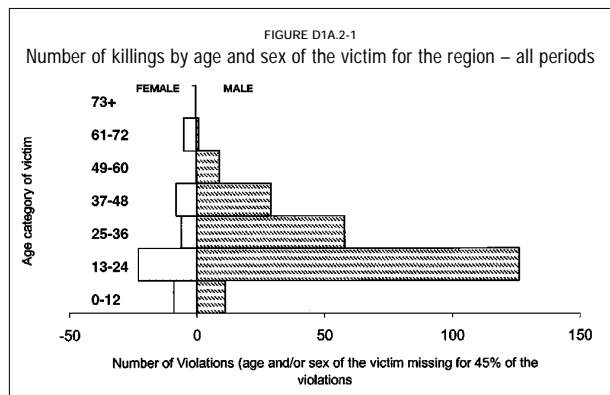
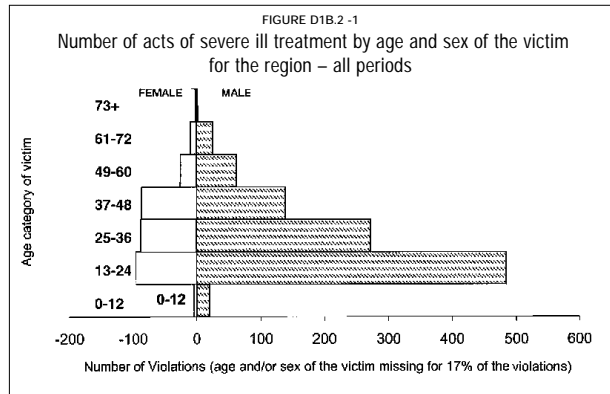
- 17 It is notable that the highest peak is reached in 1985. This pattern is similar to that of the Eastern Cape, but markedly different to KwaZulu-Natal and the former Transvaal, which recorded high levels of violations in the 1990s.



- 18 Severe ill treatment was the dominant violation, accounting for 52 per cent of the violations in the region. The most common form of severe ill treatment reported was beating, followed closely by incarceration and shooting injuries. Males between the ages of thirteen and twenty-four were the primary victims. Amongst women there was a fairly constant level of violations between the ages of thirteen and forty-eight.

19 Killings constituted 16 per cent of the violations in the region. The victims of reported killings were primarily males between the ages of thirteen and twenty-four, followed by males between the ages of twenty-five and thirty-six. Shooting was by far the most common type of killing.

20 The most common form of torture was beating, representing more than double the number of any of the other categories. This was followed by mental torture, suffocation and electric shock. As for the other types of violation, the victim profile here too is largely male and between the ages of thirteen and twenty-four.



Political affiliation of victims

21 The overwhelming majority of victims with a known political affiliation were ANC members or supporters, followed by the UDF. (It must be noted that these two organisations were at times used interchangeably by deponents.) This is true for killings, severe ill treatment and torture. In all these categories, the next greatest largest number of victims were linked to the Pan Africanist Congress (PAC).

Perpetrator groups

22 The South African Police (SAP) was named as perpetrator in the overwhelming majority of violations in the categories of killings, severe ill treatment and torture for the entire period. Supporters of the UDF and PAC were also identified as perpetrators of killing violations, although these accounted for a fifth or less of the number attributed to the police.

23 Killings by the UDF were concentrated between 1984 and 1986, and killings by the PAC between 1992 and 1994. Acts of torture and severe ill treatment by the SAP are spread across the period, with dramatic peaks in the 1980s and the 1990s.

■ 1960-1975

Overview

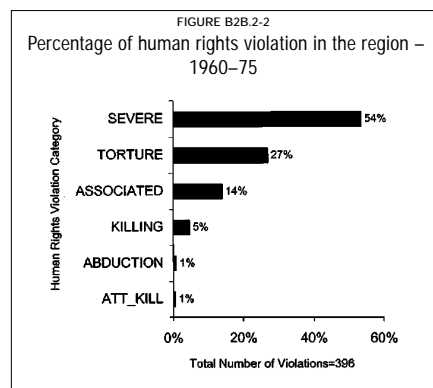
24 Reported violations in the western Cape for this period are similar to those occurring elsewhere in the country, especially those arising from the anti-pass laws protests of 21 March 1960 and subsequent events. These include the detentions, torture and trials that followed the banning of organisations and individual activists. The western Cape, however, also saw political conflict of a regional character emanating from the activities and campaigns of Poqo, a feature shared with the Eastern Cape.

25 The first half of the 1970s was characterised by continued personalised repression in the form of detentions and banning orders along with tighter controls on existing anti-apartheid organisations or bodies. Student leaders were a particular target of banning orders in the western Cape. Many activists and other individuals had their passports withdrawn or applications refused. In 1971 a security swoop across the country, including Cape Town, resulted in numerous long-term detentions. 1974 saw a spate of detentions and trials in the wake of the pro-FRELIMO commemoration rallies held at various campuses.

- 26 In early June 1972, University of Cape Town (UCT) students holding an education protest meeting at St George's Cathedral were baton-charged on the steps of the Cathedral and badly beaten. Fifty-one students were arrested and charged. Eleven students and a university employee instituted legal action for assault against the Minister of Police, resulting in out-of-court settlements.
- 27 The Schlegel Commission of 1972–73 investigated numerous anti-apartheid bodies such as the National Union of South African Students (NUSAS), the Christian Institute and the South African Institute for Race Relations (SAIRR). This Commission laid the groundwork for a clamp-down on these organisations. Numerous Cape-based people refused to testify and consequently faced legal action and banning orders. The Christian Institute was banned completely in 1977.
- 28 In 1972 a vigilante group calling itself 'Scorpio' began distributing leaflets in Cape Town letter boxes. The campaign attacked white liberals, Jews and others and eventually escalated into violent attacks on property. Two white people were later convicted for these acts.

Overview of violations

- 29 Severe ill treatment and torture were the chief forms of gross human rights violations reported for this fifteen-year period.
- 30 Most of these violations took place in the Peninsula and Boland areas, with a limited number in the Beaufort West region corresponding with trials of Poqo members. In the majority of cases, the victims were aligned to the ANC or the PAC, or were non-partisan. Most reported violations were attributed to members of the SAP.



Public order policing: the anti-pass campaign

- 31 The anti-pass campaign of 1960 saw the first gross violations of human rights in the western Cape in the Commission's mandate period. The PAC had called on all African men to leave their passes at home on 21 March and give themselves up for arrest at their nearest police station. The ANC had planned their anti-pass campaign for ten days later. People responded in both urban and rural areas of the western Cape. At Nyanga, PAC supporters congregated on a rugby field and then marched to the Philippi police station to give themselves up for arrest.

The Langa shootings

- 32 In Sharpsville, Johannesburg, more than sixty unarmed men, women and children died and hundreds more were wounded in the anti-pass campaign on 21 March 1960. When that news reached Cape Town, a crowd of 5–10 000 people assembled at the Langa Flats bus terminus around 17h00 in defiance of a country-wide ban on public meetings and gatherings of more than ten persons. Police told the crowd to disperse “within three minutes”. When this did not happen, they charged with batons and fired tear gas as well as bullets. At least three persons, Mr Cornwell Tshuma, Mr Leonard Mncube and Mr C Makiwane, were killed and many others injured. Cape Times employee Richard Lombard was killed by the crowd in the chaos that followed the shootings.
- 33 The Commission received several statements regarding shooting injuries in Langa on 21 March 1960 or alleging police beatings and assaults related to this period.
- 34 Twelve-year-old Mongezi Hallington Msizi [CT00943] had been selling cakes in the area when the Langa shootings started. Bullets from a passing police van struck him in the lower abdomen and in the forehead, hospitalising him for several months.
- 35 Mr Luyanda Gladman Jack [CT01344] was one of many people, including some journalists, who had climbed onto a block of flats for a better view of the PAC rally. When the shooting began, he jumped to the ground for cover:
- I do not remember when I reached the ground, but what I do remember is that I was shot with pellet bullets in my left leg just above the ankle. I think I fell and became unconscious.*
- 36 He was unconscious when admitted to hospital and needed several years' hospital treatment for his injuries.
- 37 There were persistent rumours that many more people had been killed during this period than was actually disclosed by the authorities. A witness at the Commission's Cape Town hearing in June 1996 spoke of “mass graves” on a farm in Bonteheuwel, bordering Langa. Some of the rumours were that some of the missing persons had been shot by policemen and soldiers driving in Saracen armoured vehicles as they fled into the bushes near Vanguard Drive. Their bodies were allegedly buried in shallow graves and later exhumed and reburied at Ndabeni. A reporter who covered the Langa shootings claimed that he had seen “at least twelve people who appeared to be dead”.

- 38 Mr Clarence Makwetu, former PAC President, was interviewed by the Commission and described the allegations as rumours that gained popular acceptance. Research also indicates that many people fled to the Transkei in the wake of these events, giving an impression of large-scale losses.

WITH REGARD TO THE LANGA SHOOTINGS OF 21 MARCH 1960, THE COMMISSION FINDS THAT THE INTENTIONS AND ACTIONS OF THE MARCHERS WERE NON-VIOLENT AND DID NOT MERIT THE HARSH ACTIONS OF THE SECURITY FORCES. THE KILLINGS AND INJURIES SERVED AS THE TRIGGER FOR THE KILLING OF MR RICHARD LOMBARD. THE SUBSEQUENT SIEGE OF THE AFRICAN TOWNSHIPS AND ASSOCIATED ASSAULTS BY POLICE PRODUCED THE CLIMATE FOR ATTACKS ON OTHER INDIVIDUALS SEEN AS 'COLLABORATORS', SUCH AS CONSTABLE SIMON MOFOKOLO.

THE COMMISSION FINDS THAT THE ALLEGATIONS OF MASS KILLINGS ARE NOT SUBSTANTIATED. THE NUMBER OF PEOPLE SHOT DEAD BY POLICE ON 21 MARCH PROBABLY DID NOT EXCEED THREE PERSONS, BUT AT LEAST FORTY-SIX PEOPLE WERE HOSPITALISED FOR INJURIES.

- 39 On 1 April 1960, eighteen-month-old Boyi Manjathi [CT00728] was shot and killed in Nyanga by a naval guard. Mr Stanley Nkomazibuyi stated that they were taking their nephew Boyi to hospital when they were stopped at a roadblock by a group of soldiers who would not let them pass due to the curfew. As they made a U-turn, they suddenly heard a loud sound and saw smoke in the car. The car had been shot at. The bullet grazed the passenger's head and hit the sick baby on her lap. When he asked the guards for a reason, Mr Nkomazibuyi was arrested and thrown into an armoured vehicle.
- 40 The events of 21 March were followed by a mass strike in the Peninsula for the abolition of passes and a higher minimum wage for African workers. The black townships were under siege for two weeks, with an estimated 95 per cent of the African population as well as a substantial proportion of the coloured community in Cape Town joining the stay away. There were widespread allegations of police brutality during this siege. In April, an African detective constable, Mr Simon Mofokolo, was battered to death at Nyanga by PAC supporters.
- 41 Newspaper reports described the impact on the Western Cape:

Hundreds of heavily armed troops threw tight cordons around the Langa, Nyanga East and Nyanga West [now Gugulethu] Native townships under cover of dark last night, acting under the Emergency Regulations proclaimed yesterday. The troops carried rifles with fixed bayonets, Sten guns and Bren guns and were supported by armoured cars and Saracens. It is gathered that reinforcements were brought to Cape Town yesterday.¹

¹ *Cape Argus*, 31 March 1960

- 42 The funeral of those who had been killed on 21 March was held a week later in Langa and attended by about 50 000 people. Speakers appealed to the crowd not to resort to violence in any form. They did not want hooliganism to mar the campaign and called for acts of violence to be reported to the campaign organisers. On 30 March, a mass march of about 30 000 people streamed into the city centre and converged on the Caledon Square police station to mark their opposition to the pass laws and detention of local leaders. The march was dispersed after the promise of a meeting which never transpired. Instead Mr Philip Kgosana, who had led the march, was detained.
- 43 The impact of the anti-pass campaign was felt even in rural towns, and the Commission received statements regarding these events from as far afield as Hermanus. An anti-pass demonstration in Paarl is recorded to have been disrupted by the police. Similar demonstrations in Stellenbosch and Somerset West were baton-charged by the police, and a march in Worcester was dispersed by tear gas.

PAC/Poqo activities

- 44 The PAC claimed that its 21 March 1960 campaign was only a part of an "unfolding programme of action" which would lead to total independence by 1963. With PAC leaders in prison, the task fell on the regional echelons. The wide media coverage of the anti-pass campaign and the state's violent response increased the PAC's image and membership, particularly in the Western Cape.
- 45 A number of violations during this period can be associated with Poqo's activities in Langa and Paarl, which included forcible conscription drives and attacks on alleged 'collaborators' and 'dissidents' within the movement who opposed their activities.
- 46 Among those killed by Poqo members in 1962 were several people in Paarl suspected of being police informers. Two of these were coloured women accused of keeping members away from the Poqo meetings. Another coloured woman was permanently disabled.
- 47 Mr Milton Chumani Nozulu Matshiki [CT00267] was one of those killed by Poqo members in October 1962. His widow, Ms Nothemba Glenrose Kabane, stated that her husband had left their house on a Saturday in October 1962 for a local bachelors' hostel, but did not come back home in the evening.

On Sunday morning a police car came to my house. We went together in an office where they told me that a body without a head had been found in the bushes, so they wanted me to go and identify the body. I refused because I was not a strong person. ... They brought the clothes and these were my husband's clothes which he was wearing when he left the house on Saturday. On Wednesday the detectives came again to tell me that they needed me to identify the head which could belong to my husband. It was my husband's head.

At that time you could not criticise anything wrong done by Poqo, their activities or methods of struggle. Everyone in the community was not comfortable because one could be attacked for criticising any move by Poqo people.

THE COMMISSION FINDS THAT PAC OR POQO MILITANTS WERE RESPONSIBLE FOR THE DEATHS OF AT LEAST EIGHT PEOPLE IN THE PERIOD UP TO AND INCLUDING 1963. THESE INCLUDED TWO WHITES AND THREE SUSPECTED 'COLLABORATORS' IN PAARL AND AT LEAST THREE POLICEMEN IN THE PENINSULA.

POQO ADOPTED AGGRESSIVE CONSCRIPTION METHODS, ALLOWING NO ROOM FOR DISSENTION, RESULTING IN AT TIMES VIOLENT INTOLERANCE TOWARDS NON-SUPPORTERS OF THEIR METHODS AND TOWARDS CRITICISM BY THEIR OWN MEMBERS OR OUTSIDERS.

POQO MILITANTS TARGETED CIVILIANS INDISCRIMINATELY. SUSPECTED 'COLLABORATORS' WERE PROBABLY MERELY CRITICAL INDIVIDUALS.

48 On 21 November 1962, Poqo members from Mbekweni, Paarl, met and resolved to attack the white town of Paarl. Over 200 men armed with axes, *pangas*, sticks, sabres and possibly a few revolvers gathered at about 02h00 and split into two groups, one to attack the prison and the other the police station. The latter group approached the police station and began attacking police patrol vans. Three were shot dead in front of the police station and others were wounded and several arrested. As the rest of the group fled, they met those who had been planning the prison attack and formed a new group which began attacking houses in Loop Street. Two white people, Ms Rencia Vermeulen (17) and Mr Frans Richards (21), were killed. One Paarl resident chased the attackers away from her house with a revolver, shooting one of them. The final death toll was seven, including five Poqo members: Mr Godfrey Yekiso, Mr Madodana Camagu, Mr John Magigo and Mr Ngenisile Siqwebo. Mr Matthews Mayezana Mali [CT00723] was shot by the SAP on 23 November 1962. Mali was shot in the head and chest while marching in front of a group of PAC demonstrators on their way to the Paarl police station to hand over a list of grievances on the day after the disturbances.

49 Several people were tortured and assaulted in custody in the wake of these events.

- 50 PAC leaders at Langa reported being shocked by the initiative taken by the Paarl branch when it was reported to them, saying they had not had prior knowledge of the actions.²

THE COMMISSION FINDS THAT THE ACTIONS OF POQO SUPPORTERS IN PAARL WERE ESSENTIALLY LOCALLY PLANNED AND EXECUTED. THERE WERE SERIOUS LOCAL GRIEVANCES IN PAARL, RESULTING FROM THE STRONG ENFORCEMENT OF INFLUX CONTROL AS WELL AS THE CORRUPTION OF BANTU ADMINISTRATION BOARD OFFICERS WHICH HEIGHTENED THE POLITICAL ANGER OF LOCAL RESIDENTS. ALTHOUGH NOT OFFICIALLY SANCTIONED BY THE REGIONAL OR NATIONAL PAC LEADERSHIP, THE PAARL ATTACK FELL IN LINE WITH THE PLANNED OVERALL MASS UPRISING FOR 8 MARCH 1963 WHICH SPECIFIED THE TARGETING OF WHITES AND GOVERNMENT AGENTS.

- 51 Of a total of about seventy-one PAC members executed throughout the country between 1962 and 1967, at least twenty-one came from the western Cape, eighteen from Paarl and three from Langa. These were amongst the first death sentences imposed for political activity in the country during the period of the Commission's mandate.

- 52 Mr Gqibile Nicholas Hans [CT00269] was one of those executed from Paarl.

- 53 Those executed from Langa included Mr Vuyisile Qoba, Mr Gladstone Nqulwana, Mr Thwayi Thwayi and Mr Nontasi Albert Tshweni [CT01338]. They were accused of having murdered Sergeant Moyi in Langa in March 1962. Mr Kwedi Mkhaliipi, a member of the local Langa PAC executive, told the Commission that Qoba, although he was a task force leader, was not present at the killing, which was an impromptu ambush.

CONCERNING THE WIDESPREAD EXECUTION OF POQO MEMBERS, THE COMMISSION FINDS THAT JUDICIAL EXECUTIONS FOR POLITICALLY MOTIVATED OFFENCES CONSTITUTE A GROSS HUMAN RIGHTS VIOLATION.

- 54 A unique set of arrests and trials unfolded in the Karoo region of the western Cape in the second half of the 1960s. Poqo networks were alleged to have conspired to rise up against the white population in several small towns. In Victoria West, twenty-six Africans and coloured people were arrested at the end of April 1968 on charges of having conspired with one another and with sixty-five others to commit sabotage. The state alleged that they were members of Poqo and had, between November 1966 and June 1967, planned to storm the police station, kill the police officers and other whites, and steal weapons and poisons for the town's drinking water.

- 55 During November 1968, ten of these men were sentenced to three years each

² Commission Interview on 25 June 1998 with Kwedi Mkhaliipi, former PAC leader in Langa.

for belonging to Poqo and furthering its aims. Their convictions were set aside on appeal in 1969. Twenty-four who appeared in the Supreme Court on the more serious charges of sabotage and Poqo activities spent as long as seventeen months in prison before being discharged because of insufficient evidence. Mr Justice Theron, who presided over the case, said a police spy known as X54 had been the centre of the whole state case. Under cross-examination, it became apparent that his answers were false. X54 admitted that he had lied during a similar trial in Port Elizabeth. Similar cases occurred in Graaff-Reinet, Laingsburg and Oudtshoorn.

- 56 The Commission received several statements from those who were implicated and arrested in the Karoo town trials. While only one deponent, Mr William Makulani [CT00578], alleged torture and severe ill treatment by the police while in custody, others complained of lengthy periods of incarceration and court cases based on fictitious charges and disreputable witnesses. The impact of these trials in such small towns was substantial.

THE COMMISSION FINDS THAT THERE WAS LITTLE IF ANY SUBSTANCE TO THE ALLEGATIONS AGAINST THE ACCUSED AND THAT THE ABOVE-MENTIONED TRIALS WERE A MANIFESTATION OF RACIST INTOLERANCE AND PARANOIA. AS A RESULT, THOSE DETAINED AND ACCUSED ENDURED UNNECESSARY AND VINDICTIVE HARDSHIP.

Detentions and torture

- 57 There were several distinct waves of detentions and torture during the 1960–75 period. The first occurred under the March to August 1960 state of emergency. The next wave, accompanied by severe torture, occurred in 1963 under the ‘Ninety-Day Detention Law’, passed on 1 May, and following the arrest of the Umkhonto weSizwe (MK) high command at the Lilliesleaf Farm in Rivonia, Johannesburg at around the same time. Mass arrests of Poqo or PAC members were followed by extensive torture and trials that led to death sentences for many of the accused. After further intermittent detentions and trials throughout the 1960s, there were the nation-wide arrests of South African Students’ Organisation (SASO) and Black People’s Convention (BPC) members in 1973–74 which extended to the Western Cape as well.
- 58 In the evidence before the Commission, Warrant Officer Hernus JP ‘Spyker’ van Wyk is the individual most consistently associated with torture in the Western Cape over a thirty year period. Mr Theunis ‘Rooi Rus’ Swanepoel is also among those mentioned frequently in submissions to the Commission.

- 59 A special 'screening centre' was created at the Bellville police station, where Poqo suspects were beaten and tortured during interrogation and forced to make statements implicating themselves and their comrades. Mr Sisa Ncapai [C2660/97WTK] told the Commission:

I was arrested in November 1964 and questioned about my political activities, especially the recruitment of the youth for military training in the countries outside South Africa. I was tortured with electric shocks and made to stand on my toes on bricks placed on each other and this act would continue for over an hour, and the arms are stretched out sideways.

An empty twenty-litre paraffin bucket was placed on my head down to the shoulders and a dirty rag dipped in an oily substance that gave a nasty headcracking smell was inserted in the corner of the bucket. The smoke which came from the rag sent me fainting. I was kicked and hit with fists and I stayed without food for hours on end. It was worse when the security personnel led by Sersant van Rooyen, ... Mostert and others brought with them cadres who were arrested on the borders ...

- 60 ANC member Christmas Tinto [CT00477] was arrested in 1963 and was also tortured at the Bellville police station. A bag was placed on his head, electric shocks were applied at his fingertips and he was beaten and kicked. In 1968, he was again detained, beaten and held in solitary confinement for eleven months, followed by more torture in 1972. He described being taken blindfolded at night to a cliff by the sea, where he was taken to the edge and threatened with death.

The following morning I was taken to Pollsmoor prison ... I was put in a big hall. They locked the door and told me to undress which I did. They even forced me to take off my undertrousers and I was left naked. I was told to stand on a chair handcuffed. A rope was thrown over the ceiling rafters and tied around the handcuffs. They put a bag over my head and tied some wires around my fingers, one in each hand, and electric shocks were then applied ... Van Wyk said "Tinto now we are serious and you are going to tell us". He had a pair of pliers in his hand ... He squeezed the cover of my penis with a pliers, pulling all my hair on my private parts till I was unconscious and found myself sleeping in Valkenberg mental hospital for two months. I was charged under the Terrorism Act and sentenced to seven years' imprisonment on Robben Island.

- 61 Some detainees were taken to Pretoria and tortured there, amongst them Western Cape ANC president Mr Zolile Malindi [CT00510], who was detained together

with his wife under the state of emergency regulations in 1960. In 1961 he was banned for two years, was detained again in 1963 under the ninety-day detention law³ and held in solitary confinement in Worcester. Mr Malindi was tortured in Pretoria Central prison by about six Special Branch men including Sergeant Greeff. He was given the 'helicopter' treatment⁴ and was suffocated with a plastic bag. This was followed by electric shock torture on his body. Mr Mountain Qumbelo [CT03711] was beaten, suffocated, forced to hold physical positions and subjected to electric shocks in Pretoria by Sergeant Greeff and others.

- 62 Ms Stephanie Kemp [KZN/SELF/072/DN] stated that Warrant Officer van Wyk "beat me senseless while I was in detention. Viktor came down with one Van der Merwe and kept me standing through the night and longer while interrogating me." Subsequently jailed for sabotage, she was later paid out R2 000 by the then Justice Minister, Mr John Vorster, for torture.
- 63 Mr Johnny Issel and Mr Steven Carolus were amongst six Black Consciousness Movement activists detained in the western Cape in October 1974 under Section 6 of the Terrorism Act. They were taken to Pretoria where a national investigating team, including Van Wyk, was formed to interrogate the 100 black consciousness activists being held in Pretoria Central. Interrogation took place at the police commissioner headquarters (COMPOL).
- 64 Issel reports that he was questioned by a team of fifteen security policemen. They took turns beating him with their fists and kicking him about the room. Later that evening he was made to crouch on his knees. His hands were tied behind his back and he was blindfolded. Wires were attached to the little finger of each hand and he was shocked four times. Each time this happened his body was flung across the floor. The two policemen drank brandy throughout the torture. Interrogation continued and they remained dissatisfied with the answers they were receiving. Issel was blindfolded again and subjected to electric shocks by Colonel Andy Taylor and others. Other forms of torture at COMPOL included spending an entire day doing frog jumps around the room until all sense of co-ordination was lost, and standing against the wall with arms outstretched.
- 65 Issel was released as a state witness after being held for five months at Pretoria Central. He laid charges of assault against the security police, but the matter never reached the courts.

3 Section 17 of the General Law Amendment Act No 37 of 1963.

4 The 'helicopter' technique refers to a method of torture where a victim was suspended from the ceiling, with hands and feet shackled to a stick, and spun around.

- 66 Mr Steven Carolus was interrogated by a panel of security policemen who made him sit on an 'invisible chair' when they were dissatisfied with his answers. Taylor and a German-speaking policeman then gave him electric shocks to his genitals. After about a week of questioning and constant beatings, Carolus was held in solitary confinement for seven months before being released.
- 67 Mr Danile Landingwe [CT01311], also part of the SASO group taken to Pretoria in 1974, states that he faced repeated detentions, assault and torture:

The interrogation started daily. I was assaulted and I lost two teeth. Spyker van Wyk was instructing other security police to beat me. ... You would also be asked to stand next to the wall, carrying a book. You were given fourteen days to do this exercise but on the eighth day you fell. They would start beating you again. I was held for five months and released in 1975.

Deaths in detention

- 68 Western Cape activists Looksmart Ngudle and Imam Haron died in detention during this period. The Commission was not able to make a finding concerning the death of PAC member Bellington Mampe [EC2718/97QTN] in 1963.

The death in detention of Looksmart Ngudle

MK commander Mr Looksmart Khulile Ngudle (41) [CT00504, CT00517, EC0127/96CCK], was detained on 19 August 1963 under the Ninety-Day Detention Act and died on the night of 4/5 September in Pretoria. The police claimed that he had hanged himself in his cell with the cord of his pyjama trousers. Counsel for the State said that Ngudle had killed himself because he had given the police information which led to arrests the day before his death. He was banned posthumously on 25 October.

Evidence by witnesses of electric shock and other torture in detention was ruled by the magistrate as irrelevant. A Pretoria magistrate who visited Ngudle the day before his death reported to the police that he complained that he was assaulted and that he had coughed blood. The inquest magistrate found that the cause of death was suicide by hanging.

The death in detention of Imam Haron

Imam Haron (45), a respected leader in the Muslim community and former editor of Muslim News, was detained under the Terrorism Act on 28 May 1969, held at Caledon Square police station until 11 August and then transferred to

the cells at Maitland police station where he was found dead on 27 September after 122 days in detention. He had apparently been suspected of recruiting PAC members.

The inquest found multiple bruising, which had been caused at different times by 'a fair amount of trauma', and a broken rib. Police claimed that he had fallen down some stairs after losing his balance. Between 17 and 19 September, the Imam had been taken away from the police cells to an undisclosed place for interrogation. The then Major Dirk Kotze Genis and Sergeant van Wyk were responsible for the interrogation. The Haron family's legal representative argued that Imam Haron had been beaten in efforts to extract a statement from him, and that the trauma he suffered caused a pulmonary embolism which triggered a heart attack.

The presiding magistrate found that the likely cause of death was myocardial ischaemia, due in part to 'trauma superimposed on a severe narrowing of a coronary artery'. It was found that the bruises were not caused by the fall. He declined to rule on whether the death was brought about by any act or omission involving or amounting to an offence on the part of any person, finding merely that "a substantial part of the said trauma was caused by an accidental fall down a flight of stone stairs. On the available evidence I am unable to determine how the balance thereof was caused."

A number of publications consulted during the Commission's investigations added weight to the questions raised in the inquest report.

THE COMMISSION FINDS THAT A CONSISTENT GROUP OF INDIVIDUALS WAS RESPONSIBLE FOR DIFFERENT FORMS OF TORTURE OF POLITICAL DETAINEES IN THE REGION DURING THIS PERIOD. THE GROUP CONSISTED OF WARRANT OFFICER 'SPYKER' VAN WYK, A SERGEANT GREEFF, A SERGEANT VAN ROOYEN AND CERTAIN PERSONNEL FROM OTHER REGIONS INCLUDING COLONEL ANDY TAYLOR, SERGEANT FERREIRA AND A CERTAIN MR VAN DER MERWE. THESE INDIVIDUALS WERE DEPLOYED AT BOTH REGIONAL AND NATIONAL LEVEL.

IN THIS CONTEXT, THE COMMISSION FINDS THAT IT IS HIGHLY LIKELY THAT THOSE WHO DIED IN CUSTODY EXPERIENCED TORTURE PRIOR TO THEIR DEATHS, AND THAT THEIR DEATHS WERE A DIRECT OR INDIRECT RESULT OF SUCH TORTURE.

THE COMMISSION FINDS THAT THERE IS EVIDENCE OF WIDESPREAD TORTURE OF DETAINEES IN PRETORIA DURING THIS PERIOD, AND THAT MR LOOKSMART NGUDLE'S DEATH WAS A DIRECT OR INDIRECT RESULT OF SUCH TORTURE. THE COMMISSION FINDS THAT, ALTHOUGH IT IS NOT IN A POSITION TO REVERSE THE FINDINGS OF THE INQUEST COURT, THE DETENTION WITHOUT TRIAL OF THE IMAM ABDULLAH HARON WAS UNDOUBTEDLY A GROSS VIOLATION OF HUMAN RIGHTS, AND HIS DEATH WAS CAUSED DIRECTLY OR INDIRECTLY BY HIS EXPERIENCES AT THE HANDS OF THE SECURITY POLICE.

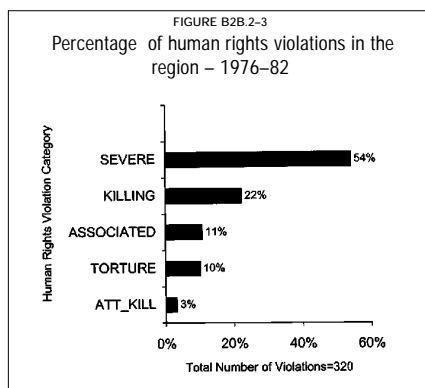
■ 1976-1982

Overview

- 69 This period saw two waves of large-scale public resistance with high numbers of casualties: the 1976 revolt and the violence associated with the 1980 school boycotts. The 1976 revolt began in the Transvaal and spread to the western Cape in August 1976, with an accompanying shift to more violent and intensified repression by the state. After the Transvaal, the Western Cape had the second highest number of deaths and injuries associated with the 1976 revolt. Numerous detentions followed, many with accompanying allegations of torture and at least three deaths in detention in 1976 and 1977. A number of local activists were sentenced to prison in a series of terrorism trials in the late 1970s. Others, mainly student leaders, were placed under banning orders.
- 70 The 1980s school boycotts began in the western Cape and spread to other parts of the country. Conflicts with security forces escalated and continued for several months, resulting in at least forty-two deaths. Other political campaigns such as the meat and bus boycotts were also undertaken that year. Numerous community grassroots organisations emerged in the region. These laid the basis for the formation of the United Democratic Front in 1983.
- 71 Widespread protests emerged after new squatter camps faced demolitions and repression by the state and its security forces. Crossroads squatter camp sprang up from 1975, after the demolition of large squatter camps in the Bellville area. Crossroads faced frequent police raids as authorities tried repeatedly to remove the camp. During one raid in September 1978, Mr Sindile Ndlela [CT00908] was shot dead by police and several others were injured. Local and international campaigns to save Crossroads led to a reprieve in 1979.

Overview of violations

- 72 In this period, severe ill treatment is the dominant form of violation reported to the Commission, followed by killings. This differs from the pattern in the previous period.



73 The increase in killings reflects the 1976 and 1980 periods of street conflict between protesters and the SAP. The police were again the main perpetrators in all of the categories above. Although largely centred in the Peninsula, there was a wider spread of violations in the Boland, the South Cape and the Northern Cape in this period.

Detention, torture and trials

74 There were numerous, largely unsuccessful, court applications to halt assault and torture in custody in the wake of the 1976 revolt. Many high school pupils were assaulted following arrest by the SAP. From the accounts it appears that both the SAP and Security Branch police members were responsible for assaults and torture of school children at the time.

75 A fifteen-year-old pupil who wishes to remain anonymous was arrested in August 1976 with other pupils en route to a meeting. They were taken to Mowbray police station where a police officer identified four of the pupils as “ringleaders” and took them to the commanding officer, who told them he would “beat the politics out of them”. They were brutally assaulted with batons by a group of police members, including the commanding officer. The anonymous deponent suffered a perforated eardrum and still bears scars on his forehead.

76 Mr Mkhululi Brian Mphahlele [CT00194] states that he was tortured and beaten at Caledon Square police station by Security Branch members Swarts and Coetzee in January 1977 while being questioned about the school boycotts. He then served three years for arson. Mr Joseph Ndabezitha [CT03031] also mentions Swarts and Sergeant Greeff in his account of being tortured that year. Mr Toto Mzwandile Ntsohi [CT03097] was beaten and given electric shocks by security policeman ‘Spyker’ van Wyk in 1977 at Caledon Square.

The detention and torture of Yusuf Gabru

Detention and torture were not limited to scholars. Salt River High School teacher Mr Yusuf Gabru was detained in 1976 under Section 6 of the Terrorism Act and held at Caledon Square. Spyker van Wyk, his brother, and two other security policemen interrogated Gabru and beat him with their fists and knuckles. He was forced to sit on his knees for a day. After two weeks he was told that he was being released. He was then taken into the room next door, his belongings were once again removed and, after a

severe beating, was told that he was being redetained. Gabru describes this as the most devastating moment of his detention. Other methods of abuse included trying to force a pork sandwich into Gabru's mouth because he came from a Muslim family. Gabru says that the physical torture was far easier to bear than the psychological torture. On one occasion Spyker van Wyk and another policeman took him up a staircase, spoke about slippery staircases and suicides and pushed Gabru's head over the railings. Spyker van Wyk also told Gabru that Imam Haron had been murdered.

THE COMMISSION FINDS THAT ASSAULT AND TORTURE WERE USED AGAINST PEOPLE ARRESTED AND DETAINED DURING AND AFTER THE 1976 POLITICAL UNREST, BOTH AT THE HANDS OF ORDINARY POLICE PERSONNEL AND THE SECURITY BRANCH. IN PARTICULAR, DETAINEES HELD AT CALEDON SQUARE POLICE STATION EXPERIENCED TORTURE. THE PERPETRATORS MOST FREQUENTLY MENTIONED IN THIS REGARD ARE INDIVIDUALS KNOWN AS SWARTS, VAN WYK, COETZEE AND GREEFF.

Detention and torture following the 1980 protests

- 77 The August 1980 killing of Mr Jansen and Mr Beeton (see below) led to a marathon trial involving veteran activist Mr Oscar Mpetha and seventeen others and resulted in lengthy prison sentences for those charged, many of whom maintained that they were innocent. Among the trialists who made allegations of torture was Mr Christopher Sidlayiya [CT01348], who described being beaten and given electric shocks by Warrant Officer Benzien and others at the Bishop Lavis police station.
- 78 The 1980 South African Institute of Race Relations Survey reported that 123 school students, five teachers, seven lecturers, over ten trade unionists and several community workers were detained in 1980. Journalist Ms Zubeida Jaffer [CT00776], who had given substantial coverage to those killed in the 1980 violence, was detained and was subjected to mental, physical and possibly chemical torture and abuse during her interrogation and subsequent three-month period of solitary confinement.⁵

I was detained by Spyker van Wyk. He said that they were going to break my nose and they were going to beat me up. They started interrogating me virtually immediately and it went on for a good few days. The whole approach that they used was to surround me with all these men and constantly interrogate me for hours on end. At night when I thought I would be allowed to rest and sleep they would keep me awake. And this went on for two days and then they drove me up to Port Elizabeth and took me to the Sanlam Centre [Security Branch HQ]. When we got there, I thought now they're going to let me sleep

⁵ See also *Special Hearing: Women* in Volume Four.

because I haven't slept since I've been detained, but that didn't happen. Another team of people came in and they started interrogating me again and by this stage I was getting completely affected. I couldn't think any more and they didn't really give me food, they gave me coffee and dry bread. They put two people in charge of me to make sure that I didn't close my eyes. Because the whole thing was that I must not be allowed to sleep so that I could lose complete sense of what was going on around me, which was happening; I was beginning to feel very strange in my head.

Captain du Plessis was in charge of the interrogation, he kept on saying to me "your heart is going to give in, your heart is going to in, you haven't slept for three days, you haven't slept for three days, are you a member of the ANC, tell us who you know".

At a certain point he took me to the window – we were on the 6th floor of the Sanlam Centre – and he said that he would throw me down there, because that's where they kill people.

The next thing he came back and he beat me right across the room into the wall and he kept on beating me right into the wall and I felt – I felt myself just going down. And I just found myself lying there on the floor and you know being completely – completely terrified. At that stage another policeman came in and he said to the man, "just rape her, just rape her", and this man came up to me and he ... and he – he didn't actually rape me, but – the threat of it was – I felt that I was going to die at that point. And then he called him away and he said, leave her alone and they obviously were trying to get me completely to a point where I couldn't function any more.

Then he left me in this room with these two policemen and he said to them they must watch me. They made me stand in the middle of the room and I just had to stand there and then at some point they allowed me to sit. I was starting to get very hot and was getting these pains across my chest. But I didn't really think then, I just felt I was getting really ill because I hadn't slept for the few days. And then I started seeing all my veins in my hand dilating. And in my arms, my veins in my hands and my arms and I felt pains across my chest and suddenly I started feeling all my insides were going to come out. And I said to them, "I am going to get sick, I am going to get sick," and the one guy ran with me to the toilet to take me to the toilet and the other guy ran to the phone and he said, "It's starting". Now at that point I didn't think anything of it. I didn't have any idea, I was just terrified. When I explained to the lawyer afterwards upon my release what had happened he

said that I had obviously been drugged and that they were waiting to see what the reaction was going to be. I was just seeing all my veins dilating, it looked like worms – it looked like worms coming out of my hands. It was all standing up I thought my blood vessels were going to burst and I just felt this pains across my chest and I felt I was going to be very, very ill. Then Captain du Plessis came back, and he said “Zubeida you know you’re never going to make it, you going to have a heart attack you going to die. And so we going to give you some paper and we want you to write your life story. And you’ll spent the night writing your life story on this paper.”

So I started doing that and that went on for the whole night. I had to be awake then the whole night. They took a fan and they put the fan over my head and every time I wanted to sleep they said “Maak jou oë oop!” [Open your eyes!] You know, they would shout at me. They had strict instructions not to allow me to sleep. They took me back into the small little room, put me on the chair, gave me more paper and a pen and said I should write. And I sat there and I was unable to write, I was completely unable to do anything. I must have slipped into unconsciousness because I was vaguely aware that they were there and I knew I landed on the floor. I was lying on the floor for many hours unconscious.

- 79 During a terrorism trial of five young people in connection with school boycotts in Kimberley in 1982 and 1983, a number of witnesses and detainees gave evidence of alleged torture and mistreatment by the security police. They described assaults and the ‘helicopter’ form of torture. The magistrate dismissed these allegations.
- 80 The Commission noted that cases of torture were reported as having taken place in the Transvaal Road police station in Kimberley during the 1970s. Mr Matthews Teme [CT00650] described being assaulted there in 1979 by security police officers, including Mr Bennet Mochesane.

Deaths in detention

- 81 Of the twenty-nine recorded deaths in detention during the 1970s across the country, three occurred in the western Cape. All three were described by police as suicides. In July 1977, Mr Phakamile Mabija [CT00635; CT00135] died in detention in Kimberley’s Transvaal Road police station. A high-profile activist, Mr Elijah Loza [CT00257], died in Tygerberg hospital some three weeks later after sixty five days in detention.

The death in detention of Luke Mazwembe

Western Province Workers' Advice Bureau employee Luke Mazwembe (32) died in the Caledon Square police headquarters in Cape Town. His death was officially described as "suicide by hanging". He was arrested on 2 September 1976 at 06h00 and was found dead at 07h40 in the corner of a police cell, hanging from the ceiling by a noose made of strips of blanket tied together with pieces of twine. A razor blade had been used to cut the blanket into strips and to cut the twine. The police were unable to explain how the razor blade and twine had got into the cell.

At the inquest the police asserted that they had not assaulted Mazwembe. The state pathologist said that Mazwembe had several wounds to his body, including neck abrasions, swelling and bruising of his right cheekbone, slight swelling of the lower scrotum, several abrasions over both shoulder blades and abrasions on the left ankle. Under cross-examination, he stated that he could not exclude the possibility that Mazwembe had been killed and then hanged to fake a suicide: the neck wounds were compatible with either explanation. The magistrate ruled that Mazwembe was neither tortured nor assaulted by the police, and assumed that the twine and razor blade had been accidentally left in the cell by an unknown person.⁶

The death in detention of Phakamile Mabija

Anglican Church warden and youth worker Phakamile Mabija (27) [CT04513, CT00635, CT00135] died on 7 July 1977 after ten days in detention in the Transvaal Road Police Station in Kimberley. According to the police, the detainee committed suicide. At the inquest, Sergeant Oscar Ntsiko said that he was escorting Mr Mabija from the toilet when he suddenly broke loose and ran into an office. He rushed after him, only to see him crash through the window. An independent pathologist said Mabija had cuts on his face and hands which could have been caused by clutching glass, and lacerations of the liver that could have been caused by assault. The inquest verdict was that Mabija died of multiple injuries following a jump from a sixth floor window. Nobody was found responsible for the death. The Commission notes that cases of torture took place in the same police station during that period, by a similar group of perpetrators.

The death in detention of Elijah Loza

Elijah Loza (59) [CT 00257] died on 1 August 1977 in Tygerberg hospital

⁶ Information taken from *United Nations Economic and Social Council, Commission on Human Rights*, compiled by the Special Committee against Apartheid, February 1979.

while still in custody after sixty-five days in detention. His death was officially found to be due to natural causes after a stroke. His family alleges he died as a result of torture. Numerous statements confirm that Mr Loza was tortured during his 1963 detention. The Commission finds that he was again tortured during his 1977 detention and that this directly or indirectly led to his death.

IN THE CONTEXT OF THE TORTURE DESCRIBED EARLIER, THE COMMISSION FINDS THAT IT IS HIGHLY LIKELY THAT THOSE WHO DIED IN CUSTODY EXPERIENCED TORTURE AND THAT THEIR DEATHS WERE A DIRECT OR INDIRECT RESULT OF SUCH TORTURE. FOR THESE GROSS VIOLATIONS, THE SOUTH AFRICAN POLICE IS HELD ACCOUNTABLE.

The 1976 Uprising

- 82 A student boycott at the University of the Western Cape (UWC) in early August 1976 developed into protest activities with mass disturbances in Langa, Nyanga and Gugulethu. On 11 August, according to the Cillie Commission Report, twenty-one people were killed during street protest activities. Amongst the first was Mr Ezekiel Xolile Mosi, an eighteen-year-old school pupil from Langa, who was shot and killed by police. Mosi's funeral was one of the first to be restricted following the renewal of the nation-wide ban on open-air gatherings announced on 4 August. Protest action was not just confined to student issues, and often had the active support of workers. Buildings, vehicles and even persons associated with the Bantu Affairs Administration Board were under constant attack.
- 83 Late August and September saw heated protest activities in the coloured residential areas, particularly Manenberg, Bonteheuwel, Hanover Park, Elsies River, Ravensmead, Retreat, Athlone and Grassy Park. One of the first coloured pupils to be killed by the police was fifteen-year-old Christopher Truter [CT00411] of Bonteheuwel, who was shot on 25 August.
- 84 The most serious incidents of street conflict were recorded on 2, 8 and 9 September 1976 with an estimated thirty-nine deaths for those three days of protest in both coloured and black townships. A general strike called on 15 and 16 September was widely supported. The first signs of tension between residents and migrant workers residing in the townships became evident at this stage.
- 85 The Commission received numerous statements concerning assaults and shooting injuries. Deaths reported included Mr Mzoxolo Sogiba [CT03706], Mr Benjamin Desmond Rhula [CT00412], Mr Sifanele Kenneth Nduna [CT00956], Mr Tolika

Mafumana [CT00226], Mr Maxwell Sitshongaye [CT00876], Mr Wiseman Madodomzi Lutya [CT00606], Mr Noel John Adriaanse [CT00316], Mr Gasant Carolissen [CT01103], Mr Andrew Henry Douglas Ferguson [CT00614], Mr Shahied Jacobs [CT01115], Mr Ridwaan Yasin [CT00719], Mr Clive Isaacs [CT00315], Mr Glynn John Peterson [CT00400], Mr Neville Botha [CT00315], Ms Naomi van Kerke [CT00405], Ms Sandra Joyce Adams [CT00122], Mr Thandinkosi Sidwell Dondi [CT00220], Mr Sonnyboy Willie Zantsi [CT00707], Mr Ronald Harris [CT00312], Mr Ronald October [CT00721] and Mr Abdurahman Allie [CT00123].

Migrant Backlash

- 86 In October, township youth launched a campaign against liquor establishments (shebeens and shebeen-owners), perceiving these to be symbols of oppression. Youth clashed violently with shebeen owners and with the police. In December youth activists announced that festive activities over the Christmas period would be limited and instead the deaths of those killed during the uprising over the past months would be mourned. Migrant workers residing in the townships failed to heed the call to mourn rather than celebrate. Over Christmas 1976, Nyanga hostel-dwellers violently resisted attempts by township youth to enforce participation in stay aways, liquor boycotts and memorials. The key targets of youth resistance – liquor and labour – touched migrants directly. They interpreted these actions, as well as the boycott of schools, as criminal activity by gangsters and mobilised around perceived threats to their security and livelihood.
- 87 Over a three-day period, migrant hostel-dwellers wearing white ‘doeks’ (head cloths) moved into Nyanga, burning homes and attacking residents. Approximately twenty-four people were killed (thirteen by police), 106 were wounded and at least 186 Nyanga homes were burnt. Statements were received concerning injuries as well as the deaths of Ms Nosipho Mboma [CT00926], Mr Henry Kwisomba [CT00603], Mr Willie Botha [CT01025], Mr Brian Komani [CT01574], Mr Government Jelemsi [CT00935], Mr Jackson Gishi [CT00624], Mr Sydney Zwelakhe Gongxeka [CT00816], Mr Denis Bantu Dlanga [CT00815] and Ms Ellen Makaluza [CT01579].

The rural areas

- 88 The ripple effect of the 1976 uprising extended to the western Cape in August of that year, reaching the Boland towns in September. The rural towns which featured prominently were Oudtshoorn, George, Mossel Bay, Stellenbosch, and Paarl.

- 89 Student marches in Paarl were baton-charged by police on 9 September 1976. Later that day, arson attacks took place. It was during these and subsequent incidents that Ms Carolina Spasina Hoogaardt (16) [CT08200], Ms Sarah Jane Viljoen [CT00441] and Ms Yvonne Dube (45) [CT00443] were killed by police. Several were injured. Clashes between police and residents, mainly the youth, continued to early October, and a number of government buildings were destroyed. In Stellenbosch, two people were killed by police, including Mr Ronald Charles Carolissen [CT00436]. In Montague, Mr Pieter Afrika [CT08100] was shot dead.
- 90 There was widespread political resistance in the southern Cape in September. In Mossel Bay on 10 September, thousands took to the streets in marches and built barricades; the town's hotel was burnt down in the upheaval. Mr Cornelius Lucas and Mr Isaac Bezuidenhout [CT00341] were killed by police and twenty-one people were injured. In George, twelve-year-old Abida Harris [CT00332] was shot dead. Oudtshoorn saw widespread marches, arson, shooting injuries and one death.

Casualties

- 91 The SAIRR gives the final death toll in the western Cape for 11 August to 28 February 1977 (including December clashes) as 153. The Cillie Commission puts the figure at 149. Of these, 117 were killed by police and thirty-one by members of the public. The Black Sash reported persistent rumours that many more had died than appeared on the official casualty list given to the Commission. A strong feature of the 1976 revolt in the region was the very high percentage of violations involving coloured people. Of the 108 people shot dead by police in the Peninsula, fifty-three were coloured and fifty-five African. All but one of the deaths in the rural towns involved coloured people exclusively.

THE COMMISSION FINDS THAT THE USE OF FORCE IN THE WESTERN CAPE BY THE SECURITY FORCES WAS EXCESSIVE. THE MAJORITY OF PROTESTERS WERE UNARMED AND THOSE WEAPONS USED BY A MINORITY OF PROTESTERS WERE LIMITED TO STONES AND, IN CERTAIN CASES, PETROL BOMBS.

THE COMMISSION FINDS THAT THERE WAS CRIMINAL LOOTING OF PREMISES BY PROTESTERS AND OTHER CIVILIANS. WHILE THE POLICE WERE BEHOLDEN TO ACT IN SUCH CIRCUMSTANCES, THE COMMISSION FINDS THAT DEADLY FORCE WAS USED WHEN NON-LETHAL METHODS WERE AVAILABLE, FOR EXAMPLE IN THE ARREST OF THOSE RESPONSIBLE.

THE COMMISSION ALSO FINDS THAT THE CONFLICT BETWEEN HOSTEL-DWELLERS AND TOWNSHIP RESIDENTS OVER THE CHRISTMAS AND NEW YEAR PERIOD OF 1976-77 EMERGED MAINLY FROM THE ECONOMIC AND SOCIAL DIVISIONS IMPOSED ON THESE GROUPS BY APARTHEID LEGISLATION. HOWEVER, THE COERCIVE ACTIONS OF PROTESTERS REGARDING THE ENFORCEMENT OF WORK STAY AWAYS AND LIQUOR BOYCOTTS PROVIDED THE SPARK FOR THE CONFLICT.

1980–1981 school boycotts

- 92 After the founding of the Congress of South African Students (COSAS) and the Azanian Student's Organisation (AZASO) in 1979, school protests became more organisationally directed. Across the country, up to 100 000 children in coloured and African schools and university students on five black campuses boycotted classes between April 1980 and January 1981. The boycott originated in Cape Town, where it was fuelled by deteriorating conditions in the schools and the mushrooming of local organisations. The greatest impact was felt in the coloured townships of Cape Town and in Kimberley.
- 93 Mr Bernard Fortuin (15) [CT02202] and Mr William Lubbe (19) were shot dead from an unmarked police vehicle in Elsie's River in an apparent ambush on 28 May 1980. These killings resulted in a total stay away.
- 94 Violence peaked on 17–18 June 1980 in the coloured townships of Elsie's River, Lavender Hill and Bishop Lavis when a two-day stay away was held to commemorate the uprising of 1976. Coloured leaders had been detained in advance and meetings and gatherings banned during this time. A fare increase had also precipitated a bus boycott. There were incidents of arson, looting, and street protests, with some speculation about the involvement of gang elements.
- 95 Police responded with tear gas, baton-charges and live ammunition, and declined to issue a casualty list. The number of deaths recorded at five Peninsula hospitals was at least forty-two, including Ms Avril de Bruyn [CT00847], Mr Andrew Saul Christians [CT00660], Ms Johanna Moses [CT02201], Ms Edith Lewis [CT00658], Mr Gavin Godfrey Slavers [CT00662], Ms Glenda Scheepers [CT00845] and Mr William Rose [CT00671]. Over 200 people were injured, including children, young or pregnant mothers and a large number of other women. Police officially confirmed thirty-four deaths, including one in the Boland, and 146 injuries which, they alleged, were mainly stabbing and stoning injuries. At least two fatalities occurred as a result of the actions of those engaged in street protest, including one Constable Hugo, who was stabbed to death in Blackheath during a police baton charge, and a civilian who died when his vehicle crashed after being stoned.
- 96 On 11 August 1980, two white men, Mr Frederick Casper 'Fritz' Jansen [CT00675] and Mr George Beeton, were killed on Klipfontein Road next to Crossroads squatter camp during a week of turmoil and widespread street protest. The men were stopped within half an hour of each other. Their vehicles were stoned, overturned and set

alight. Both drivers died after being dragged out of their vehicles and assaulted. Mr Jansen, who sustained numerous fractures of the skull and lower jaw as well as a stab wound on the head, was also badly burnt. He died in hospital the following day.

WITH REGARD TO THE 1980 SCHOOL BOYCOTTS, THE COMMISSION FINDS THAT THE RESPONSE OF THE SECURITY FORCES TO LEGITIMATE EDUCATIONAL AND SOCIAL GRIEVANCES AND PROTESTS WAS EXCESSIVELY HARSH. MANY OF THE FORTY-TWO PEOPLE REPORTED KILLED WERE UNDER THE AGE OF EIGHTEEN, AND MANY WERE WOMEN.

THE COMMISSION FIND THAT THE KILLINGS OF MR 'FRITZ' JANSEN AND MR GEORGE BEETON, AS WELL AS THOSE OF THE OTHER PEOPLE MENTIONED ABOVE, WERE GROSS VIOLATIONS OF HUMAN RIGHTS.

Armed actions by the liberation movements

- 97 Seven or eight intermittent incidents of sabotage by the ANC took place in the region, targeting buildings containing the offices of state institutions and resulting in one death and several slight injuries. These included a sabotage attack on an administration building in Galeshewe township, Kimberley, on 10 November 1977 and two attacks on state offices in Cape Town and Langa on 9 December 1981 and 20 March 1982 respectively. The only conviction during this period was that of Umkhonto weSizwe (MK) operative Oliver Bekizitha Nqubelani, arrested the day after a briefcase bomb explosion at the Cape Town Supreme Court on 15 May 1979.
- 98 On 4 June 1982 Mr Michael Younghusband (26) was killed when a bomb exploded in a lift in the Cape Town Centre building. The target was presumably the President's Council, which had offices in the building. The ANC acknowledged responsibility for this bomb in its submission to the Commission, but no amnesty applications were received for this fatal attack.

THE COMMISSION FINDS THAT THE SABOTAGE ACTIONS BY THE ANC IN THE PERIOD WERE NOT EXCLUSIVELY AIMED AT INSTALLATIONS. IN A NUMBER OF INSTANCES, SUCH AS THE ATTACKS ON KOEBERG, THE SUPREME COURT AND THE OFFICES OF THE PRESIDENT'S COUNCIL, THERE WAS A HIGH RISK OF HUMAN INJURY. THE ATTACK ON THE PRESIDENT'S COUNCIL OFFICE DID IN FACT RESULT IN THE KILLING OF MR MICHAEL YOUNGHUSBAND. THE COMMISSION FINDS THAT THE PLACING OF THIS BOMB WAS PARTICULARLY RECKLESS, IN THAT THE BUILDING HOUSED MANY OFFICES THAT WERE OF A PURELY CIVILIAN NATURE, AND THAT THE BOMBING CONSTITUTES A GROSS VIOLATION OF HUMAN RIGHTS.

■ 1983-1989

Overview

- 99 The UDF was launched both nationally and in the western Cape region in 1983. Its immediate task was the campaign against the forthcoming Tricameral Parliament elections and the community council elections scheduled for 1984. Political campaigns also focused on the newly formed informal settlement at KTC. The state's response to the development of this new squatter camp led to multiple arrests, shack demolitions, deportations to the homelands and other repressive actions. In the Crossroads informal settlement, a split within the Crossroads committee in 1983 resulted in open conflict that left at least seven people dead.
- 100 The political revolt unfolding in the rest of the country reached the western Cape in 1985. The first six months of 1985 saw extensive unrest in the rural areas of the southern Cape, Karoo, Boland and the northern Cape, while the urban Peninsula remained fairly calm until the second half of the year. The Peninsula's large-scale popular revolt in August to December was accompanied by extensive public unrest-related killings and injuries. The Cape province is said to have accounted for 52 per cent of all fatalities in 1985 ⁷.
- 101 Political activity and conflict in the Peninsula was shaped particularly by two demographic features. Firstly, there was a high level of coloured militancy and participation in public as well as underground resistance activities. The semi-underground youth structure known as the Bonteheuwel Military Wing (BMW) is a particular manifestation of this.
- 102 Secondly, informal settlements in and around Cape Town's formal black townships became conflict 'hot spots' accounting for around 120 deaths in the period 1985 to 1989. The extreme violence of 1986 related to the conflicts between the '*wit-doeke*' and the '*comrades*' and created enduring political divisions within the informal settlements.
- 103 The repeated conflicts of the squatter areas of Cape Town sprang from the extreme controls imposed on Africans in the western Cape. State policy towards urban blacks in the Cape was shaped by the policy that the western Cape should be kept as the home of whites and coloureds only. The Coloured Labour Preference Policy (CLPP) established what was called the '*Eiselen line*'. Only if coloured labour was not available could Africans work in the area between this point and Cape Town.

⁷ SAIRR quoted in *The Star*, 15/1/86

104 This repression created a sharp divide between Africans living legally and permanently in Cape Town and the 'illegals' who lived a precarious life of migrancy or concealed residence in the hostels and squatter camps. These policies were ruthlessly policed and caused many of the conflicts that tore communities apart, resulting in deadly outbursts of violence.

105 With some notable exceptions, the high levels of open street confrontation seen in 1985–86 generally subsided during 1986. The countrywide state of emergency imposed in June 1986 led to large-scale detentions in both rural and urban areas. Violations in 1987 and 1988 related largely to the activities of the 'special constables', detentions and torture, killings of underground operatives, and the ongoing skirmishes between pro- and anti-government squatter leaders.

106 The resurgence of popular protest in 1989 associated with the Defiance Campaign, in which the Cape played a leading role, was matched by a rise in violations, peaking with the killings and injuries around the 'whites-only' election of September 1989.

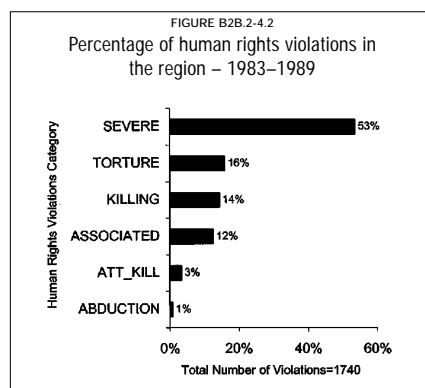
Overview of violations

107 The period 1983–89 generated the highest peak of violations in this region, in both the urban and rural areas. Most reported violations pertained to acts of severe ill treatment, followed by torture.

Public order policing in the Peninsula

108 In the Peninsula, there were five main concentrations of shootings and injuries at the hands of the security forces in the period 1983 to 1989. These were:

- resistance to forced removals from Crossroads, February 1985;
- the Pollsmoor march and the political revolt from August to December 1985;
- the suppression of the Defiance Campaign in September 1989.
- the *witdoeke* conflicts of May and June 1986; (see Contra Mobilisation)
- activities of the 'special constables' from 1986 to 1989; (see Volume 2)



Crossroads, February 1985

- 109 The African population of Cape Town more than doubled between 1980 and 1985,⁸ leading to a proliferation of squatter camps. In response to this influx and in an effort to sift out the 'illegal' Africans for deportation back to the homelands, the government announced its decision to create the new township of Khayelitsha. The proposed move to the distant sandy wasteland of Khayelitsha was fiercely resisted by squatters and township residents via the '*Asiyi eKhayelitsha* (We are not going to Khayelitsha) Campaign' adopted by the UDF. Efforts by the state to commence removals in February 1985 were met with an outbreak of street resistance and clashes with police in which at least eighteen people were killed and about 250 injured in the Crossroads/Nyanga area in three days. Those killed include Fuzile Petrus Juqu (15) [CT00712], Mr Anele Mda [CT00102], and Mr Lele Mpushe [CT03501].
- 110 The removals to Khayelitsha were called off and the government announced certain concessions for Africans: a ninety-nine-year leasehold for all Africans in the western Cape; the completion of the New Crossroads development; and the upgrading of Old Crossroads.

1985 Pollsmoor march and aftermath

- 111 Prior to July, urban Cape Town had a relatively low level of public resistance activities, but the Eastern Cape murders of the Cradock Four in 1985 launched the Peninsula into widespread revolt. On 19 July, following a commemoration service for the Cradock Four at UWC, at least eleven people were injured in Gugulethu in mass stonings of vehicles and accompanying police action.
- 112 Street clashes continued intermittently. When school student Sithembele Matiso [CT00738] was killed by a rubber bullet to his head on 29 July, his funeral was restricted by the police and became the subject of a huge combined police and military operation marked by clashes between mourners and police.

As we were preparing for the funeral the white policemen used to come in numbers telling us that only family members were allowed to attend the funeral. The number of people to attend the funeral was restricted to 50. When they were doing this their behaviour was completely inhuman. They were not even afraid to disturb or disrupt prayer sessions. They had no respect at all ... On the day of the funeral the policemen were there in big

⁸ *Cape Times*, 28 February 1991, quoting Urban Foundation

numbers. We managed to bury the deceased though under extreme pressure. On our way back from the graveyard there was another clash between the people and the police. Many people were injured by rubber bullets, tear gas, buckshot or being beaten with batons.

- 113 A hand grenade was thrown at police near the graveyard, injuring the head of the Unrest Unit, Major CAJ ('Dolf') Odendal, and five other policemen. Law and Order Minister Adriaan Vlok later referred to this grenade attack as the justification and motivation for the 20 December 1985 SAP/SADF raid into Lesotho. The raid was conducted by Vlakplaas operatives, killing nine people, including MK commanders responsible for certain western Cape activity, that is, Mr Joseph Monwabisi 'Themba' Mayoli [CT00826], Mr Vivian Stanley Mathee [CT00431] and Mr Leon 'Joe' Meyer [CT00431].
- 114 What began as student boycotts shifted in early August 1985 to broader political mobilisation and a consumer boycott targeting white-owned shops. On 23 August UDF patron Dr Allan Boesak announced plans for a mass march to Pollsmoor prison (on 28 August) to demand the release of Mr Nelson Mandela, but was detained under section 29 shortly before it took place. On the scheduled date, thousands of people gathered at different sites around Cape Town to march to the prison. Police sealed off many routes and used *sjamboks* and firearms against groups that attempted to begin the march, resulting in widespread deaths and serious injuries.
- 115 Those injured outside Hewat College included a group of religious leaders, amongst them church minister Jan de Waal, who lost the sight in one eye after a *sjambok* smashed his spectacles into his eyes. At a Commission hearing, Mr De Waal [CT01434] described events that day:

It was not a secret march – it was in the newspapers. I remember on the 24th or the 25th Dr Boesak was still negotiating with Mr le Grange, then Minister of Police. He sent him a telegram to say that this march will be peaceful and, to a large extent, was a symbolic march. There was no idea that we would physically go into Pollsmoor prison and break Mr Mandela out.

On that Wednesday 28th we arrived with my colleagues from my denomination together with a big other crowd of clergy and people also from other religions to meet at the Athlone stadium. When we came there, it was already chaotic. There was no way you could get in. The previous night they slammed a ban of around 5 km – no one was suppose to come near ... The police were

there in full force and I think there were also quite a number of Army people there as well ... They were clearing that area with sjamboks and batons and shooting tear gas all over the place.

We had to turn back and went to Hewat Training College. We were between 3–5 000 people together there. There was a long debate whether the march should go on or not. In the end there was a sort of democratic consensus, that it will continue. From there we proceeded onto Kromboom Road. And as we drew nearer to the M5 more police arrived and then of course, the Casspirs.

On one side of that road were just vibracrete fences ... We were somehow boxed in. Then we were confronted by the police in full force. Myself and a colleague of mine, Rev Shun Govender, went forward to speak to the police Commander. He had a megaphone there, telling us we have two minutes or five minutes to disperse. I went forward to him and told that it is impossible for five thousand people to disperse, especially where you have all the restrictions on the side of these roads. We asked them to give us some time to talk to the people and see what alternative plan we can work out.

Some other colleagues organised the people to kneel down. They were singing the Lord's Prayer. Yet, towards the end I just realised that we are going to be attacked by the police. We tried to get the clergy up, because they were in front and we locked arms with the hope that we will withstand to protect the people at the back.

But they came so fast – when someone shouted a command, because they also had these loud hailers. And they came. Many people here in front were still on their knees praying. And I think there were a lot of people that got head injuries, because of them kneeling.

I was there in front, I remember there was a young man next to me, who fell. I was trying to get this man up on his feet. Then suddenly I just felt a blow and I was out for a while. One of the policemen hit me with a baton. Now the baton is fairly thick and not so long, but he hit me from the back and that thing bent over, right over my head. I was growing a sort of a Rhinoceros horn in my front head, immediately after that. Unfortunately I was wearing specs at that stage and both glasses broke and the one in my right eye penetrated my eyeball. And even glass in the left eye as well and I couldn't see at all for a brief moment. I managed to stay on my feet, I think, when someone was leading me to a house nearby. And I was standing at a tap outside the house, trying to wash the glass out of my eyes. Until one woman that was helping me said to me "But look – you have no eye".

- 116 At least twenty-eight people, with an average age of seventeen, were killed in the ensuing uproar across the Peninsula. At least 150 were admitted to hospital with serious injuries, predominantly from Gugulethu, Nyanga, Athlone, Philippi and Manenberg. At the SACLA Clinic in Crossroads alone, at least eighty-nine people were treated for riot-related injuries. Major General Wandrag and Lieutenant General Lothar Neethling visited the area and Gugulethu, Manenberg, and Mitchells Plain were barred by security forces to all but residents. At least 172 people were arrested in the period of the march and thereafter. Fifteen policemen were also injured in the fray.
- 117 The Commission received statements regarding at least nine of those shot dead at this time, including a pregnant woman, Ms Sarah van Wyk (21) [CT03201]; Mr Kholekile Charles Maroti, 23 [CT000202]; Mr Lance Henry Phillips (18) [CT00476]; Mr Brian Lucas (16) [CT00476]; Mr Clive Cupido (18) [CT00222]; Mr Manfred Zolile Makasi (28) [CT00114]; and Mr Mbuyiseli Mtuze (16) [CT00112].
- 118 Ms and Mr Paulsen testified about the death of their twelve-year-old son, Lionel Paulsen [CT00625], who died with Quentin Bailey (13) [CT00630]:

Ms Paulsen: *We were going to march in Mitchells Plain on the 29th because the march in Athlone had failed. My son Quentin came home and, like children are, was inquisitive. Then when he went there he was shot and killed. I was at work and they called me and they told me that my son had been shot. My husband and I ran home. His brother Karel was just one year older. Karel couldn't utter one single word. When he saw me he said "Mommy Mommy", and he charged out of the house. We tried to go to the police station but it was terrible. Having arrived there they chased us away like dogs and said, "Go and find your son's body in the morgue". My husband tried to negotiate with them, but they wanted to arrest him. Some friends who were with us had to calm him down.*

Mr Paulsen: *I went into the police station. I hit on the counter and asked who had shot my child. They didn't answer, they were just looking at me. And then I asked again, "Where is my child?" and they said "Go and find him at the mortuary". And then we went to the mortuary and found his body there. For three months I had this pain in my chest. To tell the honest truth, I loved that child dearly.*

Ms Paulsen: *The next day we returned again and then they took us to the Commissioner of Police. He was a white man on the second floor and he said "Please come again on Monday. We don't have time for you now."*

Lionel and Quentin were 13-year-olds and they both died. There were thousands of people but why did the police shoot the children? Karel sat with Lionel while he was dying – now Karel is suffering because he and his brother were like twins.

That day the 29th of August, I still remember that. I had two sons Lionel 12 years and Karel 13 years. That day I lost two sons. Karel did not study any further. They tried to give him psychiatric treatment but even today he is still suffering. We never heard who were the guilty people – who had shot my son.

Aftermath: The Peninsula erupts

- 119 After the Pollsmoor march, the townships of the Western Cape remained in upheaval until the end of the year with ongoing street battles, barricades and stone throwing and arson attacks on institutions, shops and schools. The troubled townships were regularly sealed off by security forces and placed under virtual siege. The key areas of conflict continued to be the Athlone, Bonteheuwel, Manenberg and Mitchells Plain as well as the African townships of Gugulethu, Nyanga and Langa, with Khayelitsha increasingly entering the fray. On 6 September, the government closed 464 coloured schools and tertiary institutions in an acknowledgement of the enormous impact of the school boycotts. By this stage, however, protest had moved well beyond the education constituency.
- 120 The widespread political outrage that followed the mass killings at the Pollsmoor march had galvanised communities outside of the youth and the education sector. People identified as ‘collaborators’ were increasingly targeted in petrol bomb and stoning attacks. The death toll continued to grow at the rate of several deaths per week.
- 121 Mr Ebrahim Carelse (31), father of three, was shot in the head and neck in Salt River in the wake of the Pollsmoor march fracas and died a week later on 10 September. At his funeral in Salt River on 11 September, plain-clothes police constable JJ Farmer (23) was recognised as a policeman and was stabbed to death by the crowd. While under attack he fired a shot, seriously injuring a mourner.
- 122 October 1985 was an extremely violent month, with daily clashes between police and residents resulting in an estimated thirty-seven deaths in the Peninsula and Boland. On 24 October, a week after the infamous ‘Trojan Horse’ killings of three youths by police in Athlone and two people near Crossroads (see below), crowds marching in Cape Town city centre were chased by police wielding quirts and

sjamboks, resulting in numerous injuries. The Western Cape accounted for 70 per cent of all unrest incidents nation-wide in the third week of October.

- 123 The day after the Trojan Horse shooting, an angry crowd gathered at the St Athans Road Mosque in Athlone. A member of the SAP was shot by the crowd, after which police opened fire, killing Mr Abdul Fridie (29) [CT00607]. On 18 October, a massive security force presence was moved into Athlone. Armed soldiers and police lined the streets and searched houses while a helicopter hovered above.
- 124 On 26 October, the state of emergency was extended to the western Cape, which prohibited up to a hundred organisations from holding meetings and also restricted the media. Four hundred people were detained in the first two weeks of the emergency, and the death toll continued to rise. Under these harsh restrictions, political protest adopted more varied forms such as candlelight protests, hunger strikes and church services, many of which were violently disrupted by police. The Divisional Commissioner of Police for the Western Cape, Brigadier Chris Swart, said that the candlelight protests were not innocent, but “deliberate tactics aimed at stirring people’s emotions, which leads them to violent acts”.

THE COMMISSION FINDS THAT THE GOAL OF THE ‘POLLSMOOR MARCH’ WAS SYMBOLIC IN NATURE, NAMELY TO DELIVER A MESSAGE TO MR MANDELA AND DEMAND HIS RELEASE. MANY OF THE GROUPS OF MARCHERS WERE LED BY CLERICS, STUDENTS AND COMMUNITY LEADERS. THE ACTIONS OF THE SECURITY FORCES ON THE DAY OF THE POLLSMOOR MARCH AND THE FOLLOWING FEW DAYS WERE THEREFORE UNWARRANTED AND USED EXCESSIVE FORCE. THE COMMISSION FINDS THAT A MINIMUM OF TWENTY-EIGHT DEATHS ASSOCIATED WITH THE EVENT WERE THE RESPONSIBILITY OF THE SECURITY FORCES. THE COMMISSION FINDS THAT THE HARSH REPRESSION OF THIS ACT OF PEACEFUL PROTEST PROPELLED THE REGION INTO THE MOST EXTENSIVE PERIOD OF PUBLIC UNREST IN ITS HISTORY, LASTING SEVERAL MONTHS UNTIL THE END OF THE YEAR.

Security force units involved in public order policing

- 125 The highest number of security force shootings in the western Cape during the Commission’s mandate period occurred in August to November 1985, constituting the peak of the political revolt in the western Cape. These shootings were largely the responsibility of the Unrest Unit of the SAP, both the local units as well as special national teams that were flown from region to region as required. The local unit was commanded by Major Dolf Odendal under Lieutenant Colonel WS Visser. In the black townships, a particularly aggressive ‘unit within the unit’ appears to have developed, consisting of a cluster of personnel around Warrant Officer HCJ ‘Barrie’ Barnard.

- 126 Warrant Officer Barnard was deployed to the townships of Cape Town in 1976 until his death in 1988. He was central to security force actions in the African townships owing to his extensive knowledge and experience in the area. He worked in conjunction with a number of other units, including the Security Branch and the Unrest Investigation Unit. Warrant Officer Barnard was named as a perpetrator in over sixty reports of violations to the Commission – killings, torture and severe ill treatment.
- 127 The South African Railways Police (SARP) task teams, prior to their integration into the SAP in 1986, were also involved in the suppression of public unrest and have been linked to numerous fatal and non-fatal shootings as well as several high-profile ‘ambush’ cases. This ‘crack’ unit of over thirty members had received special training in security operations and was commanded by Major C Loedolff.
- 128 The Western Province Command of the SADF commanded by Brigadier AK de Jager appears to have played more of a background role. Group 40 was the chief unit from SADF WP Command deployed in unrest situations and at times onto police Casspirs (armoured personnel carriers) and other vehicles.
- 129 These structures were all co-ordinated through the Western Province Joint Management Centre (JMC), as well as in sub- and mini-Joint Management Councils (JMCs) at lower levels. Joint Operation Centres (JOCs) were established to deal with ‘hot spots’, such as the JOC at the Manenberg Police station in 1985 and 1986.

THE COMMISSION FINDS THAT UNITS DEPLOYED IN PUBLIC ORDER POLICING, NAMELY THE RIOT UNIT AND THE SA RAILWAY POLICE TASK TEAM USED IN RIOT CONTROL, USED METHODS THAT WERE CHARACTERISED BY BRUTALITY, RACISM AND A LACK OF CONCERN FOR APPROPRIATE PROCEDURES. THESE PRACTICES WERE CONTRIBUTORY FACTORS IN THE ESCALATION OF PUBLIC PROTEST AND VIOLENCE IN THE 1985 PERIOD. THE COMMISSION FINDS THAT IN THE AFRICAN TOWNSHIPS OF CAPE TOWN, WARRANT OFFICER HCJ BARNARD IN PARTICULAR CREATED A CLIMATE OF TERROR WITH IMPUNITY AND WAS ASSOCIATED WITH A VERY HIGH NUMBER OF VIOLATIONS.

Resurgence of public protest: the Defiance Campaign, 1989

- 130 After the 1986 declaration of the state of emergency, the Peninsula experienced only isolated clashes between protestors and security forces. Of particular note were the large high-profile burials of MK operatives such as the ‘Gugulethu Seven’, Mr Ashley Kriel, Mr Robbie Waterwitch and Ms Coline Williams. The Kriel funeral in 1987, attended by thousands of mourners, was marked by uproar as police failed to stick to undertakings not to interfere in the event. Major Dolf Odendal marched

into the funeral procession and attempted to seize the ANC flag off Kriel's coffin. With such incidents sustaining the political tension, the Peninsula took the lead in spearheading public protest, defiance actions and mass action in 1989.

- 131 The Defiance Campaign against apartheid laws was launched as a national initiative by the Mass Democratic Movement (MDM),⁹ but the Western Cape was to play a leading role. By March 1989, protest actions resulting in arrests had begun in Cape Town. There followed a proliferation of defiance activities targeting a range of apartheid laws, peaking in opposition to the 'whites-only' election of 6 September 1989.
- 132 On 6 August 1989, sixteen restricted activists announced their defiance of their restriction orders at an Athlone church service, sparking off a cycle of arrests and continued defiance. On 8 August, defiance rallies were held at schools and campuses in the Peninsula, and the UDF was declared 'unbanned' by a mass meeting in St George's Cathedral followed by a march under the banners of banned organisations. On 12 August, restricted activists again publicly defied their restriction orders at a National Women's Day rally in Hanover Park, which was then teargassed. Many were detained under the emergency regulations.
- 133 On 19 August, thousands of people set off to defy 'whites only' beaches at Strand and Bloubergstrand in a high-profile act of 'beach apartheid defiance'. Some groups were shot at with birdshot, others were *sjambokked*. There were multiple public protests in the following weeks. On 23 August church leaders, including Archbishop Desmond Tutu, were teargassed on a march in Gugulethu, and a week later 170 women were arrested while kneeling during a women's mass march in town. In a climax of the defiance campaign, thousands of protestors participated in a three-pronged march to Parliament on 2 September. The march was dispersed with batons and a water canon loaded with purple dye, and more than 500 people were arrested. Altogether, over 1000 people were arrested during these defiance activities.

Election day, 6 September 1989

- 134 Election day itself saw an explosion of resistance and police repression in which at least 23 people were killed and hundreds injured. Statements were received regarding the following fatalities: Ms Liziwe Masokanye (23), Stellenbosch [CT00829]; Mr Patrick Muller (13), Bellville South [CT00322]; Mr Joseph Michael Makoma (25), Kalksteentfontein [CT00300]; Mr Leonard Rass (13), Kleinvlei [CT00673]; Mr Pedro Page (18), Grassy Park [CT00416]; Mr Ricardo Levy (11),

9 MDM was the the formulation used by the UDF and its allies after their restriction in 1988.

Kalksteenfontein [CT00313]; Ms Yvette Otto (16), pregnant [CT00300]; Ms Elsie Chemfene [CT008605]; Mr Thembinkosi Tekana, Khayelitsha [CT01535] and Mr Lubalo Mtirara (20), Khayelitsha [CT00217]. On and around election day, several motorists were seriously injured and at least three killed.

- 135 The public horror at the extent of the violence reached into sectors of the western Cape not previously drawn into oppositional activity. This sense of outrage culminated in one of the largest mass marches ever seen in the western Cape on 13 September, the so-called 'Peace March'. The march, led by a range of religious, community and political leaders including the mayor and members of the city council, brought Cape Town to a standstill.
- 136 Simultaneously, a senior policeman 'broke ranks' and publicly criticised the actions of the police. Lieutenant Gregory Rockman described police action in his area, Mitchell's Plain, as 'brutal', saying that the riot squad had "stormed the kids like wild dogs. You could see the killer instinct in their eyes". The SAP were forced to initiate an inquiry into the behaviour of the Riot Squad in these incidents as well as the election night violence.

Public order policing in rural areas

- 137 Rural towns followed a markedly similar cycle of violence. During 1985, protest meetings were often broken up violently by security forces and street protests became more militant. Many towns saw at least one or two deaths of youth activists during 1985, which served to propel the townships into wider protest and attacks on those seen as collaborators. Worcester and Beaufort West are clear examples of this pattern. In certain instances, fatal police shootings were followed almost immediately by fatal attacks on so-called collaborators, as happened in Uppington and Phillipstown. After 1986, police shootings tended to be at the hands of the special constables, discussed later. Certain incidents in rural towns are outlined below.

Worcester

- 138 In Worcester the spark was provided by the killing of Mr Nkosana Nation Bahume, after which a cycle of deaths and injuries took place until the end of the year.
- 139 On 16 August 1985, student activist Nkosana Nation Bahume [CT00547], aged twenty-one, was shot dead by the security forces. On 30 August, the local

magistrate issued restriction orders on the funeral of Bahume, who was to be buried the following day. At the funeral, police fired at mourners, killing Mr Mbulelo Kenneth Mazula [CT00528], aged twenty. An eyewitness testified that “police dragged his body to the vehicle and took him to the mortuary”. People were assaulted, shot and detained by security forces in the uproar.

- 140 Mbulelo Mazula was buried on 8 September without incident. However, on 21 September 1985 Mr Andile Feni [CT08402] and two others were shot and injured by a policeman in Zwelethemba after a crowd had thrown petrol bomb at a police officer's house after a mass meeting that had resolved to chase all police from the area following the killings.
- 141 On 1 October 1985, Mr Thomas Kolo [CT08400], age 18, was shot dead by security forces. He was buried on 11 October and the funeral was restricted by the magistrate. The following day, security forces shot Mr Zandisile Ntsomi [CT00320]. Ntsomi's leg was amputated and he was discharged from hospital back into police custody the following day.

A nurse came along and brought me a wheelchair ... and two packets of pills. I was wearing a hospital night gown. They drove me out of the hospital – I was on the wheel chair, put me in the police van – I was operated yesterday, let me remind you.

Dr Orr: *[indistinct] ... get the sequence of events clear in my mind. You had the operation on the Sunday. Your leg was amputated above the knee.... which is a serious operation and the doctor discharged you the very next day, is that correct? And he discharged you knowing that you were going back to the police cells, not to your home?*

Mr Ntsomi: *Exactly, that's what happened.*

- 142 Ntsomi was then driven in the van to Cape Town and back to Worcester.

'We arrived in Worcester. As we were in the charge office ... they told me that "these were the fruits of what you are doing in the location". I still remember one of the policeman saying to me "you mustn't worry – your leg will grow again". It was funny to me because I have never seen a leg growing again. Seemingly he was very happy of what happened to me ... I am not the same person whom I used to be – or I know myself to be'.

- 143 On 13 October, Douglas Ndzima [CT00821] was shot twice by police in Zwelethemba. That day Ms Martha Nomathamsanqa Mooi's house [CT03026] in Zwelethemba was petrol-bombed by UDF members. Mr Mpazamo Bethwell Mbani (Yiko) [CT03026], her brother-in-law, was shot dead and his body set alight.
- 144 On 2 November 1985, Mr Cecil Roos Tamsanqa van Staden [CT00132] was shot by police and died two days later. The following day, Mr William Dyasi [CT00823] was shot dead by police in Zwelethemba. An inquest was held and Constable Michael Phillip Luff was found responsible for the murder but he was not prosecuted. At the intervention of the Commission the case was reopened, following which Luff applied to the Commission for amnesty [AM3814/96].
- 145 On 9 November, at the night vigil of one of the victims, Mr Buzile Fadana [CT00131], was shot dead after police arrived and an "armed encounter" resulted. His death marked an end to this cycle of killings and injuries that year.
- 146 By November 1985, an extreme environment of repression existed in Zwelethemba, which was declared out of bounds to all except residents. Roadblocks were set up and residents were only allowed to go to their homes on producing identity documents. There were twenty-four hour foot patrols, and searchlights swept the streets at night. Residents reported a heavy presence of Zulu-speaking policemen. Funerals of unrest victims were restricted to only fifty people and the family of the deceased. In one instance, forty young people were detained whilst participating in a funeral vigil.

THE COMMISSION FINDS THAT THE KILLING BY POLICE OF MR NKOSANA NATION BAHUME ON 16 AUGUST 1985 TRIGGERED A SEQUENCE OF VIOLENCE, IN WHICH NUMEROUS RESIDENTS OF WORCESTER WERE KILLED OR INJURED BY POLICE AND A NUMBER OF PERSONS AND BUILDINGS WERE ATTACKED IN RETALIATION. THE DRACONIAN RESPONSE OF THE AUTHORITIES, INCLUDING CURFEWS, ROADBLOCKS AND SWEEPING DETENTIONS, ONLY AGGRAVATED THE SITUATION.

Beaufort West

- 147 On 22 January 1985, Constable PA de Villiers and the three other policemen went to the home of popular local UDF and youth organiser Mandlenkosi William 'Tshaka' Kratshi [CT00563 and CT00570] at 07h30 to arrest him following a stoning incident. Kratshi was cooking porridge for his seven-year-old son Simphiwe and asked to be allowed to finish. After a few minutes a scuffle broke out when police attempted to take him into custody by force. Kratshi was punched and retaliated with a fork, allegedly also biting De Villiers. Shortly thereafter, Constable de Villiers shot him fatally in the chest. Kratshi's funeral was restricted by the local magistrate. Residents

renamed the township 'KwaMandlenkosi'. In October the Beaufort West inquest court found that no one was criminally responsible for the Kratshi's death and that Constable de Villiers had acted in self-defence. That weekend the township erupted in widespread protest in which Mr Andile Amos Klaasen [CT00880] was fatally shot by South Cape Unrest Unit commander Major GP Marx during police action. At least 15 residents and two policemen were wounded.

Colesberg

148 From June to October 1985, local organisations took up a campaign around the lack of facilities. On 2 July, SADF soldiers set up camp outside the residential area, resulting in clashes with youth. The following day police entered the township, firing tear gas. Mr Solani Gcanga [CT01508] was arrested and repeatedly assaulted and driven around the township on top of a Casspir with a *sjambok* around his neck. This precipitated events leading to the killing of the 'Colesberg Four'.

149 Youths marched on the township house of a black policeman and set fire to his car. At about 20h00, police in Casspirs and vans entered the township. When youths approached the houses of two black police officers, police inside the house opened fire, killing four people. They were Ms Funeka Siyonzana (17) [CT01506], Mr Krakra Maciki (17) [CT00392], Mr Mongezi Juda (17) [CT01505] and Mr James Masumo (23). Numerous other residents were injured and were subsequently charged with public violence.

150 In the wake of these events, over seventy residents (sixty children, eleven men and eight women) of the township were arrested. Many in this group were subjected to severe assault and torture while in police custody and were teargassed in their cell. In a subsequent conflict with police on 22 July, fourteen people were injured, including Reverend Mcoyana [CT01528].

Knysna

151 Seventeen-year-old Mr Goodman Tatasi Xokiso [CT00334] was shot dead by police in street clashes at Knysna in March 1986. Several others were injured and/or arrested. Some of these made statements regarding assault and torture after their arrest, including *sjambokking*, beating and suffocation. Restrictions placed on Xokiso's funeral caused tensions between the local 'comrades' and the victim's mother, Ms Esther Johnson, who then left Knysna.

Kimberley

152 On 11 April 1985, Galeshewe student activist Thomas Mmerekhi Morebodi (15) [CT02851] was shot dead by Riot Squad members. Business came to a standstill in the black residential area as thousands of residents flocked to his funeral and police fired on a march that took place afterwards. 'Stratcom' pamphlets to disorganise the funeral were distributed by the local Joint Management Centre. This killing was the trigger for an escalation in the conflicts. Arson and public violence arrests took place and police action with rubber bullets, tear gas and birdshot was commonplace during this period. July to October was a peak period of street resistance and repression.

George

153 During the mid-1980s, serious tensions and conflicts arose between the residents and authorities in George over the proposed forcible removal of people from an informal settlement, Lawaaikamp, to a new township called Sandkraal. This contributed to the protests in George that resulted in the deaths of at least five people in early 1986. In February 1986, Mr Rhotsi Mbuyiselo Jonas Jack (22) [CT00558], Mr Skosana Meanwell Lakeyi [CT03065] and at least one other were shot dead by police during street protests. This was followed by the 'necklace' killing of Mr Afrika Nqumse [CT00559], an employee of the Development Board seen as responsible for the forced removals. On 3 March 1986, Oudtshoorn activist Nkosinathi Hlazo [CT00534] was shot dead by Captain GP Marx and others in George, allegedly while fleeing arrest.

AS IN OTHER SITUATIONS WHERE COMMUNITIES WERE SUBJECTED TO FORCED REMOVAL FROM ONE PLACE TO ANOTHER, THE CONFLICTS WHICH AROSE CREATED CIRCUMSTANCES IN WHICH GROSS VIOLATIONS OF HUMAN RIGHTS TOOK PLACE. THE COMMISSION FINDS THAT THE INJURIES AND KILLINGS WERE CAUSED IN THE FIRST INSTANCE BY THE IMPLEMENTATION OF THIS POLICY OF FORCED REMOVALS.

Paarl

154 The surge of unrest from August to November 1985 saw several deaths and injuries in Paarl. The first death in 1985 was that of Mr Adri 'Aaron' Faas [CT03207, CT00434] on the day of the Pollsmoor march. Faas was shot dead by Lieutenant Colonel WH Oosthuizen who used his private firearm. Police officer Captain Clayton, who was on duty that night, described events before the shooting to the Commission.

A white or a yellow Ford Cortina came into the entrance of the police station. And I could see that there was Lieutenant Colonel Oosthuizen and I don't know who the passenger was. And he took out a shotgun which did not look anything like the police issue and his words were: "You people take too long, I am going to shoot a hotnot tonight."¹⁰

155 Adri's father, Mr Alexander Faas, described his efforts to establish what had happened:

As we were walking away, two white policemen came there and I asked them: "Please sir, who had shot my child?" ... What broke my heart is that I never could think that white people will also belong to a church, that they could behave like that and this Oosthuizen took his finger and pointed on his chest and said: "I killed your child." And my heart dropped into my shoes.

156 Mr Faas described the funeral:

When the hearse stopped, they started shooting at 6, 7, 8-year old kids, and I got out of the vehicle in which I was in and I went to stand in front of the hearse and said to him: "Shoot me, I am at peace with this whole thing." Because by then I was bitter.

157 Faas's death was followed by the fatal shootings in October of Mr Neil Moses [CT00439] and Mr Pikashe [CT00282] in street protests.

De Aar

158 In the Karoo town of De Aar, several casualties occurred as a result of police or administration board shootings. On 16 June 1985, civic leader Booi Mantyi was shot dead. Thirteen-year-old Leslie Kelemi [CT01517] was shot and seriously injured and blinded in one eye by police in July when fetching paraffin. He was later charged with public violence. On 9 July 1985, in Malay Camp, riot police shot and wounded a seventy-one-year-old woman, Ms Ida Koko Tantsi, her granddaughter, Ms Beauty Tantsi (30) and great-granddaughter Wendy (8) [CT00556]. The two women were then charged with public violence. A consumer boycott was launched until the end of the year to protest at the ongoing shootings and repression experienced by the residents and to demand the release of those detained and arrested. Police records indicate that Ms Vivian Tshadi, who allegedly broke the consumer boycott, was hacked to death and her body burnt in July 1985.

¹⁰ 'Hotnot' is a derogatory term for a coloured person, abbreviated from Hottentot.

159 Incidents in Upington and Phillipstown clearly illustrate the close relationship between police shootings and subsequent attacks on so-called collaborators. They also illustrate the different judicial consequences for police personnel and 'comrades'.

Upington

160 In November 1985, a series of events was set in motion that would dominate Upington for the remainder of the 1980s. On 10 November, a mass meeting in Paballelo to discuss community issues ended in the fatal police shooting of a pregnant woman, Ms Beulin Isaaks [CT04113]. Mr Ronnie Sipho Naphakade [CT04421] was shot, arrested and assaulted. Mr Harold Vuyo Mjethu [CT00699] was shot and injured, resulting in permanent damage to his right arm and loss of hearing in his right ear. Ms Miriam Blaauw [CT00435] was shot and injured and was later also charged with public violence. All three were then charged with public violence, and the first two given prison sentences.

161 On 13 November 1985 a crowd of around 3 000 gathered on a soccer field, hoping to talk to police about the shootings. They were told to disperse and were finally tear-gassed by police. Chaos erupted as the crowd fled. About 200 people gathered in front of the house of policeman Lucas Tsenolo 'Jetta' Sethwale [CT01418]. The house was pelted with stones. Sethwale fired two shots from his bedroom window, injuring an eleven-year-old boy. When he fled from his house, he was chased by the crowd across a field where he was caught, struck down with his pistol, assaulted and burnt.¹¹

162 Police moved in and arrested numerous people, including three women. Twenty-six were accused of murder and tried in a high-profile political trial that dominated both Upington and South African judicial history.

163 Some of those detained, including the accused, were assaulted and tortured in an effort to extract confessions regarding their role in the murder. Mr Justice Bekebeke [CT03074] was beaten with fists and kicked all over his body. He was also made to stand next to a road sign while shots were fired at the sign. Bekebeke applied for amnesty for the killing of Sethwale [AM6370/97]. Mr Zongezile Mokgatle [CT00698] was beaten, *sjambokked* while naked and beaten with branches of a thorn tree by policemen, to force him to make admissions.

164 The trial, presided over by Justice Basson¹², started eleven months after the

¹¹ For information about the consequences of this incident for Sethwale's mother, see chapter on *Reconciliation* in Volume Five.

¹² One of the junior counsel in the trial, Anton Lubowski, was assassinated in Namibia in 1989 by members of the Civil Co-operation Bureau.

murder and continued for eighteen months. A 'trial within a trial' debated the admissibility of the confessions made by some of the accused, but the judge ruled them to be admissible and they served as the basis for the later convictions. Twenty-five of the accused were convicted in April 1988, on the basis of the controversial 'common purpose' doctrine. Fourteen were sentenced to death.¹³

THE COMMISSION FINDS THAT THE USE OF THE PRINCIPLE OF 'COMMON PURPOSE' ASSOCIATION FOR THE PURPOSES OF CONVICTIONS IN POLITICALLY RELATED MATTERS WAS INAPPROPRIATE. FURTHER, THE COMMISSION FINDS THAT THE IMPOSITION OF THE DEATH PENALTY FOR POLITICALLY MOTIVATED OFFENCES CONSTITUTED A GROSS HUMAN RIGHTS VIOLATION. IN THIS TRIAL IN WHICH FOURTEEN DEFENDANTS WERE SENTENCED TO DEATH, THE COMMISSION PARTICULARLY FINDS THE IMPOSITION OF THE DEATH PENALTY ON SIXTY-YEAR-OLD GRANDMOTHER MS EVELINA DE BRUIN TO BE EXCESSIVELY HARSH EVEN WITHIN THE CONTEXT OF THE LEGISLATION AT THE TIME.

Phillipstown

165 On 21 December 1985 Ms Sophie Butele [CT00513] was shot dead by policeman Silingo Tshemese in Phillipstown. Several members of the Tshemese family worked for state institutions and were seen as 'collaborators'. A huge crowd of people gathered outside the Tshemese home and began a prolonged attack. The Tshemese family locked themselves in the house. Some were injured by the flying stones and bricks and others were attacked with an axe. Mr Geelboy Tshemese [CT01518, CT02907] was dragged outside and assaulted with axes and spades, then burnt with petrol and tyres.

166 That evening, police and farmer reservists swept through Lukhanyisweni, beating and arresting residents. Several people were charged with murder, including Mr Nelson Sinxoshe [CT01518], who had found his sister Sophie Butele dying outside the Tshemese house and was allegedly involved in the axe attack. Nelson Sinxoshe has stated that he was severely tortured while in police custody. Along with several others, he was sentenced to thirty-five years in prison. No one was charged for the death of Sophie Butele.

The Trojan Horse and other ambush tactics

167 During late 1985 and early 1986, security force members sometimes adopted ambush tactics against street protestors and others by concealing themselves either in a moving vehicle or at the scene. In each instance, police opened fire without warning, causing deaths and injuries. Those killed or injured were frequently merely curious bystanders. In at least two of the cases quoted below, the victims were youth

¹³ In the early 1990s those sentenced were released as political prisoners.

and women only. The best known of these cases is the 'Trojan Horse' shooting. However, other cases came to light through the work of the Commission.¹⁴

- 168 In the Athlone 'Trojan Horse' incident on 15 October 1985, police hiding in large wooden crates on the back of a railway truck fired directly into a crowd of about a hundred people who had gathered around a Thornton Road intersection, killing Michael Cheslyn Miranda (11) [CT00478, CT00472], Shaun Magmoed (16) [CT00472] and Mr Jonathan Claasen (21) [CT00475] and injuring several others, eight of whom submitted statements to the Commission.
- 169 The event attracted extensive media coverage since several members of the print and electronic media were at the scene and the shooting was captured on video. This placed the actions of the police under intense scrutiny of the local and international media.
- 170 This operation was repeated the following day when security force personnel drove down a road opposite Crossroads in the same truck. They shot and killed Mr Goodman Mengxane Mali (19) [CT00723] and Mr Mabhoti Alfred Vetman (20). Two toddlers were also injured in the shooting.
- 171 The Athlone Trojan Horse shooting highlights the role of the Western Province Joint Management Centre in the region, and its sub-JMC which covered the Peninsula. These structures had established a JOC which met daily at the Manenberg Police station to co-ordinate the activities of the security forces in areas identified as unrest 'flashpoints'. It brought together the command structures of the SAP, the SARP, the SADF and various other agencies. Information was collected by the Joint Intelligence Committee (JIC) and the Security Committee (SECCOM) of the Joint Management Centre.
- 172 A memorandum sent to the JMCs directly concerned with planning action against the unrest gives specific plans for security force actions against 'agitators'. The document states that "the fight against unrest can only be won if problems are foreseen and stopped through pro-active actions". It calls for creative ways and methods to mislead or confuse "agitators" or to lay waste to their plans before they begin.
- 173 Colonel Pieter Janse van Rensburg (Head of Western Province Riot Squad), Major Christian Loedolff (SARP) and Commandant Salmon Pienaar (SADF) were amongst those who decided on and tasked the ten members of the SARP task force (under

14 See, for example, similar incidents in the chapter on the Eastern Cape.

Lieutenant Douw Vermeulen) to obtain a railway vehicle and conduct the first Trojan Horse operation.

THE COMMISSION HAS CONSIDERED THE FOLLOWING:

- THE FACT THAT THIS ACTION WAS PREMEDITATED AND WAS THE RESULT OF ORDERS HANDED DOWN FROM LIEUTENANT VERMEULEN'S IMMEDIATE COMMANDING OFFICER IN THE MANENBERG JOINT OPERATIONAL CENTRE, THE THEN MAJOR LOEDOLFF;
- THAT ALL THE WEAPONS USED IN THE OPERATION WERE LOADED WITH SHARP AMMUNITION, IN VIOLATION OF ESTABLISHED PROCEDURES;
- THAT THERE WAS AN EFFECTIVE COMMUNICATION SET UP BETWEEN THE PERSONS IN THE FRONT OF THE TRUCK AND THE BACK AND THAT THERE WAS COMMUNICATION WITH THE JOC;
- THE PREPONDERANCE OF CHILDREN, YOUTH AND WOMEN AMONGST THOSE SHOT.

THE COMMISSION FINDS THAT THE THIRTEEN SENIOR AND JUNIOR MEMBERS OF THE SAP, SADF AND SARP, IN CONJUNCTION WITH THE RELEVANT STRUCTURES OF THE JMCS, PLANNED AND EXECUTED AN ACTION IN ATHLONE WHICH RESULTED IN SEVERAL GROSS VIOLATIONS OF HUMAN RIGHTS.

174 Six months after the Athlone incident, on 26 March 1986, security forces concealed in a railway truck shot dead three people near Crossroads, namely Mr Lennox Thabang Maphalane [CT00706], Mr Eric Heynes [CT00824] and Mr Goodman Bongani Dastile.¹⁵ Several others were injured. The inquest listed some of the same individuals involved in the Athlone shooting.

175 In a similar incident in February 1986 in Khayelitsha, members of the security forces disguised as ordinary workers in a bakkie fired on members of the public with birdshot according to the statement by Mr Thanduxolo Cingo [CT00739].

176 On 29 August 1985, Riot Unit members Constable E Villet and Warrant Officer P Kruger hid in the garden of a Bellville South house on the orders of Captain Ockert van Schalkwyk. They later leapt out from this 'observation point' and fired at a group of people. Ms Sarah van Wyk [CT03201] was killed and at least four other women wounded. Ms Monica Daniels [CT00151] had to have her arm amputated as a result of the shooting.

The Bongoletu Three shooting

177 On 17 June 1985, three children, Andile Majola [CT00329], Fezile Hanse [CT00330] and Patrick Madikane [CT00533], were shot dead at the house of a

¹⁵ The wife of Eric Heynes described ongoing police harassment until the funeral of her husband. The funeral itself was disrupted by police including Warrant Officer Barnard, leading to the coffin being dumped and opened on the ground. The mother of Thabang Maphalane was visited twice by Barnard after the shooting and threatened.

black security policeman by members of the Riot Unit. Several other youths were seriously injured but were taken into custody by police and subsequently charged with public violence. Mr Xolile Lwana [CT00536] was shot in the head with birdshot, leaving him permanently physically and mentally disabled.

178 Police versions of the event and eyewitness accounts differ. Residents of Bongolethu argue that the shooting was essentially an ambush. Youth gathered at the house did not know that there were policemen waiting in the house. One constable stated that one youth actually went into the front room of the house, but the policemen did not reveal their presence. No warnings were issued and no warning shots fired. In addition, buckshot was used as opposed to the lighter birdshot.

179 An eyewitness, Mr Mzukisi Mooi, described the event as follows:

People believed Mngoma's house was empty. Another boy with a red jersey went to the front door. The next minute I heard a shot going off. Shots were fired continuously. I saw a little boy lying near the gate. I saw a girl crawling across the road. The next moment, policemen came out of the house. One policeman continued firing at the crowd. One of the policemen brought a holder with petrol from the house and threw it in a Fanta bottle. He then put it near the body of the one child.¹⁶

180 The police officers said they had acted in self-defence after a crowd attacked the township house that they were guarding. One policeman testified that one of the youths had sprinkled petrol onto the carpet of the house and that another had matches on him. In order to stop him from striking the match, the policemen in charge shot the child. The other two children were shot in the process of fighting the crowd which had gathered outside the house.

181 After what became known as the 'Bongolethu Three' incident, the townships of Bongolethu and Bridgeton remained in a state of ongoing revolt and political upheaval until the end of the year, with mass detentions and trials continuing in 1986. All black police were driven out of the townships during this period. In 1989, the graves of the Bongolethu Three were desecrated by unknown people.

THE COMMISSION FINDS THAT THE KILLING OF THE BONGOLETHU THREE AT BONGOLETHU, OUDTSHOORN AMOUNTED TO AN 'AMBUSH' CARRIED OUT ON CHILDREN AND YOUTH.

THE COMMISSION FINDS THE ADOPTION OF 'TROJAN HORSE' AMBUSH TACTICS BY THE SECURITY FORCES TO BE ENTIRELY INAPPROPRIATE FOR DEALING WITH CIVILIAN UNREST. THE AMBUSH

¹⁶ Mr Humphrey Joseph and Mr Mzukisi Mooi were later charged for 'publishing untruths' about the police and their actions in this incident in the July 1985 edition of community newspaper *Saamstaan*.

TACTIC WAS USED TO LURE CIVILIANS DELIBERATELY INTO SITUATIONS WHICH THEN RESULTED IN FATALITIES AND INJURIES. RELYING ON CONCEALMENT, SPEED AND SURPRISE, IT RESULTED IN INDISCRIMINATE SHOOTINGS BY THE SECURITY FORCES, INJURING BYSTANDERS AND PROTESTORS ALIKE. IN MANY INSTANCES OF STREET UNREST, THE MAIN PARTICIPANTS WERE YOUTH UNDER THE AGE OF EIGHTEEN.

Detentions

- 182 Most detentions prior to 1985 were under section 29¹⁷. One of the most widely publicised cases was the arrest and detention of Simonstown Naval Commander Dieter Gerhardt and his wife Ruth, pending their treason trial relating to spying activities for the USSR. They were later sentenced to life imprisonment.
- 183 On October 26 1985, the state of emergency was extended to the western Cape. Midnight raids during the night of 25/26 October resulted in mass detentions under section 50¹⁸, targeting predominantly the leaders of UDF affiliates. Sixty-six people were detained that night, and at least four hundred over the following two weeks.
- 184 The first state of emergency in the Western Cape lasted 132 days and approximately 1 300 people were detained, including teachers, clergy, journalists, attorneys, students, unemployed people and pensioners. More than fifty youth were included, some as young as eleven years of age. Most detainees were released by the end of December 1985, but several were subjected to restrictions on their movements and activities. Ongoing detentions occurred until the lifting of the state of emergency in March 1986, while section 29 detentions actually increased during the first six months of 1986.
- 185 The mass swoop was repeated in the early hours of 12 June 1986 with the declaration of a national state of emergency. Approximately 160 individuals were detained immediately and more over the next few weeks, including many of the people who had been detained in 1985. A non-governmental organisation (NGO) recorded 349 detentions in the urban Cape Town area over 1986. The majority of these detainees were released by the end of 1986. Among those detained were a Roman Catholic nun, an entire church congregation of 189 people in Elsie's River, and Worcester UDF activist Christopher Tyawana, whose section 29 detention was brought about by a collaboration between the Security Branch and Allied Bank.

17 Internal Security Act No 74 of 1982: Section 29 provided for indefinite detention for interrogation, and for detainees to be held in solitary confinement.

18 *Ibid.* Section 50 provided for fourteen-day preventive detention, even by a low-ranking police officer.

- 186 Detention became more selective in 1987–89 and often focused on events or campaigns undertaken by the opposition movement.
- 187 A small but significant group of leading activists were held for very lengthy periods, including Mr Trevor Manuel (held for 676 days), Mr Mziwonke ‘Whitey’ Jacobs (560 days), Mr Lizo Kapa (387 days), Mr Ebrahim Rassool (384 days) and Mr Naseegh Jaffer (351 days). Some activists experienced repeated detentions. Mr Willie Hofmeyr embarked on a twenty-eight-day hunger strike in 1989 during his third detention, after a six-month period in solitary confinement during 1988. Detainees were also served with restriction orders on their release, thus continuing their imprisonment beyond the confines of a jail.
- 188 Clusters of individuals were detained and later charged with public violence. A proliferation of public violence trials saw hundreds of young people sent to prisons along with common criminals for lengthy prison sentences. Many of the sentences were based on ‘confessions’ extracted under torture.

Torture

- 189 The Commission accumulated data from human rights violations statements, amnesty statements and statements made to non-governmental organisations (NGOs) regarding the assault and torture of detainees prior to the state of emergency, under the emergency and under section 29.

Cape Peninsula

- 190 In the Cape Peninsula areas, torture and assault in custody took both random and targeted forms. Students reported being arrested and assaulted after street protests, notably at the Brackenfell police station. The police often appear to have used torture to extract confessions for court cases of which examples are provided below. The perpetrators often appear to have been members of special Unrest Investigation Units, particularly the one based at Gugulethu. The Athlone-based unit was involved in widespread torture of youth linked to the Bonteheuwel Military Wing (discussed below). Many of these individuals were forced to implicate themselves in confessions used later in efforts to convict them on public violence charges.
- 191 Mr William ‘Keff’ Thomas was detained under the emergency in 1987 and held for several months. He was taken to the Gugulethu police station where he was questioned and tortured.

The said police officers accused me of attacking a fellow policeman's house and assaulted and tortured me with the purpose of getting a confession as well as to furnish them with names of others ... I was assaulted by Officer Nortjie who had a wet bag placed over my head and proceeded to spray tear gas into it causing me to have difficulty in breathing and/or remaining conscious. The said torture took place at the back of the Gugulethu police cells where I was placed in a container. I was charged in the criminal court with public violence. A trial within a trial was held and the charges were withdrawn against me.¹⁹

- 192 The theft of weapons from special constables in KTC in October 1986 prompted a major security force raid on youth in KTC that resulted in the death of Mpumelelo Rwarwa [CT00864] on 27 October. A group of youth was arrested, and assaulted and tortured both on arrest and at the Gugulethu police station. The torture included wet bag suffocation, electric shocks and beatings with gun butts, while being kept naked. One detainee had a tyre placed around him and petrol poured onto it. The police then threatened to burn him alive. He was taken to the bushes and suspended by a chain from a tree, assaulted, and later given electric shocks.
- 193 After the *witdoeke* attacks of May and June 1986, thousands of refugees were forced to live in schools and churches. Refugees were arrested from these centres and tortured to make them confess to a range of public violence crimes. Torture involved electric shocks, suffocation and near drowning. Mr Hercules Benjamin Booyen [CT00296] was taken from one such refugee centre and severely assaulted by Warrant Officer Barnard and others. It is notable that few if any *witdoeke* were arrested or charged.

Torture and assault under section 29

- 194 During the state of emergency, section 29 detentions focused on individuals suspected of underground military activities. Section 29 detainees suffered extensive abuse, both physical and psychological, mainly at the hands of the Western Cape Security Branch. The same names and *modus operandi* recur constantly in statements regarding torture made to the Commission, in trials and in court interdicts. From 1986, torture appears to be most strongly associated with certain members of the Terrorism Tracing Unit (also known as the Terrorism Tracking Unit, Detection Unit or Anti-Terrorism Unit). The unit stationed at Culemborg, Cape Town, was under the command of the then Lieutenant Liebenberg and included Warrant Officer Nel, Warrant Officer Jeffrey Benzien and Constable Piet

¹⁹ Statement by William Thomas furnished to the Commission for use in the Benzien amnesty application.

Goosen. Some change of membership occurred over time but Liebenberg, Benzien and Nel remained constant throughout. The function of the unit was described as the “expeditious tracing and arrest of terrorists, collection of information and intelligence and the confiscating of weapons and arrest of hangers on”. Others associated with the unit included Constable Patrick Siyali and a number of *askaris* (guerrillas ‘turned’ by the security forces) such as Sergeant David Matamela Musimeke and Lucky ‘Agrippa’ Madubula.

- 195 Captain Frans Mostert became known for his methods of intimidation, assault, and particularly sexual threats directed at female detainees. Ms Zubeida Jaffer stated that he threatened the life of her child while she was pregnant in detention. He was the subject of a court interdict by Ms June Esau [CT03040] in 1985.
- 196 Warrant Officer Jeffrey Benzien became known as one of the principal torturers. He joined the Security Branch in 1986 and was incorporated into the Terrorism Tracking Unit within a year.
- 197 During his amnesty hearing, Jeffrey Benzien admitted to several acts of torture against Mr Peter Jacobs, Mr Ashley Forbes, Mr Anwar Dramat, Mr Tony Yengeni, Mr Gary Kruse, Mr Niclo Pedro and Mr Allan Mamba. This was done with the knowledge of his superior officer, Lieutenant Liebenberg. His admissions included the ‘wet bag’ method for which he was renowned, electric shocks and assaults. In a moment of high drama during his hearing he physically demonstrated the wet bag method on a volunteer. His admissions were contested by some of those he had tortured and others he denied torturing. They argued that Benzien’s admissions were very limited and did not reflect the full extent of the abuses to which he had subjected his victims. Further, they argued that he was the ‘fall guy’ for the entire group of torturers and that he continued to protect them by denying their presence or participation in acts of torture and abuse.
- 198 Major General JL Griebenauw admitted to knowledge about acts of torture at the hands of the Security Branch and stated that such acts and knowledge were widespread. Although he did not apply for amnesty for acts of torture, Griebenauw was also directly implicated in the assault and torture of Mr Trevor Wentzel and Mr Mohammed Saleem Badat [CT05005]. Mr Ntozelizwe Thomas Talakumeni reported being tortured by Griebenauw in 1985. He stated in his court case that Colonel Griebenauw took him to the sixth floor of the Paarl police building where he was made to climb through a window onto the roof. He claimed Colonel

Griebenauw then asked if he had any message for his family and girlfriend because this was the last time he would see Paarl. Then Colonel Griebenauw and a Warrant Officer lifted him over the parapet and, holding onto his feet, hung him upside down. This happened four times, he said. He also alleged that a gun was held at his head during an interrogation. In the court case, Colonel Griebenauw said there was no truth in Mr Talakumeni's complaints.

199 Many section 29 detainees suffered serious psychological torture. They were almost without exception kept in complete solitary confinement for six months or longer. It was not unusual for section 29 detention to be extended into a second 180-day period. Several suicide survivors and others were admitted to hospital suffering from acute anxiety or depression. A further form of psychological torture was the threatened or actual detention of family members.

Torture prior to terrorism trials

200 A number of section 29 detentions resulted in terrorism trials. In some instances, a trial-within-a-trial was held to determine the validity of the confession because of frequent allegations of torture to extract confessions. Without exception, the security police denied the torture and the judges ruled the confessions admissible. For example, Lieutenant Liebenberg denied all allegations of torture made by the accused in the terrorism trial of Mr Lizo Ngqungwana and twelve others.

201 Mr Robert Nana Maliti (22) [CT00133] was arrested in Crossroads in October 1988, allegedly in possession of a limpet mine. Whilst in custody he was assaulted so severely by Benzien *inter alia* that he suffered a brain haemorrhage and had to undergo emergency brain surgery. He was later sentenced to five years' imprisonment. Maliti was permanently physically and mentally disabled by the assault.

202 Trialists from the terrorism trial of Mr Ashley Forbes and fourteen others raised aspects of their torture at Benzien's amnesty hearing. Mr Ashley Forbes was arrested on 16 April 1986. He was subjected to the wet bag method while he was naked; a metal rod was inserted in his anus and he was electrically shocked. He was also further assaulted, hit on the head and eyes and had his head hit against the wall until he lost consciousness. His eardrum was broken, he was choked and his nostrils were pulled until they bled. Fellow trialists Mr Niclo Pedro and Mr Peter Jacobs were also subjected to the wet bag method. Pedro was hung from the burglar bars on the window and assaulted.

Trialists from the terrorism trial of Mr Tony Yengeni and thirteen others also allege torture. Mr Tony Yengeni was assaulted and subjected to the wet bag method. Mr Gary Kruser was handcuffed to the office burglar bars with his feet dangling in the air, assaulted and subjected to the wet bag. This was conceded by Benzien.

- 204 Mr Bongani Jonas was shot in the legs by *askari* David Matamela Musimeke and Constable Patrick Siyali [AM7997/97] on his arrest in September 1987. Both femurs were shattered and he was bleeding profusely. En route to Culemborg, Warrant Officer Barnard of the Riot Unit sat on his injured legs. At Culemborg the *askaris* held his hands while his leg was jumped on. Medical attention was withheld from him until he agreed to co-operate with the police and take them to an arms cache in Khayelitsha. He was carried in a blanket and his legs were thrown around violently. He was taken to hospital six hours after being shot.
- 205 Similarly, Mr Mthetheleli Titana was shot four times during his arrest. His injured leg was twisted and wrung repeatedly. "A Warrant Officer grabbed Titana's leg and wrung it around like an old car's starter sling. The Warrant Officer made the noise like a starting car."²⁰ Like Jonas, he was forced to take police in search of arms caches before being given medical treatment.

Torture in rural areas

- 206 Assault and torture of detainees appears to have been very widespread in rural towns. With the smaller pool of police personnel, the same names recur repeatedly in statements alleging torture in rural town police stations.
- 207 In the northern Karoo town of Noupoot, at least two youths were reported to be mentally disturbed after undergoing torture. Yibanathi Mjada [CT00389], aged fourteen, was tortured by having his penis slammed in a drawer. He was later charged with offences and became mentally disturbed. Ms Gladys Ntsizakalo described what happened to her son Siphwiwo Ntsizakalo [CT01504]

He was fifteen years old. The police were always looking for him. They knocked, kicking the doors down. They used tear gas. They took my son with. He was detained for two days. On the third day the police came to tell me at home that my son is ill. He is mentally disturbed – totally confused.

²⁰ *Grassroots*, May 1989.

I asked if I could see my son as he is not well. They refused yet again. The police had no respect – even though I was a parent. They just took my child to Queenstown [to a mental asylum]. When he came back after two months he stayed in detention (for another month). I went to the police station and requested – may I see my son. He was alone in the cell. Both his hands and his legs were tied. When I looked at him as a parent, I realised that he was mentally disturbed. When he saw me – he just cried. I could see that my son had changed. When I asked he said they kept on beating him up – they beat him up – that is why he was deranged. They would take a sack – a wet sack – and then they would cover him with that sack. They would put him in the boot – drive him to a place that he did not know and then when they reached their destination, they would beat him up. After that they would take him back to the cell. Now he cannot do anything for himself. He cannot be independent, because he is mentally deranged.

- 208 Mr Andile ‘Ace’ Kobe [CT06803] was arrested and subsequently beaten unconscious inside the George police station. The police took the unconscious Kobe to the beach in their van and left him there for the night. Kobe was found the following morning and underwent emergency brain surgery for a subdural haematoma. He died shortly afterwards, and his funeral was restricted.
- 209 Three Riot Unit members were charged with his murder. Mr Andre Schutte (19) was sentenced to twelve years’ imprisonment for bludgeoning Kobe to death. His two former colleagues, Mr Pieter Koen (21) and Mr Cornis Serfontein (22), were each sentenced to seven years’ jail for attempted murder. The sentencing of the police was widely criticised for its comparative leniency.
- 210 Statements taken from the Mossel Bay area reflect brutal torture of a range of young teenagers arrested and tortured by the same group of people during 1985 and 1986. Almost all then spent three to five months in state of emergency detention in George prison. Some were subsequently charged with public violence. The Mossel Bay stories of torture show a number of unusual similarities, including a particularly aggressive form of sexual abuse of both males and females. Several males had their genitals slammed in the drawer of a desk.
- 211 Mr Patrick Mzathi [CT06108] was detained in 1986 at the age of fourteen by police in Mossel Bay. He was beaten with a handgun, ‘klapped’ and kicked. Policemen including Sergeant Maritz slammed his penis and testicles in a drawer, which rendered him unconscious. He was kept naked in a cell and was released after nearly three months. A Captain Calitz was among those named for similar torture of other victims.

- 212 Ms Zanele Zingxondo [CT00860] describes the sexual torture and electric shocks applied to her in Mossel Bay in order to get her to implicate herself in the killing of Development Board employee Mr Afrika Nqumse [CT00559], who had been necklaced in March 1986 in George during ongoing conflicts around forced removals.

One of them pushed me on the chair and they took my arms at the back of the chair and they handcuffed me, my one leg was handcuffed to the one leg of the chair. One of these detectives took a piece of cloth and put it over my head. They stuffed some papers and a piece of cloth in my mouth, and my eyes were also closed ...

They clipped pegs on my ears, both my ears and they switched this object on. I realised only then that it was some kind of an electric shock. They did this several times, up until my bladder couldn't take it. They stopped and asked if I was still denying that I was also there, when Africa was murdered. I couldn't speak because my tongue was hurt and I was crying.

They started smacking me, pushing me around also. Captain van der Merwe pulled me up to other side of his desk. They unbuttoned my shirt, and pulled my breast out of my bra, they emptied one drawer and my breast was squeezed in the drawer. They did this several times on each of the breasts up until the white sticky stuff burst out of the nipples of my breast. I cried, but it was of no use, because no-one could hear me.

- 213 Oudtshoorn activist Mr Sipho Kroma [CT05702] was detained together with Mr Michael Lukas and Mr Mxolisi Madikane in Uitenhage after the fatal shooting of bus inspector and former SAP member Mr William Blouw on 15 April 1986. Kroma, Lukas and Madikane were severely tortured and forced to make statements implicating Lukas in the death of William Blouw. The torturers were policemen from Oudtshoorn. Kroma told the Commission:

They put me (handcuffed) in the boot of the car. On the way out of KwaNobuhle township, they stopped again. They pulled me out of the boot and the very same show continued – they kicked me, jumping on top of me. Again I went back to my place – the boot – and we drove to the Church Street police station in Uitenhage. When we got there, they first took Michael Lukas in. The only thing that we could hear was Michael screaming. They dealt with him for about two hours. They finished with him and they called me in. They made me sit. They straightened my legs and they brought the SACP flag and they used the flag to tie my legs. And they brought the electric wiring, all ten of my fingers were wired with this thing ... three of them were sitting

on my legs. The coloured chap's task was to beat me up and he made sure that he was hurting me. Time and again he would deal with my private parts, to grab at my penis, and my testicles, and punch me in my private parts and also kick me in my private parts. The first [indistinct] of interrogation was trying to link Michael who was with me to a case of Mr Blouw who was shot and killed in the township. They wanted me to admit and agree that Michael said to us that he was responsible for the shooting of Mr Blouw.

Mpondo was the one who was using a khaki T-shirt, they would put it in a bucket of water, and tied it around my face, making it impossible for me to breathe. Mngoma's task was to ask a question ... if he is not satisfied with my explanation, he would give a mandate for them to fire. Firing meant to put on the electric shot ... I would be shaking like this when they put on the wire. They dealt with me for about two hours. Then it was the last time that I saw Michael, when I was released from detention and he was charged and ultimately hanged.

- 214 Mr Michael Lukas [CT00535] and two others were subsequently charged for the murder of Blouw. Lukas was sentenced to death in August 1987 and was executed seven months later.

THE COMMISSION FINDS THAT EXECUTION FOR POLITICALLY-MOTIVATED OFFENCES CONSTITUTED A GROSS HUMAN RIGHTS VIOLATION.

- 215 In Worcester, certain police personnel are repeatedly named as torturers, including Warrant Officer Lucas van Loggerenberg. A group of security detainees including Mr Xolile Dyabooi [CT00232], Mr Monwabisi Magoqi [CT00772] and Ms Mary Ngemntu [CCT00404] were assaulted and tortured by Worcester police. Mr Dyabooi stated that:

In 1987 the police who used to take me for torture was Van Loggerenberg ... They used to handcuff me and suffocate me with a plastic bag and tie me in a chair. Then they would punch me and kick me severely. This happened for about three weeks in a row, each and every day.

- 216 The personnel file of Sergeant H MacDonald [39831H/5] refers to numerous charges of assault and torture against himself, Warrant Officer van Loggerenberg and Lieutenant Gerrit Niewoudt by detainees over several years, all of which are denied by those so charged. In each instance, the Attorney-General declined to prosecute.

217 Ms Yvonne Khutwane [CT00530] of Worcester spoke about her experience in custody:

That was the first time when I was arrested ... I was just alone at the back of the hippo [police armoured vehicle] and they were just driving – it was pitch dark outside. They alighted the hippo and then they came to take me out of the hippo. One of them said to me can I see what I have put myself in, and then they asked me when did I last sleep with a man. I was so embarrassed by this question. And I felt so humiliated – I informed them that I have nobody – I didn't have a partner and then they asked me with whom am I staying. I informed them that I was with my family. The other question that they asked me is how do I feel when they – when I am having intercourse with a man. This was too much for me because they were repeating it time and again, asking me the same question, asking me what do I like with the intercourse do I like the size of the penis or what do I enjoy most. So the other one was just putting his hand inside me through the vagina, I was crying because I was afraid, we have heard that the soldiers are very notorious of raping people. This one continued putting his finger right through me, he kept on penetrating and I was asking for forgiveness and I was asking them what have I done, "I am old enough to be your mother". "But why are you treating me like this" – this was very, very embarrassing. At the end one of them – I think maybe God just came inside them – and the other one said "let's let her go", and then at the end they took me back to the police station and then they locked me up in the cell again.²¹

Northern Cape

218 The Repression Monitoring Group reported that at least 166 people were detained in the Northern Cape under the 1986 state of emergency. Some of these detainees were tortured. Mr David Mabeka [CT04407] was detained on 12 June in Barkly West and was taken to the Transvaal Road police station in Kimberley where he was assaulted by security policemen. He laid a charge against the police but fled to Johannesburg after being threatened by them. Mr Rodney Mtyobile [CT04503] was subjected to electric shocks by SAP member Mr Mochesane. Electric shock torture was also reported by Ms Gladys Keitumetse [CT06014], who was detained at Jan Kempdorp on 12 June for a period of about nine months. She also alleged that she was seriously beaten.

219 Excerpts from the submission by Mr Thembani Jacobs James [CT04007] of Kimberley

21 For more about this and similar cases, see *Special Hearing: Women* in Volume Four.

provide a window into the torture of UDF members in the Northern Cape. He was detained six times between 1985 and 1989 with frequent assaults and torture.

- 220 On 29 January 1985, Jacobs was arrested after an illegal march during the student school boycott and held until 15 February. He was interrogated and assaulted by a Sergeant:

He was continuously assaulting me all over my body and my left ear. It started at 09h00 and ended at 15h00. I realised that I could not hear properly with my left ear. It was very painful. During the interrogation, the Sergeant said that if I complained about the fact that I was tortured, he will fetch me again.

- 221 A doctor later found that his eardrum had been perforated.

- 222 On 23 February 1985: "I was taken to the CID department. We were beaten ... I was taken to the cells with all my colleagues. Tear gas was thrown into the cells."

- 223 He was again detained when the state of emergency was declared on 12 June 1986. This time he was tortured by (*inter alia*) Mr Gavin Toynam to force him to make admissions. He spent several months in solitary confinement after that. In June 1986:

I was visited by a Sergeant who tried to bribe me to testify against my comrades. He came to me carrying a bottle of Klipdrift brandy. I told him I would not co-operate. He then told me I must forget about being released.

- 224 In detention again in 1988, he was handcuffed, given electric shocks and beaten with a bottle of Coca-Cola. This was done by (*inter alia*) Mr Hendrick Niewoudt and Captain van der Colff at the Kimberley police station. On release from his last period of detention, he was served with restriction orders.

- 225 He finally had an operation on his ear in August 1989. He told the Commission that these traumas affected him deeply, both psychologically and physically.

- 226 Mr Mxolisi Jacobs [CT04205], an active member of the youth organisation in Upington, was detained on 15 June 1986 during a wider pre-June 16 security crackdown under the state of emergency. The prison authorities stated that he was found hanged in his prison cell on 22 October 1986, after 129 days in detention. "Fellow detainees said that Jacobs had been strong and in good spirits when they last saw him seven hours before his death. His aunt said that

she could not accept the circumstances of his death.”²² At the court case, prison warders apparently gave conflicting evidence. The official cause of death was found to be suicide by hanging.

THE COMMISSION FINDS THAT THIS PERIOD SAW THE MOST WIDESPREAD PERPETRATION OF TORTURE IN THIS REGION DURING THE PERIOD OF THE COMMISSION'S MANDATE. THE TWO GROUPS TORTURED MOST CONSISTENTLY WERE INDIVIDUALS SUSPECTED OF PUBLIC VIOLENCE ACTIVITIES, AND INDIVIDUALS SUSPECTED OF BELONGING TO MK. SEPARATE ACCOUNTS OF SIMILAR MEANS EMPLOYED IN EITHER THE SAME PREMISES OR BY THE SAME NAMED PERPETRATORS LEND AUTHENTICITY TO THESE ACCOUNTS.

IN THE PENINSULA, THIS TORTURE WAS NOTABLY ASSOCIATED WITH CERTAIN UNITS OF THE SECURITY FORCES, NAMELY THE SECURITY BRANCH, PARTICULARLY THE TERRORISM TRACKING UNIT, AND THE UNREST INVESTIGATION UNITS. THE COMMISSION FINDS EVIDENCE OF WIDE-SPREAD TORTURE IN RURAL AREAS, PREDOMINANTLY AT POLICE STATIONS SUCH AS THE TRANSVAAL ROAD POLICE STATION IN KIMBERLEY, THE WORCESTER POLICE STATION AND SECURITY BRANCH HEADQUARTERS AT THE SANLAM BUILDING IN WORCESTER AND SEVERAL POLICE STATIONS IN THE SOUTHERN CAPE. THE COMMISSION NOTES A PATTERN OF SEXUAL TORTURE AT THE MOSSEL BAY POLICE STATION.

THE COMMISSION FINDS THAT THE MOTIVE FOR SUCH TORTURE WAS OFTEN INTIMIDATION OR THE FORCIBLE EXTRACTION OF CONFESSIONS. THE COMMISSION FINDS THAT SUCH TORTURE WAS COMMITTED WITH THE COMPLICIT KNOWLEDGE OF THE SUPERIORS OF THE INDIVIDUALS ASSOCIATED WITH ACTS OF TORTURE.

THE COMMISSION FINDS A CONSISTENT PATTERN OF MEMBERS OF THE SECURITY FORCES LYING IN COURT BY DENYING INVOLVEMENT IN ACTS OF TORTURE. THE COMMISSION FINDS THAT MAGISTRATES AND JUDGES WERE SINGULARLY RELUCTANT TO ACCEPT OR BELIEVE ALLEGATIONS OF TORTURE.

Killing of political suspects

227 At least nine MK operatives were killed in the western Cape between 1986 and early 1990, namely Mr Norman Petersen, Mr Zola Dubeni, Mr Ashley Kriel, Mr Mthetheleli Gcina, Mr Nkululeko 'Solly' Mutsi, Mr Anton Fransch, Mr Samuel Baloi, Ms Coline Williams and Mr Robert Waterwitch. This figure does not include the Gugulethu Seven, who were not technically MK operatives. Other individuals who were killed and may have been indirectly linked to MK, or who were suspected of politically motivated acts, included Mr Patrick Welile 'Deks' Dakuse, Mr Ayanda Silika and Mr Mpumelelo Rwarwa.

228 It is notable that Kriel, Dakuse, Baloyi and Mabilo were killed while said to be in possession of a single hand grenade. The security forces were absolved of responsibility for all of these deaths in the inquests.

²² *Focus*, No 68, Jan–Feb 1987, p. 5.

The 'Gugulethu Seven'

Around 07h30 on 3 March 1986, seven young men were shot dead at the corner of Gugulethu's NY 1 and NY 111 and in an adjoining field. They were Mr Mandla Simon Mxinwa (23) [CT00700], Mr Zanisile Zenith MJobo (21) [CT00116], Mr Zola Alfred Swelani (22), Mr Godfrey Jabulani Miya [CT00818], Mr Christopher Piet (23) [CT00100], Mr Themba Mlifi (30), and Mr Zabonke John Konile [CT00108, CT03054]. All seven were shot in the head, in addition to numerous other gunshot wounds. Police officers at the scene were Warrant Officers Barnard and McMaster, Majors Johan Kleyn, Dolf Odendal and Stephanus Brits, Captain Charles Brazzelle, Sergeants John Sterrenberg, Andre Grobbellar and Riaan Bellingan, and Constable Thapelo Mbelo.

The police claimed that the deceased were known terrorists who had been killed during a legitimate anti-terrorist operation. Security forces had allegedly acted pre-emptively to prevent these terrorists from attacking a police bus ferrying senior policeman to the nearby Gugulethu Police Station that morning.

The 'Gugulethu Seven' were the subject of an inquest in 1986, a trial in 1987 and a re-opened inquest in 1989. Forensic pathologist Dr David Klatzow seriously challenged the evidence of the police, demonstrating unequivocally that the victims were shot at very close range. In the case of Mr Mandla Simon Mxinwa, Klatzow's evidence was that shotgun cartridge wads were found inside the skull of the deceased, indicating that he had been shot at point-blank range. The medico-legal post mortems stated further all the deceased sustained multiple and extensive gunshot wounds; Mr Christopher 'Rasta' Piet sustained twelve bullet wounds in the head. The outcome of both inquests was a finding by the Wynberg magistrate, Mr Hoffmann, that the seven men had died during a legitimate anti-terrorist operation.

Cape Times journalists Tony Weaver and Chris Bateman published an eyewitness account indicating that the police had shot the victims at close range and that police had shot a man as he was attempting to give himself up. Further eyewitnesses reported seeing a white man shooting a man in the head while he was lying motionless on the ground. Weaver was charged with printing untruths about actions of the SAP and was acquitted. These accounts, together with Dr Klatzow's evidence and allegations by the parents of the deceased that weapons had been planted on the victims, provided the first serious counterpoint to the official version. The post mortem photographs, photographs of the deceased as found at the scene, photographs of Sergeant Sterrenberg

posing over a body and of a policeman stepping against the head of a deceased in the mortuary, combined with the celebratory atmosphere of police after the event as captured on the police video of the scene, also raised questions about the attitudes of the police toward victims. The truth remained buried for a decade until the Commission's investigation revealed an extensive cover-up by the security forces involved in this incident, even at parliamentary level.

A dramatic escalation in armed attacks by MK operatives in the mid-1980s led General Griebenouw of the Western Cape security police to call Brigadier Schoon at the Security Branch headquarters in Pretoria and request the assistance of Vlakplaas. Vlakplaas commander Eugene de Kock evaluated the request and chose Bellingan to lead a team of operatives. Other members were a black security policeman known as Thapelo Johannes Mbela, white Vlakplaas operative Joe Coetzer and several Vlakplaas askaris, including Mr Gladstone Moss, Mr Eric 'Shakes' Maluleke and Mr Jimmy Mbane.

In early January 1986 they drove to Cape Town in three vehicles including a minibus modified to conceal weapons and explosives. They were based at Koeberg and briefed by members of the security branch. After a failed attempt to infiltrate Mbela into a group in Gugulethu, Mbane and Maluleke were sent in. They were given weapons and grenades and went to home of squatter leader Yamile claiming to be commanders from exile. They opened a concealed panel in the minibus, showing their weapons. Yamile believed the askaris and introduced them to Christopher 'Rasta' Piet. They soon had the core of the group which became known as the Gugulethu Seven.

The askaris started by fixing Christopher Piet's faulty AK-47, then got the youths to write their biographies, as was standard practice in the liberation movements. Mbane claims that he handed these biographies to Bellingan and the latter conceded at his amnesty hearing that this may have been so. Mbane and Maluleke were reporting to Bellingan and Liebenberg on a regular basis and informed both Bellingan and Liebenberg that these were merely youths, not hardened 'terrorists'. Mbane said he specifically informed them that 'Rasta' Piet was the only one among them with any training. Mbane was tasked to train the youths and gave them basic training in military combat over two months while Eric Maluleke provided political education.

When their training was complete the youths, together with the askaris, planned an attack on a police bus which took senior policemen to Gugulethu police station every morning. This plan was reported to both Liebenberg and

Bellingan by Jimmy Mbane. Bellingan has admitted that Mbane pointed out the location for the proposed attack.

Senior officers met the night before the incident, and more than twenty-five heavily armed policemen were deployed after a briefing at Wingfield Naval Base at 03h00 on 3 March. They were aware that two askaris would be part of the group of 'comrades'. The entire area was encircled and saturated by police from 05h00.

Just after 07h25, Jimmy Mbane, driving a stolen bakery van, began dropping off the seven youths at the site. A grenade was allegedly thrown and the deployed policemen started firing from all sides in a small area of combat. It is alleged that the only one who had time to fire back was Christopher Piet.

The two askaris who had set up the ambush were able to escape and were later rewarded with seven thousand rands each – one thousand rand for every victim. In a process presided over by former Minister of Law and Order Adriaan Vlok, security police headquarters used the video of the incident to get Cabinet to increase the Vlakplaas budget.

THE OUTLINE OF EVENTS REPRESENTS ASPECTS OF THE COMMISSION'S INVESTIGATION INTO THE GUGULETHU SEVEN INCIDENT. WILHELM RIAAN 'BALLETTJIES' BELLINGAN [AM5283/97], THAPELO MBELO [AM3785/96] AND XOLA FRANK 'JIMMY' MBANE [AM8066/97] APPLIED FOR AMNESTY FOR THE KILLINGS. THE COMMISSION WAS NOT ABLE TO MAKE A FINDING AS THE DECISION OF THE AMNESTY COMMITTEE WAS PENDING AT THE TIME OF REPORTING.

Samuel Mzuga Baloi from Welkom

Mr Samuel Mzuga Baloi [KZN/ZJ/111/WE] was unarmed when he was executed by askaris acting under the command and control and with the approval of their commanders in the SAP.

The official version of Baloi's death on 22 February 1990, as reported in the newspapers, stated that "Policemen ... confronted the suspect in Gugulethu about 11.45am yesterday. He was carrying a grenade of foreign origin. When he tried to flee, policemen fired, killing him." ²³

Constable Bambatha, a disaffected SAP member in the Eastern Cape who was in charge of a group of askaris in that region, described this incident quite differently in a statement to Minister Sidney Mufamadi in 1995.²⁴ He stated that he was equipped by his senior commander with an attaché case containing grenades and pistols with the instructions to plant these on any MK persons who were killed:

²³ *Cape Times*, 23 February 1990.

²⁴ Constable Bambatha was shot dead shortly after making this statement.

"I recall an incident in Cape Town during late 1989 or early 1990 in Gugulethu Township, when a male person was pointed out by the askaris. After stopping the vehicle, I approached him and informed him that I was a police official whereupon he ran away. As a result of this, the askaris jumped from the vehicle and chased the man whilst firing at him. Myself and Constable Koopman ... tried to stop them but they succeeded in fatally shooting the man. I then approached the body, discovering that he was dead as well as unarmed. I had the attaché case with me and sent the askaris back to the Kombi so that they could not see what I was doing. I then placed a F1 hand grenade in the dead man's pocket under the guise of trying to help him as members of the community were watching. This fact made it impossible to place the Makharov pistol next to him.

"I later also made a statement that I had discovered the F1 hand grenade on his person. After the incident, the Captain complimented me on my actions and pertinently stated that it was better that the terrorists be killed to prevent their possible release."

Bambatha identified askari 'Louis' and others as the killers. It is believed that this askari was subsequently killed in Welkom by members of the SAP.

Zola Michael 'Jabulani' Dubeni

Mr Zola 'Jabulani' Dubeni [EC2653/97UTA] was shot dead by members of the Security Branch on 14 March 1987. Dubeni joined the ANC in exile in 1980 and worked as an MK operative in Transkei in 1985, transferring to the western Cape in 1986. He was arrested in Nyanga on 13 March 1987 by Security Branch and Vlakplaas personnel including Larry Hanton, and about an hour later pointed out an AK-47 and an F1 grenade at two sites in Nyanga.

Police statements in the inquest give the following version of his death. During questioning at the Security Branch offices the day after his arrest, Dubeni told them that he had an arms cache in the bushes at Faure outside Cape Town. It was decided that he should point this cache out. Warrant Officer JL Nel and Sergeant WR Bellingan contacted Warrant Officer PJ Theron, the explosives expert on standby, and took him along to Faure with Dubeni, who directed them to a site in the bushes. Nel gave Dubeni a spade and instructed him to dig until he reached the material, whereupon Theron would remove it. Dubeni, still in handcuffs and leg irons, started digging on a slope about five metres away, but then allegedly dropped the spade, pulled out a plastic packet and produced a grenade. Nel fired one shot in his direction. Bellingan also

opened fire with an Uzi. Dubeni was shot in the stomach and head and died on the scene. The plastic packet, the entire 'arms cache', was found to have contained a total of four grenades. Lieutenant Liebenberg was called to the scene and, being unable to locate the duty officer for the Bellville District, asked Lieutenant Desmond Segal to take over investigation of the scene.

There are serious discrepancies in this version of events. The Commission has established from MK sources that Dubeni had recently been disarmed by vigilantes in Khayelitsha and had been re-armed with only an AK-47 and an F1 grenade by a fellow operative. This is consistent with the weaponry pointed out on his arrest. Secondly, MK sources in charge of weaponry in the region at the time denied the existence of any arms cache whatsoever in Faure. It is improbable that an arms cache consisting of only four grenades would have been established at such a remote site.

The police's own version shows serious violations of the procedures set out in the 1980s Security Branch manual on investigations of terrorist cases:

- no officer was called to be present at the pointing out;*
- no photographer was called. This serious violation of procedure suggests that there was no intention of bringing charges against Dubeni, since the pointing out of the arms cache would have been inadmissible in court.*
- No photographs were taken or reconstruction of the scene done even after the event.*

The inquest itself did not include ballistics tests or reports of where shotgun wads or spent cartridges were found. The post mortem report was cursory and the general description of wounds did not match the photographs of Dubeni's wounds. There was no photograph of the 'entrance' wound in the abdomen. The inquest magistrate, despite an application, refused to take oral evidence.

THE COMMISSION RECOMMENDS THE REFERRAL OF THIS CASE TO THE PROSECUTING AUTHORITIES FOR FURTHER INVESTIGATION.

Mthetheleli Gcina

Mr Mthetheleli Gcina was shot dead by askaris Lucky 'Agrippa' Madubula and David Musimeke who stated to the inquest that early on 27 September 1988 they met with an informant who wished to point out a trained ANC 'terrorist' to them. They then travelled in a minibus wearing civilian clothes. The

informant pointed out an individual in Gugulethu as the said ANC operative. Musimeke and Madubula jumped out of the vehicle and approached him. Gcina allegedly had a plastic bag in his hand and produced a pistol. He then fired two shots while retreating. Both askaris returned fire. Gcina was reportedly wounded on his left cheek and stomach and died en route to hospital. The askaris took possession of a Makarov from him. Lieutenant Desmond Segal arrived at the scene, after apparently hearing shots. Musimeke was involved in the similar attempted killing of MK member Bongani Jonas a year earlier.

Ashley Kriel

Mr Ashley Kriel [CT00307], a young activist from Bonteheuwel, left the country in late December 1985, joined the ANC and underwent military training in Angola. He infiltrated the country in April 1987. The circumstances of his death have been the subject of controversy. On 9 July 1987 Warrant Officer Jeffrey Benzien of the Terrorism Detection Unit together with Sergeant AD Abels went to Kriel's Athlone home. The two allege that they were disguised as council workers and were only intending to reconnoitre the place.

Kriel allegedly opened the door holding a pistol concealed beneath a towel. A scuffle broke out during which Benzien shot Kriel in the back with Kriel's own weapon. There is evidence to contradict this version of events. Firstly, it was established that operational planning was done in the Athlone police station prior to the incident. Secondly, other members of the Security Branch were concealed in the vicinity. Thirdly, forensic evidence contradicts this version of events. Blood was found in the bathroom and the floor between the bathroom and kitchen door. Further, the bullet entrance wound indicated direct contact with the skin as opposed to passing through his clothing.

One grenade was allegedly found under a pillow on the bed by Warrant Officer Nel of the Security Branch. No other weaponry was present. The inquest found no one criminally responsible for the death. Despite applying for amnesty for the killing of Kriel, Benzien [AM5314/97] continued to maintain that the death was accidental. The Amnesty Committee had not made a decision at the time of reporting.

Patrick Welile 'Deks' Dakuse

Mr Patrick Welile 'Deks' Dakuse was shot dead by Murder and Robbery Unit members Lieutenant Desmond Segal and Sergeant Etsebeth on 23 January 1989, allegedly while showing police the site of a buried weapon in the

bushes near Khayelitsha. Dakuse was a well-known militant activist. The Commission also has an affidavit made by Dakuse in 1986 regarding his torture and assault in 1986, three years prior to his killing.

Segal stated to the inquest that after questioning, 'Zola Nzungu' (Dakuse) indicated that he would point out where his weapon was buried. Dakuse then allegedly directed them to a bushy area near Khayelitsha. Segal states that Dakuse dug while handcuffed, then took a plastic bag out of the hole and handed it to him.

"The next moment I heard Sergeant Etsebeth shout 'Watch out, hand grenade.' I instinctively ducked and fell on the ground. At the same time I heard two shots go off and stood up, and I saw that the deceased was lying on the ground and that there was blood on his face. Sergeant Etsebeth reported to me that the deceased had a hand grenade in his hands and that he had fiddled with the detonator. I went through the plastic bag and took possession of a revolver whose serial number was not visible."

The inquest found that Dakuse was killed by police acting in self-defence.

Ayanda 'Ace' Silika

Mr Ayanda 'Ace' Silika (23) was shot dead in Crossroads while allegedly escaping from the custody of members of the Unrest Investigation Unit on 12 May 1986. Silika, a youth activist, was arrested as a suspect in the fatal shooting of Constable Patrick Legong on 25 March 1986. His brother, Mr Guarantee Silika, had been shot dead by police during the street conflicts of 1985. The investigating officer stated:

"The suspect acknowledged to me that he had shot the police officer on 25 March 1986. He did it as revenge because the police had shot his brother dead during unrest the previous year. He told me that he was very shocked by the death of his brother and could not accept that his brother was dead. He had a T-shirt made with his brother's face on it and wore it permanently. The death of his brother tormented him..."

Silika was allegedly taken by the investigation team to Crossroads at 04h00. Certain members then left the Casspir to 'handle other tasks'. Two unit members remained with Silika, who asked to urinate outside. Silika then allegedly attempted to escape and succeeded in breaking away from the grasp of one unit member and running towards the shacks. It is alleged that one unit member pursued Silika, warned him to stop, and then fired four shots at him,

fatally wounding him. The inquest found that no offence had been committed in killing Silika.

Peter Lathli Mabilo

Mr Peter Lathli Mabilo [CT04603] was shot dead on 21 August 1987 in Kimberley. The police (Unrest Unit together with Security Branch personnel) surrounded him in the house early in the morning. When he came out he allegedly threw something at them which they believed to be a grenade. They then shot him dead. The objects which he allegedly threw at them were an empty plastic cup and an old shoe. An F1 hand grenade was allegedly found in his pocket. No other arms or weapons at all were found on him or on the property. The ANC in the Northern Cape confirmed to the Commission that he had no weapons on him at the time, making the single hand grenade allegedly found in his possession suspect.

Nkululeko 'Solly' Mutsi and Anton Fransch

Mr Nkululeko 'Solly' Mutsi and Mr Anton Fransch died in similar circumstances in shoot-outs with police. Mutsi died on 5 July 1988 in Gugulethu after a four-hour gun battle with police. The inquest states that although he had been shot in the chest by the SAP, it was finally a self-inflicted bullet to the head that killed Mutsi.

Mr Anton Fransch [CT00302, CT03204] was wanted by the police as a student activist and member of the Bonteheuwel Military Wing before leaving the country in September 1986 to be trained by the ANC in Angola. He died in a battle with security forces after trading gunshots and grenades for some six hours on 17 November 1989. A team of Security Branch and Riot Unit members under Captains Liebenberg and Bester respectively had been deployed to the house in Athlone at 01h00. Major Brazelle subsequently took over at the scene. Brigadier Griebenauw and Colonel Smit were summoned from the Security Branch.

A security force team under Sergeant Scociatti was sent into the house but was allegedly repulsed by a grenade and gunfire from Fransch. This is contradicted by a statement made to the Commission by Constable Stemmet who stated that Scociatti was the first to open fire. From this point on, persistent volleys of shots and grenades took place between the security forces and Fransch throughout the night. A Casspir was used as a breaching device to bulldoze a wall shielding the house. According to police records, Major Brazelle

attempted to negotiate with Fransch. This is contradicted by eyewitness reports which state that police shouted at Fransch "Come out you pig, today you die."

At 07h45 Sergeant Roslee was authorised to throw an M26 grenade into the room occupied by Fransch. According to the police, there was a detonation inside the room before Roslee could throw the grenade. After police penetrated the house, Fransch's body was found badly disfigured by a hand grenade explosion. Fransch still had remaining ammunition with him when he died. There has been persistent speculation as to whether the final grenade was self-detonated in a final act of suicide, or whether it was thrown by the security forces. The Commission has been unable to determine this matter conclusively.

Mr Mark (now Yazir) Henry [CT00450] and his father were detained by the security police on 16 November 1989. Yazir Henry was interrogated and the lives of his family members were threatened to get him to reveal the whereabouts of 'Mohammed' (Anton Fransch). Fearing for the lives of his family and knowing his father was also in detention, he revealed the address in the belief that the security police would arrest 'Mohammed' as he had been. He was then held under section 29 for a further six months.

On his release, Henry was accused of being an askari. The Commission has investigated these allegations and has found that he was not an askari. The security police regarded him as a 'terrorist' and did not refer to him as a source or attempt to protect his identity, as is always done with informants.

Coline Williams and Robert Waterwitch

Four limpet mine attacks in the Peninsula were planned for the evening of Sunday 23 July 1989 as part of an anti-election bombing campaign by MK. Magistrate's courts were targeted as they were to be used for election nominations the following day. Mines exploded at a police station in Mitchells Plain and at the Somerset West magistrate's court. At the Bellville magistrate's court security forces intervened to prevent the blast. The fourth mine, intended for the Athlone magistrate's court, detonated behind public toilets opposite the court. The bodies of MK operatives and youth activists Ms Coline Williams (22) and Mr Robert Waterwitch of the Ashley Kriel unit were found at the scene.

Subsequent inquests found that they had died as the result of an explosion. While initial impressions suggested that the operation had simply gone awry, a number of questions have remained concerning the circumstances of their

deaths. Suspicions existed that the explosives had been 'zero timed' for immediate detonation.

- 229 The Commission was unable to make a conclusive finding in this matter. However, the Commission obtained evidence that security forces had agents in or very close to the unit concerned. This fact raises questions regarding the operation and the deaths of the two operatives.
- 230 Firstly, the Commission finds that youth activist Mr Geoffrey Brown was an informant for the National Intelligence Service (NIS). Brown, who was also involved in Umkhonto weSizwe (MK) political structures, was a close friend of Robert Waterwitch and met with him virtually on a daily basis. Brown was handled by National Intelligence Service (NIS) member Johan Hattingh and, under the guise of writing political analysis pieces, received large sums of money. Brown received his last grading one month before the incident. He claims he was an unwitting agent; Mr Hattingh's testimony concurs with this.
- 231 The day after the fatal explosion, Brown was involved in removing weapons and explosives from Waterwitch's home. These were not handed over to the Ashley Kriel detachment but rather to persons uninvolved with military structures and others outside of their discipline. These weapons are still not accounted for although it is known that the AK-47 taken from the Waterwitch house was used by a Mitchells Plain activist who was part of an unofficial 'security detail' for President Mandela when he visited Mitchell's Plain.
- 232 Secondly, Commission investigations have established that the unit was infiltrated by Military Intelligence. One Aristedes Spannelis of the Directorate of Covert Collections (DCC) tasked by SADF Western Province Command has confirmed that he was the handler of a source (one Shane Oliver alias Perry alias Ian) inside the Ashley Kriel detachment and that information received from this source was passed on to the security police. Through Oliver it may have been possible for the security forces to gain access to the group's weaponry or logistics and conduct surveillance on its membership. The possibility of rigging explosives cannot be discounted. It is notable that at least two other explosive devices used in the simultaneous raid did not go off or were defused by bomb experts. Ms Venessa Rhoda November, who met with Coline Williams immediately before embarking on their respective operations, and Mr Shamiel Isaacs were compelled to abandon their attempted laying of a limpet mine at the Heideveld rent office when the device appeared faulty.

233 In the case of Shane Oliver it is known that on one occasion security forces substituted a limpet mine for one filled with clay, in a 'credibility operation' for Oliver without endangering him. Instances of security force tampering with MK weaponry have been established in several cases, in particular altering the timing devices in order to eliminate the operative.

234 Further, it is noted that certain of Williams's personal effects were returned to the family completely undamaged by the explosion. One *post mortem* report could not conclude with absolute certainty that the victims were alive at the time of the explosion. Lastly, Williams stated on the day of her death that she believed she was being followed.

Civil Co-operation Bureau (CCB) covert operations

235 The Western Cape saw at least four CCB operations under the direction of its Western Cape regional manager Abraham '*Slang*' van Zyl, a former member of the Brixton Murder and Robbery Unit. The CCB appears to have used both conscious and unaware members, particularly known felons or persons from the criminal underworld. This use of gang members is detailed in an Athlone report [CR 396/08/89] which contains statements of four gangsters who were members of the Dixie Boys, namely Isgak Hardien, 'Peaches' Gordon, Clive Petersen and Irwin Meyer. Hardien has given details of his recruitment by *Slang* van Zyl and some of the operations in which he was used. He was transferred from being a source for the Bellville Murder and Robbery Unit, handled by officer Ganger, to the CCB where he was handled by Van Zyl. The recruitment of 'Peaches' Gordon was facilitated by a policeman at Athlone police station who was a relative of Van Zyl. The operations fell under the umbrella project known as Project Goldie.

Attempted assassination of Mr Dullah Omar (now Minister of Justice)

236 Mr Edward James Gordon aka 'Peaches' was tasked to conduct surveillance on several key leaders of the UDF, COSATU and SWAPO. Omar was a leading UDF official in the region, and 'Peaches' Gordon was specifically tasked to kill him using poison. Omar was ill at the time and the initial plan was to shoot him. When this proved difficult, unsuccessful efforts were made to contaminate the medication he took for his heart condition. Gordon died a few weeks after giving testimony to the Harms Commission. His badly mutilated body was found on a highway close to his home. His mother claims he was killed by gangsters acting at the behest of the CCB. The murder docket was closed after the witnesses

were also killed. Mr Igshaan Ariaanse, who was to be the key state witness, was executed together with his woman friend Ms Dorothy Spencer, after being allowed to walk away from custody at Rondebosch police station.

Bombing of Early Learning Centre

237 In August 1989 the CCB bombed the Early Learning Centre in Athlone, a crèche facility used by UDF organisations as a meeting venue. A meeting of the Cape Youth Congress (CAYCO) had just concluded when the bomb exploded. Several individuals sustained minor injuries. A survivor has stated that, had the meeting lasted a few minutes longer, the entire executive of CAYCO could have been killed.

238 Other operations included 'Operation *Apie*', which involved placing a baboon foetus on the property of Archbishop Desmond Tutu, and an arson attack on an Athlone printing press.

Bombings by the Security Branch

239 Members of the Security Branch planted limpet mines in public buildings during this period. Community House in Salt River, which housed many anti-apartheid organisations, was bombed in early September 1987 by Vlakplaas and Security Branch operatives, some of whom have applied for amnesty. During 1989, several 'false flag' operations were conducted, including a bomb attack on the Athlone post office and the First National Bank on 22 and 24 August 1989 respectively. Amnesty applications were received.

240 During the Defiance Campaign in the Peninsula in 1989, limpet mines were used to blow up the toilets in Strand, the beach resort outside Cape Town that was the target of the 'beach apartheid defiance' campaign. Vlakplaas operatives including Wouter Mentz [AM2775/96], Colonel Dave Baker and Warrant Officer Louw van Niekerk were under orders from Colonel Eugene de Kock.

241 There were, in addition, numerous arson attacks on properties housing anti-apartheid organisations. During 1985, union offices in Cape Town were destroyed in an arson attack. An Observatory bookshop was firebombed in 1988. No amnesty applications were received for these attacks.

Vigilantes and Inter-Group Conflicts: Contra-mobilisation

- 242 The state's strategy of contra-mobilisation sought both to build anti-liberation movement forces by covert means and to foster divisions within communities. In the Western Cape, the social divisions between the more 'traditionalist' sectors of African townships in hostels and squatter camps and the more permanent township dwellers offered the potential for successful contra-mobilisation. From 1986 onwards the state poured resources into those sectors of the townships that were prepared to adopt a pro-government stance. Illegal actions committed by these groups were permitted, ignored and promoted, particularly if they targeted supporters of the liberation movements.
- 243 As described above, the repeated conflicts in the squatter areas of Cape Town in the 1980s have their roots in the state's Coloured Labour Preference Policy, which resulted in rigorous influx control, pass law prosecutions and squatter camp removals. The discrimination between Africans with legal and permanent residence in Cape Town and those deemed 'illegal' and living mainly in hostels and squatter camps created the environment for the conflict that tore communities apart. It also led to a very fragmented and divided civic movement in the Peninsula.
- 244 Three conflicts in Cape Town's informal settlements reflect different aspects of the state's practice of contra-mobilisation in this region: the conflict between the *witdoeke*'fathers' and the 'comrades' from December 1985 to June 1986; abuses committed by the former *witdoeke* leaders in Khayelitsha and Old Crossroads from 1986 to 1989; interventions in an internal split within KTC squatter camp in 1987 to 1988.

Background

- 245 Crossroads squatter camp was first settled in 1975 and grew rapidly after 1977 as homes in other areas were bulldozed by the state. In Crossroads, too, residents faced eviction orders and repeated police raids in the state's ongoing efforts to remove the camp. After a major local and international 'Save Crossroads' campaign, the Minister of Co-operation and Development, Mr Piet Koornhof, granted a temporary reprieve in 1979. In addition, an agreement was reached to build a new township for many Crossroads residents, to be known as New Crossroads.
- 246 Most squatter camps developed complex structures of internal organisation: an executive committee with 'headmen' who would also run 'courts' and 'community

police'. Forms of 'taxation' for access to sites became standard as leaders came to depend on financial contributions from residents for a range of issues: funerals, legal fees and community structures such as crèches. Conflict over political control over these finances was common, resulting in breakaway groups.

- 247 The fierce struggles with the state facilitated the emergence of powerful leaders as protectors and patrons of squatters. In Old Crossroads, a pattern of authoritarian leadership was entrenched under Mr Johnson Ngxobongwana. Links to the UDF and other organisations in the formal townships remained largely symbolic as leaders tended to be preoccupied with internal squatter issues. The political relationship was also weakened by long-standing divisions between legal township residents and migrants (the *amagoduka*), who were based in the hostels and squatter camps.
- 248 During the course of 1985, Crossroads leader Johnson Ngxobongwana increasingly distanced himself from the UDF. It was widely speculated that he had switched allegiances to the state and its security forces while in prison awaiting trial on charges on which he was later acquitted.
- 249 The first open conflict between the 'comrades' and the old guard, or 'fathers' (later called *witdoeke*, after their distinguishing white headcloths) occurred towards the end of December 1985, spilling over into the new year as groups of 'fathers' rampaged through New Crossroads, attacking activists. At least seven people were killed and many injured on both sides. Hundreds of activists fled the area. Allegations of police encouraging and escorting the 'fathers' on their raids were made in the media at the time and in statements to the Commission. During the conflict, *witdoek* leader Prince Gobingca rose to prominence. The Commission found that Gobingca was a source for both the Security Branch and Military Intelligence (MI) as from an unspecified date in the 1980s.
- 250 The first six months of 1986 were marked by sporadic ongoing skirmishes and conflicts between Ngxobongwana's supporters and areas or activists aligned with the UDF. Although *witdoeke* stated that they were resisting the militant practices of the 'comrades', such as necklacings and people's courts, there were victims of necklacing and burning on both sides of the conflict. In addition, it was widely known that Crossroads itself operated systems of informal justice and prisons. Legal support bodies at the time took numerous *affidavits* from those held and harshly beaten in one such prison. While the people's courts on the 'comrades' side were repeatedly raided by police, the *witdoek*

courts and prison remained untouched or even protected and defended by the forces of law and order, as illustrated by the following case.

Killings of Vuyani Dyaboza and Lukhanyiso Finye

On the night of 25 May 1986 a carload of youngsters was stopped at a witdoek roadblock. Mr Vuyani Dyaboza [CT00730], Mr Lukhanyiso Finye [CT00730] and a young woman were then abducted by the witdoeke and held in an informal prison in Crossroads. While the young woman managed to escape, Finye and Dyaboza were hacked to death and their bodies dumped. Subsequent police investigations led to charges being laid against Ngxobongwana regarding the operation of this court. Police official Leonard Knipe testified to the Commission that he was instructed by his senior to ensure Ngxobongwana's release on bail on orders 'from the top'.

"I remember that following Ngxobongwana's arrest, which was regarded as a major breakthrough, that his arrest was reported to the then Divisional Criminal Investigations Officer, [a Brigadier] who was enthusiastic about the arrest. ... During the early afternoon of the same day that Ngxobongwana appeared in court I received a telephone call from an agitated Brigadier ... The impression was that he had been severely rebuked because of our actions taken against Ngxobongwana and that he had been instructed by either the State President or Minister to see to it that Ngxobongwana was released on bail. I was informed that the authorities were fully conversant with Ngxobongwana's court, that it was not a people's court but a tribal court. I was instructed to immediately see to it that Ngxobongwana was released on bail. I 'phoned the State Prosecutor at Wynberg Magistrate's Court and related the instructions which I had received from the Brigadier to him. That same afternoon Ngxobongwana was brought before the court and released on bail of R50.00."

The attitude of the state

251 Squatter camps were posing a major security threat at this time, with regular sniper attacks on police or army vehicles, mainly from the direction of the Old Crossroads satellite camps and KTC. Hand-grenade attacks also strongly indicated the presence of trained guerrillas. This seems to have led to a convergence of interests with the *witdoeke*, the security forces and the local government agencies wanting to upgrade the original Crossroads area, rid the settlements of 'comrades' and eliminate the security threat faced by the police.

252 The Commission uncovered evidence of covert official endorsement of and support to the *witdoeke*. Documentary evidence links the Western Province Joint Management Centre (JMC), Western Province Command of the SADF and senior SAP personnel at provincial level to this endorsement. More significantly, this local level of support is endorsed by the highest security structure in the country, the State Security Council. The subsequent court case against the Minister of Law and Order points to a high level and expensive cover-up of these acts.

253 On 10 January 1986, shortly after the first mass attack by the *witdoeke*/'fathers' of Crossroads on New Crossroads, the JMC chairperson Brigadier AK de Jager stated that "the actions of the 'old guard' deserved support, though this should occur in a covert manner."

254 In March 1986, General Wandrag's office sent out guidelines for managing unrest, describing contra-mobilisation as follows:

Efforts must be made to get the residents of the black areas motivated to resist the revolutionaries as follows:

Contra-mobilisation must be small scale and implemented at regional level. Positive resistance movements must be encouraged. This must be done clandestinely.²⁵

255 A sub-JMC meeting in the Western Cape noted that "SADF WP Command is already working in this direction to get the 'fathers' to resist the comrades."²⁶

256 During March 1986, the JMCs were tasked with drawing up plans to deal with unrest trouble spots. The final plan presented to the State Security Council (SSC) on 14 April 1986 specified the following for the Western Cape:

Goal: To remove the influence of the Comrades and other activists on the community. Tasks: To support well-disposed moderate blacks.

Actions: Covert organising of adult law-abiding black men (fathers) to go against the Comrades in their terror campaign against the residents of black areas.²⁷

257 The SSC meeting included the President PW Botha, General Magnus Malan (Minister of Defence), Mr Adriaan Vlok and Mr Roelf Meyer. The meeting was

²⁵ *Kriptoberg* 25 March 1986 GEHEIM TIN 2/10/7 (From file C7/6/7/30, Thomas Boydell Building).

²⁶ 'MAATREËLS WAT GETREF IS. SOOS VOORGESTEL IN SUB GBS VEIKOM OP 1986-03-25' This has an attached memorandum: WP SUB GBS 1986-03-26. From file C7/6/7/30, Thomas Boydell Building.

²⁷ These JMC plans were presented to the SSC on 14 April 1986 (Minutes 5/86). From File No. 22/2/5/2, Pretoria State Archives.

also attended by Mr Niel Barnard (NIS) and the Commissioner of Police, General PJ Coetzee, who was later to testify at the trial (see below).

- 258 On 24 April 1986, a meeting was held at Athlone SAP District Commissioner's office between *witdoeke* leaders and members of the SAP. Brigadier Strydom promised to take their case to the Commissioner of Police and to the Minister of Law and Order.
- 259 Chief *witdoek* leader Mr Sam Ndima testified to the Commission that two follow-up meetings included various "men from Pretoria" who, in his understanding, gave permission for the *witdoeke* to take action. One man described himself as "the secretary of the chairman in Pretoria". Ndima also alleges that two sharpshooters, Warrant Officer Barnard (deceased) and Captain Loock were allocated to assist them. Video footage exists of Loock running with a group of *witdoeke* shooting at the 'comrades' and of members of his unit amiably greeting *witdoeke*. Captain Loock denied this in a Commission section 29 hearing.

The attacks

- 260 Between 17 and 21 May 1986, thousands of *witdoeke* from Old Crossroads systematically torched and looted the satellite squatter camps of Nyanga Bush, Nyanga Extension and Portland Cement. Both SAP and SADF personnel were present at the scene and not a single *witdoek* member was arrested. Around thirty-eight people were killed in incidents associated with this first attack and many others injured. An estimated 30 000 people were made homeless. The security forces then encircled the area with barbed wire to keep its former residents out.
- 261 On 21 May the WP JMC reported to the Secretariat of the State Security Council:

*the fathers are well-disposed towards the security forces and want law and order. Fathers cannot be openly supported due to the hostility of the leftist press.*²⁸

- 262 When it became apparent that KTC was facing a similar threat of destruction by the *witdoeke*, the Legal Resources Centre (LRC) applied for an urgent Supreme Court interdict against the police and *witdoeke* restraining them from unlawfully entering KTC and destroying the camp. A temporary interdict was granted on 26 May²⁹, restraining the SAP from "participating in, assisting in, encouraging,

²⁸ 'WPGBS 22/7/7 SITRAP KRUISPAD ONLUSTE (Situation Report: Crossroads unrest). From File 22/8/5/13 Vol 1, Pretoria Archives.

²⁹ Application 5317/86 CPD before Mr Justice Howie.

permitting, or allowing any unlawful attack upon any person or property residing within or situate within the area known as KTC". It also directed the security forces to take all reasonable necessary steps within their powers to prevent any member of the SAP or the SADF or any other person from perpetrating any of the acts mentioned above.

- 263 Despite this interdict, thousands of *witdoeke* assembled outside the Development Board offices next to Crossroads on the morning of Monday 9 June and moved off in groups to attack. Over three days, KTC was systematically set alight and destroyed. Each morning the *witdoeke* would gather, march to KTC and engage in attacks, arson and looting. Not one *witdoek* was arrested during the entire attack, although several journalists were arrested and removed from the area. Scores of *affidavits* from clergy, journalists and residents on the scene described Casspirs escorting *witdoeke* and reported other incidents indicating complicity. Approximately twenty people were killed in this second attack and a further 30 000 people made homeless.
- 264 A total of over 65 persons died in the two attacks and up to 60 000 were made homeless. The Commission received several statements relating to those killed in the two attacks including Donald Mgadi [CT08606], Rennick Ndzishe [CT00888], Zacharia Dumile Ntsethe [CT01572], Dumile Ntantiso [CT00750], John Matatana Galaweni [CT01555], Mhlangabezi Dibela [CT01582], Stewart Maxama [CT01581], Christopher Kwaaiman [CT01575], Sithembiso Sydney Mduba [CT00509] and Makhosi Mdlalo [CT00952]. Other statements were taken in respect of those injured and those whose homes were burnt down. ITN cameraman George De'Ath was hacked by *witdoeke* on 10 June near KTC and died several days later, becoming the first journalist to be killed in the South African conflict.
- 265 Further examples of state endorsement of the actions of the *witdoeke* can be given.
- a On the morning of the start of the *witdoek* attack on KTC, the Western Province JMC arranged a flight on an SADF aircraft for two *witdoeke* leading the attack and Mr Ricky Schelhase and Mr Graham Lawrence from the Development Board to consult Mr Ngxobongwana, then in Ciskei. The flight request details were sent to the Secretariat of the State Security Council.³⁰
 - b Five hours after the start of the attack on KTC, the Western Province JMC sent the Secretariat of the State Security Council in Pretoria a signal message stating that:

³⁰ Fax sent from WP Command to 5 Air Command, as well as the SSSC. TOP SECRET. K53/848/JUN86, 061330B. From File No. 22/8/4/1/1, Pretoria State Archives.

in order to prevent the stayaway actions on 16 June, a gathering of witdoeke in Crossroads has been planned during which the message to go to work will be conveyed to the masses. This action will be a victory feast in the form of a cattle slaughter. The costs have not yet been finalised but can be estimated at about R3 000 and it would be appreciated if the necessary funds could be made available. Finalisation will not be reached until the 11 June when you will be contacted again.³¹

266 The document clearly supports and endorses the group engaged in arson and killing. It should also be noted that the attack on KTC ended on 11 June 1986, the date on which 'finalisation' would be achieved.

267 A statement to the Commission by former Security Branch member Mr Michael Bellingan further illustrates the attitudes of the local security forces:

Sometime during 1986 I travelled to Cape Town to hold discussions apropos 'Stratcom' actions. During our second day at Cape Town Brigadier Strydom (local Security Branch commander) held a meeting with the head of a local vigilante group, named witdoeke ... Brigadier Strydom said that the fellow had summed up by saying that they should get co-operation because, in the words of this leader, 'Ons is mos maatjies.'

Shortly after the meeting the Brigadier, Van Niekerk and I flew over the squatter camps to view the work of the witdoeke. The witdoeke ... were attacking the inhabitants and burning their shacks. It looked like a successful war mission because of the 'line' of advance and the enormity of the damage.

The SAP were not permitted into the area by instruction of senior command in the region. The uniform members told me they had been told it was too 'dangerous' to intervene. The three of us in the helicopter (official SAP helicopter with pilot for SAP) were satisfied that ANC activists in the area were getting a hiding. Furthermore, that the SAP could not be implicated. You can bet that no official correspondence reflected any of these victims!

In official documentation there was an 'unwritten' policy to stick to matters which could be justified by the Minister. This does not mean that the SAP always got it right, but it did provide a culture of plausible deniability and also, because of compartmentalisation, most members of the SAP had no idea of the broader picture or specific strategies.

31 WPGBS/888/9 JUN 86. From File No. 22/8/4/1/1, Pretoria State Archives.

268 The Commission obtained a statement from a person whose identity will not be disclosed by the Commission as follows.

Within a day or two of the conclusion of the Witdoek/Comrades violence I received a telephone call from [an official] of the Western Cape Development Board asking to see me urgently late the same afternoon at my office. He seemed very distressed over the telephone. When he arrived he was clearly very distressed and he asked me to keep absolutely confidential that which he was about to tell me. I agreed to accept his condition of confidentiality. He then proceeded to tell me that he had been that day at a debriefing session on the Crossroads violence that had been held at the Bishop Lavis police facility. They had been informed by [a Brigadier] that the violence between the two factions in Crossroads had been orchestrated by the police. [The official] was clearly shattered by this information, scared and not clear as to what he should do.

The court case

269 KTC residents then instructed the LRC to sue the Minister of Law and Order for damages sustained during the attacks. The Supreme Court damages claim was on behalf of twenty-one parties whose respective claims exceeded R10 000.³² It was alleged that members of the SAP had made common cause and assisted the persons from *inter alia* Old Crossroads in destroying, damaging and/or causing the loss of the said dwellings and property. Alternatively, they had negligently failed to take reasonable steps to prevent the destruction of KTC.

270 The Minister of Law and Order denied these allegations. Throughout the case, all defence witnesses representing the state consistently denied any involvement in the attacks or support to the *witdoeke*. The Commissioner of Police, General Johan Coetzee testified that the police were trained to be impartial and it was not in the 'culture' of the SAP to take sides or engage in illegal actions. He stated that "*ek was nooit in 'n kabinetsvergadering waar die sake gedebatteer is of so 'n saak gedebatteer is nie*"³³ General Wandrag of SAP Head office also denied any knowledge of any conspiracy and argued that the SAP did not regard the ANC or 'comrades' as the enemy, only as criminals.

271 Despite these denials, the state took the highly unusual step of issuing Section 66 notices barring access to evidence requested by the LRC.³⁴ Five Section 66

32 The other 3000 claims were issued out of magistrate's courts.

33 Court record, p. 4595.

34 In terms of section 66 of the Internal Security Act, a Minister of State who was of the subjective opinion that disclosure of certain evidence could prejudicially affect the safety of the state could prohibit the evidence from being aired by issuing such a certificate.

certificates were issued by three Ministers. Three were signed by Minister of Law and Order Adriaan Vlok, one by the Minister of Defence Magnus Malan and one by Deputy Minister of Law and Order Roelf Meyer. The following kinds of documentation were barred, *inter alia*: Specific written instructions or orders given by Major General Wandrag relating to the events; almost all SADF documentation relating to their activities; all general staff meeting minutes of the SAP referring to the events; security police documents; documents relating to the helicopter used by the security forces during the attacks; and JMC documentation.

272 The case ran from September 1987 to June 1989 and was settled out of court in February 1990 by the withdrawal of the action and the allegations set out in the claim. Thus there was no judgement and no court decision.³⁵

THE COMMISSION FINDS THAT THE ORIGINS OF THE CONFLICT LAY IN HISTORICAL RIVALRIES AND POLITICAL DIFFERENCES BETWEEN DIFFERENT GROUPS AND AN INCREASING TENDENCY TO RESOLVE SUCH DIFFERENCES BY VIOLENT MEANS. HOWEVER, THE COMMISSION FINDS THAT THESE CONFLICTS WOULD NOT HAVE RESULTED IN THE SCALE OF VIOLENCE AND DESTRUCTION THAT LED TO THE DEATHS OF OVER SIXTY PEOPLE AND THE DESTRUCTION OF OVER 20 000 HOMES WITHOUT THE PERMISSION, FACILITATION AND ENDORSEMENT OF THE SECURITY FORCES.

IN THIS REGARD, THE COMMISSION FINDS EVIDENCE THAT AT LEAST THE WESTERN PROVINCE (WP) SECURITY BRANCH, THE WP COMMAND OF THE SADF AND THE WP JMC WERE INVOLVED IN SUCH ENDORSEMENT. FURTHER, THE COMMISSION FINDS THAT THE STATE SECURITY COUNCIL APPROVED AN OVERALL JMC PLAN THAT INCLUDED THE COVERT ORGANISING OF THE *WITDOEKE* TO RESIST THE 'COMRADES'. THE COMMISSION FINDS THAT THE ISSUING OF SECTION 66 NOTICES BLOCKING ACCESS TO CRUCIAL DOCUMENTATION IN THE COURT CASE AMOUNTED TO CONCEALMENT OF SUCH SUPPORT.

THE EVIDENCE CONSIDERED INCLUDES:

- THE DOCUMENTATION PRESENTED ABOVE.
- THE WITNESS ACCOUNTS OFFERED AT THE TRIAL AGAINST THE MINISTER OF LAW AND ORDER WHICH TESTIFIED TO GROSS NEGLIGENCE IN HALTING THE ATTACK AS WELL AS ACTIVE COMPLICITY.
- THE ABSENCE OF ANY PROSECUTIONS OF THE ATTACKING PARTY IN THE CONFLICT.
- THE INTERVENTION IN THE TRIAL OF JOHNSON NGXOBONGWANA BY SENIOR MEMBERS OF THE SECURITY FORCES.
- THE RELATIONSHIP BETWEEN PRINCE GOBINGCA AND THE SECURITY FORCES, INCLUDING CAPTAIN PAUL LOCK.
- THE EVIDENCE OF RICKY SCHELHASE CONCERNING THE GOALS OF THE ADMINISTRATION BOARD AND THE BROADER SECURITY STRATEGIES IN PLACE AT THE TIME OF THE ATTACK.

³⁵ It was agreed that a trust would be set up to benefit all victims of the May and June burnings. An amount of R2.5 million was disbursed into the client community. Money was disbursed to individual victims or through the building of community halls.

FURTHER, THE COMMISSION RECOMMENDS THAT THE ROLES OF CAPTAIN PAUL LOOCK AND W/O BARNARD IN THE CONFLICT, AND THE RELATIONSHIP BETWEEN JOHNSON NGXOBONGWANA, THE STATE AND THE SECURITY FORCES ARE FURTHER INVESTIGATED.

Crossroads and Khayelitsha, 1986–1989

- 273 In line with the McCuen ‘oilspot strategy’ through which politically compliant communities were rewarded, the state made available millions of rands for upgrading Crossroads. ‘Mayors’ Ngxobongwana and Hoza were able to consolidate their control of their camps in conjunction with the local authorities – the Crossroads Town Council and the Lingeletu West Town Council in Khayelitsha respectively. These areas were to remain ‘sealed’ to the resistance movements until the end of the decade, although elements of opposition in Khayelitsha did exist. As ‘mayors’, Ngxobongwana and Hoza were able to draw upon the resources of the Town Councils to extend their patronage base.
- 274 These two leaders were able to run these areas as virtual private fiefdoms, establishing an extensive network of control through financial extractions and informal judicial control of the population. The *amasolomzi* (informal community police) established a brutal reputation, being linked to numerous violations. In the second half of 1988, numerous urgent interdicts were applied for in the Supreme Court³⁶ against Hoza and/or his *amasolomzi* by Khayelitsha residents, particularly those linked to the Joint Action Committee, a body which threatened Hoza’s political supremacy in the area. The statement of Fumbatha Sidwell Mcabangeli [CT01018] gives a picture of the situation. After he and several others laid charges about the beatings and torture that took place in the ‘jail’, he was again beaten and held at the ‘jail’. The actions of the *amasolomzi* and the informal courts were both supported and encouraged by the local authorities and security forces as ‘tribal courts’ aimed at keeping law and order.³⁷ People’s courts run by ‘comrades’, however, were vigorously crushed and the ‘comrades’ charged with sedition.
- 275 Political challenges or threats were not tolerated by Hoza or Ngxobongwana, leading to several incidents of violence. In Khayelitsha, the Joint Action Committee (a body opposed to Hoza) was subjected to ongoing harassment and attack by Hoza and his group. In Crossroads, Prince Gobingca, erstwhile *witdoeke* leader, fell out of favour and was violently ejected from Crossroads in

³⁶ See for example Supreme Court cases No. 13490/86, 10114/88, 4207/89, 6641/89, 5588/89 and 10288/89, most of which are applications for restraining orders against Hoza, the *solomzi* homeguards, and the Lingeletu West town councillors.

³⁷ A remarkable SAP instruction in the information book of the Khayelitsha Police Station, presented in Supreme Court case No. 13082/86, graphically illustrates this attitude. The entry states that the informal courts and headmen are rendering an invaluable service to the SAP and should be supported.

July 1987. Gobingca himself was shot and injured, and up to thirty homes of his supporters in Crossroads were torched, driving out these potential opponents. During the campaign by the resistance movements against the 1989 'whites only' election, conflicts between Hoza, Gobingca and Jerry Tutu erupted in violence leading to the deaths of at least five people.

KTC splits: September 1987 – April 1988

276 A further example of covert contra-mobilisation activities, that is, the fomentation of conflicts, can be seen in the constant sharpening of conflict between two opposing groups in KTC. Towards the end of 1987, tensions developed between the two sections of KTC squatter camp – the first arrivals in 1983 who were largely township dwellers (called Old KTC) and the later arrivals of 1984 who were migrant refugees from Crossroads. Although both were aligned to the UDF, differences existed between the two groups ranging from their organisational practices to their housing demands.

277 Deteriorating relations came to a head in late 1987, causing several deaths on both sides. These deaths as well as numerous other assaults, shooting injuries and arson signalled the start of a period of conflict lasting until March 1988. Most of Old KTC fled and settled in neighbouring Tambo Square. The UDF attempted to mediate, but ultimately the ANC in exile was compelled to intervene. Activists and squatter leaders were flown to Lusaka from 9–18 March 1988 where attempts to build unity bore some fruit.

278 It was widely believed that the conflict was fomented by the security forces. Peace efforts were bedevilled by anonymous 'Stratcom'-type pamphlets that were distributed at the time, which stirred up conflict by making allegations against organisations and individuals. Armed white plain-clothes men in balaclavas were seen moving around the area in the middle of the night. Significantly, this conflict took place just months before the October 1988 municipal elections, in which the state was concerned to win as many allies as possible.

Rural vigilantes

279 In certain rural areas, the Commission found evidence of close collaboration between local vigilantes, the security forces and the local Development Board. In Zolani, Ashton, an interdict was applied for against the local vigilante group, the *amasolomzi*.

280 The following quotes from testimonies illustrate the complicity between the *amasolomzi* and the police and the brutal consequences. Mr Ntando Pringle Mrubata [CT00130]:

When I was coming out of the house I could hear that there were some of the vigilantes nearby. And then the minute they saw me Pani said, 'here is this dog we've been looking for', and then I knelt down and I realised that I was unable to crawl. I also could feel that there was something on my legs but I didn't understand what was happening ... I could feel that my feet were burning. My comrades told me that when I lost consciousness they were chased away by [a policemen] and amongst them were also vigilantes ... I completely regained my consciousness on a Sunday [in hospital]. They told me that I was shot ... I am now a cripple ... I lost the hips and I think the sockets were affected and then I had to be amputated ...

281 Mr Sipho Sixishi [CT00755] told the Commission:

Whilst I was still asleep I heard a huge cry, then I woke up. I could see that there were people ... [a member of amasolomzi] came in and he started to hit me with a stick, I was surprised ... I was grabbed and shoved outside of residence... and again I was hit on the head with knobkierie, there was also a policeman. Matroos beat me continuously. And the police together with amasolomzi pushed me into the van ... the van was full ... they were picking up everybody on their route ... We were taken back to Worcester and that's where we were detained for a few days ... After a while we were taken to the doctor because Mrubata and I were severely injured. I could feel that my eye had ruptured ... I could feel that it was painful. After a while I was operated ... when I woke up, I could realise that my eye had been removed.

IN ASHTON AND ZOLANI, THE VIGILANTE GROUP AMASOLOMZI WAS RESPONSIBLE FOR NUMEROUS SHOOTINGS OF AND ASSAULTS ON RESIDENTS. THERE IS EVIDENCE THAT POLICE AND AMASOLOMZI CO-OPERATED WITH EACH OTHER IN HOUSE-TO-HOUSE SEARCHES IN ZOLANI, DURING WHICH MANY RESIDENTS WERE ASSAULTED. PROMISES OF JOBS AT THE LANGE BERG KOO FACTORY WERE USED TO PERSUADE PEOPLE TO JOIN THE AMASOLOMZI AND A NUMBER OF MEETINGS WERE HELD ON THE FACTORY PREMISES TO PLAN AMASOLOMZI OPERATIONS.

Violations committed by resistance and revolutionary groupings

Killing of 'collaborators': stabbings, necklacings and burnings

- 282 Around seventy cases of necklacing or burning were reported between 1985 and 1989³⁸, mostly in 1985 (thirteen cases) and 1986 (forty-eight cases). Most necklacings were related to concerns involving informal settlements. The Bureau of Information cites twenty-four cases of attempted necklacing or burning from 1984 to 1989.
- 283 Cases of necklacing or burning appear to fall into two categories: those in which perceived 'collaborators' are attacked and killed, and cases which formed part of broader conflicts within the squatter communities of the Cape. Four cases of necklacing in Paarl in 1986 relate to the conflict between AZAPO and the UDF. Other rural cases of necklacing or burning appear to target people breaking the consumer boycott (two cases), black SAP personnel (three cases), community councillors or their relatives (two cases) and a township administration clerk.
- 284 In the Peninsula, two cases of necklacing were reported in 1985. Cases in 1986 relate almost exclusively to the conflicts between the vigilante *witdoeke* and 'comrades' in the informal settlements of Cape Town. During the build-up of conflict from January to May, eighteen males were burnt in Crossroads, KTC or New Crossroads. In one incident where hundreds of *witdoeke* were mobilised to rampage through New Crossroads, at least seven *witdoeke* were killed and burnt.
- 285 During the two attacks by *witdoeke* in May and June, up to a quarter of the over sixty people killed were apparently burnt to death, though some of these may have been killed by other means and then burnt. It should be noted that vigilantes themselves made use of necklacing, which was thus not confined to the supporters of opposition movements.
- 286 The first publicly reported necklacing case in the Cape Peninsula occurred on 30 October 1985. A pregnant woman, Ms Rebecca Nonzuzo Ngwevushe [CT01349], was strangled, stoned and necklaced. The attack appears to have been related to the ongoing uncertainty and trauma within Crossroads around the divisive question of the state-sponsored move to Khayelitsha. It is believed that Ms Ngwevushe was suspected of being part of the squatter community under Mr Jerry Tutu that was in favour of moving to Khayelitsha. The move to Khayelitsha

³⁸ These figures must be regarded with some caution, having been assembled from patchy newspaper reports, police reports and other published statistics.

was bitterly opposed by other sectors of the residents who feared they were being 'sold' to Khayelitsha in the negotiations between Jerry Tutu and the Administration Board.

287 On 17 December thirteen-year-old Andile Selane [CT01343] was shot dead by the SAP in New Crossroads. His funeral was held on 24 December. While the mourners were at the cemetery in Gugulethu, councillor Mr Archibald Siqaza [CT01340] drove by in his car. He was stopped and assaulted, and died after being set alight. UDF activist Mr Shadrack Mabandla (Ntsikelelo) Zokolo [CT00905] was attacked, burnt and killed the next day, allegedly in retaliation for the death of Siqaza. Within a day Siqaza's associate, Mr Montilolo Ngxabazi [CT01340] of New Crossroads was burnt to death in a return attack.

288 In a high-profile event, an alleged informer was stabbed and beaten to death in Mitchells Plain on 25 May 1986. Mr Moegsien Abrahams [CT01123] was amongst a large crowd attending a UDF protest rally but was identified as an 'informer' during the meeting. The UDF leaders on the stage tried to protect him after elements in the crowd attempted to assault him, but once he was outside the hall, he was pursued by a group of youths. He fled into a nearby house where he was stoned, beaten and stabbed to death by a large group. A member of the Bonteheuwel Military Wing, Mr Colin de Souza [AM5377/97], has applied for amnesty for the killing. The UDF issued a statement after the killing stating that:

The UDF regrets the loss of life of Moegsien Abrahams. However, it is important that we understand his untimely death in context. The context is provided by the growing polarisation and concomitant anger which flows from the apartheid ordering our society. His death occurred in a manner which the UDF cannot be responsible for.... In the light of this, the UDF cannot and will not take responsibility, whether directly or indirectly, for his death. The blame rests four square on the shoulders of those responsible for the breeding of hatred and anger by their maintenance of apartheid...³⁹

289 In Colesberg, a selective consumer boycott in 1985 cost the life of Ms Nombulelo Dilato [CT00506], who was married to policeman Mr Stanford Thembele Dilato [CT00390]. A group monitoring the boycott in Colesberg saw Ms Dilato buying meat. She was confronted and her meat was taken from her and trampled. She laid charges with the police, who began searching for those responsible. These events served to identify Ms Dilato as a police informer in the eyes of the community, although she had been a supporter of community organisations until then. When the

39 *The Argus*, 28 May 1986.

Dilato home was stoned, police began a constant guard on Ms Dilato, escorting her to and from work and stationing Hippos (armoured personnel carriers) outside the house. This police protection ironically served to seal her fate. On 2 October 1985 she was caught by a small group of youths, assaulted and set alight, and her home was burnt the same day. When she subsequently died in hospital, community hostility made it impossible for the Dilato family to bury the victim in Colesberg. Mr Tembile Falati, Mr Zolile Silwane, Mr Thabo Gusha, Mr Pingdyaan Kelem, Mr Titsha Mhlakulo and Mr Tifo Paul Setlaba were charged with murder. Setlaba was sentenced to death (later commuted) while others received long prison sentences.

290 In Bongolethu, Oudtshoorn, Mr Patrick Marenene [CT00560], one of two remaining community councillors was attacked in November 1985. Youths took all his furniture, clothing and other household contents outside and burnt them along with his vehicle. Marenene fled, returning two days later to see what had happened to his children. He was chased by a group of youths in Bongolethu and fled, firing shots, but was caught and killed in Bridgeton, half a kilometre away. He was stoned and a burning tyre was placed on his shoulders.

291 A mass swoop by the security forces on Bongolethu township followed this killing. Hundreds of residents were arrested in a dawn raid on 29 November 1985 and assembled in rows on the soccer field. Masked individuals selected a group of less than a hundred, who were then transferred to the Oudtshoorn police station and locked into the police station tennis courts. They were then taken in large groups for an 'identity parade', for which they had to stand outside the police building while individuals behind windows on the third floor picked out certain individuals. About twenty people were then charged with the murder.⁴⁰ Three people were sentenced to death: Mr Patrick Manginda, Mr Desmond Majola and Mr Dickson Madikane.⁴¹ Three others were given long prison sentences.

THE COMMISSION FINDS THAT THE OCCURRENCE OF NECKLACING IN THE WESTERN CAPE REGION BETWEEN 1985 AND 1989 WAS AN EXPRESSION OF THE RAGE OF PEOPLE TOWARDS OPPONENTS, PERCEIVED COLLABORATORS OR REPRESENTATIVES OF THE STATE. THE COMMISSION NOTES THAT THIS METHOD OF KILLING PEOPLE WAS USED BY VARIOUS GROUPS WITH DIFFERENT POLITICAL AFFILIATIONS. NEVERTHELESS, IT BECAME ASSOCIATED WITH SUPPORTERS OF THE UDF, AND THE COMMISSION FINDS THAT THE UDF LEADERSHIP COULD AND SHOULD HAVE ACTED MORE VIGOROUSLY TO INDICATE THEIR DISAPPROVAL AND REJECTION.

40 Some of those charged made allegations of police assault and torture to Commission researchers.

41 Their death sentences were later commuted to prison sentences after several years on Death Row. They were released in 1992 as political prisoners.

- 292 Hanover in the northern Karoo region experienced violent divisions between so-called 'collaborators' and community organisations. A 1985 campaign against the councillors, in which several homes were destroyed, forced the councillors and their associates to flee the township. They settled in army tents close to the police station. This settlement became known as 'Ezitenteni' and housed up to one hundred people.
- 293 Tension and conflict between the groups resulted in the killing of Mr Alfred Thozamile Nkumbi, a relative of the mayor. Residents attacked him at his house in Kwezi on 24 December while he was under police escort. It appears that his escorts left the scene. Mr Nkumbi and family members tried to flee towards Ezitenteni but were caught. Mr Nkumbi was stoned and stabbed to death and his brother William Thamsanqa Nkumbi [CT00379] and other family members were stabbed.
- 294 A group of approximately nine people were charged, most found guilty and were convicted in 1988 of murder and public violence. Four of them were sentenced to death, namely: Mr Samson Booyesen, Mr Vusumzi Jack, Mr Mxolisi Ncaphayi and Mr Bennet Sonamzi. One of the accused, Mr Elliot Sinezama Siyoko [CT00380] alleges that he was tortured while in custody. Mr Samson Booyesen insists that he was not even in Hanover that day. The death sentences were later commuted.

THE COMMISSION FINDS THAT THE TRAGIC SPIRAL OF HOSTILITY, KILLINGS AND RETALIATION, ILLUSTRATED IN HANOVER AND REPEATED IN MANY OTHER COUNTRY TOWNS, HAS LEFT A LEGACY OF ANGER AND BITTERNESS WHICH REQUIRES ON-GOING CONCERN. THE COMMISSION RECOMMENDS THAT PROVINCIAL AUTHORITIES, NGOS AND FAITH-BASED ORGANISATIONS SHOULD TAKE INITIATIVES TO PROMOTE RECONCILIATION AND REHABILITATION.

- 295 In Victoria West conflict developed between 'collaborators' and 'activists' that escalated into violence. In March 1985 most of the community council resigned due to community pressure. In April a black policeman's house was attacked. Eleven people were arrested and later charged with arson. On 25 May youths set alight three houses. Ms Emily Manong was trapped inside the burning house, but managed to escape. Mr Daniel Manong described the first attack.

After the police shot the tear gas the gas covered the entire town. And then they [the crowd] came to the house where my mother lived – a lot of them came there. They came with lamp oil, and petrol bombs. And they came and they broke the windows, they tried to burn the house inside with people inside ... Through God's grace we could manage to get people out eventually. And they could run away. My mother was taken away half a kilometre out of the town. They've taken her to a camp where soldiers use to come and visit and stayed around.

296 On 26 May, local police with support from surrounding towns and local farmers as reservists launched a mass raid on the township and detained seventy-three youths, the majority between the ages of twelve and seventeen. During the arson trial of the eleven youths the former vice-chairperson of the community council, Mr Enoch Manong, testified in court, that he had been abused and threatened with death by the accused. This was the background to the second attack on the Manong home. Daniel Manong described the death of his mother:

She came back the 4 December, it was on a Wednesday and they came to look for the old woman again. Patrick came threw the window, opened the door and once again they threw petrol bombs at the house and they burned her, my mother, for the second time and this was more serious. When we came to the hospital I realised she was not going to make it ... She died on the Saturday the 7th.

Stoning and petrol bomb attacks on commuters

297 There are three periods of deaths and injuries resulting from stonings and petrol bombs during street protests in the Western Cape, namely the 1985 unrest peak, 1986 and 1989. Mr C J Neels Kapp [CT03069] died in September 1985 after being stoned near Crossroads. In April 1986 two union members, Mr Rashid Abrahams [CT01042] and Mr David Nduti, died when their vehicle was stoned and petrol-bombed in Lansdowne Road. Mr Dane Douglas [CT00467] was seriously injured after being stoned near Crossroads in March 1986.

298 In addition to a number of serious injuries by stoning and petrol-bombing of vehicles, six deaths were reported, all in August to October 1989, around the time of the election. Those killed include two young girls who were run over when a vehicle was stoned by youths and went out of control, hitting a group of pedestrians.

THE COMMISSION NOTES THAT STREET UNREST INVOLVING STONING AND PETROL-BOMBING OF VEHICLES RESULTED IN SEVERAL FATALITIES AND SERIOUS INJURIES IN THE REGION. THESE CASUALTIES WERE ALMOST ALWAYS CIVILIANS DRIVING IN A PARTICULAR AREA. THE COMMISSION ACCEPTS THAT WIDESPREAD POLITICAL PROTEST WAS NOT ALWAYS ORGANISATIONALLY DIRECTED, BUT FINDS THAT THESE PROTESTERS WERE LARGELY UDF SUPPORTERS AND THAT THE LOCAL UDF STRUCTURES COULD HAVE PLAYED A ROLE IN HALTING THESE ATTACKS.

Armed operations by liberation movements

299 Armed activity by the ANC in the Western and Northern Cape escalated dramatically from mid-1985 to 1989. The over 100 attacks resulted in at least four deaths

and approximately sixty injuries. No PAC or APLA armed actions appear to have taken place in this period.

- 300 There was a strong shift in 1985 towards attacking personnel of institutions deemed oppressive or 'collaborative'. The homes of two members of the Labour Party in Mitchells Plain and Grassy Park were attacked with grenades on June 12 1985, along with an attack on the Langa police station. One person was seriously injured in the Mitchells Plain attack. Over the next four days, the homes of community councillors in Crossroads, Langa and Nyanga were attacked with grenades. Three members of the Security Branch were injured when a grenade was thrown at them near the Gugulethu police station. During an attack on the Mitchells Plain home of a Labour Party member on 15 August 1985, Rashaad Witten (16) was killed and three others injured.
- 301 In 1986 there were at least nineteen incidents, including four grenade attacks on personnel, four explosive devices in buildings and five gunshot attacks on personnel. Several police personnel were injured, some seriously. Primed explosive devices were detonated at the Mowbray railway station toilet on the eve of May Day, and at the Mowbray police station on 3 July. A shoot-out at a roadblock also occurred near Warrenton in the Northern Cape on 13 December in which one MK operative was killed.
- 302 Several mini-limpet mines attacks in 1987 involved 'soft' targets with a high potential for civilian casualties. Certain 'terrorism' trialists admitted attacks on three homes of policemen. In a significant 'soft target attack' that did not result in any injuries, Ms Jennifer Schreiner, under the command of Mr Tony Yengeni, placed two limpet mines in a ladies' toilet in Cape Town's airport around midnight on 21 July. There were also sabotage attacks on power pylons, railway lines, petrol stations, and a bus stop outside a government residence. A powerful car bomb exploded outside SADF residences in District Six and a primed limpet mine was discovered at a bus terminus in Cape Town.
- 303 The hand grenade targets in 1987 were SAP personnel (both on patrol and in their homes) and community councillors, or persons linked to these groups. On 9 January a hand grenade was thrown into a vehicle driven by the well-known Warrant Officer Barnard near KTC. The explosion killed his right-hand man, Constable Labuschagne, and seriously injured Barnard himself. Three days later Constable Mtetwa was killed by automatic gunfire in Gugulethu. Community councillor Mr Dennis Lobi's home was attacked by grenades on 15 and 16 June, injuring four people.

304 In 1988, twenty-one MK attacks, mainly with mini-limpet mines, targeted municipal buildings and institutions in the build-up to the October 1988 municipal elections. In one of three simultaneous attacks on June 16, a homeless man, Mr Elliot Mphathio Ketelo, was killed at a dustbin outside the Wynberg magistrate's court in which explosives had been placed. MK member Mr Allan Ndodomzi Mamba was later convicted for this killing. Ten policemen, two boys and a woman were injured when a police patrol was attacked with grenades and shots in Nyanga. Police linked MK operative Mthetheleli Gcina to the attempted killing of community councillor Dennis Lobi on 5 August 1988.

305 MK operatives linked to the 'Ashley Kriel Detachment' applied for amnesty regarding a limpet mine explosion at the Bonteheuwel municipal rent office on 28 September 1988 which seriously injured Mr Mogamat Nurudien Bartlett [CT00667]. Mr Bartlett suffered permanent injuries including the amputation of half of his left leg.

I was on my way home from work walking down Jakkalsvlei Avenue. In front of the rent office I saw a milk carton on the ground. I picked it up and opened it and it exploded whilst I was trying to look inside it. I lost my right eye, three fingers and right hand in the explosion. My body was burnt on the top half and my left ankle was damaged. I woke up in Groote Schuur Hospital. I was there for three to four months. I heard later from people that police thought that I was responsible for placing the bomb.

306 His sister stated that they heard the bomb explosion and she and her mother ran towards the scene:

When my mother got there police were already there. My brother was on fire and when my mother asked them to put it out, they said, 'Laat die vark brand, hy het dit geplant (Let the pig burn, he planted it).

307 The amnesty applicants were operations commander Aneez Salie [AM6145/97] and operatives Sydney Hendricks [AM6146/97], Venessa Rhoda November [AM7988/97].

308 The whites-only election in September 1989 drew a number of bombings. Polling stations, magistrates' courts as well as railway lines and stations were targeted. Two MK operatives, Mr Robbie Waterwitch and Ms Coline Williams, were killed in one of three simultaneous explosions on 23 July near the Athlone magistrate's court.

THE COMMISSION FINDS THAT MANY OF THE ARMED ATTACKS BY MK MEMBERS AMOUNTED TO ATTACKS ON 'SOFT TARGETS' OR ON INSTALLATIONS WITH SERIOUS HUMAN RISK. AT LEAST FOUR CIVILIANS WERE KILLED. FIRSTLY, THE COMMISSION FINDS THAT DURING 1985 A SERIES OF HAND GRENADE ATTACKS DIRECTLY TARGETED THE PRIVATE HOMES OF ALLEGED COLLABORATORS, KILLING ONE TEENAGER. SECONDLY, THE COMMISSION FINDS EVIDENCE OF ASSASSINATION ATTEMPTS BY UMKHONTO WE SIZWE OPERATIVES. THIRDLY, THE COMMISSION FINDS THAT THE BOMB PLACED IN THE FEMALE TOILETS OF THE CAPE TOWN AIRPORT, ALTHOUGH NO INJURIES WERE INCURRED, CONSTITUTED A CIVILIAN TARGET. IN SEVERAL INSTANCES, UNINTENDED TARGETS BECAME VICTIMS OF ATTACKS, POINTING TO THE HIGHLY UNPREDICTABLE CONSEQUENCES OF THE USE OF EXPLOSIVES IN ATTACKS.

Bonteheuwel Military Wing (BMW)⁴²

309 Bonteheuwel is a 'coloured' township that became known as a militant area in the second half of the 1980s, not least because of the activities of the Bonteheuwel Military Wing (BMW). The idea of forming "a militant body to co-ordinate and intensify the revolutionary activities, especially at the Bonteheuwel High Schools" emerged from Bonteheuwel Inter-Schools Congress (BISCO) members, including Ashley Kriel.

BMW would co-ordinate all militant and violent actions at the schools during the day and would spearhead similar activities on the streets after school hours.⁴³

310 It is estimated that at the height of the activities of the BMW more than 100 members were involved in its networks. The BMW, operating in small cells, comprised several types of units that adopted increasingly sophisticated 'urban guerrilla' strategies. Groups of youths participated in stone-throwing and street barricading. Twenty members, divided into five units of four people, were the 'gunmen' who carried out most of the more serious attacks of arson and raids on people and homes. There were also support units responsible for organising safe houses, money and the supply of arms and ammunitions. One home virtually became a factory for zip guns.

Links to the UDF and ANC (MK)

311 There is little evidence to suggest that the formation of the BMW was part of the strategic plan of the UDF regional structures in the Western Cape. However, there is evidence that at local level the process was welcomed and endorsed.

We were very aware and conscious of the BMW. We obviously approved, given the context ... Broadly there was an understanding that they fell under the political leadership of the UDF. However, it was not a situation of command and control.⁴⁴

42 See appendix to chapter on *Special Hearing: Children and Youth* in Volume Four.

43 Interview with BMW member.

44 Interview with Bonteheuwel UDF executive member.

- 312 Another UDF executive member suggests that the BMW, although not formally linked to the UDF local structures "... was endorsed, although more informally. It was discussed by UDF executive members, but not in normal UDF meetings because of security reasons. It would rather be discussed at a braai after the meeting, for example."⁴⁵ This was largely because the UDF area committee was a very broad coalition including churches, which precluded discussion of armed activities.
- 313 Members of the BMW established links to the ANC and MK. Several members trained in exile and returned to the area. Others were recruited into various MK cells in the Western Cape. During 1986, an MK operative known as 'the General' provided some training and armaments such as Makarov pistols, limpet mines, grenades and an RPG-7 anti-tank rocket launcher. Short crash courses were organised in various places in the Western Cape. The BMW also sourced arms from local gangsters or by theft from policemen.

Violations by BMW members

- 314 By late 1986 and early 1987, the BMW were executing raids on policemen and suspected 'informers' as well as ambushing police patrols. This made Bonteheuwel a 'no go zone' for the police and people who co-operated with them. The BMW were also responsible for attacks on vehicles, buildings and individuals. Mainly state and company vehicles were targeted. Trucks containing foodstuffs such as meat and bread would be hijacked and the contents distributed amongst BMW members and the Bonteheuwel community.
- 315 Over a period of several months during 1986, City Tramway buses were burnt on a daily basis. There was also a failed attempt to blow up a truck transporting petrol. Buildings attacked included the Bonteheuwel post office and the Netreg railway office. Several homes of policemen and suspected police informers were attacked with petrol bombs, or a grenade in one instance, or were shot at. Policemen walking in the Bonteheuwel area were also targeted.

Crackdown by the security forces

- 316 From 1985 the state, via its JMCs and its security forces, employed a dual strategy to maintain 'law and order' in Bonteheuwel. The first part was to upgrade the Bonteheuwel area; the second, the establishment of special Unrest Investigation Units to crack down on people held responsible for political unrest.

⁴⁵ Interview with Bonteheuwel UDF executive member.

317 The Unrest Investigation Units were made up of SAP members deployed from different units (the Detective Branch, Uniform Branch, Murder and Robbery, the Drug Squad and the Security Branch). An Unrest Investigation Unit in Athlone infiltrated and cracked down on the BMW in the second half of 1987, effectively decimating the organisation. A series of swoops and arrests followed, resulting in the detentions of over forty BMW members at various times. A number of BMW members who made statements to the Commission alleged that they were severely tortured. By mid-1989 the BMW had been crushed.

Torture of BMW members

318 It is clear that the Unrest Investigation Unit's main aim was to effect arrests and gather evidence for more arrests and convictions very quickly. The necessity of speedy confessions was spelt out in a directive from the Commissioner of Police, and those arrested were therefore immediately subjected to protracted and severe torture. Explicit sexual forms of torture were used; several BMW members were anally raped. It is known that in other instances, young activists were deliberately placed amongst imprisoned criminals who repeatedly raped them.

319 Fourteen statements were made to the Commission by a number of young people, mostly between the ages of fifteen and eighteen, many of whom described serious assault and torture at the hands of the police. Twelve statements were made to the Commission by BMW members, including Mohammed Faried Ferhelst [CT00666], Bradley Barrow [CT01315], Abubaker 'Whitey' Williams [CT00185], Colin de Souza [CT00520], Fuad Hartzenberg [CT01107], Ismael Damon [CT00297], Hercules Benjamin Booyesen [CT00296], Brian Peter Barends [CT00453], Sandra and Jacques Adonis [CT01110], and Cleoton Darryl Visagie [CT00885]. Most describe serious assault and torture whilst between the ages of fourteen and eighteen. Two further cases are described below. Unrest Investigation Unit members who were frequently linked to their torture included Captain Louis van Brakel, Sergeant Ilmar Pikker, a Captain Strydom and Sergeant JA Todd.

320 Mr Ebrahim Hercules [CT01539] was arrested in 1986 and immediately assaulted by two coloured policemen. He was taken to the Bishop Lavis police station where he was placed in a cell with 'common law criminals'. The next morning Sergeant Pikker and Sergeant Todd took him to the Brackenfell police station where he was blindfolded and severely beaten with a heavy metal object. He was returned to solitary confinement. Later during his detention he was sexually assaulted by

policemen who put him across a table and, after removing his pants, put the barrel of a gun into his anus and played Russian roulette. Fearing for his life, Hercules signed two statements prepared for him which he was not allowed to read. He was sentenced in 1988 and was released with other political prisoners in 1990.

321 Qasim Williams [CT01109] was arrested in February 1987 at the age of fourteen. He was taken to the Bishop Lavis police station where Sergeant Todd forced his head into a toilet bowl which he then flushed. Williams was taken to the Brackenfell police station where he was repeatedly assaulted by Captain van Brakel, Captain Strydom, and Sergeant Todd amongst others. He alleges that, after he was released from prison, he was framed as a police informer by the Unrest Investigation Unit. Williams subsequently survived an attempt on his life by other members of the BMW who, believing he had become a police informer, assaulted him and set him alight. A local priest came to his rescue and he got away with minor burns. A member of the BMW, Colin de Souza, has applied for amnesty for this attack [AM5277/97].

322 Williams was re-arrested in January 1988 and was told that he would never see his family again. A Sergeant told him, "today is the day you meet your Maker". He was suspended upside down by rope and then beaten. On another occasion his body was tied in a spread-eagled position and grass was placed on his pubic hair. A tortoise was then put to graze on and around his genitals. He was also blindfolded and taken to an unknown place where he was suspended in the air. His torturers told him that it was the highest building in Cape Town and that if he did not co-operate with them they were going to drop him.

THE COMMISSION FINDS THAT THE REPRESSIVE CONDITIONS FACING SCHOOL STUDENTS IN THE BONTEHEUWEL AREA RESULTED IN THE FORMATION OF A PARAMILITARY YOUTH ORGANISATION WHICH ADOPTED A PROGRAMME OF VIOLENT RESISTANCE. THE COMMISSION ALSO FINDS THAT THE GROUP RECEIVED ENDORSEMENT AND FACILITATION FROM THE UDF, ALBEIT AT LOCAL LEVEL, AND THAT MK OPERATIVES FURTHERED THIS ENDORSEMENT IN THE PROVISION OF ARMS AND MILITARY TRAINING. THE COMMISSION CRITICISES BOTH THE UDF AND ANC FOR ITS EXPEDIENT ENCOURAGEMENT OF THIS GROUP OF VERY YOUNG PEOPLE WHO WERE ALL UNDER THE AGE OF EIGHTEEN, FINDING IT INAPPROPRIATE THAT SUCH YOUTH WERE MOBILISED INTO ORGANISED VIOLENCE.

THE COMMISSION FINDS THAT THE BMW WAS RESPONSIBLE FOR A NUMBER OF VIOLATIONS THAT RESULTED IN THE DESTRUCTION OF PROPERTY, SERIOUS INJURY AND POSSIBLY DEATH. THEY WERE THEMSELVES THE SUBJECT OF EXTENSIVE TORTURE AND SEVERE ILL TREATMENT AT THE HANDS OF THE SECURITY FORCES. THE COMMISSION FINDS THE SPECIAL UNREST INVESTIGATION UNIT UNDER CAPTAIN VAN BRAKEL RESPONSIBLE FOR THIS TORTURE, IN PARTICULAR THE SEXUAL ASSAULT OF SOME OF THE YOUTH.

■ 1990-1994

Overview

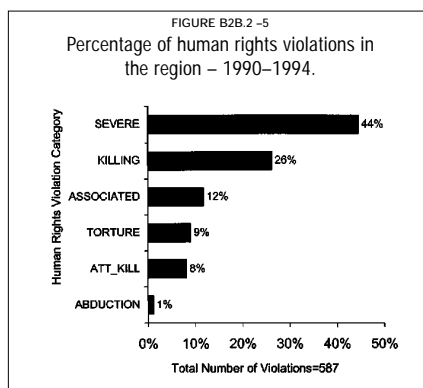
- 323 The 1990s saw a fairly extensive upsurge of violations in the region – although not remotely approaching the levels of violence in other regions. An estimate of deaths from newspapers and Commission sources suggests that there were around 200 politically related deaths in the Peninsula alone, although in many instances criminal or taxi elements may have been involved. It is notable that the Peninsula violence was restricted almost exclusively to the African townships, apart from isolated incidents elsewhere, in particular APLA attacks. The rural areas also experienced struggles and conflicts with local authorities and police. There were numerous deaths and injuries in Northern Cape towns, while resistance to ongoing apartheid segregation in the Boland resulted in what became known as the ‘Boland War’.
- 324 The Peninsula shared the trend towards anonymous violence that emerged across the country in the 1990s, with the emergence of ‘vigilante-type’ anonymous violence that primarily targeted the liberation movement supporters. The proliferation of ‘balaclava’ gangs striking at families or whole communities was a strong feature of the violence from 1991 to 1993. Conflicts with the local town councils as well as inter-organisational conflict, particularly in the Civic movement, played a role in this.
- 325 The most extreme violence centred in and around informal settlements in Khayelitsha and Crossroads, whose political loyalties were vigorously contested by both the state and the liberation movements. In addition, the tremendous upheavals generated by the piecemeal upgrading and development process caused widespread conflict and fragmentation within these communities.
- 326 As elsewhere, there was an increasing blurring of the distinction between criminal and political violence. Certain activities of the Peninsula self defence units (SDUs) became criminalised, while taxi-related conflicts became increasingly politicised.
- 327 The liberation movements themselves were involved in violations at differing levels. Within the ANC, violations centred mainly around internal conflicts and renegade SDUs. The PAC engaged in several military attacks on both civilian and security targets, resulting in many casualties. The Western Cape was one of APLA’s chief fields of operation in the period.

328 In the 1990s, political assassinations feature in the region for the first time, with victims including Ms Nomsa and Mr Michael Mapongwana, Mr Super Nkatzo, Mr Lucas Mbembe and Mr Mziwonke 'Pro' Jack. While the assassins had a variety of political affiliations, collectively they matched the pattern elsewhere in the land. In particular, the taxi wars exacted a heavy price upon political leadership.

329 The Commission is of the opinion that it has not been able to obtain a fully representative sample of statements regarding the multiplicity of conflicts in this period. Tensions and conflicts still prevail in certain areas, and the Commission has reason to believe that victims were not encouraged to give statements in some areas, or were even actively discouraged from doing so. In addition, the marginalised nature of informal settlements (where most of the violations took place) would have contributed to a lack of knowledge about and participation in the process of making Commission statements.⁴⁶

Overview of violations

330 This period contains the second highest number of violations reported in this region. Severe ill treatment remains the most common violation, followed by killings.



Conflict with local authorities

331 From 1990, a series of conflicts unfolded in the region in which residents tried to challenge the local power relations and rule by local authorities. These took place in both urban and rural areas, often with fatal consequences. They were sparked largely by the unbanning of organisations and the beginning of negotiation at national level, a process that was not matched at local level. Local communities attempted to challenge both the lack of change in local government, as well as ongoing racist and discriminatory practices.

332 The conflict was felt throughout the western Cape, but was most marked in Khayelitsha and the Boland (see below).

⁴⁶ With the establishment of a range of human rights-linked NGOs in the western Cape in the 1990s, a great deal of recording and analytical work was done on most of these areas. The Commission cannot reproduce the excellent work of these structures, but has drawn upon it.

Khayelitsha

- 333 After the unbanning of the ANC and PAC, the liberation movements rapidly developed a strong base in Khayelitsha where black local authorities became the focal point of political mobilisation and conflict, dominating events in 1990. As in the 1980s, a great deal of the violence was directly associated with the former *witdoek* leaders, whatever form their shifting political allegiances took. The Western Cape United Squatters' Association (WECUSA) was particularly volatile in its affiliations.
- 334 ANC branches and activists were to experience strong and at times violent conflicts with the Lingeletu West town councillors who had ruled Khayelitsha virtually unchallenged during the late 1980s. ANC branches embarked on strenuous campaigns to dislodge this town council which they considered illegitimate. Significantly, however, the Lingeletu West town councillors were able to access the necessary resources and protection to counter such threats to their position. They were armed with weapons, had the logistical support of Lingeletu West town council resources such as transport and communications, and used the Lingeletu West security guards and the special constables as their armed guards.
- 335 The councillors elected in October 1988 under mayor Mali Hoza became increasingly associated with violent attacks on members and supporters of the liberation movements. They were also linked to attacks on their former allies, pro-government *witdoek* colleagues such as Mr Prince Gobingca, Isaac Gwiliza and others, from whom they had split during the 1988 municipal elections. During 1989, there were numerous violent attacks by Hoza's cohorts on Gobingca particularly.
- 336 The conflict between Hoza and Gobingca culminated in violent attacks on the homes of Isaac Gwiliza and Gobingca in September 1989. Although this took place prior to 1990, the incident established a pattern for subsequent attacks in the 1990s.
- 337 Mr Jerry Tutu, who was injured in the attack, told a newspaper at the time that a van with two white men had pulled up in the main street separating Green Point and I Section at around 23h00. The two were wearing balaclavas and their faces had been smeared black. A group of more than twenty black men armed with rifles were dropped off and headed towards Mr Gobingca's house. After the attack, two white men returned in a minibus to collect the attackers, and ordered neighbours who were trying to put out the fire to disperse.

- 338 Seven people were killed in the attacks, including Gobingca's mother-in-law, and the homes of Gobingca and Gwiliza were burnt. In their statements both Gwiliza [CT01339] and Gobingca [CT08605] identify the attackers as people associated with the Lingelethu West town council, including two men employed as security guards at the council, one of whom was a former SADF Recce member. At least nine Lingelethu West town councillors or associates were charged with seven counts of murder, arson and six counts of attempted murder. The charges were dropped two years later.
- 339 During 1990, there were indiscriminate shootings of ANC supporters as well as targeted attacks on leading activists. One of Hoza's headmen appeared in court in connection with the fatal shooting of two youths on New Year's night when toyi-toying crowds passed his house.⁴⁷ Further attacks came during the night of 9/10 February 1990 as crowds of Site C residents were celebrating the imminent release of Mandela. Men in a white kombi, allegedly linked to the Lingelethu West town councillors, drove around and fired indiscriminately. Mr Kwenzekile 'Sixteen' Ngcuka [CT01565] was shot and injured along with others. On 14 November 1990, Sibulelo Piliso [CT00804] was shot dead and Shepherd Kaya Ndevu [CT00720] injured when, according to Ndevu, a councillor and others opened fire on them. The councillor was later acquitted.
- 340 A prominent target of attack was the chairperson of the ANC-aligned Civic Association, Mr Michael Mapongwana. During 1990, Mapongwana was the subject of numerous death threats, some made to him personally by Lingelethu West town councillors. On 7 March 1990, four councillors attempted to shoot Mapongwana. An NGO report on the incident states that four Lingelethu West councillors burst into a civic meeting and demanded to know why a meeting was being held without their permission. Mapongwana was called to the meeting by the civic and was shot at by the councillors on arrival. He escaped injury but a woman was wounded.⁴⁸

Mass Campaign against the Lingelethu West Town Council

- 341 On 4 August, a mass march by several thousand residents called for the immediate resignation of all town councillors and presented the town clerk with a memorandum. Police opened fire on the demonstrators with shotguns, tear gas and rubber bullets.

⁴⁷ *Cape Times*, 4 January 1990.

⁴⁸ *UMAC report of attempted murder of chairperson of Western Cape Civic Association, Michael Mapongwana on Wednesday March 7, 1990*, UMAC offices, Cape Town.

342 Shortly afterwards, two actions were taken that were directly contrary to the demands of the memorandum. Firstly, Khayelitsha was given full city council status by the Cape Provincial Administration (CPA), becoming the first Black Local Authority in the Western Cape. This action further entrenched the permanent status of the Lingeletu West Town Council at a time when its legitimacy was being fundamentally challenged. Secondly, having been granted legal city status, the town clerk was now able to levy service fees for the first time. A retrospective service charge, constituting a 100 per cent increase on the amounts paid earlier, was imposed on all Khayelitsha residents and sparked fury. A rent and bond boycott was called for, and the housing offices of the Lingeletu West Town Council were torched by arsonists.

343 On 18 October, Ms Nomsa Mapongwana, the wife of civic chairperson Mr Michael Mapongwana, was killed in a night-time attack on their home. The house had allegedly been circled repeatedly by councillors in a LW vehicle and police the previous day.⁴⁹

At approximately 12h30 they awoke to the sounds of shots being fired from the front and back windows of their bedroom. Petrol bombs were thrown through the windows and the furniture started to burn. Mr Mapongwana dragged his children and wife into the kitchen where they sheltered under a table until the shooting stopped. Mr Mapongwana then found that his wife was dead.

344 According to an Urban Monitoring and Awareness Committee (UMAC) report, neighbours had apparently seen four balaclava-clad men run from the burning house and jump over the back fence, from where they escaped in a white combi. A man who worked at the Lingeletu West council vehicle depot reported that a Lingeletu West security guard had delivered a Lingeletu West minibus to the depot at 04h00 on 18 October and told the person concerned to put number plates on the vehicle. The UMAC report concludes:

In view of the repeated threats by Lingeletu West councillors to Mr Mapongwana, the unsuccessful attempt by three councillors to assassinate him in March 1990, and the threatening behaviour of a group of councillors and police on the night before the attack, UMAC strongly suspects that the assassination attempt on Mr Mapongwana and the resultant murder of his wife are the work of Lingeletu West councillors. 19/10/90'⁵⁰

49 Incident reported to UMAC by Mr Michael Mapongwana on 17/10/1990

50 UMAC report. In December 1990, a LW councillor appeared in court regarding the murder. An Amnesty International article states that a special constable was charged with the murder, but was himself killed by another special constable.

- 345 Despite these attacks, Michael Mapongwana was charged with possession of an illegal firearm. He himself was subsequently shot dead on 31 July 1991 while returning from court for these charges (see below).
- 346 The killing of Ms Nomsa Mapongwana precipitated furious outrage in Khayelitsha. A mass protest march to the Lingeletu West offices was planned for 25 October. The night before the march, the Lingeletu West offices were damaged in an explosion.

March against the Lingeletu West Town Council, 25 October 1990

- 347 The march of 20 000 people on 25 October was kept waiting for permission, which was denied. Defiant marchers regrouped repeatedly under fire while lengthy negotiations between police commander Brigadier Frik Kellerman, Riot Unit head Chris Loedolff and civil-rights lawyer Mr Dullah Omar took place. It was decided to call off the morning march.
- 348 The march broke into sub-groups as it dispersed. By the end of the day, at least eight people were dead and up to eighty wounded. Some of the sub-groups were fired on by police, killing at least three people. Sporadic incidents occurred throughout the day in which at least another five people were killed. In several of the incidents, it was alleged that balaclava-clad men in a vehicle had opened fire indiscriminately at people on the street. Those killed that day included Mr Maniyi Madoda, Mr Petrus Molefane, Mr Mthetheleli Mtitshana, Mr Themba Sokutu, Mr Phumzile Nyindeni, Mr Nomkhayelo Khwaza [CT01312] and Mr Lundi Gaga. Before he died of his wounds, a thirteen year-old-boy told a journalist that he had been shot by an unknown gunmen wearing balaclavas who had fired at him from a passing car. Mr Mpumelelo Maniyi Dyantyi [CT03708] was shot and killed and his brother Melford shot and wounded in Site C by three men including Lingeletu West councillor Michael Gubayo, who allegedly told them to get off the streets and then shot them. The vehicles and residences of police personnel were also attacked.
- 349 On 1 November, Minister of Law and Order Mr Adriaan Vlok declared Khayelitsha an unrest area and placed it under curfew. After these events, UMAC and Democratic Party MP Jan van Eck sent an extensive dossier to Mr FW de Klerk, detailing abuses by members of the Lingeletu West town council. Van Eck, who had played a prominent role in highlighting the activities of the Lingeletu West town council and the police in Khayelitsha, was then banned from entering the area for several weeks.

Attacks on town councillors and Lingelethu West staff

- 350 In the wake of the murder of Ms Nomsa Mapongwana, several staff and councillors of the Lingelethu West council were attacked. A senior Lingelethu West administration official Mr Harold Ntlangwina was abducted from his home, tried by a 'kangaroo court' and 'found guilty' of murdering Ms Mapongwana. He was hacked to death and set alight, after he allegedly produced a hit list of twenty local activists headed by Michael Mapongwana. In an apparent counter-attack, men in a councillor's vehicle shot at and killed a member of a community patrol, killing Mr Rogers Ngxumza.
- 351 In other incidents, a number of Lingelethu West council employees were injured in a petrol bomb attack on their vehicle on 15 November; another employee, Mr Wiseman Mdube, was ambushed and shot dead while driving in Site C, and town clerk Graham Lawrence received death threats and was placed under police protection. On 1 December, councillor Mr Alfred Nqoboka was chased and stabbed to death, though newspaper reports expressed uncertainty if the killing was politically motivated.
- 352 After 1990, this period of public revolt and open conflict between the liberation movements and the Lingelethu West town councillors subsided into persistent skirmishes between the groups and more covert forms of attack.

THE COMMISSION FINDS THAT MEMBERS OF THE LINGELETHU WEST TOWN COUNCIL WERE RESPONSIBLE FOR CREATING A CLIMATE IN WHICH ATTACKS ON MEMBERS OF THE LIBERATION ORGANISATIONS TOOK PLACE, IN AN EFFORT TO RETAIN THEIR POSITIONS. IN PARTICULAR, THE COMMISSION FINDS THAT THE KILLING OF MS NOMSA MAPONGWANA TOOK PLACE IN THE CONTEXT OF AN ATTEMPT TO KILL HER HUSBAND MICHAEL, AND THAT THIS WAS DONE BY INDIVIDUALS ASSOCIATED WITH THE LINGELETHU WEST TOWN COUNCIL. THE ABSENCE OF CONVICTIONS FOR THESE ATTACKS CONTRIBUTED TO A CULTURE OF IMPUNITY AND LAWLESSNESS IN KHAYELITSHA. THE COMMISSION FINDS THAT THE IMPOSITION OF INCREASED LEVIES AND THE GRANTING OF TOWN STATUS TO KHAYELITSHA IN 1990 WAS A SIGNIFICANT CATALYST FOR THE OCTOBER CONFLICTS.

THE COMMISSION FINDS THAT THE MILITANT CAMPAIGN ADOPTED BY THE ANC AGAINST THE LINGELETHU WEST TOWN COUNCIL CONTRIBUTED TO THE ESCALATION OF VIOLENCE. THE FAILURE OF THE ANC TO DISTANCE ITSELF FROM OR TO CONDEMN ARSON AND PHYSICAL ATTACKS ON INDIVIDUALS AND PROPERTY ASSOCIATED WITH THE LINGELETHU WEST TOWN COUNCIL, CREATED A CLIMATE THAT ENCOURAGED AND ALLOWED SUCH ACTIONS.

Inter-organisational conflict: the civic movement

- 353 The 1990s were marked by intense rivalries and conflicts within the civic movement in the Western Cape. The conditions for these conflicts date back to the historic fragmentation of civic activity in the region, which had been based on specific living conditions and the social divisions created by the pass laws and the enforcement of migrant labour practices. Thus there was the Cape Housing Action Committee (CAHAC) in the coloured areas, the Western Cape Civic Association (WCCA) in the urban African townships, the Hostel Dwellers Association (HDA) in the hostels and Western Cape United Squatters Association (WECUSA) in the squatter areas. Efforts to merge these fragmented structures and build a single region of the South African National Civics Organisation (SANCO) in the early 1990s were bedevilled to the point of near failure as entrenched leaders tried to retain their constituencies.
- 354 WECUSA was launched in 1989 as an alliance of pro-ANC squatter leaders, largely those whose communities had been violently destroyed by the *witdoeke* in 1986. Hostile and competitive relations with the WCCA were worsened with the increasing incorporation of formerly conservative squatter leaders into WECUSA, particularly Prince Gobingca and Conrad Sandile, who were openly regarded as MI agents by the liberation movements.⁵¹ This was exacerbated by the privileged relationship that WECUSA came to enjoy with the CPA and the IDT (Independent Development Trust) by virtue of their 'traditionalist' image and *modus operandi*.
- 355 The conflict between SANCO, WCCA and WECUSA in their struggle for political control in informal settlements was most vividly played out in Khayelitsha from 1991 onwards but extended as far as Strand and Somerset West. A further dimension emerged when WECUSA members began working with Lingeletu West town councillors from 1991. The complexities of these conflicts which frequently led to violence cannot be described here but a few examples are given below.

Khayelitsha and Strand

- 356 Due to hostility from the civic movement and widespread popular rejection, WECUSA was a largely fugitive presence in Khayelitsha. Despite this, it secured massive upgrading development deals with the IDT and the CPA.
- 357 During April and May 1991, serious conflict broke out between the civic-aligned residents and WECUSA in Macassar, Khayelitsha. During early 1991, residents

⁵¹ Police documentation suggests that Gobingca also established links with the far right in Cape Town as well as the IFP locally.

of a tent settlement known as Green Point – largely refugees from Crossroads – were being moved to a new area called Macassar. The Lingelethu West town council appears to have used WECUSA member Jerry Tutu as a middle man for the resettlement. Conflict erupted as residents realised that the upgraded serviced sites were being sold to non-Green Point residents and suspected Tutu of allocating these sites, to which they were entitled, to his own followers.

358 The ANC and the WCCA began actively mobilising against WECUSA. At least ten people were killed in the conflict, including three adults and a baby who died when gunmen opened fire on two shacks on 7 April 1992 and set them alight. A man and a woman were hacked and wounded. A month later, two people were shot dead and a third was necklaced.

359 Another site of conflict emerged in the Strand area. While the Lwandle township was a SANCO stronghold, WECUSA developed a base in the neighbouring squatter camp of Waterkloof. Tension was caused by a development project for the site and by the alleged refusal of WECUSA to allow ANC membership in its area. A WECUSA leader allegedly went to Waterkloof and urged people to join WECUSA and gain funding for development. He also reportedly urged them to destroy the ANC and ANC Youth League.⁵² Ms Nontsapho Ngesman stated:

In 1991, Mr Nzuzo Nkomo, a WECUSA leader [deceased] said that we must join WECUSA and not the ANC. He said if we join the ANC we must pack up and go from there. People were forced to join WECUSA. The previous week ANC members were attacked by 'balaclavas'.

360 On 26 April 1992, her husband, Mr Desmond Ngesman [CT00171], was shot dead by men in balaclavas.

361 Hostility towards WECUSA also stemmed from its continued use of the 'headman' system in a period when residents of informal settlements no longer faced the perils of migrant labour and the pass system, and no longer depended upon the protection of powerful squatter leaders. In Philippi, residents revolted against WECUSA member Christopher Toise, the traditional leader of the area, rejecting his exploitative practices including financial demands and aggressive informal courts. He was forced to flee the area in early 1993 and take refuge with other evicted squatter leaders holed up in Section 4, Crossroads, with Mr Jeffrey Nongwe. This largely signalled the demise of the 'traditional' squatter leadership style epitomised by WECUSA.

52. Submission by Network of Independent Monitors to the Goldstone Commission of Inquiry into violence at Crossroads, June 1993.

362 The conflict between WECUSA, SANCO and the WCCA ultimately led to the establishment of WECCO (Western Cape Civic Organisation) in 1993. The new organisation brought together a range of anti-ANC civic structures as a counter to SANCO. The launch, at the Devonvale Country club in Stellenbosch, was allegedly partly funded by the National Party, channelled through a building company called EU Civils, and was addressed by Mr Themba Khoza of the IFP.

THE COMMISSION FINDS THAT THE CONFLICTS IN THE CIVIC MOVEMENT, PARTICULARLY BETWEEN WECUSA AND SANCO, WERE ESSENTIALLY POWER STRUGGLES FOR CONTROL OF CONSTITUENCIES IN A TURBULENT PERIOD OF TRANSITION.

THERE IS, HOWEVER, EVIDENCE TO SUGGEST THAT WECUSA WAS MANIPULATED BY SECURITY FORCES. IN PARTICULAR, THE COMMISSION FINDS THAT PRINCE GOBINGCA SERVED AS AN AGENT FOR MILITARY INTELLIGENCE AND THE SECURITY BRANCH. THE COMMISSION WAS NOT ABLE TO ESTABLISH THE VERACITY OF ALLEGATIONS CONCERNING CONRAD SANDILE AND HIS LINKS TO THE SECURITY FORCES ANY FURTHER THAN WAS THE GOLDSTONE COMMISSION. HOWEVER HIS ENTRY TO WECUSA THROUGH PRINCE GOBINGCA SUGGESTS THAT HE TOO WAS ACTING AT THE BEHEST OF SECURITY FORCES.

Anonymous violence: 'balaclavas'

363 From 1991, political violence in Khayelitsha, and to a lesser extent in Nyanga, was marked by anonymous so-called 'balaclava gangs' – groups of masked men who performed ruthless killings and arson attacks, targeting individual homes and families or whole communities known for a particular political affiliation. Homes would be raked with gunfire, or broken into and the occupants shot. Alternatively, armed men would surround the houses to prevent any occupants fleeing, condemning them to die in the flames. The term 'balaclava' became a catch-all phrase for persistent night attacks upon individuals and communities.

364 The Commission interviewed a range of individuals associated with these conflicts, including some linked to 'balaclava' activity. A great deal of fear and intimidation still existed at the time of the interviews, and this constrained the level of information available, as certain role-players in the conflicts above were still in positions of power. Recent incidents of violence in the area confirmed this. Collectively, the multiplicity of incidents of anonymous violence appeared at the time to constitute 'third force' destabilisation, matching the pattern of events in the Transvaal. This perception was widespread and acted in many ways to shape the responses of organisations to the conflicts.

365 Investigations by the Commission suggest, however, that there were several 'balaclava' groups active in the area, with differing allegiances and agendas.

Many of the key political and indeed criminal forces on the scene, including the security forces, adopted some form of covert violent activity and probably donned balaclavas to enact it. Many were probably purely criminal.

- 366 Balaclava attacks also reflected the overlap of criminal and political activity in the 1990s as the struggle for political control, particularly of the informal settlements, became a matter of life, death, and money. This occurred both *overtly* as political organisations attempted to intervene in the bloody taxi war, and *covertly* as both political and security force personnel maintained links with some of the criminal structures.
- 367 There is, however, no doubt that covert ‘balaclava’ type activity was widely used to eliminate political opponents in Khayelitsha. Political actors ‘piggy-backed’ political targets on those engaged in criminal acts. Police reports in the newspapers generally asserted that the majority of attacks fell under the umbrella of the taxi war. However, it was widely believed and asserted within the ANC, whose supporters were most frequently the target of the attacks, that the taxi war provided a convenient smokescreen for a protracted campaign of destabilisation of their strongholds by their opponents in the security forces and local government.
- 368 All of the following groups appear to have generated ‘balaclava-type’ activity. Although six distinct groups are identified, the first five, namely the councillors, the special constables, criminals, taxi groupings and WECUSA, at times acted in concert or collaborated in attacks. Some evidence suggests security force involvement.

Lingeletu West councillors

- 369 During 1989 and 1990, several town councillors were charged with murder or attempted murder. These attacks took place in a fairly open manner.⁵³ It is possible that with several pending prosecutions their methods became more covert. Incidents in which this group were suspected to be implicated were often accompanied by white Afrikaans-speaking men and men wearing full or partial special constable uniforms. This suggests that individuals or groups within the security forces collaborated with these attacks; however, the Commission has only indirect evidence of this.

⁵³ Although charged, few cases were tried or led to convictions. In at least two instances, charges were withdrawn (SHA 257/90/91 and SHE 159/91).

Former special constables

370 A group of forty special constables went on strike and was dismissed, reportedly leaving with uniforms and rifles. This group maintained informal links and provided the core of a balaclava gang that engaged in criminal robberies and attacks, mainly in Khayelitsha. The Commission established that elements within this group had links with Hoza. Police sources suggest the group may have carried out contract killings. The group included Headman Mafumani, known as Tshangisa, who had a long-standing relationship with Hoza. This group was linked to at least twenty-one criminal incidents in the Cape including nine in Khayelitsha, mainly in 1992 and 1993.

Criminal gangs

371 Evidence from convicted criminal Mr Michael Mvokwe illustrates the links between the ex-special constables, criminal gangs and the Lingeletu West Town councillors. Mvokwe was involved in criminal activities, but stated that he was recruited by Mali Hoza to attack ANC-aligned areas. He was also recruited to act as a guard for Hoza himself and further describes how Hoza bailed him and others out when arrested for other activities. In a highly significant admission, Mvokwe refers to his involvement in a particular attack. While police blamed 'the taxi war' for the attack, the ANC insisted it was the Lingeletu West town councillor grouping. Mvokwe's admission supports the ANC's version of events.

I was in my house when Bongani arrived and told me that Hoza wants to see us ... When we arrived Hoza was there together with Tshezi, Gubayo (councillor) and Tshangisa (a former special constable) ... He asked us to help him to govern the people. One day I was with Hoza when one member of WECUSA, Yesi, together with Jerry Tutu, came and told us that Jada was being killed in D area. When we arrived there, Jada's car was burning and he was nowhere to be found. Apparently he got away ... On that afternoon we had a meeting and Hoza told us that we should go and attack D area on the same night. We went there armed and attacked for the whole week.

372 This incident undoubtedly refers to the period around 20 February 1992. A newspaper report is revealing.

Khayelitsha became a flashpoint this week when eight people were killed. While police blame the violence on the taxi war, the ANC alleges town councillors were responsible. [An ANC spokesperson] claimed attacks followed an incident on

Sunday when a Lingelethu West councillor known as Jada started shooting at residents in Site C. When people returned fire he ran away and his car was set alight. After this incident residents decided to patrol at night. Late on Sunday, [the spokesperson] alleged, twelve armed men – white, coloured and African, speaking Afrikaans – opened fire on the patrol and two shacks were burnt.⁵⁴

- 373 Another newspaper report states that two men, and a woman were shot dead and six shacks set alight in D section on the Friday night by men wearing balaclavas. Four men were also shot and killed nearby when men stopped the car in which they were driving and opened fire.

Taxi groupings

- 374 As a result of perceptions that the Lagunya⁵⁵ Taxi association was ANC-aligned (supported by suggestions that an ANC SDU assisted Lagunya in attacks), areas seen to be ANC strongholds, and areas where numbers of Lagunya owners/drivers lived, became targets for balaclava attacks. This also held for areas seen to be aligned to the Western Cape Black Taxi Association (WEBTA), which was perceived to be linked to councillors, squatter leaders and police. At least one councillor, Mr Michael Gubayo, was a WEBTA taxi owner. Statements about these incidents also referred to white Afrikaans-speaking men. Mvokwe's statement also linked Hoza to violent support for WEBTA:

At the time there was a war between the two taxi organisations, WEBTA and Lagunya. [Hoza] asked us to help WEBTA. We started shooting and burning shacks in the following areas D, M, R, Q and L. But it was difficult to get inside M and L sections as the comrades there were fighting back and police were patrolling the area. Hoza was always telling me that he doesn't want to see a person from L and M sections as he had a grudge against them. He was always saying the people from there (L) killed Goniwe [a councillor].'⁵⁶

ANC self-defence units

- 375 During 1992 and 1993, at least one SDU was responsible for multiple attacks in Khayelitsha (see below).

54 *South*, 20 February 1992

55 Langa/Gugulethu/Nyanga – these taxis opened up routes in previously unserved areas.

56 Lingelethu West town councillor Million Goniwe was shot dead on 4 November 1991 in Site B. Newspaper reports linked his death to the taxi war.

Examples of balaclava-type actions

376 Amongst the many anonymous attacks that besieged in particular, the different sections of Khayelitsha, it is not possible to allocate responsibility for specific attacks or conflicts to a particular group. Statements made to the Commission or NGO *affidavits* by those attacked often tended to link particular groups to responsibility for the attack. These perceptions cannot always be confirmed with the available information. Not all individuals involved in such attacks were actually wearing balaclavas and some statements did identify individuals, most commonly councillors.

377 The Commission received several statements concerning ANC or civic-linked individuals who were wounded or killed in balaclava attacks. A few of these are summarised below as examples.

378 On 22 July 1992, close to midnight, Mr Nelson Sithole [CT00159] and Mr Mandla Tshuku were led into their house by two balaclava-clad men dressed like policemen, carrying rifles. They ordered the thirteen people present to lie down. They demanded to know who Nelson Sithole was. When they recognised Sithole, they took him to another shack where he was shot dead.

379 The family of ANC chairperson Solomon Tshuku [CT00407] was attacked in their Site C home on 15 August 1991. His wife Nophumzile, and four of their children were killed by a group of balaclava-clad men who then set the shack alight. Three children, Abigail Mbimbi, Nomanqulo and Nolundi (16) were killed on the scene and Mncedisi (20) died of gunshot wounds in hospital. Only his nine-year-old daughter Nondumiso survived the massacre. Nondumiso reportedly said her life was spared by a gunman who said: "Let's not kill her, she is too young". Tshuku's nephew testified that:

When my uncle came back from work and he saw all the mess of the corpses lying over he nearly committed suicide. He nearly hurt himself with a weapon that he used to use at work. That led to it that he should be under guard all the time so that he should not commit suicide. Even at work, he had to be under strict guard and the members of the organisation used to go and watch him and try and keep him company so that he should not think deeply about this horrible incident.'

380 On the night of 18/19 February 1992, ANC members Nontsiki Florence Falakhe and Temba Boto and their children Portia (12) and Tumeke Falakhe (6)

[CT01563] were killed when their shack was set alight in D Section, Site C. Another person was found in the vicinity dying of gunshot wounds in the neck. Witnesses said 'Afrikaans-speaking' people accompanied by men wearing blue overalls set alight shacks in Khayelitsha during the night. They said the men fired shots in the air to prevent families fleeing. Deponent Mr Walawa Falakhe, Nontsiki's brother, who was in the neighbouring shack also confirmed hearing Afrikaans-speakers during the attack. Falakhe asserts that the attackers were supporters of mayor Hoza.

381 During July, August and September 1991, but particularly during 1–8 September, a series of attacks took place predominantly in Site B. A litany of *affidavits* were taken by a group of NGOs and political parties⁵⁷ who attempted to raise the issue with the police. Collectively, it was estimated that around 250 shacks were razed, at least fifteen people killed, 100 injured and about 1 000 people left homeless. Common features in many of the statements include the sighting of whites amongst the group and the use of Afrikaans. Survivors stated that more than fifty men, armed with guns, *pangas* and petrol bombs had invaded the area. At least eighteen people were treated for *panga* wounds.

382 The ANC held a press conference at which it alleged police collusion and produced a police cap belonging to a Sergeant Hendricks. They claimed that 'comrades' had tried to capture one of the white attackers dressed in a camouflage uniform. Police said that the cap belonged to an SAP member "who, during the course of the night, attempted to arrest a suspected arsonist. While giving chase, he lost the cap".

383 At least three people were killed on 18 December 1991 when an attempted assassination of ANC member Nomonde Dinwa [CT08613] turned into a wider attack. Ms Dinwa was present on the scene and, in a statement to UMAC, identified some of the attackers as members of the Lingeletu West town council, one of whom wore a woman's dress. Those killed were Ms Agnes Maseti [CT03025], Mr Lumkile Maxiti [CT00278], and Mr Shadrack Jongikhaya Witbooi [CT00278/HEL]. Several others were wounded. Ms Julie Maseti spoke of the attack:

It was on the 18 December 1991 when my mother Agnes Maseti was shot dead by 'balaclavas'. I was staying at Site B Khayelitsha when this incident took place. There was fire all over our area. Most of the houses were set alight by the 'balaclavas'. There was a big fight between comrades and Hoza's people. On this particular evening some people wearing balaclavas were looking for

⁵⁷ Black Sash, Democratic Party, ANC, ANC Women's League and UMAC.

a woman known as comrade Nomonde. She was not staying far from my mother's house. They decided to burn all houses which were near to hers. They could not find her. Children were shot at and I remember that two other people died on the same night as my mother. I will never forget this night.

- 384 Maseti also said that some of the attackers were dressed in women's dresses. This was independently confirmed by Nonikile Maxiti: "We could not see any one's face. All these people who were shooting were wearing women's clothes and wearing balaclavas covering their faces." Her husband Lumkile was shot dead and Nonikile herself was wounded, as was her baby Masizi Maxiti. A second baby, Sipokazi Mnama [CT08612] was also wounded.

THE COMMISSION RECOGNISES THAT ANONYMOUS SO-CALLED 'BALACLAVA' VIOLENCE INVOLVED A RANGE OF PARTICIPANTS, RANGING FROM ELEMENTS WITHIN THE LINGELETHU WEST TOWN COUNCIL, WECUSA, THE POLICE, THE ANC, TAXI GROUPINGS AND CRIMINAL GROUPS.

THE COMMISSION FINDS THAT THE CUMULATIVE EVIDENCE OF STATEMENTS MADE TO THE COMMISSION, NGO AFFIDAVITS, AND IN PARTICULAR THE STATEMENT BY MR MICHAEL MVOKWE, OVERWHELMINGLY LINKS THE LINGELETHU WEST TOWN COUNCIL TO INCIDENTS OF BALACLAVA ATTACKS. THE COMMISSION FINDS THAT THIS GROUPING WAS LARGELY ABLE TO OPERATE WITHOUT FEAR OF INTERFERENCE FROM SECURITY FORCES, OR FEAR OF PROSECUTION. PROSECUTIONS APPEAR TO HAVE BEEN WITHDRAWN OR DISMISSED.

IT IS BELIEVED BY NGOS AND ACCEPTED BY THE COMMISSION THAT WECUSA INITIATED HIT SQUAD ACTIVITIES ON MEMBERS OF THE LIBERATION MOVEMENT, AND THAT THIS WAS DONE ON OCCASION IN ALLIANCE WITH MEMBERS OF THE LINGELETHU WEST TOWN COUNCIL FROM 1991.

Informal settlements: Development and destabilisation

- 385 In the wake of the scrapping of the pass laws and the Coloured Labour Preference Policy in the mid-1980s, local government in the Cape increasingly accepted the need to upgrade the many informal settlements in and around Nyanga and Khayelitsha. The first development projects, begun from 1987, were essentially rewards to Ngxobongwana in Crossroads and Hoza in Khayelitsha for their violent ejection of the liberation movements and their pro-government stance. This was in line with the McCuen 'oil spot' strategy, using development as a 'hearts and minds' initiative to win political compliance. Millions of rands were allocated to Crossroads for upgrading after the *witdoeke* attacks of 1986.
- 386 Ironically, these development projects became mired in political conflicts, struggles and rivalries that cost large numbers of lives and homes in the very communities they intended to develop. This was due in part to the piecemeal nature of these

upgrading schemes. Crossroads and parts of Khayelitsha experienced the most serious conflicts. It appears that some squatter leaders were granted the status of 'sub-contractors' in the 1990s and given large sums of money to disburse for labour-intensive projects. Control over land and the development projects rapidly became the new currency of power, generating violent power struggles and shifting political allegiances. The construction companies themselves and the manner in which they interacted with particular leaders in the informal settlements became a subject of suspicion and speculation.

Crossroads

387 Between 1990 and 1993, conflict centred on the upgrading and development process, political allegiances and traditional leadership styles. From 1991, these issues increasingly intersected with the taxi wars. During 1989, early stirrings of rebellion against Ngxobongwana escalated into open warfare between Ngxobongwana and his former strongman, Jeffrey Nongwe.

388 The revolt was mainly fuelled by the crises generated by the upgrading process in the late 1980s. The local squatter community was angered by two circumstances that caused them to lose housing sites to which they were entitled. First, private developers built homes that were beyond the financial means of the majority of the local squatter community and were therefore sold to outsiders. Second, the homes in the CPA's Unathi project were awarded to residents who had settled their unpaid service charges in full. Relatively few residents had done so, nor could they afford the rents. As a result, many of the Unathi homes also went to outsiders.

389 Residents were angered further when informed that the 'Crossroads Housing Fund', initiated by Ngxobongwana from 1986⁵⁸ was depleted, allegedly on lawyers' fees and other administrative costs. All residents had been paying regular contributions.

390 In October 1989, Nongwe went public with allegations of corruption and charges of fraud were laid.⁵⁹ Fourteen of the nineteen headmen in Crossroads deserted Ngxobongwana for Nongwe, and fierce open conflict erupted from November 1989, continuing into 1990. In many attacks, there were allegations of police complicity. Fatal arson attacks were frequent and daylight killings commonplace. It was estimated that around thirty people were killed in this conflict and approximately 1 000 homes destroyed. In September 1990, Ngxobongwana was

58 Receipts to residents were stamped with a false SA Perm rubber stamp. The amount was estimated to be between R500 000 and R2 million, placed in a Bellville Boland Bank, and was spent by those who had signing powers on the account (Statement by Jan van Eck, Parliament, 21 May 1990).

59 The Attorney-General announced in May 1990 that no one was to be prosecuted for the alleged fraud.

forced to flee to Driftsand near Khayelitsha with several hundred supporters. Nongwe, by then aligned with the ANC, took control of Crossroads.

391 The Commission received several statements relating to this period of conflict. In one flare-up in February 1990, Mr Nelson Mandla Mahlentle [CT01810] and his grandson Sonwabile, aged six, were burnt to death in their shack. Mr Thando Magwa's [CT00912] shack was burnt and destroyed as were numerous others. Alport Singqoto [CT01558] was shot and injured in an attack and Mr Longo and Mr Twana [CT01557] were killed. Two men from Ngxobongwana's group, Mr Allion Gxokwe and Mr Alfred Mano, were later convicted of two counts of murder, ten counts of attempted murder and arson, and reportedly sentenced to twenty-four years. (Gxokwe, a PAC member, was subsequently released from prison in January 1994 when he was granted amnesty as a political prisoner.)

Crossroads under Nongwe: 1990–1993

392 Despite his new ANC allegiance, Nongwe displayed the same autocratic practices as Ngxobongwana. He was used by the CPA to persuade residents of Section 1 in Old Crossroads to move to lower Crossroads so that development of the area could begin. Nongwe allegedly promised residents that they would return to brick houses in three months. Some residents moved voluntarily but others were 'forced' out by arson attacks and violence allegedly perpetrated by *kitskonstabels* and Nongwe's 'cabinet'.

393 From October 1990, occupants and homes in the new Unathi section were attacked, burnt and looted. It soon became apparent that the 'headman' style of political control had been transplanted into the ANC. The youth in Old Crossroads started to campaign against the 'headman' system and against the corruption of Nongwe and his administration. In March 1991, a separate ANC branch was launched in Unathi and Depoutch 'Whitey' Elese elected as chairperson. Elese was a young MK-trained returnee activist. Both Nongwe and the SAP were aware of his MK training and background and, over the next few years, the Elese home was continually raided by different units of the SAP.

394 Approximately 108 houses in the Unathi development were destroyed and tens of people were killed in the 1991 conflict.⁶⁰ Mr Boysie Ntsethe [CT0152] was shot and the Ntsethe home destroyed. On 13 August 1991, police shot Mr Xolile Danster [CT00251] in the head in Unathi, Crossroads. Bidekile Sogqiba [CT01323] was also shot and killed.

⁶⁰ Statistics from statement by Stefan Snel, UMAC director, to the Goldstone Commission of 1993.

- 395 In an attempt to resolve the conflict, the ANC established a Peace Commission in August 1991, which was partially successful. Subsequent meetings were arranged, attempting to draw the divided community together. The mutual focus of discontent began to fall on the Crossroads council and its administration. This came to a head with the killing of an ANC activist Buntubake Ndemane, on the 13 May 1992, as he was leaving a community meeting where residents were voicing their complaints against the council and its councillors. The accused were subsequently acquitted in the High Court by a judge who strongly criticised the SAP investigation. LRC investigations helped identify the perpetrator as a council employee and secured a substantial financial out-of-court settlement for the family.
- 396 The upgrading process and the accompanying (sometimes forced) relocation of residents to temporary accommodation with no guarantee of housing in the future continued to cause conflict. This was exacerbated in 1992 by new financial demands for rent and contributions to the 'Crossroads Fund' . Even headmen opposed Nongwe on this, and one, Mr Amos Sakhele Nyhakatyha, defected to Boys Town.
- 397 A wave of conflict broke out from April to August 1993. Seven or eight members of Nongwe's 'cabinet'/'Big Eight' bodyguard were identified as the perpetrators of a major arson attack which took place on 15 April 1993. SAP and SADF members were said to be present but did nothing to stop it. Another large burning occurred on 29 May, destroying approximately sixty shacks. Press statements suggested that, after this, residents chose to move rather than continue to resist removals.
- 398 At least fifty-five people were killed and nearly 100 injured between March and July 1993. In one of the first killings, activist Ms Joyce Ndinise-Elese, Mr Timothy Soga and Ms Sicelo Pauli [CT00939] were shot dead in an attack on their home on 19 March 1993, which also injured Mr Tinie Elese and Mr Ayanda Ndinise. The intended target of the attack was Unathi ANC leader Mr Depoutch Elese. Mr Mandla Maduna [AM5938/97], one of Nongwe's assistants, was later convicted of the murder and has applied to the Commission for amnesty, claiming to have been acting on behalf of APLA/PAC.
- 399 Women and youth were frequently the victims of random attacks which destroyed hundreds of homes and caused many injuries. Fourteen-year-old Siyabulela Khobo was abducted on 22 May 1993 by a member of the Big Eight whom he identified as 'Small' (Victor Sam) and taken to Nongwe's base in Section 4 where he was beaten and told to give certain information to the police. Internal Stability

Unit (ISU) police arrived and questioned Khobo, and a senior ISU member threatened his life. After the ISU left, Khobo was beaten and kicked again. At a subsequent court case brought against Nongwe, Victor Sam, Loleka and Booi, Khobo had to give his evidence in open court facing the accused. The magistrate in charge acquitted the accused, saying that Nongwe was within his rights in making a citizen's arrest.

400 By the end of the conflict, Section 3 was totally, and Section 2 substantially, destroyed. Section 4, Nongwe's home/power-base, remained intact, despite instances of sporadic reciprocal violence. Nongwe was finally limited to Section 4, where he was soon joined by other 'refugee' squatter leaders being ejected from other informal settlements, including Christopher Toise and Jerry Tutu. Section 4 had long served as the 'military base' of WEBTA and its leadership core, the Big Eight, including Victor Sam. There are suggestions of a *quid pro quo* relationship in terms of which Nongwe and Sam provided each other with refuge and troops for their respective battles.

401 The 1993 Goldstone Commission of Inquiry into Public Violence and Intimidation at Crossroads in the Greater Cape Town Area was charged with examining the conflicts. Their findings identified a range of historical and social causes and criticised the role of the CPA and the police. The ANC, which suspended Nongwe's ANC membership only on 17 August 1993, was criticised for its tardiness in doing so. Complaints about Nongwe's actions were being brought to their attention from as early as 1991.

402 After the Goldstone Commission hearings, from August 1993 to early 1994, there was a period of relative calm with only occasional incidents of violence. Amos Nyhakatyha was attacked in February 1994, forcing him to move to Khayelitsha where he was later murdered. At the time he was said to be meeting and Nongwe with others from Boys Town in an attempt to broker peace in the area. At the time of reporting, many of the key players in the conflicts appear to have remained active in recurring bouts of violence.

THE COMMISSION FINDS THAT LOCAL POWER STRUGGLES BETWEEN HISTORICAL RIVALS AND POLITICAL OPPONENTS DATING BACK TO THE LATE 1970S WERE EXACERBATED BY THE DEVELOPMENT AND UPGRADING PROJECTS EMBARKED UPON IN THE 1990S. THESE PIECEMEAL DEVELOPMENTS INCREASED THE POWER OF PATRONAGE OF LOCAL LEADERS AND HEIGHTENED THE INSECURITY OF RESIDENTS. IN THE CASE OF CROSSROADS, THE COMMISSION FINDS THAT FIRST JOHNSON NGXOBONGWANA AND THEN JEFFREY NONGWE WERE KEY PLAYERS IN THE UNFOLDING OF THE CONFLICTS.

Violations associated with APLA and PAC supporters

403 Cape Town became a significant field of operation for APLA in the 1990s. From December 1992 to December 1993, a series of APLA attacks targeted both civilians and security force personnel. On 26 December 1992, two armed men opened fire on the Stakes restaurant, injuring several persons while a further two operatives waited in the car outside. APLA operatives Andile Shiceka [AM5939/97], commander of the operation, and Thandabantu Samala [AM5900/97] applied for amnesty for this incident.

The St James' Church Massacre

404 At about 19h30 on Sunday 25 July 1993, two APLA operatives burst into the evening service at St. James' Church in Kenilworth. They fired machine guns and threw two hand-grenades covered with nails at a congregation of over a thousand people. Eleven people were killed and fifty-six injured. The attackers escaped in a waiting car which had been hijacked earlier. The congregation was racially mixed and those killed included four Russian sailors.

405 The Commission received ten statements relating to deaths and injuries. Those killed were Mr Guy Cooper Javens (52) [CT00620], Mr Richard Oliver O'Kill (17)[CT03029], Ms Myrtle Joan Smith (45) [CT03029], Mr Wesley Harker (13), Mr Gerard Dennis Harker (21), Ms Denise Gordon (30) [CT01124], Ms Marita Maria Ackerman (46) [CT02922], Mr Oleg Karamjin (55), Mr Andrey Katyl (25), Mr Valuev Pavel and Mr Valentin Varaska (40).

406 Ms Marilyn Javens described the attack which killed her husband Guy:

It was one of those evenings that we went to church the normal time, started the worship service and a couple were singing "More than wonderful". And it was just at the end of that song that the doors opened. And I saw this man standing there and I realised that he had a gun in his hand and he started moving from left to right ... And after a few minutes, we got up and – well I called to my husband and he didn't answer. And I got up and he was still on his haunches, and I think I was a bit bewildered at that stage, everybody was milling around and, with that, an usher came down in front of me towards my husband. And he bent down to feel his pulse and I just said to him, "Is he alive?" and he shook his head.

407 Amongst those who were severely injured was a teacher, Mr Paul Williams [CT00618], who was shot in his spinal cord and cannot walk without crutches:

Suddenly these doors just flung open. And nobody could – I myself, I couldn't imagine that it was a possible or imminent attack. At first I heard a gun shot and immediately thereafter ... saw a hand grenade hurling towards a live audience. The second person (while this hand grenade was still airborne) he opened fire with what I will call a very heavy machine gun. And he was just spraying bullets, you know, randomly just across the Congregation. And I was sitting on the end of the pew and that pew was rather full ... I curled myself up to sort of hide my face from the gun firing ... but soon after I just felt the thud of the bullet hitting my lower back and it was like – it was like a tension wire snapping and with that went a lot of pain. I just – I had stretched my body and my lower body just became very numb.

408 Public relations manager Mr Martin Bagley suffered severe head injuries and the right side of his body was paralysed, causing him speech and memory problems. Mr Dimitri Makogan lost both legs and an arm.

409 Initial responses from the PAC and APLA denied responsibility for the attack. PAC leader Mr Barney Desai stated, "We condemn this mindless violence on church-going people". An APLA spokesperson in Dar Es Salaam said that the attack was "not the sort of operation APLA would mount". The Regional Director of the PAC denied that APLA was involved, but a person claiming to be the Regional Commander of APLA claimed responsibility. This suggests that the operation was the decision of a local commander rather than an attack planned by the High Command.

410 An APLA operative, Mr Gcinikhaya Makoma (18), was arrested ten days after the incident and was later sentenced to twenty-three years' imprisonment. Mr Thobela Mlambisa and Mr Basie Mkhumbuzi were subsequently charged in 1996. Mlambisa drove the vehicle while Mkhumbuzi acted as 'security' outside with the vehicle. Mr Sichumiso Nonxuba⁶¹ admitted entering the church and physically attacking the congregants. Makoma [AM0164/96], Mkhumbuzi [AM6140/97] and Mlambisa [AM7596/97] applied for and were granted amnesty for the attack.⁶² Unsubstantiated reports indicate that one of the key commanders associated with this operation did not turn up on the day of the attack and that, although the SAP had this information, he was never sought or charged.

61 Nonxuba was killed in November 1996 in a Kokstad car accident.

62 APLA Director of Operations Letlapa Mphahlele [AM3018/96] took overall responsibility but did not arrive at the amnesty hearing.

411 Makoma, Mkhumbuzi and Mlambisa testified that they were recent APLA recruits. They did not know the details or target of the operation until they arrived at the scene, claiming that, as commander, Nonxuba directed them to the target.

Heidelberg Tavern

412 In the early minutes of 31 December 1993, three women were killed and six people injured when two APLA operatives walked into the Heidelberg Tavern in Observatory and fired at patrons, while other operatives waited in the car outside. The attackers also threw a hand grenade covered with nails into the room, though this failed to explode. Mr José 'Joe' Cerqueira was shot dead by the attackers when he ran out of a neighbouring tavern into the street. The three killed in the Tavern were Ms Rolande Palm (22) [CT00415], Ms Lindy-Anne Fourie (23) [CT02703] and Ms Bernadette Langford (22) [CT00415].

413 The attack at the Heidelberg Tavern was likened to that at St James' Church five months earlier. Ballistics tests established that the same rifles had been used in both attacks. The internal commander of APLA, Mr Carl Zimbiri, later confirmed that the operation was carried out by an elite APLA unit called 'The People's Concern'. Six men were later arrested and charged, though charges against three of them were later dropped. The accused were sentenced to terms of imprisonment from twenty-four to twenty-seven years.

414 Mr Humphrey Luyanda Gqomfa [AM0949/96], Mr Vuyisile Brian Madasi [AM6077/97], Mr Zola Prince Mabala [AM5931/97], Mr Theo Thobile Mabusela [AM5731/97], Mr Nkosinathi Michael Siyolo [AM6139/97] and Mr Richard Madoda Dala [AM6138/97] applied for amnesty for the attack. (The latter three had been arrested but charges against them were dropped.) Gqomfa, Madasi, Mabala and Siyolo were granted amnesty.

415 At the amnesty hearing it was established that the order for the operation came from Mr Sichumiso Nonxuba and Mr Letlapa Mphahlele. Mr Bulelani Siphon Xuma also claimed to have been amongst those who gave the order. The group was deployed from the Transkei and arrived in Cape Town during November 1993. They linked up with Siphon Xuma and other local PAC regional leadership which provided logistical support, arms and ammunition. The actual attack involved six individuals, namely Maxeba, Madasi, Gqomfa, Sibeko, Mabala and Monwabisi Jantjie, who drove to the Tavern. Gqomfa was one of those who went to the entrance of the tavern and opened fire on the patrons inside. He also shot and killed José Cerqueira.

- 416 During the course of the Commission investigation into this matter, an *affidavit* by a Mr Bennet Sibaya was found in earlier SAP investigation documentation. This *affidavit*, taken by Detective Sergeant J Etsebeth on 4 January 1994 under instruction from Superintendent Desmond Segal, alleged that Sibaya had seen a group of armed men in Gugulethu shortly after the attack, with a vehicle registered to Mr Dumisa Ntsebeza, a commissioner. He stated that he had picked up a piece of paper after they had left which was a rudimentary map to the Heidelberg Tavern. Commission investigators interviewed Sibaya, who confirmed his earlier *affidavit*. Sibaya testified to this *affidavit* at the October 1997 amnesty hearing, pointing out Commissioner Ntsebeza as one of the men on the scene at the car.
- 417 However, several days later Sibaya contacted the Commission and confessed to the Archbishop that both his *affidavit* and his testimony were false. He stated that at the time of the Heidelberg attack he had been arrested for illegal crayfish dealing and that he had been tortured and coerced by the commander of the Murder and Robbery Squad unit at Bellville South, Desmond Segal, into making the statement implicating Ntsebeza. At the time, Ntsebeza was the subject of a series of allegations by the SAP who believed he had APLA or PAC links.
- 418 Sibaya's allegations resulted in a government-appointed enquiry headed by Justice Richard Goldstone, which found the allegations to be false. This gave rise to the strong inference that Mr Sibaya, or someone directing him, wished to implicate Mr Ntsebeza in serious criminal conduct. The enquiry cleared Mr Ntsebeza of all allegations, but criticised the Commission for not calling for an independent inquiry when the allegations first surfaced.⁶³

Other PAC or APLA-linked attacks

- 419 The unit involved in the Heidelberg attack was also responsible for two attacks on security force targets on 17 December 1993, for which individuals have applied for amnesty. A group of five opened fire on the Nyanga Defence Force base, injuring two people. Later that night a similar attack was launched on the Lingeletu West police station in Khayelitsha. No one was injured.
- 420 PAC-linked individuals applied for amnesty for a series of other incidents. During the night of 27 August 1993, shots were fired at a Translux bus as it passed through Beaufort West. Eight people were injured. Mr Thembinkosi Henge [AM6137/97]

⁶³ Commission of Inquiry into Certain Allegations Against Mr Dumisa Ntsebeza and Related Matters, Final Report by Justice Richard J Goldstone, 1 December 1997.

applied for amnesty for this attack, allegedly ordered by the late Sichumiso Nonxuba. On 6 December 1992, a group of security guards at a Khayelitsha railway station were attacked by a group of armed men with R4 rifles and an AK-47. One guard was shot dead and another wounded. APLA operative Andile Shiceka [AM5939/97] applied for amnesty for the attack, stating that they believed the uniformed guards were policemen. He cites several others as having been involved.

Links to the Transkei

421 Operations in the Western Cape had strong links to APLA structures in the Transkei, which was clearly an important operational platform from which attacks could be launched. Weaponry was also sourced from Transkei security forces. For example, the hand grenades used in the St James' and Heidelberg attacks originated from a batch of grenades supplied to the Transkei Defence Force. Transkei also provided refuge for APLA operatives after operations. In most attacks, APLA personnel from the Transkei were deployed in conjunction with locally trained operatives. It appears that the local PAC structures, including regional PAC executive members, also provided logistical support to such operatives.

The Killing of Amy Biehl

422 In August 1993, the Pan Africanist Student Organisation (PASO) was engaged in a joint campaign of street protest with COSAS. Student actions involved the widespread stoning of vehicles. ANC condemnation of the campaign was ignored. There were also, at that time, calls for an end to the use of the slogans, 'One settler, One bullet' and 'Kill the farmer, Kill the boer' associated with the PAC and ANC respectively.

423 On 25 August 1993, American Fulbright scholar Amy Elizabeth Biehl (26) drove into Gugulethu to drop off some fellow students. Youths stoned the car, injuring Ms Biehl and bringing the car to a stop. She and the other occupants of the car fled, with a group in pursuit continuing to stone and stab her. Several PASO members returning from a PASO meeting in Langa were also at the scene and played a leading role in the actual killing.

424 In October 1994, PASO members Mr Mongezi Manqina (21), Mr Vusumzi Ntamo (22) and Mr Mzikhona 'Easy' Nofemela (22) were convicted and sentenced to eighteen years' imprisonment each by the Cape Town High Court. Subsequently, Mr Ntobeko Ambrose Peni was arrested and sentenced on 6 June 1995 to eighteen

years' imprisonment. All four applied for and were granted amnesty by the Commission. In their application they stated that their motivation for the killing came primarily from the PASO meeting they were returning from, and that their actions were in accordance with the slogan 'One Settler, One Bullet'. "That day we were incited by militant political speeches and we were instructed to support Operation Great Storm which was adopted by APLA in 1993 and which PASO adopted and supported." (Peni application.) Some of the applicants claimed to have received some basic training from APLA. The applicants expressed regret at their actions. Peni stated:

I feel sorry and very down-hearted especially today, realising the contribution Amy Biehl played in the struggle ... I took part in killing someone that we could have used to achieve our own aims. Amy was one of the people who could have, in an international sense, worked for our country so that the world knows what's going on in South Africa, so that the government of the day would not get support. I ask Amy's parents, Amy's friends and relatives, I ask them to forgive me.

425 The Biehl family did not oppose the amnesty application.

426 In its submission to the Commission on 20 August 1996, the PAC expressed its regrets for the killing and sent condolences to the Biehl family. "They [PASO] wrongly targeted and killed Amy Biehl ... But misguided as the deed was, we support the amnesty applications of all those convicted and sentenced for the offence."

THE COMMISSION FINDS THAT THE ATTACKS LAUNCHED BY APLA IN THE WESTERN CAPE MAINLY TARGETED CIVILIANS IN SOCIAL SETTINGS SUCH AS BARS, CHURCHES AND RESTAURANTS. THE ATTACKS WERE NOT MERELY SYMBOLIC BUT, THROUGH SPECIALLY ALTERED WEAPONRY SUCH AS NAILS GLUED TO THE GRENADES, AIMED TO KILL AND INJURE AS MANY PEOPLE AS POSSIBLE. THE COMMISSION NOTES WITH CONCERN THE YOUTH AND INEXPERIENCE OF SOME OF THE APLA OPERATIVES USED IN THE ATTACKS.

Violations committed by SDUs

427 The majority of violations committed by ANC members appear to be linked to the activities of the SDUs in the region, whose relationship to formal MK structures was frequently tenuous. Several amnesty applications and incidents of gross human rights violations were SDU-related and occurred after the suspension of armed struggle. However, the Commission received evidence that at least one SDU acted in the service of an agent of certain security forces (see below).

Peninsula SDUs

- 428 With the escalation of attacks on liberation movement supporters from 1990, several local communities, especially in Khayelitsha and Nyanga, set up self-defence units to patrol affected areas at night. SANCO was instrumental in this process, and there are allegedly instances of community collections to fund the purchase of ammunition or weapons for the SDUs. The SDUs were often headed by MK members with at least some external training, although many were post-1990 recruits trained in Uganda. Local youth were also recruited into SDU structures and were given some training locally or in Transkei.
- 429 Some of the SDUs engaged in criminal actions with little or no political motivation, or political actions that contravened the ANC's suspension of armed struggle. Although, technically, SDUs' role was primarily defensive, many engaged in 'pro-active' attacks. For example, Mr Mzingisi Patrick Ndlumbini [AM0184/96], an SDU cell member in New Crossroads, attacked the home of a Mr Xetegwana on 27 October 1991, believing him to be linked to the ongoing taxi violence. He and others also ambushed a police patrol van on 13 October 1991, injuring policeman Ndemphiwe Ntekiso, allegedly in an effort to obtain weapons. Ndlumbini was granted amnesty.
- 430 In at least one instance, SDU members were deployed in violations against other ANC or MK members. On 19 June 1991, senior ANC and MK member Mziwonke 'Pro' Jack [CT00225] was gunned down and killed by three men in Nyanga. His nephew Andile Jack was wounded in the attack. At the time, this was portrayed as an assassination of an ANC leader by the security forces or their 'surrogates'. However, it was believed within ANC circles that ANC members linked to MK were probably involved in the attack. The Commission's efforts to uncover the results of an ANC-initiated internal investigation were unsuccessful. SDU member Xola Thembinkosi Yekwani applied for amnesty for this killing [AM7970/97], in which he implicated ANC Youth League members. The application had not been heard at time of reporting.
- 431 Many SDUs seem to have operated without senior ANC operational control. Lines of command appear to have been extremely localised, without sustained links to regional MK structures. Some SDUs were self-appointed. Control of weapons also appears to have been very loose. Further, many MK soldiers returning after 1990 came back to a life of poverty which encouraged involvement in crime.

432 Evidence before the Commission suggests that SDUs were also open to manipulation, infiltration and penetration by agents of the security forces. While the commission has found that one SDU in KwaZulu-Natal was run by paid Security Branch informants or agents, in the Peninsula at least one SDU had links with, obtained arms from and committed violations on behalf of a person with Military Intelligence and Security Branch links.

The Trevor Vilakazi SDU, Site B: 1992–1994

433 In early 1992, the Trevor Vilakazi ANC branch in Khayelitsha called on the ANC Regional Executive Committee (REC) to assist in dealing with certain members of the ANC Youth League who were engaging in criminal activities including robbery, rape and even murder under the guise of defending the community. The individuals concerned were called to a series of meetings with REC members. Members of the alleged criminal group opened fire on one of these meetings, injuring the chairperson. An ANC Commission of Inquiry was established in 1992 to look into the matter and decided that the alleged criminals should be expelled from the ANC. However, this proposal was not followed through, and the group continued their activities.

434 Senior regional MK members, including Mr Tony Yengeni and Mr Bongani Jonas, disarmed the criminal group. An SDU was established with the intention of challenging the alleged criminals. MK member Lulama 'Rhadi' Sifile was appointed by MK leadership as the commander of this SDU to take control of the situation. However, the ANC refused to arm the SDU and left them to their own devices. The result was a war between the two groups in the Trevor Vilikazi area, leading to injuries, deaths and the destruction of homes.

435 By October 1992, the ANC REC began to encourage the ANC branch to report any criminal activities by these ANC members to the police and locate witnesses to testify against them. A local committee was even established to liaise with the police. However, this was a controversial process and many ANC members, including some at REC level, appear to have been unhappy with this 'collaboration' with the SAP.

436 In the months that followed, several potential state witnesses and ANC members who were liaising with the SAP were targeted for attack. Mr Mkhokeli Mpongwana and Mr Million Sizani were shot dead on 7 December 1992, and Mr Lonwabo Kalimashe was shot dead on 10 May 1993. Witnesses withdrew as a result.

437 In 1993, the Trevor Vilakazi SDU, made up of Lulama Sifile, Current Rhumbu, Jeffrey Molebatsi Moshumi⁶⁴ and others, began to engage in activities outside the control of the ANC. Lacking access to weapons from the ANC, the group established links with Mr Prince Gobingca (allegedly related to Sifile) in the second half of 1993. An *affidavit* made to the police by an SDU member states "In September 1993 we started killing the ANC members in Khayelitsha. Mr Prince Gobingca offered a 9mm pistol to our commander Mr Rhadi Sifile and he was assisting us so we could continue with these armed attacks."

438 The *affidavit* further reported on trips by the SDU to Ciskei, starting in December 1993, initially to meet African Democratic Movement (ADM) leader Mr Titus Mcoiyiyana and to receive firearms from him. Gobingca and Mcoiyiyana promised an ongoing supply of arms. The statement also explained how members of the SDU together with Mcoiyiyana and others carried out attacks on ANC members in the Ciskei. It describes the proposed training that African Democratic Movement (ADM) members were to receive from them:

On our arrival at Litha, Mr Madikane gave me a .38 revolver and a G3 rifle. Two AK47 assault rifles were placed in the Opel Record and I was told they were going to Mpsasa Military base where Mr Jeffery wanted to inspect a place where he was going to train the African Democratic Movement people in the use of firearms.

With regard to weapons that were to be brought to the western Cape he says:

On the 6 of January 1994 when I was at Alice, Jeffery and Somsora arrived at my place and I was together with my brother and they then gave him a G-3 rifle, 9 hand grenades and sixty G-3 bullets and these would be taken to Cape Town and this G-3 rifle was disassembled. On my arrival in Cape Town, Lulama Sifile at Rhadi confirmed that they had received the equipment from [my brother] which were arranged by Jeffery. I saw this G-3 rifle again and the hand grenades were already hidden. I then saw other hand grenades at Current Rumbu and again I saw others at Rhadi, Lulama Sifile's place. Lulama Sifile then left for Bloemfontein to join the National Peace-Keeping Force.

439 Certain members of the Ciskei hit squad were arrested and brought to trial but were acquitted due to a technicality. Rumours of political interference followed the acquittal. It is of concern to the Commission that the above *affidavit* was in the possession of the police in Cape Town but was not used in the trial. In addition,

⁶⁴ Moshumi had allegedly been held in the ANC's detention camp Quatro while in exile, on suspicion of being a spy.

a member of the detective branch who was investigating crimes in the Trevor Vilikazi area suggested that certain members of the SDU were informers for the Central Intelligence Service (CIS). This was not denied by a member of the CIS when asked.

- 440 Further, CIS documentation indicates knowledge of Gobingca's paramilitary group in the Western Cape, as well as the fact that he had recruited Western Cape individuals for the Ciskei hit squads.⁶⁵ All of the above would imply that the police in the Western Cape had access to information and witnesses that could have assisted in the prosecution of the members of the Ciskei hit squad. The question is why the above information was not used in the trial, why the SDU member who made the above *affidavit* was not called as a witness, and why Prince Gobingca himself was not charged.

THE COMMISSION FINDS THAT AT LEAST SOME OF THE SDUS CONTRIBUTED TO THE CLIMATE OF VIOLENCE. THEY ENGAGED IN NUMEROUS OFFENSIVE ACTIONS, PARTICULARLY ATTACKS ON POLICE PERSONNEL, AND SEVERAL ENGAGED IN CRIME UNDER POLITICAL COVER. DESPITE EFFORTS TO INTERVENE IN THE TREVOR VILAKAZI SITUATION, THE REGIONAL ANC MUST BE STRONGLY CRITICISED FOR FAILING TO EXERCISE CONTROL OVER THE STRUCTURES THEY PLAYED A SIGNIFICANT ROLE IN ESTABLISHING.

THE COMMISSION FINDS THAT MR PRINCE GOBINGCA, AN MI AND SECURITY BRANCH AGENT, TOOK CONTROL OF THE TREVOR VILAKAZI SDU AND FACILITATED THE PROVISION OF WEAPONS TO THIS GROUP AND THE TRANSFER OF WEAPONRY FROM CISKEI TO THE WESTERN CAPE. AT HIS BEHEST, THE GROUP WAS THEN DEPLOYED IN VIOLENT ACTIVITIES IN THE CISKEI FOR THE ADM, RESULTING IN DEATHS AND INJURIES.

FURTHER, THE COMMISSION NOTES WITH CONCERN THE APPARENT LINKS BETWEEN CERTAIN SDU MEMBERS AND ELEMENTS OF THE SECURITY FORCES.

Taxi violence and vigilante activity

- 441 Conflict in the taxi industry has been the subject of many reports, commissions of inquiry and research projects and will not be covered in detail here. The social cost of the conflicts in the region was enormous. Major Louis van Brackel of the Violent Crime Investigation Unit in Athlone stated on 8 March 1991 that there had been 628 reported attacks involving at least thirty-seven deaths, 139 injuries, 341 taxis burnt or damaged and at least 300 homes damaged or destroyed. These figures are conservative: elsewhere the figure of seventy-four deaths is suggested. In some instances, whole areas were attacked and destroyed, particularly in Khayelitsha. In one incident, the informal settlement of Black City in Nyanga

⁶⁵ For example, a police intelligence report was leaked to the press and resulted in an article in the *Sunday Times* on 13 February 1994. It was authored by Gordon Brookbanks, a member of CIS who had been integrally involved in the 'resolution' of the problem in Khayalitsha, and currently working for the NIA. The report, dated 31 January 1994, is entitled 'Report on link between organised violence (Western Cape Squatter Communities) and elements of Ciskei Government/Administration and African Democratic Movement'.

was virtually obliterated. The political cost for the ANC was also high: a number of killings or attempted killings of key activists were linked to the taxi conflicts.

- 442 SANCO or ANC activists who were involved in the Transport Co-ordinating Crisis Committee (TCCC), which was attempting to resolve the conflicts, became targets for attack. On 8 July 1991, civic chairperson Mr Michael Mapongwana and Mr Ntini Mtshintshi were returning from Wynberg court along Lansdowne Road when they were stopped, pulled out of their vehicle and shot dead [CT00836]. Several WEBTA individuals were later charged, but on 25 January Mr Michael Ndongeni (a WEBTA member due to appear as a state witness) was shot dead after he made a sworn statement alleging that he was part of the WEBTA group that planned the murder of Mapongwana. Ndongeni was killed when unknown attackers chased and shot him dead at the Nyanga taxi rank. In other attacks, activists such as Mr Lucas Mbembe [CT00934] and Mr Super Nkatazo were shot and killed. Hostel-dweller leader Mr Johnson Mpukumpa was shot and wounded. In June 1991 Mr Zola Tsoni and Mr Michael Mhlengwana were shot dead in Khayelitsha.
- 443 The pattern of conflict in the taxi industry in the Western Cape appears to be typical of the industry as a whole. Endless peace agreements continue to be negotiated and broken and new organisations formed in an attempt to bring unity, followed by further splits.
- 444 Ranks, routes and permits were the basis of most of the conflicts in the industry. However, questions can be raised about the police's failure to prevent conflict and bring charges against criminals in the taxi industry. These factors allowed the conflict to sustain itself over a long period of time. Of concern was the easy accessibility of weapons and ammunition. A substantial number of allegations concerned outside involvement in the supply of weaponry, assistance in the course of attacks and the role of the police. A UMAC document entitled 'Did the Third Force exploit the taxi conflict and produce a war?' described the use of police vehicles in attacks and the involvement of white men in deliveries of weapons and in the planning of an attack on Black City.

Links to other groups

- 445 Certain town councillors in both the Lingeletu West and Crossroads town council were taxi owners themselves. The statement by criminal 'balaclava' gang member Michael Mvokwe [CT02819], quoted earlier, directly links Hoza to violent support for WEBTA in Khayelitsha.

- 446 After the formation of the taxi association CODETA (Convention for Democratic Taxi Associations) and, soon afterwards, CATA (Cape Amalgamated Taxi Association), violence in the taxi industry continued unabated.⁶⁶ A further dimension to the political allegiances within the taxi conflicts emerged in the alliance between the WEBTA hit squad known as the Big Eight and Jeffrey Nongwe (see above). Several members of the Big Eight appear to have had connections with the PAC.
- 447 CATA was spearheaded by WECUSA chairman Jeffery Nongwe and the Big Eight Gang, also known as the Balaclava Gang. Nongwe's 'cabinet' was allegedly prominent in the violence surrounding the taxi conflict. It is obvious that the subsequent taxi hostilities became inextricably linked to Nongwe's own struggles for control of certain areas of Crossroads. Within this scenario, Nongwe called upon members of the Big Eight Gang, also historically associated with WEBTA, to assist in a territorial struggle with SANCO⁶⁷.
- 448 The report quoted above states that "supposed political ties have been cited as one of the reasons behind the break between CATA and CODETA". Suggestions have been made that CATA members are generally PAC-aligned while CODETA members are ANC-aligned. It is important to note, however, that while some CATA taxis used PAC colours, the PAC denied any formal link with the taxi organisation.

Conclusion

- 449 The taxi war still continues to claim casualties at the time of reporting. The political dimensions that permeated the bloody conflicts are complex, with interwoven criminal and political activity. There is little doubt of the interconnections between political agendas and the taxi wars. Whether this was the result of malicious orchestration by any part of the security establishment remains to be proved.

Violations in rural areas

Northern Cape

- 450 The 1990s saw an upsurge in political activity in a number of towns in the northern Cape. The newly emerged ANC branches and other organisations took up numerous national and local campaigns. Consumer boycotts targeted white shops in protest against severe ongoing racism in several towns in the region from 1990.

⁶⁶ CODETA was the first attempt at amalgamation. It was not long before CODETA split, leaving mainly former Lagunya members to CODETA, whilst former WEBTA members joined together to form CATA under the leadership of Victor Sam, a well known and extremely powerful member of the taxi industry in the Western Cape.

⁶⁷ A report by the Centre for Conflict Resolution, entitled 'Living with Conflict: Demystifying the Taxi War', refers to the operation of hit squads in the industry.

School student protest also became more widespread in the region, and repression of such protests remained harsh. Newspaper reports also indicate that the residents or ANC supporters engaged in attacks upon those seen to be collaborating with the state – primarily councillors or black police personnel. This mainly took the form of stoning and petrol bomb attacks on their property.

- 451 In mid-July 1990, Galeshewe township in Kimberley was rocked by student protests and police action. Motlachi Christopher Mokhuwane [CT04306] died on 21 July of injuries sustained during the protests, probably as a result of a blow to the head with a gun butt. Mr Ivan Segami [CT06012] was shot dead by police on 22 July.
- 452 In Upington, the ANC Youth League led demonstrations against the local Paballelo municipality. Mr Lizo Anderson Mpendelo [CT01400] was shot in August 1992 by police reservists during one such demonstration. There appears to have been persistent hostility towards black police personnel in Upington. A Paballelo policeman, Mr Mosito Daniel Rafube [CT01420], was stabbed in the ribs and eye on 27 July 1991 by a group of youth and his home was subsequently burnt down.
- 453 On 20 June 1990, a group of Boichoko residents marched with local ANC leaders to the Town Council offices in Postmasburg in a protest action concerning rates, rents and electricity costs. Police shot Ms Seralo Rebecca Mhlongo [CT04202] in the head with birdshot. Between November 1990 and February 1991, Postmasburg experienced ongoing political upheaval. Chapman Fela Moalo (13) [CT00137] was shot dead by police in Boichoko township on 1 February 1991 during student protest.
- 454 During June 1993, there were again student protests and a consumer boycott in Boichoko. In one incident on 18 June, three women were injured with rubber bullets when police opened fire on residents in the street, including Mr Khole Machane [CT00136], Ms Elizabeth Thamaga [CT04103] and Ms Nozililo Ellen Horn [CT04200]. Horn was subsequently charged with public violence but was acquitted.
- 455 A consumer boycott began in Kuruman to protest ongoing white racist practices in the area. On 30 November 1991, Mr Nzimeni Patrick Bosman [CT04106] was assaulted by civilians and then by police while holding pamphlets promoting the consumer boycott. He suffered serious injuries in the assaults. Similarly, Mr Gert Ditabe Moria [CT01401] was assaulted by the SAP during the consumer boycott.

- 456 Evidence before the Commission points to a degree of conflict between the ANC and IFP in Griquastad during 1991. The IFP appears to have had the support of the mayor of the township. On 2 June 1991, the ANC Youth League clashed with the IFP, and ANC member Tommy Kgosimang Kgatiwane [CT04600] was shot and injured by police. In a further incident on the last weekend in June 1991, IFP members from Johannesburg were allegedly bussed into the town and attacked ANC supporters. Mr Aubrey Kgatiwane [CT04601] was beaten unconscious.
- 457 During 1993, the ANC launched national mass campaigns against the lack of political freedom in homelands such as Ciskei and Bophuthatswana. The ANC in the Northern Cape engaged in protest actions directed at neighbouring Bophuthatswana in particular. In Kuruman, Mr Michael Basi [CT00165] was shot and injured by Bophuthatswana police after attending an ANC meeting on 27 May 1993 during the anti-homelands campaign.
- 458 In one incident on 25 May 1993, a mass ANC march to the Bophuthatswana Consulate in Kimberley ended in the death of one of the marchers, Mr Izakiel Mokone [CT00141], who was killed when a hand grenade was thrown at the Consulate. The Commission heard evidence from the Mokone family, a state witness in the trial and two activists who were wrongly imprisoned for the killing. A dramatic public confession was made at the hearing by Mr Walter Smiles, who admitted being the person who threw the grenade and apologised to the Mokone family. Although not trained in handling military hardware, Smiles indicated he had acted under the command of MK commander Lawrence Mbatha. Several individuals applied for amnesty concerning this event. Their testimony illustrated shortcomings and irregularities in the trial and highlighted the tremendous pain and guilt experienced by those connected with the incident. Those who gave false evidence at the trial spoke of their guilt and sorrow at having implicated others.

Southern Cape

- 459 Street protests and confrontations with police took place in Mossel Bay in July 1993. Two people were shot dead during the conflict, including Mr Garth Kuinders [CT00355]. Mr Simon Karelse [CT00356] was shot and wounded. These incidents of violence were investigated by the Goldstone Commission which found that the violence developed out of local socio-economic issues such as the housing shortage, the disconnection of electricity, the eviction of tenants and the rent boycott. In many respects, the conflicts reflected the same struggle for recognition

of local popular bodies that was taking place in so many small rural towns in the Western Cape. The Mossel Bay Town Council consistently dealt with the management committee, an illegitimate apartheid body in the eyes of the residents. With the introduction of the Internal Stability Unit, the situation escalated into open conflict with extensive damage to property and looting. The conflicts lasted for three days resulting in two deaths, numerous injuries and several arrests.⁶⁸ The Commission took the town council to task, and also criticised the unrealistic demands of the Civic Association, which contributed to the escalation of conflict.

- 460 Forms of internal conflict within the liberation movements led to violations in Plettenberg Bay. On 24 March 1990, UDF leader and ANC member Mr Nelson Maseko (45), was attacked by ANC youth in Bossiesgif township, Plettenberg Bay. He was assaulted and chopped on the head with an axe. Despite telephone calls to the police for help by both Mr Maseko before the attack and Ms Maseko afterwards, the police took over an hour to arrive. Mr Maseko subsequently died in hospital as a result of head wounds. The Maseko family had to flee permanently to Knysna. Three ANC members who had attacked Mr Maseko were named. Mr Alfred Sishuba, Mr Alfred Jacobs and Mr Elvis Faku were charged with the murder but were acquitted in the George Regional Court on 13 March 1991.
- 461 Some incidents in rural towns connected to larger national campaigns. For example, the week of 4 August 1992 was declared a week of mass action by the ANC–COSATU–SACP alliance at national level, called to break the deadlock in negotiations. By the end of the second day, at least thirty-four people were reported to have been killed across the country in confrontations resulting from mass marches and street activities. In Beaufort West, Mr Jongisiswe Kellem [CT00359] was shot in the stomach and killed by an SAP member during the strike.

The Boland War

- 462 A new wave of revolt erupted in some Boland and winelands towns from 1990. This resulted in a number of deaths and other violations. The main cause of the revolt was a need within black communities to see visible changes in line with political developments in the country at the time. A key demand was the opening up to all races of public facilities. Residents embarked on a number of protest actions in what came to be known as the 'Boland War'.
- 463 On 11 April 1990, exactly one month after the release of Mr Nelson Mandela from prison, about 120 people in Robertson were treated for multiple injuries after

⁶⁸ Goldstone Commission of Inquiry 'Report on the Violence at Mossel Bay during July 1993' 12 October 1993.

police, without warning, started shooting tear gas and pellets into the hall where black residents had gathered. People stampeded and several were injured, including Ms Annalene Mildred Abrahams [CT07701], Mr Andries Hektoer [CT07703]; Ms Mienie Hektoer [CT07705] and Mr Patrick Veldsman [CT07706].

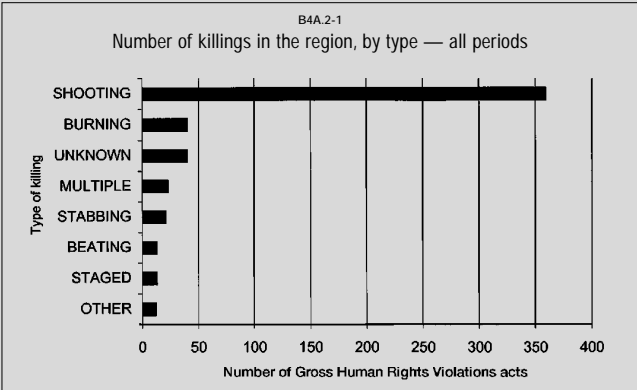
- 464 In early May 1990, Robertson residents embarked on a consumer boycott to highlight their grievances about rents, segregated civic amenities and essential services, and called for the resignation of the management committee. Several people were shot dead or injured in subsequent protest actions during the year including Mr Johannes Jones [CT07800] on 2 July and Mr Jacques de Bruin [CT07801] on 22 November.
- 465 On 22 April 1990, residents of Zolani, Ashton staged a march against housing conditions. A month later, they joined hands with residents of Oukamp, a coloured township, in protest against what they termed "continued racism in Ashton". They demanded that the municipality should open public facilities to all races and improve the townships' facilities. Their protest actions were accompanied by a consumer boycott.
- 466 On 26 June 1990, police fired teargas and birdshot at a group of demonstrating Ashton residents. Ten people were injured including Ms Adri de Koker [CT00427]. A few days later, picketing Oukamp residents and bystanders were fired upon by police, resulting in several injuries, including Mr Jan Gertse [CT00681] who lost both eyes, and Mr Karel Opperman [CT07901] who lost his left eye. On the following day, about seventy people were arrested and others seriously injured after police broke up yet another protest march.
- 467 On 24 November 1990, a new Community Hall was being inaugurated in Wolseley. The newly formed Wolseley Civic Organisation (WCO) was given permission to hold a peaceful placard demonstration concerning local grievances. The demonstration started at 14h00 and at 17h40 those attending the ceremony started to leave the hall. Although the allotted time for the demonstration had not yet expired, the police ordered the crowd to disperse and fired tear gas and birdshot. Many were injured. Mr Edward Booysen [CT00691] was shot dead by police some time later that evening. His body was found in a gutter the following morning. From the police occurrence book, it is evident that a number of additional police were brought into Wolseley from surrounding towns that day and were issued with shotguns and bird-shot well ahead of the actual shooting incident.

- 468 Those who had been injured laid a charge of assault against the police. The family of Edward Booysen also laid a charge, but later withdrew it. The matter was heard in court the following year, but the magistrate found that the police had behaved appropriately in the circumstances and the case was dismissed. Shortly afterwards, a number of people who had been at the hall were charged with public violence. These charges were subsequently dropped.
- 469 On 3 August 1992, Mr Ntozelizwe Stulo Mbovane [CT00294] was shot and killed and six other people injured when riot police opened fire on a group of about 300 ANC supporters at Grabouw. A police spokesperson said the man had been shot because he had thrown a half-brick at a Casspir after the crowd was ordered to disperse. This was rejected by the ANC's Grabouw branch, which insisted that there had been no order to disperse and no stone-throwing before police fired at the crowd. Mr Sandile Selani [CT00292] was also shot and injured in the incident.

Statistics on Violations in the Western Cape

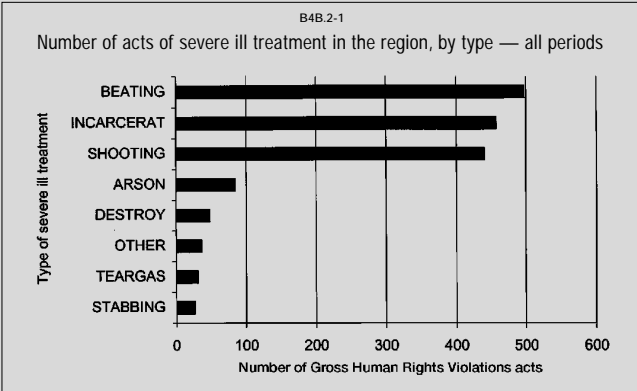
■ NATURE OF THE VIOLATIONS

1 Violations in the areas covered by the Cape Town office differed from those of the other offices in terms of quantity (there were far fewer violations), but the pattern of the violations is similar. The types of violations reported were as follows, starting with killings:



2 Most people died as a result of being shot, followed by burnings. Stabbing is the second most common cause of death nationally, but was far less common in the Cape Town region.

3 Beatings and incarceration were the most common reported forms of severe ill treatment, followed by shootings. Arson was the fourth most common violation although, nationally, arson is the most common category of severe ill treatment, because of the huge number of arson cases in the area covered by the Durban office.



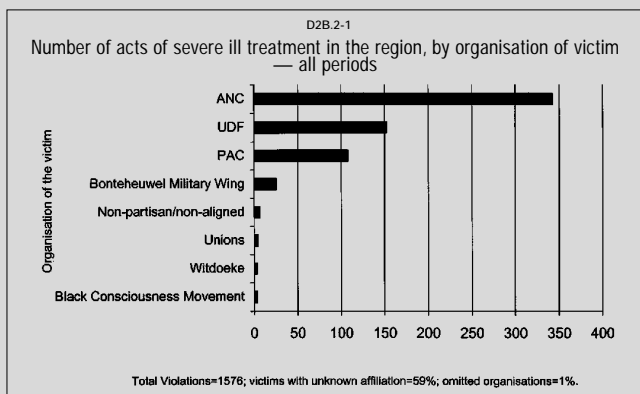
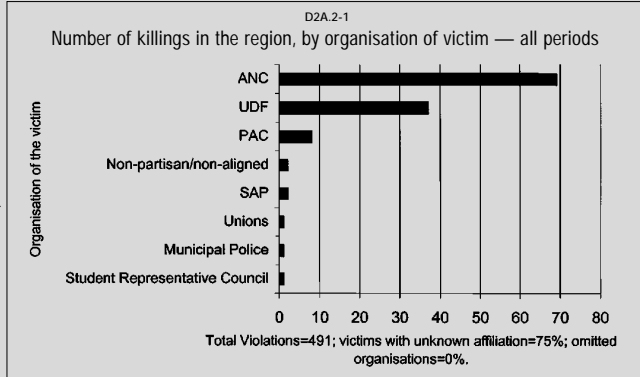
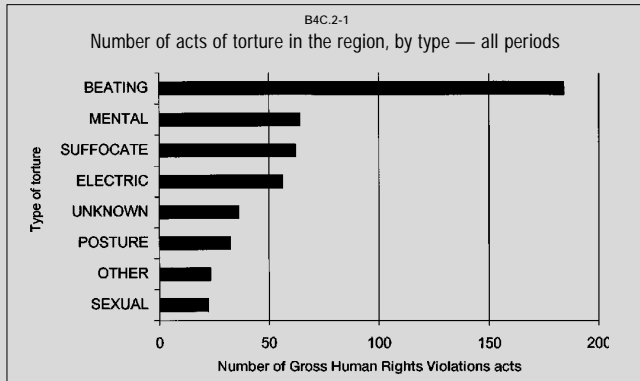
- 4 In keeping with the national trend, the most common form of torture was by beating, but mental torture and torture by suffocation were far more common in the area covered by the Cape Town office than in other regions, where torture by electric shock and by forced postures were more common. ►

Victim organisations

- 5 The number of violations reported in terms of the organisational affiliation of the victim, where the organisation is known, is as follows for killings: ►

- 6 Most of the dead in this region were members of the African National Congress (ANC), the United Democratic Front (UDF), and the Pan Africanist Congress (PAC). Unlike the national pattern, no Inkatha Freedom Party (IFP) members were reported killed in the Western Cape.

- 7 A similar pattern emerges for cases of severe ill treatment, with ANC, UDF and PAC members experiencing the bulk of the violations. (The Bonteheuwel Military Wing was an ANC-aligned organisation.) ►



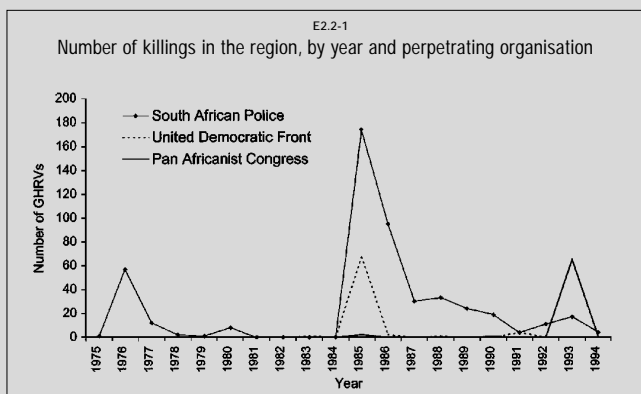
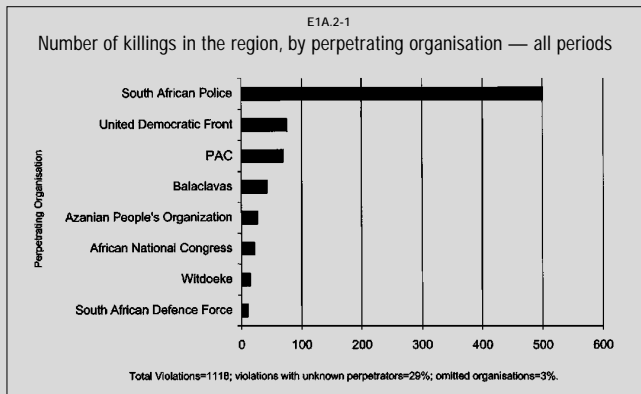
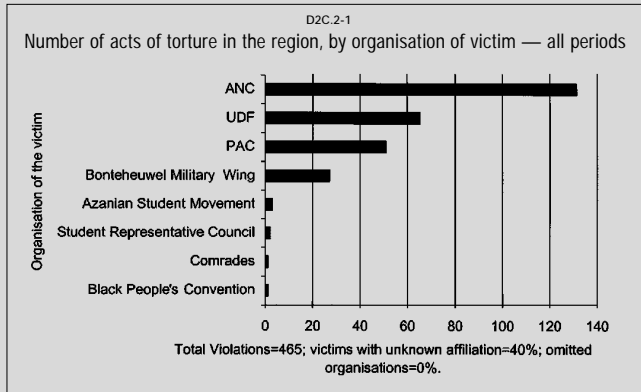
8 The pattern of torture is no different. All torture victims were members of black political organisations.

Perpetrator organisations

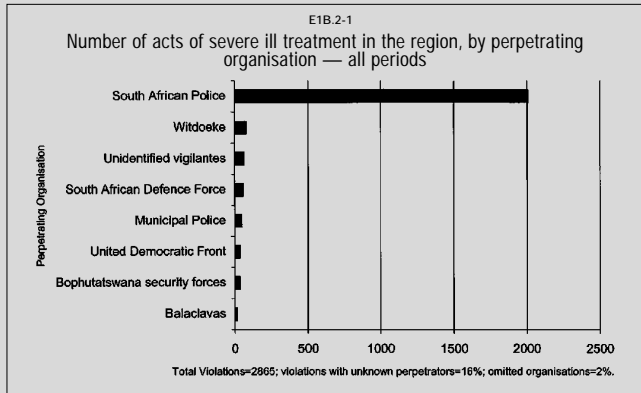
9 The top eight organisations allegedly responsible for killings in the Cape Town office area were as follows: ►

10 Over 500 killings are attributed to the South African Police (SAP), which dominates the chart. Black political organisations account for the rest of the killings. From the chart below, which shows the three organisations named in the highest numbers of allegations, it can be seen that most of the killings took place during the states of emergency.

11 The peaks of killings in 1976 (the Soweto uprising) and the states of emergency are attributed to the SAP, with pre-election violence by the PAC showing a peak in 1993. The SAP also dominates the chart of severe ill treatment violations: ►

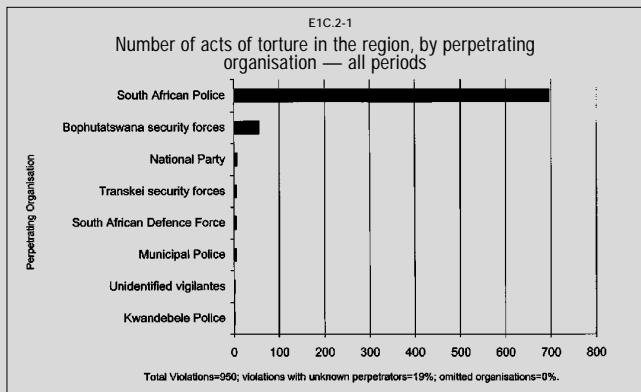
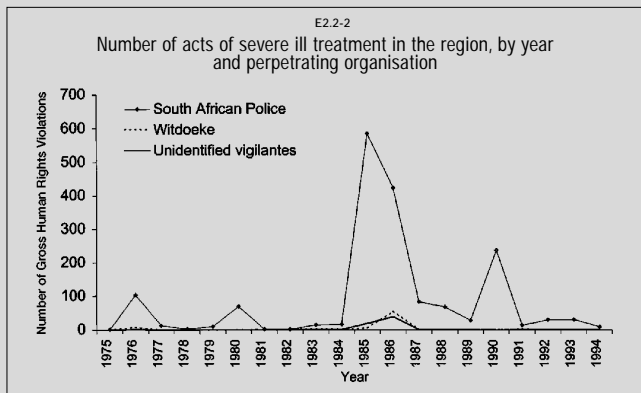


12 Overwhelmingly, the greatest number of instances of severe ill treatment are attributed to the SAP, followed by vigilantes and the SADF. The severe ill treatment violations attributed to the top three organisations change over time as follows:

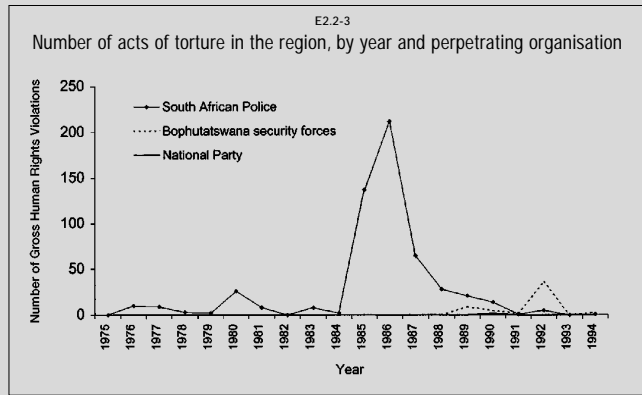


13 The SAP dominates all the peaks in the number of violations, with vigilante activity showing a peak in the mid-1980s.

14 As in the national picture, the SAP dominates torture violations:



- 15 The SAP was allegedly responsible for 700 instances of torture. The pattern of alleged torture over time shows that it was at its worst during the states of emergency: ►



- 16 During most of the periods, the highest number of instances of torture were attributed to the SAP, peaking in 1986 and followed by a steady decline from this high. There is a small peak in 1992, attributed to the Bophuthatswana security forces.