

COMMISSION OF INQUIRY REGARDING
THE PREVENTION OF PUBLIC VIOLENCE
AND INTIMIDATION

INTERIM REPORT ON TRAIN VIOLENCE

GOLDSTONE REPORT: GK - 9

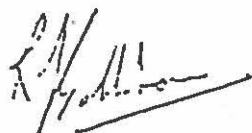
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THE STATE PRESIDENT

The Commission of Inquiry regarding the Prevention of Public Violence and Intimidation has the honour to present an interim report of the Committee appointed to inquire into train violence. The Commission agrees with the findings and recommendations of the Committee.



R. J. GOLDSTONE
CHAIRMAN OF THE COMMISSION

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INTERIM REPORT OF THE COMMITTEE OF INQUIRY INTO TRAIN VIOLENCE

1. MEMBERS OF THE COMMITTEE

Mr G. Steyn - Chairman

Mr S. Moshidi

Mr B.M. Ngcepe

2. APPOINTMENT OF THE COMMITTEE

The Committee was appointed to investigate violence committed on trains in the Southern Transvaal.

3. TERMS OF REFERENCE

The Committee's terms of reference are to establish-

- (a) the nature and causes of the violence and intimidation;
- (b) whether these are aimed at the achievement of any political goal;
- (c) what persons are involved; and
- (d) what steps should be taken to curb and prevent violence and intimidation.

4. COMMITTEE SESSIONS

The first session of the Committee took place from 4 May 1992 until 22 May 1992. The inquiry was then adjourned to 12 June 1992 for argument. Thereafter it was adjourned to 24 August 1992 for further evidence. In view of the problems involved the Committee

decided to submit an interim report. For the purpose of such a report legal argument was submitted on behalf of all the interested parties.

5. REPRESENTATION OF INTERESTED PARTIES

5.1 The parties were represented as follows:

- 5.1.1 The South African Rail Commuter Corporation Limited (SARCC): Mr J.N.S du Plessis, SC.
- 5.1.2 Spoornet: Mr A.de Klerk.
- 5.1.3 The South African Police (SAP): Mr P.A.Hattingh, SC, assisted by Mr W.L.Wepener.
- 5.1.4 The South African Defence Force (SADF): Mr J.L.C.van Vuuren.
- 5.1.5 The African National Congress (ANC), the South African Communist Party (SACP) and the Congress of South African Trade Unions (COSATU): Mr J.G.Rautenbach.
- 5.1.6 The KwaZulu Government and the Inkatha Freedom Party (IFP): Mr L.Visser, SC.
- 5.1.7 Lawyers for Human Rights (LHR): Miss B.Wrighton.
- 5.1.8 The evidence on behalf of the Committee was led by Mr J.J.du Toit.

6. PARTICULARS OF THE RAIL COMMUTER OPERATION

6.1 The duty of the South African Transport Services (SATS) to provide public transport in South Africa was, with the exception

of rail commuter services, transferred to Spoornet Limited by the Legal Succession to the South African Transport Services Act, 1989 (Act 9 of 1989). Section 22 of the Act transferred the rail commuter services component to a legal person, the SARCC. This took place on 1 April 1990. Most assets of the rail commuter services were, at the same time, transferred to the SARCC.

6.1.1 The State is the sole shareholder in the SARCC. The SARCC is managed by a Board of Control, whose members are appointed by the Minister.

6.1.2 The main object and main business of the SARCC are to ensure, at the request of the Department of Transport, that rail-commuter services are provided within, to and from the Republic, in the public interest.

6.2 The SARCC does not itself operate the rail commuter service. This service is operated by Transnet Limited, the legal successor to SATS. For this purpose the SARCC, entered into a business agreement supplemented by a management agreement with Transnet Limited to operate such commuter services and to maintain its assets.

6.2.1 Transnet operates the commuter services through its Spoornet Division. This Division also operates Transnet's Goods and Mainline Passenger Services. Spoornet recently established a Metro Business Unit for the execution of its agreement with the SARCC.

6.3 Rail assets to the value of R5 300 million were, as referred to above, transferred to the SARCC by the Minister of Mineral and Energy Affairs and Public Enterprises. These assets consisted of:

Stations and sidings	321
Motor carriages	1 308
Passenger carriages	3 340
Single track kilometres	2 400
Commuters per day	2,5 million
Suburban trains per day	2 613

6.3.1 The situation in Southern Transvaal is, at present, as follows:

Commuters per day	1 426 416
Trains per day	1 127

6.4 According to evidence before the Committee, the assets received by the SARCC were, in general, in a state of disrepair. At many stations fences, shelters, waiting rooms, toilets and benches had been vandalised.

6.4.1 Free access and insufficient access control were a common occurrence. Buildings and gardens were mostly neglected. As regards carriages, the doors, windows, seats, toilets and luggage racks were broken. Heating systems were ineffective.

6.5 As a result of the incorporation of the former South African Railway Police (SARP) into the SAP in 1986, police functions on railway premises were scaled down drastically. This resulted in a negative perception of unsafeness and a decrease in commuters. At the same time evasion of rail fares increased.

7. RESPONSIBILITY FOR SECURITY ON SARCC PROPERTY

7.1 The Committee was informed that the State Security Council resolved on 15 October 1990 that security on the public component of the SARCC was the responsibility of the SAP and that the SARCC was responsible for the security of the non-public component.

7.1.1 The public component of the SARCC's business consists of the stations and trains. Security in this area involves the maintenance of law and order on all stations and trains.

7.1.2 Security with regard to the non-public component entails the protection of property and cash and ensuring the safety of staff. Spoornet Security Services provides this.

8. FINANCIAL SITUATION OF THE SARCC

8. The commuter services do not generate sufficient funds to cover the SARCC's expenses. According to the SARCC's 1992/93 budget, the operational costs amount to R1 828 million. Income from commuter services is estimated at R445 million. The deficit

of R1 383 million has to be made up by a Government subsidy of R560 million, a Transnet dividend of R500 million and short-term loans of R323 million.

8.1 An analysis of the SARCC's financial situation reveals that to raise sufficient funds for the necessary improvements will always remain problematic.

9. UPGRADING OF THE SARCC'S PROPERTY AND SECURITY SITUATION

9.1 The SARCC decided initially on a five-year plan to upgrade the unsatisfactory condition of its property and to improve the security situation. The serious nature of the violence on trains, however, necessitated a review of the programme and the period was reduced to three years. The completion date is now planned for 31 March 1993. However, this will depend on the availability of funds.

9.1.1 The security programme is aimed at making all stations, not yet upgraded, suitable for proper control and policing. This includes installing security fences, proper access control points, proper lighting and proper accommodation for the police. These aspects will be dealt with in greater detail later.

10. THE OCCURRENCE AND NATURE OF VIOLENCE ON THE RAILWAYS IN SOUTHERN TRANSVAAL

10.1 Statistics relating to the incidents of violence kept by the SAP are incomplete. This is due to routine destruction of records. However, figures for the period 1 July 1991 to 27 April 1992 were provided. During this period 138 people lost their lives and 261 were injured. Incidents of violence occurred on 46 trains and at 55 stations.

10.1.1 Monthly statistics of deaths and injuries are as follows:

Month	Deceased	Injured
July 1991	4	0
August 1991	1	2
September 1991	24	36
October 1991	15	49
November 1991	10	34
December 1991	4	11
January 1992	9	28
February 1992	15	39
March 1992	45	39
April 1992	10	23

10.1.2 The commuter railway lines in the Southern Transvaal are divided into three sections, namely, the Johannesburg section, the Soweto section and the Germiston section. The inquiry was confined to these sections. The numbers of people who lost their

lives during 1 July 1991 to 27 April 1992 in those sections were as follows:

Johannesburg section	31
Soweto section	59
Germiston section	<u>48</u>
TOTAL	<u>138</u>

10.2 Deaths and injuries have always occurred on the rail commuter system. In the past they were caused by both unlawful acts and accidents of a general nature. The evidence is, however, that the violence gradually assumed a political character. Violence is at present often committed by groups of attackers who kill or injure commuters indiscriminately.

10.3 There are approximately 27 hostels in this area. Most of them are adjacent to the rail system. They are in the vicinity of townships and, in some areas, next to emerging squatter camps. It is common cause that violence has been raging in the townships for some time. This violence is the result of ongoing conflict between, amongst others, hostel dwellers and township residents. In recent times the violence has spilled over on to the trains. People in trains are easy targets because they have, over the years, formed themselves into groups that always use the same coach on the same train. This happened for various reasons, such as self-protection and religious, criminal and political interests. As a result, a person entering a wrong coach might find himself a victim.

10.4 Owing to the atmosphere of violence it also happens that at the first sign of trouble, for example, if someone shouts "Inkatha" or "Zulus", people panic instantly and jump out of the coaches, with disastrous results. A recent video recording at Isando station showed that when a large group of Inkatha supporters from Codesa boarded the train with weapons, large numbers of other passengers, Black and White, disembarked in frantic fear through doors and windows on the opposite side. They scaled security fences to reach safety.

10.5 It is common cause that ordinary criminals take advantage of political instability. This occurs on trains as well. It is not always easy to distinguish ordinary criminal activity from political violence. This is especially so where offenders are not apprehended, which is the case with the vast majority of incidents.

10.6 Owing to interference by commuters, many coach doors do not close. It is therefore easy to be thrown out or to fall through those doors. This also makes it difficult to establish the true cause of the death or injury. This problem is exacerbated by the reluctance of witnesses to come forward.

11. THE INCORPORATION OF THE SOUTH AFRICAN RAILWAY POLICE INTO THE SAP

11.1 During 1986 the SARP was incorporated into the SAP. Consequently SATS lost control of police functions on its premises. It had to rely on the SAP, a separate department, to maintain law and order.

11.2 The SAP only perform these functions as part of their normal duties in terms of the Common Law and the Police Act No 7 of 1958. The specialised services of the SARP, and their expertise, were lost to SATS. This created certain security problems which resulted in an increase in general lawlessness.

11.3 The Committee's investigation shows that policing on railway property has been discussed constantly between the SARCC and the SAP. This has, unfortunately, not resulted in real success. Several working groups dealing with this matter are still working out a mutually acceptable solution.

11.4 Railway property is governed by the provisions of the Control of Access to Public Premises and Vehicles Act, 1985 (Act 53 of 1985). The SARCC has, in terms of that Act, been declared a statutory body for the purposes of the Act (GN 2919, dated 7 December 1990). Authorised officers of the SARCC have, in terms of the same Act been empowered to search commuters before they are allowed to enter railway premises (GN 2920, dated 7 December 1990).

11.4.1 While authorised officers of the SARCC have powers to search commuters as envisaged by the Act, the SAP have limited powers in that they may only do so under certain prescribed circumstances. It is desirable that members of the SAP also be declared "authorised officers" by the SARCC for the purpose of exercising the powers envisaged by the Act. The Committee finds it regrettable that this has not yet been done. Negotiations between the SARCC and the SAP on this aspect have been unduly protracted.

12. THE ROLE OF THE SAP IN THE SECURITY SITUATION ON SARCC PROPERTY

12.1 The Southern Transvaal Commuter system falls within two different SAP Regions. They are -

The Witwatersrand Region

The Soweto Region

12.2 Three different Police Divisions are involved in the maintenance of law and order on the commuter system. They are -

The Visible Policing Division (which includes crime prevention and physical rendering of services)

The Internal Stability Division

The Crime Combating and Investigation Division

12.3 The Visible Policing Division deploys members in uniform at railway stations and also on certain trains. Their duties are to prevent crime and to prevent weapons being brought into stations

and on to trains. Inadequate accommodation and poor access control points on the stations reduce their effectiveness. Their accommodation on most of the stations consists of prefabricated ZOZO huts. These huts are cramped, unsafe and only a minimum facility. Access to many platforms is from overhead bridges with control points on the platform itself. The access points are metal gates controlled by the ticket controllers. The structure of these gates makes it difficult to conduct searches for weapons. During peak hours a thorough search becomes impossible and delays passengers. Many commuters detest this exercise and run over the control points.

12.3.1 There are still stations in the system without control points, with the result that persons who wish to bring weapons on to the trains can do so at will. This nullifies the efforts at the previous stations where control was exercised. Once a weapon is on the train it is there for the rest of the trip. This lack of control also enables people without tickets to travel on trains.

12.3.2 The inability to exclude weapons effectively is not the only problem. Many commuters fall from trains accidentally, others are thrown out without the use of weapons and some jump out in panic at the first sign of danger. It would therefore be naive to expect that the total exclusion of weapons would completely stop the violence.

12.3.3 It is not only persons intent on mischief who bring weapons on to trains. It is a common phenomenon that people who lose their confidence in the ability of the police to protect them will arm themselves in self-defence. It is unfortunately so that weapons brought on to trains under those circumstances could in turn contribute to violence.

12.4 During peak hours it is difficult for the police to be effective. There are no interleading doors between coaches and free movement by the police through the train while it is in motion is impossible. The interleading doors were done away with because commuters had allegedly removed the safety rails between the coaches, thus causing great danger.

12.4.1 Police posts at stations are linked to each other by telephone and two-way radios supplied by Transnet. During an inspection by the Committee a number of these telephones were out of order. In the event of violence, this could create communication problems.

12.5 The Internal Stability Division is used for special operations and to stabilise situations of confrontation and violence. This Division deals not only with violence on trains but also with violence in general. When problems arise on railway property or when it becomes necessary to conduct a special operation on such property they are called in. Once the situation is under control and all the injured and dead have been removed from the scene the Stability Division withdraws and the Crime Combating and Investigation Division takes over.

12.6 Situations in which the Stability Division operates are usually extremely explosive and require the utmost tact and prompt decision making. A decision not to disarm a group of people on the spot may suggest partiality, but at the same time we realise that under certain circumstances, an attempt to disarm people may result in complete havoc. This observation should not, however, be construed as an encouragement to carry weapons in defiance of the law, or not to disarm transgressors whenever possible.

12.7 The Crime Combating and Investigation Division is responsible for investigating incidents of violence and murder. It gathers evidence, arrests offenders, where possible, and sees to it that such cases are brought to finality.

12.7.1 According to evidence before the Commission very few cases have found their way to court and successful prosecutions have been rare.

12.7.2 A number of investigating officers gave evidence in this regard. They informed the Committee of the problems they encountered in gathering evidence, etc. At the time of the commencement of these proceedings very little had been done to improve the situation. The Committee found this rather unsatisfactory and disturbing.

12.7.3 A very important aspect of criminal justice, i.e. the deterrent effect of the prosecution of criminals, is thus rendered ineffective. It also causes the community to lose faith in the administration of justice. The Committee is very unhappy with this state of affairs. This matter will be fully investigated, in the next session and will be dealt with in the final report; the reason being that the Commission has requested further information.

12.7.4 The Committee has, during its inquiry, raised the problems of policing and investigation with Major-General Bester of the SAP. At the Committee's request he gave the matter his urgent attention. As a result, on 1 June 1992, the SAP established a Central Co-ordinating Centre in Johannesburg with a senior police officer in charge. It is envisaged that this Centre will co-ordinate all policing aspects in commuter areas of the Southern Transvaal. The success of this initiative will be assessed in our final report.

13. SUMMARY OF THE COMMITTEE'S FINDINGS

13.1 The violence on the trains cannot be separated from the ongoing violence in the townships. The primary causes and participants appear to be the same. The Committee agrees, in this regard, with the findings set out in the Second Interim Report, dated 29 April 1992, of the Commission of Inquiry regarding the Prevention of Public Violence and Intimidation. This Committee

also unable on the evidence before it to apportion blame.

Whenever a group of attackers was identified they turned out to be hostel dwellers. There were, however, other unidentified groups. Victims were members of various Black ethnic groups. No definite pattern could be established.

13.2 A number of secondary causes also emerged. They are, without necessarily setting them out in the order of importance: -

- (a) The lack of proper control over access to the stations. This makes it easy for perpetrators of violence to bring their weapons on to the trains. The fact that some stations have no access control at all makes matters worse.
- (b) Overcrowded trains during peak hours. This factor renders the maintenance of law and order in coaches impossible.
- (c) The absence of interleading doors between coaches. This makes it difficult for commuters to flee from an attack, causing them to jump out through doors and windows. Interleading doors do, however, pose other dangers. The whole matter deserves consideration by the SARCC.
- (d) Poor control at exit points. This enables attackers to escape, even with their weapons.
- (e) The lack of funds to upgrade SARCC property adequately. This makes it difficult for the SARCC to implement measures which would enhance the safety of commuters.

- (f) Control points located on the platforms. Commuters habitually wait on the bridge and descend on to platforms only when the train arrives; this rush puts pressure on policing. People with weapons, and those without tickets, then easily get on to the train.
- (g) The apparent uncertainty between the SARCC and the SAP about their respective roles at access points. This adversely affects proper access control.
- (h) The failure to demonstrate to the community, with effective prosecutions, that justice is being done. This has resulted in the community losing confidence in the police and the administration of justice. It has also resulted in witnesses not coming forward and, consequently, a lack of information.
- (i) The carrying of weapons in public. Apart from the fact that these weapons are being used to injure and kill, in the present situation they also cause panic.

14. RECOMMENDATIONS

14.1 All leaders are urged to do their utmost to curb the violence as a matter of urgency. Structures of the National Peace Accord should also be utilised.

14.2 The Committee is aware of the ongoing investigation into the system of policing on railway premises and of the reorganisation initiated and implemented by Major-General Bester on 1 June 1992. In addition, the Committee feels that the function of guarding access control points at stations on a full-time basis is not an SAP function. This function could more practically be performed by the SARCC. Accordingly, we support the suggestion by Major-General Bester that consideration be given to the creation of a guards corps, recruited from the community and employed by the SARCC. These recruits should receive proper police training. Their duty should be to secure access to the stations. (They should not be ticket controllers.) They should be in a distinctive uniform and be under the control of the Manager of Spoornet Security Services. Every effort should be made to ensure that the community is also involved in this system.

14.3 The Visible Policing Division as deployed on the railways is performing a function which is primarily the duty of the SAP. The reconstruction of this division for purposes of policing on the railways, as implemented from 1 June 1992 by Major-General Bester is fully supported by the Committee. The Committee has noted, with approval, Major-General Bester's remarks that the aim of this restructuring is to ensure continuity and to contribute towards the creation of commuters' confidence in the SAP.

14.4 The Committee recommends that members of the SAP deployed on stations and trains should, as soon as possible, be appointed

"authorised officers" by the SARCC for purposes of the Control of Access to Public Premises and Vehicles Act, 1985.

14.5 The Committee recommends that existing facilities for the SAP on railway stations be improved. For example, the Committee is not convinced that the ZOZO huts provide sufficient safety and comfort. Communication systems should at all times be reliable.

14.6 The SARCC should consider moving access and exit control points from the platforms to the outside of stations. (At two-thirds of the stations these points are present on platforms.) Those stations without access and exit control points should receive urgent attention.

14.7 Because the SARCC is unable to generate sufficient funds to provide the necessary safety measures, the Committee's recommendations will be rendered ineffective unless sufficient funds are made available. The Committee accordingly recommends that the Government give urgent assistance in this regard.

14.8 The Committee mentioned in paragraph 13.1 above that whenever a group of attackers was identified, they turned out to be hostel dwellers. Hostels have for some time been a cause of concern in the violence situation. It is the view of the Committee that this aspect has to date not enjoyed the attention it deserves. The Committee is particularly perturbed about the apparent lack of control over the hostels and also the lack of

clarity, as to who exercises authority over them. As this is a point of great concern, the Committee recommends that the Commission of Inquiry regarding the Prevention of Public Violence and Intimidation urgently consider appointing a committee to look into the whole issue of hostels. Pending that, however, the Committee suggests the immediate implementation of the recommendations contained in paragraph 3.2.7 of the Second Interim Report of the Commission to the State President, dated 29 April 1992, regarding the fencing of hostels, the establishment of a police presence, the prevention of carrying of weapons by hostel dwellers and their protection.

14.9 Brigadier James Moore, Manager of Spoornet Security Services suggested that to deal with train violence successfully a national strategy should be devised. He submitted that the authorities' response to violence is reactive. Actions by the SAP, the SARCC and Spoornet are not co-ordinated. They do not always act with the same purpose. This leads to wastage of resources. He accepted that the violence on trains spilled over from the on-going conflict in the townships. The Committee is of the opinion that the conflict goes beyond just the train violence. We accordingly recommend that the question of a National Strategy to prevent violence can be more properly dealt with by the Commission of Inquiry regarding the Prevention of Public Violence and Intimidation.

14.10 The Committee recommends that the main objective and aim of the SARCC, as referred to in paragraph 6.1.2, namely, "to provide rail commuter services" should be extended to include the provision of reliable, safe and cost-effective commuter services

which meet the reasonable needs and standards of the community. This would place greater emphasis on the duty to ensure the safety of commuters.

15. CONCLUSION

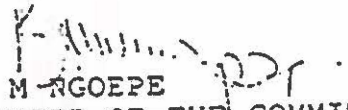
15.1 The Committee wishes to thank all those who have assisted it in its task, thus far, including the witnesses and legal representatives and the Commission's administrative staff.

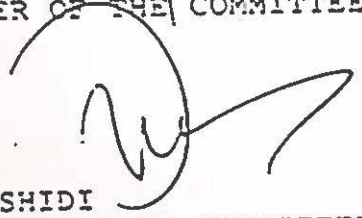
15.2 The Committee is also indebted to Mr J.J. du Toit, who not only helped in leading the evidence, but also assisted, whenever it was necessary, in conducting investigations into various aspects. The Committee also thanks Lieutenant Colonel H.M. Heslinga for all his efforts and investigations, including the preparation of the groundwork for the inquiry and arrangements relating to inspections *in loco*.

15.3 The Committee notes that since the inquiry commenced the SARCC and the SAP have implemented certain changes which so far seem to be bearing fruit. However, a further assessment will appear in the Committee's final report.

SIGNED AT PRETORIA THIS 24TH DAY OF JUNE 1992.

G STEYN
CHAIRMAN OF THE COMMITTEE


B M NGOEPE
MEMBER OF THE COMMITTEE


S MOSHIDI
MEMBER OF THE COMMITTEE