

COMMISSION OF INQUIRY REGARDING
THE PREVENTION OF PUBLIC VIOLENCE
AND INTIMIDATION

REPORT INTO THE VIOLENCE AT TOKOZA

GOLDSTONE REPORT; GK - 13

NOT TO BE ISSUED

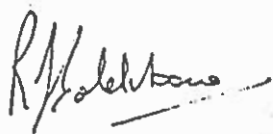
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The State President

I HAVE THE HONOUR TO PRESENT A REPORT ON THE INQUIRY CONDUCTED BY
THE COMMITTEE OF INQUIRY INTO THE VIOLENCE AT TOKOZA



R.J. GOLDSTONE
CHAIRMAN OF THE COMMISSION

PRETORIA
17 NOVEMBER 1992

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1. The Commission would like to express its sincere gratitude to the three members of the Tokoza committee for the thoroughness and care with which they approached their difficult task. The number of witnesses they heard and the number of days they sat hearing them affords ample illustration of this. In particular the Commission would like to thank Mr R.S.K Tucker, the only member of the committee who is not also a member of the Commission. He accepted without hesitation an invitation to serve on the committee and continued to do so notwithstanding much personal and professional inconvenience.
2. The Commission has a number of comments arising from the recommendations made by the committee.
3. The findings of the committee confirm earlier conclusions reported by the Commission that the major trigger of current violence is political rivalry.
4. The Commission fully subscribes to the relevant comments made on the responsibilities of political leaders and of the media with regard to the phenomenon of political violence and intimidation.
5. The concern expressed with regard to the availability of automatic weapons was in fact pre-empted in the Commission's announcement during October 1992 of a preliminary inquiry into the

illegal importation, distribution and use of automatic weapons which will be held in Cape Town on 10 and 11 December 1992.

6. The recommendation with regard to the criminal activities of self-defence-units in Tokoza will be referred to the Attorney-General of the Witwatersrand Local Division. So, too, the recommendation concerning the involvement of Mr Ndebele in the attack on the funeral of Sam Ntuli.

7. The recommendation with regard to the malicious publication of false rumours relating to violence raises important issues of public policy. Interested parties, and in particular media organisations, are invited to furnish the Commission with their views on this recommendation. A decision as to whether to hold an inquiry into this matter will be taken in the light of the submissions received by the Commission.

8. The Commission expresses the hope that the recommendations relating to socio-economic circumstances will receive the attention they deserve from the authorities, agencies and organisations that are involved in these fields.

9. (a) The legitimising of the security forces is a matter that has always been high on the Commission's agenda. Until South Africa has a police force and a defence force that have the confidence and support of the vast majority of our people, violence will continue to be difficult, if not impossible, to curb.

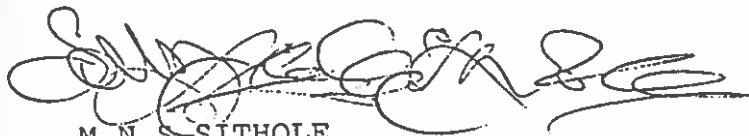
- (b) The Commission considers it doubtful whether the security forces can achieve the aforesaid goal without outside assistance. Meaningful steps in the right direction have already been taken by the SAP. What further steps should be taken and whether the Commission should be involved in this regard is a matter that the Commission will consider early next year.

L051192

TO: GOLDSTONE COMMISSION

RE: TOKOZA COMMITTEE REPORT

It gives us pleasure to submit our report, which is attached hereto.



M.N.S. SITHOLE
CHAIRMAN



L.G. BAQWA
COMMITTEE MEMBER



R.S.K. TUCKER
COMMITTEE MEMBER

REPORT OF THE COMMITTEE OF INQUIRY INTO THE PHENOMENON AND CAUSES OF VIOLENCE IN THE TOKOZA AREA, UNDER THE CHAIRMANSHIP OF MR M.N.S SITHOLE

1. The Tokoza committee consists of Mr M.N.S Sithole, Miss L.G Baqwa and Mr R.S.K Tucker. It was appointed as a committee of the Goldstone Commission, which was itself constituted in terms of the Prevention of Public Violence and Intimidation Act, No. 139 of 1991. The functions of the Commission are set out in section 7(1) of that Act, and include the investigation of the phenomenon, nature and causes of violence and what persons are involved therein, and an inquiry into what steps should be taken in order to prevent public violence and intimidation. The committee was called upon to focus its inquiry on the phenomenon and incidents of public violence and alleged intimidation that occurred in the Tokoza area from three specific incidents that gave rise to considerable concern about the escalation of violence in the area, namely -

- 1.1 the assassination of 18 hostel dwellers who were on their way to a meeting of hostel dwellers at the Tokoza stadium on Sunday, 8 September 1991 ("the first incident");
- 1.2 the murder of Sam Ntuli, which occurred on 29 September 1991 ("the second incident"); and
- 1.3 the assassination of Blacks near the Natalspruit Hospital after the funeral procession for Sam Ntuli on 7 October 1991 ("the third incident").

2. The committee subsequently decided to inquire into a further four incidents that occurred after the commencement of its public hearings on 15 November 1991. The four further incidents were -

- 2.1 an attack on a minibus transporting employees of the Rand Water Board on the Old Vereeniging Road immediately adjacent to Phola Park on 26 February 1992 ("the fourth incident");
- 2.2 the attack on residents of the Crossroads shack settlement on 3 April 1992 ("the fifth incident");
- 2.3 the attack on the Zonkizizwe shack settlement on 6 April 1992 ("the sixth incident"); and
- 2.4 the 32 Battalion operation in Phola Park on 8 April 1992 ("the seventh incident").

3. The committee commenced its hearings on 15 November 1991 and, with the exception of a four-week recess over the Christmas period and a few short recesses because of involvement with other activities of the Goldstone Commission, sat continuously until 27 July 1992. More than 100 witnesses and 4 expert witnesses were heard. The record of the hearing (including summaries of the evidence of witnesses heard in secret) is in excess of 6 000 pages.

4. Mandate and proceedings of committee

The following parties were represented by legal counsel at the hearings of the committee:

- 4.1 The Minister of Law and Order and the South African Police;
- 4.2 the South African Defence Force;
- 4.3 the African National Congress;
- 4.4 South African Communist Party;
- 4.5 the Congress of South African Trade Unions;
- 4.6 the Civic Associations of the Southern Transvaal;
- 4.7 the Tokoza Civic Association;
- 4.8 the Katlehong Civic Association;
- 4.9 the Phola Park Residents' Association;
- 4.10 the family of Sam Ntuli;
- 4.11 the East Rand Hostel Dwellers' Association.

The committee itself was assisted by Mr J.P Pretorius, who was responsible for assembling and leading all evidence.

The committee is most appreciative of the assistance given and the constructive approach adopted by all the legal counsel to the committee in the conduct of the hearings, and in providing the committee with extensive and carefully considered written legal argument and submissions.

5. Circumstances in the Tokoza area at the beginning of September 1991

Tokoza is a fairly small Black township due south of the Alrode Industrial area of Alberton. Historically it consisted of formal housing and a number of large hostels. The community (including the hostel communities) was multi-ethnic with a relatively large number of Zulus and Xhosas. From the mid-1980s there was a substantial influx of newcomers, and the shortage of family-type accommodation close to the industrial areas of Alrode, Germiston and Johannesburg became acute. The committee heard uncontested expert evidence that the establishment and location of squatter-type settlements such as Phola Park is almost solely a consequence of the need for accommodation in close proximity to work opportunities. In this regard two developments took place in the Tokoza area, namely -

- 5.1 the shack settlement of Phola Park was established at the southern end of Tokoza immediately adjacent to the Old Vereeniging Road, and other shack settlements such as Holomisa Park, Mandela Park, Crossroads and Zonkizizwe were also established; and
- 5.2 the stability of the hostel communities was disturbed by the efflux of predominantly Xhosa residents who were more inclined to move into family-type accommodation with their families - leaving the predominantly Zulu hostel dwellers increasingly alienated and isolated from the rest of the

community (although relations between the predominantly Zulu hostel dwellers and the residents of the old formal housing of Tokoza appear to have remained reasonably stable).

6. During 1990 there was a considerable degree of violence in the area. Here it is worth noting -

- 6.1 the high level of conflict between the residents of Phola Park and the hostel dwellers, which resulted, *inter alia*, in the demolition by the residents of Phola Park of a large hostel complex immediately adjacent to their shack settlement;
- 6.2 several attempts to remove or relocate the Phola Park residents, which resulted in a sense of persecution on the part of these residents;
- 6.3 the establishment by the Phola Park residents of a Self-defence unit (hereinafter referred to as the "SDU"); and
- 6.4 violence in other shack settlements, notably Holomisa Park, Mandela Park, Crossroads and Zonkizizwe.

7. Towards the end of 1990 a forum of interested parties and community representatives was established under the chairmanship of Mr Rupert Lorimer. This forum included the ANC, Inkatha, the civic associations, Phola Park residents, the Alberton Chamber of Industries, the South African Police and the South African Defence

Force. As a result of the proceedings of this forum, relative peace was restored and this prevailed from February 1991 to 8 September 1991.

The first incident (assassination of 18 hostel dwellers)

8. At the beginning of September 1991 the Tokoza Hostel Dwellers' Association planned a meeting of hostel dwellers for 8 September 1991 in the Tokoza stadium. The Tokoza stadium is immediately adjacent to the main residential area of Tokoza township, and is approximately one kilometre north-east of Phola Park and two kilometres south of the main hostel complexes Nos. 1, 2 and 3, which like the stadium, face onto Khumalo Street. As required, the Hostel Dwellers' Association applied for permission to hold the open-air gathering. Apart from the fact that the estimate of the crowd was considerably exaggerated at 20 000, and that permission was not sought to hold a march down Khumalo Street from hostels 1, 2 and 3 to the stadium, the application was in order.

9. The police considered and approved the application within the context of the relative peace that had prevailed in the area since February 1991. In three respects the planning could be open to criticism, namely -

- failure to communicate adequately with other bodies (such as the Lorimer Forum) and parties (such as the Phola Park Residents' Association and the Tokoza Civic Association);

- failure to take account of the fact that a march from the hostels to the Tokoza stadium would be an almost inevitable component of the proceedings; and

- failure to communicate adequately with the organisers as to the precise terms on which the application had been approved, and the responsibilities of the organisers in relation to the carrying of weapons and control of the crowd.

10. These detailed aspects of the planning and management of protests and marches have been dealt with by another committee of the Goldstone Commission and the committee has concluded that if indeed there was any failure on the part of the police in any or all of these respects, such failure did not materially contribute to the violence that subsequently occurred.

11. The police arranged to have what is described as a "low-profile presence" in the area on 8 September. The committee is satisfied that this was the appropriate decision under the circumstances that prevailed at the time. It was also agreed that the Defence Force would adopt a low profile and that it would be on stand-by in close proximity (within 1 kilometre of the stadium) at "Steunpunt".

12. On the morning of Sunday, 8 September, a small number of hostel dwellers from more distant hostels gathered at the southern entrance to the stadium, waiting for the bigger crowd of hostel dwellers to arrive for the meeting. Hostel dwellers from hostels

1, 2 and 3 left the hostels in groups under the leadership of "indunas" and moved down Khumalo Street towards the stadium. The committee is satisfied that the march of the hostel dwellers down Khumalo Street was not provocative and that it was, having regard to the circumstances of any such march, relatively orderly. When some of the hostel dwellers had actually passed house 2044 Khumalo Street (which is approximately 100 metres north of the north-eastern corner of the stadium) three men armed with AK-47 rifles opened fire on the hostel dwellers at very close range from the front garden of house 2044. Sixteen hostel dwellers were killed and 13 injured.

13. Immediately the firing of automatic weapons commenced at house 2044, the small group of hostel dwellers that was gathered at the southern entrance to the stadium was attacked by a group of men that had been located at the south-western corner of the stadium in a new housing development known as Tokoza Gardens. In that attack handguns were fired, and the hostel dwellers were assaulted with spears, pangas, assegais and axes. Two of the hostel dwellers were killed and the corpses had chop and stab wounds, although bullet wounds could not be excluded.

14. In the ensuing confusion three men armed with AK-47 rifles were seen immediately outside the north-western corner of the stadium. They were not however seen to fire any shots.

15. The Defence Force was immediately on the scene and secured the area. The committee is satisfied that under the circumstances

the conduct and performance of the Defence Force (and of Lieutenant Burger in particular) were exemplary. The police were on the scene within minutes, as was the investigating officer, and the committee is likewise satisfied that no criticism can be levelled at the police for the planning and organisation of surveillance or the way in which this was carried out on 8 September. The Defence Force handed over control of the area to the police immediately the police arrived on the scene.

16. After hearing very extensive evidence the committee has come to the following conclusions as to the facts of the attack:

16.1 Some time before the commencement of the hostel dwellers' march (and probably on the morning of Sunday, 8 September) there was a meeting of the SDU of Phola Park. At that meeting it was arranged to mount an ambush on the hostel dwellers by locating small units of probably not more than three men each at the four corners of the stadium. At least three of those units were positively identified at the north-eastern, north-western and south-western corners of the stadium, and there was some evidence of the possible presence of a fourth unit at the south-eastern corner of the stadium, although the committee was unable to come to any conclusion on this point. It is also possible that it was planned to locate units within the stadium, although no such units were identified in the stadium, nor did any attack take place in the stadium, and the committee was unable to come to any conclusion in this regard.

16.2 On the morning of Sunday, 8 September, the self-defence unit called a meeting of section leaders at the water tank at Phola Park. At that meeting the section leaders (and probably others who joined in the meeting) were advised of the Hostel Dwellers' Association meeting at the Tokoza stadium and that the Phola Park community should be "on the defence". The section leaders were told to alert their sections and Phola Park went onto a "war footing" - many of the residents cloaking themselves with blankets, which constitute an accepted "military uniform".

16.3 Some Phola Park residents (who were neither SDU members nor party to the SDU plot) went to Tokoza Gardens at the south-western corner of the stadium. The committee is unable to decide whether in doing so they were actually party to the planned attack by the SDU unit positioned at the south-western corner of the stadium, or whether they were informally "conscripted" without being told of the plot, or whether they involved themselves on the basis of rumour of a possible clash with the hostel dwellers and a militant attitude on their part.

16.4 The three assassins who opened fire on the hostel dwellers from house 2044 constituted the unit delegated to the north-eastern corner of the stadium. The committee heard evidence of a fourth person being with the group, but he was not party to the assassination itself and the committee could

not come to any conclusion as to the fact of his presence and, if so, his relation to the attack.

16.5 The attack on hostel dwellers at the southern entrance to the stadium was executed by the unit delegated to the south-western corner of the stadium. The fact that that attack was mounted almost simultaneously with the attack in Khumalo Street, together with the evidence of an "ambush plot", militates against any suggestion that the attack at the southern entrance to the stadium was mere spontaneous violence. It was also clear from the evidence that at least some of the Phola Park residents who were not members of the SDU but who had gone to the south-western corner of the stadium were involved in the attack on the hostel dwellers at the southern entrance.

16.6 The three men with AK-47 rifles who were seen at the north-western corner of the stadium constituted the unit delegated to that sector.

16.7 Most, if not all, of the SDU members who participated in the attack and most, if not all, of the blanketed people who were present at the south-western corner of the stadium (and some of whom actually participated in the attack on the hostel dwellers at the southern entrance to the stadium) returned to Phola Park.

16.8 The attack at house 2044 on Khumalo Street was executed with a high degree of professionalism - in the sense that the AK-47 rifles were handled competently and having regard to the number killed or wounded as was intended by the assassins.

16.9 The police and the Defence Force were effective in bringing the whole situation rapidly under control, and in restoring relative calm to the area. There were no retaliatory attacks or counter-attacks despite the very high level of tension in the area following the attack on the hostel dwellers.

17. The committee heard extensive evidence on the identity of the three assassins at house 2044. Counsel for the Minister of Law and Order and the police argued that the identities had been sufficiently clarified to justify the committee in "finding the named individuals guilty" of the murders. What is however disturbing is that even though the police and the investigating officer were on the scene of the crime within minutes of the crime having been committed, and despite at least two of the named individuals having been taken into custody for questioning since 8 September 1991, and despite the identity and place of work of the third individual being known, and despite numerous raids on Phola Park having been conducted, including at least two for the specific purpose of rounding up members of the SDU, the investigating officer has still not been able to lay charges against any individuals. To suggest that the committee is competent to find

these individuals guilty under circumstances in which the investigating officer himself does not feel he has sufficient evidence even to lay charges seems far-fetched.

18. The committee also heard evidence of the police investigation itself and of the use of informers to collect information. The police did not contest that in one instance a suspect and three other people who happened to be residing at the same place were aroused before 04:00 by a policeman kicking in the door. They were not asked to dress but were ordered outside in their underclothes. They managed to get clothes from a neighbour before being taken to a place known as Vlakplaas. Vlakplaas is not a police station, and so the records normally kept at a police station are not kept there. The two minor brothers of the suspect were arrested the same morning and their parents were not told why they were being arrested. The minor brothers and the other persons detained (with the exception of the suspect) were released the same day. An allegation of assault on the suspect was not proved, but the lack of records detracted from the police case.

In the course of cross-examination by counsel for the police it became evident in open hearing that a section leader, one Mncugi Ceba, was a police informer. After the Phola Park SDU ousted the Phola Park Committee, counsel for the police acknowledged in open hearing that the same Ceba was in fact a member of the SDU and had actually led the coup. Counsel for the Phola Park Residents' Association and other parties argued that by virtue of having

informers in key positions the police probably knew of the planned attack on hostel dwellers on 8 September.

While no offence on the part of the police was proved in either case, the conduct involved in the first incident and the acknowledged use of informers in positions such as that held by Ceba are certainly not conducive to improving the already tense relations and alleging the suspicions between the security forces and the communities in question.

The second incident (the murder of Sam Ntuli)

19. On 29 September 1991 Sam Ntuli was shot and killed while driving his vehicle along Khumalo Street, Tokoza. This was the second incident that fell to be investigated by the Tokoza Committee. Sam Ntuli was a high-profile political leader and General Secretary of the Civic Associations of the Southern Transvaal.

20. The Committee heard the following uncontested evidence from a minor witness who was standing at the side of Khumalo Street on the morning of 29 September:

20.1 He had seen a blue Chevrolet motor vehicle parked in Khumalo Street. The Chevrolet then pulled off and stopped near a Spaza shop. There were four occupants in the vehicle, although the witness was not able to establish their identity.

20.2 A white Mazda bakkie with two occupants approached and stopped near the Chevrolet. The Mazda driver spoke to the Chevrolet driver, whereupon the Mazda drove away towards the Natalspruit Hospital. Again the witness could not identify the occupants. The Chevrolet then drove south along Khumalo Street, round a traffic circle, and positioned itself on the opposite side of Khumalo Street.

20.3 Sam Ntuli's vehicle approached along Khumalo Street, and as it passed the Chevrolet pulled out and followed it and appeared to attempt to stop it by flicking lights, but without success. It then appeared that the Chevrolet overtook Ntuli's vehicle and forced it off the road "until the two vehicles came to a halt alongside each other".

20.4 One of the occupants in the front passenger seat of the Chevrolet had a firearm protruding out of the open window and the witness heard the gunfire of an automatic weapon. The Chevrolet then drove off in a southerly direction.

21. The minor witness was extremely fearful (partly because of his status as an illegal immigrant) and was furthermore illiterate. He was not cross-examined on the incident itself and his fear and illiteracy did not affect evidence on the execution of the murder. He further testified as to how he had been intimidated by some Tokoza residents against co-operating with or talking to members of the South African Defence Force who arrived on the scene of the assassination shortly afterwards.

22. The incident was investigated as a common law offence and the investigation met with considerable difficulties. All possible further leads as to the identities or political or other inclinations of the attackers were frustrated by total lack of co-operation from the public, despite rewards offered for information that would lead to the arrest and conviction of the assassins. Possible witnesses who could have assisted the police appear either to have been intimidated or ordered not to co-operate with the police.

23. After the murder Louis Mbuyiseni Sibeko, who had been involved with Sam Ntuli in civic matters, acting on behalf of the Civic Association of Tokoza, invited people to come forward with information about the assassination. Some people offered to give information provided they would not be involved with the police.

24. The committee was unable to come to any conclusion as to who was responsible for the murder of Sam Ntuli. However it is reasonably satisfied, for the following reasons, that the murder was yet another incident in the ongoing cycle of violence in the Tokoza area:

- Sam Ntuli was a prominent political leader in the area.
- The incident occurred three weeks after the assassination of the hostel dwellers on 8 September 1991.

The intrigue surrounding the assassination was intense, witnesses were intimidated and the investigation was deliberately frustrated.

25. As in the first incident it is again disturbing that the police (on this occasion the Murder and Robbery Unit) have been unable to solve the crime.

The third incident (assassination of a number of Blacks near the Natalspruit Hospital

26. Mr Sam Ntuli, whose killing is the subject of the second incident, was buried at the Tokoza cemetery on Monday, 7 October 1991. His burial was preceded by a memorial ceremony that was held on 6 October 1991 and that passed without incident. However, on the evening of 7 October, after the conclusion of the burial and hand-washing ceremony, 18 people were killed in the immediate vicinity of the Natalspruit Hospital.

27. The funeral was one of the biggest ever held in the Katlehong-, Vosloorus-, Tokoza area - Sam Ntuli having been a very high profile political leader and his murder, coming three weeks after the assassination of the 18 hostel dwellers, having been seen as a major event in the area. Because of the significance of the event there was careful planning by the security forces and a decision was taken to maintain high-profile policing throughout the day. The committee finds no fault with the planning or the decision to adopt a high profile.

28. Monday, 7 October 1991, was a normal working day. However, an informal stay-away was called for in the area, and a great many people, particularly those inclined to support the so-called Patriotic Front, complied. However, many did not comply with this appeal and, significantly, the various groups of taxi drivers in the area decided that they would conduct their business as usual, but were warned to be careful because of the call for an informal stay-away.

29. Fairly early on the morning of 7 October 1991 a group of blanket-clad funeral-goers who were marching from a shack settlement known as Holomisa Park (which is due north of the Natalspruit Hospital, which is itself at the northern end of Khumalo Street) were stopped by the police and required to lay down their arms before they were allowed to proceed to participate in the funeral. The committee is satisfied that the disarming was appropriate and that it was properly conducted.

30. Sam Ntuli's parental home lies just to the south of the Natalspruit Hospital and to the east of Khumalo Street. Hostels 1, 2 and 3 face onto Khumalo Street and the cemetery is at the southern end of Khumalo Street. During the course of the funeral proceedings the funeral-goers passed in front of hostels 1, 2 and 3 on no fewer than five occasions. The security forces devoted considerable resources to containing a possible confrontation between the funeral-goers and the hostel dwellers. This they were substantially effective in doing and the committee can find no

fault with the way in which the security forces performed their responsibilities during the course of the funeral proceedings. The committee was concerned about the provocation inherent in marching backwards and forwards past the hostels and raised the issue with Mr Justice Goldstone. As a result a separate committee was appointed by Mr Justice Goldstone to investigate the conditions subject to which marches are approved and held, and a separate report and recommendations have been issued by that committee.

31. After the funeral-goers performed the hand-washing ritual at the parental home, they departed in three main directions. One group moved south down Khumalo Street towards Phola Park. A second group comprising residents of Holomisa Park and Mandela Park moved northwards around the western side of the Natalspruit Hospital. A third group comprising residents of Mandela Park and Holomisa Park moved almost due north on the eastern side of the Natalspruit Hospital. A third group comprising residents of Mandela Park and Holomisa Park moved almost due north on the eastern side of the Natalspruit Hospital. At the south-eastern corner of the Natalspruit Hospital are several large taxi ranks. Taxis travelling within the area and to Johannesburg, Germiston, the East Rand and Vereeniging use these taxi ranks. Many of the taxis belong to KAPTA (the Katlehong People's Taxi Association). Immediately to the north of the taxi ranks and adjacent to and on the east side of the hospital is a large open space, part of which is used as a soccer field. The third group of funeral-goers marched through the taxi ranks (actually moving between the taxis)

and then on to the open space, walking in the direction of Mandela Park and Holomisa Park. The group was broken up into waves.

32. When the second wave of the third group entered the taxi rank they (or some of them) attacked a number of the taxis and both taxi drivers and passengers with spears, axes and revolvers. Shots were fired and a passenger who tried to flee was killed. Extensive damage was done to KAPTA taxis, and some KAPTA taxi drivers were injured. This attack on the drivers, passengers and taxis was unprovoked, and the committee came to the conclusion that -

32.1 the reason for the attack was either -

- that the taxi drivers had not participated in the voluntary stay-away in respect of Sam Ntuli; or
- owing the perception (which the Committee is satisfied is false) that the KAPTA members are predominantly supporters of the Inkatha Freedom Party and were therefore in some way associated with the murder of Sam Ntuli; and

32.2 at least some of the members of the second wave had armed themselves, either with a general or a specific intent to attack those whom they thought were of an opposing political persuasion.

33. Almost immediately after the attack by the second wave on the taxi rank there was a vicious and sustained attack (using AK-47s)

on the funeral-goers who were proceeding across the open area adjacent to the Natalspruit Hospital. This attack was perpetrated by a number of individuals clearly working in co-operation with one another from different points around the open area. The shots were fired either from moving vehicles, from stationary vehicles or by individuals standing alongside vehicles. 18 people were killed during the course of this attack.

34. After hearing extensive evidence the committee is satisfied on the following points:

34.1 The attack on the funeral-goers occurred so soon after the attack on the taxi rank that even if the attack on the funeral-goers was in retaliation for the attack on the taxi rank it was a carefully premeditated and planned retaliation - the individuals having already been armed, briefed and appropriately positioned to carry out the retaliatory attack. It is however feasible that the attack on the funeral-goers was in retaliation for the earlier assassination of the hostel dwellers (incident 1), and that regardless of whether there had been an attack on the taxi rank the attack on the funeral-goers would have been mounted.

34.2 One Ndebele, a member of the KAPTA "squad", was directly involved in the shooting, and at least one member of the KAPTA committee (one Msimango) knew of and was either directly or indirectly involved in the planning and execution of the attack.

34.3 The police and the SA Defence Force were in no way whatsoever involved in the attack on the funeral-goers. Having regard to the provocative marches past hostels 1, 2 and 3 (the last of which occurred when the first group of funeral-goers left the parental home and marched south down Khumalo Street towards Phola Park and which occurred at very much the same time as the attack on the third group of funeral-goers in the open area adjacent to the Natalspruit Hospital), neither the police nor the Defence Force could be expected to have effectively policed all groups of funeral-goers. The security forces were very quickly on the scene of the attack on the funeral-goers and by their presence were substantially responsible for bringing the area quickly under control. There was an allegation that the police participated in a shooting incident at the Katlehong police station (approximately 2 kilometres to the north-east of the Natalspruit Hospital), where a corpse was subsequently found. The committee is satisfied that the police did not participate in that shooting.

35. As to the identity and political affiliation of those responsible for the attack on the funeral-goers, the committee is unable to come to any firm conclusions (save in regard to Ndebele, who is a member of the KAPTA squad and who lives in one of the hostels). It was clear to the committee that the KAPTA taxi drivers cannot be regarded as being affiliated as a group to any particular political movement. In fact they represent a number of different

ethnic groups, and speak a number of different languages. They ply their trade and earn their income from all the people of the Katlehong and Tokoza areas. If the attack was therefore carried out by the KAPTA squad it could not be suggested that this KAPTA squad was acting on behalf of the KAPTA members. On the other hand the committee did not hear evidence sufficient to conclude that the attack was carried out by hostel dwellers or on behalf of hostel dwellers.

36. It is clear from the evidence that members of the KAPTA squad are heavily armed. Although the committee did not hear evidence of the involvement of members of the KAPTA squad in the sort of criminal activity in which the Phola Park SDU and some of its members had clearly been involved, the committee was most concerned at the evidence of still more unlicensed arms and of the blatantly aggressive and murderous conduct of at least one member of an organised "defence unit".

37. Of great concern during the hearing of evidence was the persistent rumour of the involvement of the security forces (and the police in particular) in attacks on the funeral-goers. It appeared that this rumour was triggered by four different incidents, namely:

37.1 The fact that the police had disarmed the group of Holomisa Park funeral-goers earlier that day. It was suggested that this was done deliberately to leave the funeral-goers vulnerable to the attack (about which it was suggested the police

had foreknowledge) later that day. It is quite clear to the committee that the police had no such foreknowledge and that there was no such intent on the part of the police. The committee is also satisfied that disarming the funeral-goers in no way altered the fact of nature of the subsequent attack.

37.2 The sight of a police sergeant shooting at someone in the open area adjacent to the Natalspruit Hospital. The committee is satisfied that this did in fact occur but that the person at whom the shots were fired was one of the attackers who was at the time in possession of an AK-47 rifle and who was attempting to get away.

37.3 The shooting incident adjacent to the Katlehong police station and the perception that the police had been involved in that incident. As mentioned above the committee is satisfied that the police were not in any way involved in that incident.

37.4 The intensity of the shooting at the funeral-goers from the northern end of the open area adjacent to the hospital, and the perception that the police had been involved in that shooting. The committee is satisfied that the police were neither present at nor in any way involved in the shooting at the northern end of the open area.

38. The committee was unable to come to any firm conclusion as to whether these rumours were deliberately initiated or whether they merely arose as a result of quite innocent misperceptions. It is however quite clear that such false rumours aggravate the tensions between the security forces and the communities in which they are responsible for maintaining law and order - thus making their role all the more difficult to perform.

39. Despite the fact that the police were on the scene of the taxi rank incident and the open area incident within minutes, and despite having actually taken a number of people into custody for questioning, by the conclusion of the committee's hearings charges had not been laid against anybody (despite very clear evidence of the involvement of Ndebele in the attack on the funeral-goers).

The fourth incident (attack on the Rand Water Board minibus)

40. Early on the morning of 26 February 1992 a minibus transporting employees of the Rand Water Board from the Tokoza area to the Rand Water Board pumping station was ambushed while travelling along the Old Vereeniging Road adjacent to Phola Park. Four passengers in the minibus were killed and several injured in the attack.

41. Contrary to suggestions by some of the witnesses, the committee could find no evidence whatsoever of any earlier attack by the occupants of the minibus or of any other attack on the morning of 26 February 1992 on Phola park or any of its residents. The

suggestion that the ambush was either retaliatory or in self-defence is therefore contrived and unfounded.

42. From the evidence the committee is satisfied that the initial attack by three gunmen armed with AK-47 rifles standing at the side of the Old Vereeniging Road was executed by members of the Phola Park SDU. The committee is satisfied from the evidence that the attack on the Rand Water Board minibus was not a random attack on just any vehicle that happened to come along the Old Vereeniging Road but was in fact a carefully contrived attack on that particular minibus. It is not without significance that the owner of the minibus (a well-known member of the IFP) had already given the driver (his son) instructions to change the route because he feared such an attack. The driver of the minibus was either killed or badly wounded in the initial attack and the minibus proceeded out of control and came to a standstill approximately 150 metres from the point at which the initial attack was launched. The uninjured occupants of the minibus clambered out of the right side of the minibus and fled across the Old Vereeniging Road towards the west (away from Phola Park). A group of Phola Park residents (probably 50 to 100 in number) surrounded the minibus and brutally attacked and assaulted the either dead or injured driver and three other occupants. It is not clear whether the four occupants of the minibus who were killed, died as a result of being shot with AK-47 rifles or from being assaulted with stones and other blunt instruments and objects. There is however evidence that at least some of them died as a result of the assault and not as a result of being shot. The group of Phola

park residents who mounted the assault are therefore also guilty of murder.

43. From the evidence the committee is satisfied that the attack was planned and mounted by the Phola Park SDU. The circumstances under which a large group of Phola Park residents then participated in an assault on the occupants of the minibus are less clear.

44. The committee concluded that the following circumstances had to be taken into account in determining the involvement of Phola Park residents other than SDU members:

- A sustained high level of tension and conflict between Phola Park residents and the hostel dwellers combined with a deep sense of persecution on the part of the Phola Park residents.
- Intense and extensive rumours (which the committee concluded were deliberately initiated) of the involvement of the minibus either in a shooting incident in the Tokoza residential area the previous evening or in Phola Park itself earlier on the morning of 26 September.
- The noise of the firing of guns alongside the Old Vereeniging Road immediately adjacent to Phola Park.

- The sound of bullets hitting the branches of bluegum trees adjacent to Phola Park (probably fired by the occupant of one of the first vehicles on the scene of the attack at the members of the SDU).

- The sight of some of the occupants scrambling out of the minibus and running away "possibly with guns", although the committee is satisfied that none of them had guns.

45. As in the case of the involvement of Phola Park residents at the south-western corner of the stadium in the first incident, the committee came to the conclusion that -

- at least some of the Phola Park residents (who were not SDU members) involved in the assault on the minibus were actively involved in the planning and execution of the ambush;
- some of the Phola Park residents who participated in the assault were probably "conscripted" to participate in the assault; and
- some of the residents who participated in the assault were involved out of a combination of inquisitiveness, militancy and fear generated by rumour, persecution mania and coincidence.

46. Both the police and the Defence Force responded rapidly and effectively to the incident. The police were in fact involved in something of a gun battle with members of the SDU, and the Phola

Park residents retreated to Phola Park when members of the Defence Force approached the scene of the shooting from a different direction. The committee has no criticism of the response of the police in shooting at the members of the SDU under the circumstances, despite the fact that Phola Park and presumably innocent residents of Phola Park were directly in their line of fire behind the SDU members. There is an embankment between the Old Vereeniging Road and Phola Park at that point and the members of the SDU were in front of the embankment.

47. The investigation of the murders commenced immediately and by the conclusions of the committee's hearings on 27 July no arrests had been made although several members of the SDU were being held in custody and it is possible that charges could be laid against some or all of them for their involvement in the fourth incident.

The fifth incident (the Crossroads massacre of 3 - 4 April 1992) and the sixth incident (the Zonkizizwe massacre of 6 April 1992)

48. On the Friday (3 April 1992) preceding the Easter weekend, at approximately 23:30, three groups of about 300 men armed with firearms, axes and pangas attacked the Crossroads informal settlement situated on the eastern side of Katlehong Township in Germiston. The group entered the settlement from the southern side and moved towards the graveyard on the northern side. They attacked people and shacks and left 19 people dead (including two children, a woman and a visitor known as Kunene), 12 injured and 45 shacks damaged or destroyed. They also demanded money from

some residents and removed some personal belongings of the Crossroads residents. Some AK-47 shells were later found on the scene.

49. The committee heard evidence from a number of witnesses, some of whom were survivors of the attack. It would appear that during 1990 there was some fighting at Crossroads between men of Zulu and Xhosa origin. It appears that after the fighting the Xhosa-speaking men left Crossroads to settle at Holomisa Park, Mandela Park and Kutalo Hostel, leaving Crossroads occupied overwhelmingly by Zulus. It would also appear that some of the Crossroads residents formerly lived at Mandela Park but that they had left Mandela Park and moved to Crossroads because of the fighting that took place at Mandela Park.

50. There was evidence that the attackers on 3 April were Xhosa-speaking, but there was not sufficient evidence for the committee to be able to come to any firm conclusion as to the identity of the attackers, the residential area or hostel from which they came, their political affiliation or the precise reason for the attack.

51. On 6 April 1992 at approximately 23:30 a group of some 50 to 100 people attacked the informal settlement of Zonkizizwe. Four people died during the attack. Ten were injured and numerous shacks, houses and cars were destroyed. In the course of the attack a number of shots were fired at a police vehicle and a policeman was injured and the vehicle damaged.

52. The committee heard evidence from a number of witnesses including several victims and a few police officers. From the evidence it is clear that Zonkizizwe is under the political control of the IFP, which does not permit any other political activity in the area or allow the emergence of any other political party.

53. It is also clear that Zonkizizwe, like many other settlements, hostels and townships in the area, has had a very traumatic history since its establishment in 1989. There have been a number of violent Zulu/Xhosa clashes. Originally the population of the settlement was mixed, but as a result of the clashes, and one on 11 November 1990 in particular, it was "purged" of Xhosas.

54. There was evidence that the attackers on 6 April spoke both Zulu and Xhosa and that at least one of them said that they came from Phola Park. There was also circumstantial evidence that they might have come from Phola Park. However, there was insufficient evidence for the committee to come to any conclusion on this issue, or to come to any conclusion as to the attackers' identities, political affiliations or the precise reason for the attack.

55. Although the police were on the scene of both the Crossroads attack and the Zonkizizwe attack very quickly, by the conclusion of the committee's hearings little progress had been made with the

investigation of the incidents nor had anyone been detained or charges laid in connection with the attacks.

56. Although the committee did not hear sufficient evidence to be able to come to any conclusion as to the actual identity of the attackers, their political persuasion or the precise reason for the attacks on Crossroads and Zonkizizwe, it is satisfied on the evidence which it did hear that the attacks fell within the pattern of attack, counter-attack, revenge and retaliation that has become an ongoing phenomenon in the area. It is almost certain that -

- the attacks involved at least an element of revenge by former residents who had been driven out of the settlements in the course of earlier feuds;
- the attacks were at least partly in the course of the political struggle between IFP supporters and the so-called Patriotic Front parties and the ongoing politicisation and rivalry for supporters and power in the area.

57. We would like to point out that a large number of people were killed and injured and considerable property damaged in the two attacks. Yet unlike the so-called Boipatong massacre these incidents have all but disappeared from the agenda and very little progress has been made in their investigation. This must leave innocent victims wondering whether there are different laws and different processes for groups affiliated to different political parties.

The seventh incident (32 Battalion in Phola Park)

58. The committee has already submitted an interim report on this incident. We have nothing further to add to that report other than that, on evidence subsequently heard by us, it is clear that the shooting was started by members of the Phola Park SDU as part of a deliberate initiative to engage the Defence Force in a "war".

General

59. Before dealing with the causes and phenomenon of violence and our recommendations we would like to point out that since commencing our hearings three men who gave evidence, two of them fairly extensively, have been murdered in the course of the ongoing violence. We would like to pay tribute to the courage of the many people who testified before us, to record that without them we could not have made any progress at all, and to stress the importance of giving all possible protection to them and their families.

THE CAUSES AND PHENOMENON OF VIOLENCE IN THE TOKOZA AREA

60. The committee had the benefit of hearing several expert witnesses on the subject of the causes and the phenomenon of violence in the area - notably Julian Baskin of Planact, an organisation that has advised the Phola Park community over a

period of time, who has himself been personally involved in the Phola Park area for some time, Dr Chris de Kock of the Human Sciences Research Council, who gave extensive and very well-researched evidence on the phenomenon of violence, and Dr Mamphela Ramphele of the University of Cape Town, who gave evidence on the general causes of violence. At the outset we should point out that we are as a committee called upon to give our findings both as to the causes and the phenomenon of violence, and we have been careful to draw this distinction. In this respect we found the evidence of Dr De Kock and Dr Ramphele to be complementary and not contradictory. Dr De Kock himself acknowledged that he concentrated on the "geweldsprosesse" (processes of violence), while Dr Ramphele concentrated on the causes of violence.

61. Causes

The committee does not find it either necessary or appropriate to describe the historic (and in some instances still current) policies and practices that have resulted in distortions in the structure and behaviour of society in the Tokoza area. It is only necessary to describe the main characteristics and consequences of those structural and behavioural distortions.

62. Structural distortions

62.1 Population density

The population density in the area is high. In a very limited area such as Phola Park there are approximately 4 000 to 5 000 very small shacks. There are very narrow access ways (which cannot be described as streets and which do not provide free vehicular access). There are no open spaces and an average of five to six people live in each shack. The hostels are also densely populated. The population density in all areas is being aggravated by very high rates of immigration from the rural areas because of the drought and poor economic conditions and from neighbouring states because of poor economic conditions, violence and war.

62.2 Homelessness

There is a high level of homelessness and intense competition for housing - particularly for family-type accommodation in close proximity to work opportunities. This is significant in the case of the Tokoza area because it is in very close proximity to the Alrode industrial area, which provides job opportunities. The high demand for family-type accommodation is a consequence of the abolition of the influx control regulations, and the desire of many migrant workers who previously lived in hostels to have their families living with them in the urban area.

62.3 Living conditions

The committee had the opportunity to visit both the hostels and Phola Park and there is a noticeable difference between conditions there and those in the formal residential area of Tokoza township proper. In the case of Phola Park there is no sewerage or sanitation system; there are only four water taps on the boundaries of the settlement; there are no schools or recreation areas or facilities; there is no electricity and there is no refuse removal system. We found the hostels in a thoroughly dilapidated condition; the sanitation and sewerage and sewerage system was effectively unusable; and the living areas were demeaning and in very poor condition. Since we commenced our hearings, however, a major hostel upgrading project has been undertaken for hostels 1, 2 and 3, and the living conditions in those hostels should improve. The formal residential area of Tokoza itself is served by a satisfactory sewerage system, water and electricity reticulation, good roads, open spaces, recreation facilities and schools.

62.4 Joblessness

There is a very high level of unemployment in the hostels and Phola Park. In both instances it appears that the unemployment level is in excess of 50% and according to one estimate

only 20% of the men living in Phola Park have formal employment.

62.5 Structural conflict

It became reasonably apparent during the course of evidence how much structural conflict exists between different groups living in close proximity in the Tokoza area. Significant amongst these examples were the following:

62.5.1 Within Phola Park itself there is a division between families who wish to remain resident in the urban area, single migratory labourers who have families in the rural areas, and non-South Africans who are probably illegal immigrants.

The families who wish to remain resident in the urban area have a keen interest in the development and upgrading of the settlement. While their income is obviously limited they are willing to pay more for the housing and facilities which they would enjoy in an upgraded environment.

The migrant labourers' concern is to minimise their living expenses while in the urban area so as to enable them to remit as high a proportion of their income as possible to their families in the rural areas.

The non-South African illegal immigrants are almost invariably excluded from benefiting from any development programmes (which are usually restricted in their application to South Africans), and in any event feel very threatened and vulnerable because of their "illegality". In fact, the more chaotic the environment in which they live the less likely they are to be detected and the better able they are to sustain themselves.

- 62.5.2 At the time the influx control legislation was abolished there was a greater tendency amongst Xhosa men to want to have their families join them than amongst Zulu men. As a result it was the Xhosa men who tended to move out of the hostels and into shack and squatter settlements such as Phola Park with their families. The result was that because of the divergence in living styles, residential environment, language, culture and ethnicity, which was frequently aggravated by a tendency for the predominantly Zulu hostel dwellers to give their allegiance to the Inkatha Freedom Party and for the predominantly Xhosa shack dwellers to give their allegiance to the political parties constituting the so-called Patriotic Front (in other words mainly the ANC, but also the PAC,

AZAPO and other groupings), a gulf rapidly developed between the two communities. The committee heard evidence of the sensitivities, subtleties and intensity related to this gulf. So for example, the fact that circumcision is, for the one group, a prerequisite for "manhood", but not for the other, results in the latter being insultingly treated as "boys" by the former. When the "boys" then took to themselves wives of the former group because of cultural shifts, the antagonism was further intensified.

62.5.3 The residents of formal homes in Tokoza are living in significantly better conditions than those in Phola Park and the hostels.

63. Behavioural distortions

63.1 Family breakdown

The committee heard evidence that in Phola Park itself families are very unstable. Both marriages and customary unions are breaking down at a very high rate and a good deal of any community organiser's time is devoted to resolving the consequences of these breakdowns. Family breakdown appears to be attributable to a whole series of factors that give rise to instability. Notable amongst these factors are poverty and the inability of the male to support the family, drug and

alcohol abuse, and the inversion of the normal age hierarchy within the family as a result of young people being pushed into the forefront of the "conflict". The migrant labourers living in the hostels are effectively living in a "no family" environment.

63.2 Violence within the community and within the family

Phola Park is by nature a very violent environment. There is a high level of child and wife abuse and also of conflict and violence within the community itself. The committee heard evidence not only of the cold-blooded murder of a community leader in the open by members of the SDU, but also of abductions, gun battles with the police and the Defence Force and "wars" with the hostel dwellers. There is clear evidence that there are a large number of weapons in Phola Park. There is also easy access to guns by hostel dwellers and the KAPTA squad, and gunfire is frequently heard.

63.3 A sense of persecution

From the very outset Phola Park was illegally established on land that was intended for industrial purposes. The residents of Phola Park were clearly conscious of this fact, and in the early stages there were attempts to move them or to resettle them. This resulted in a sense of persecution and the South African Police in particular were generally stereo-

typed as the persecutors. The sense of persecution is clearly aggravated by the presence of a fairly high number of illegal immigrants in Phola Park and by the presence of a number of individuals involved in criminal activity who have for some time been sought by the South African Police and by the Defence Force. The security forces, by virtue of the "defensive" stance adopted by the Phola Park community, have been forced to adopt an unconventional approach to policing the settlement. The committee heard evidence that both the police and the Defence Force are frequently shot at from Phola Park, and the seventh incident was triggered by just such an incident when members of the SDU shot at members of 32 Battalion. Consequently if the police wish to search for arms or question anyone resident in Phola Park in relation to the multiplicity of criminal and violent incidents in recent times, a large number of security force members are thrown in a cordon around the settlement and the entire population is then affected by the "raid". Residents are unable to get to work and the sense of persecution is aggravated. Likewise, for example, the use of tear-gas (to avoid having to use live ammunition) affects all the community members, innocent and guilty alike.

The hostel dwellers are likewise suffering from a sense of persecution. They have in a number of respects been alienated and marginalised in the hostel environment, and are very clearly under the impression that it is the intention of the ANC and its allies to drive them out of the hostels and

either destroy the hostels or turn them into family-type accommodation. It is also clear that a large number of them do not want to bring their families to what they regard as a violent and undesirable urban environment.

63.4 Crime

There is a high level of crime both within Phola Park and generated from Phola Park. The reasons for this high level of criminal activity range from normal criminal elements that manifest themselves in all communities, to very high levels of unemployment and poverty, to a high proportion of illegal immigrants who have free access to weapons and who (being illegal) have no other means of maintaining themselves, to the cloak of political legitimacy that is used by members of the SDU to carry out quasi-political crimes - some of which were the subject of our investigation.

63.5 Political, social and economic competition

Because of all of the factors mentioned and a number of others that will be discussed under the heading THE PHENOMENON OF VIOLENCE, political, social and economic rivalry are very intense at all levels in the community. Both economic and social resources (such as housing, jobs, decent living conditions, education opportunities and recreation facilities) are scarce and the competition for such resources translates into political rivalry. This political rivalry is

not necessarily of a party-political nature (although it is very clearly aggravated by the intensity of the party-political rivalry and rhetoric at all levels of our society at the present time). Significant in the context of this political rivalry are the following:

63.5.1 The most serious rivalry between the residents of Phola Park and the hostel dwellers. This rivalry appears to be based predominantly on the fact that the one group lives in shacks in Phola Park while the other group lives in hostels. There is however no doubt that this rivalry is in itself aggravated and coloured by -

- the fact that the one group is predominantly Zulu and the other group is predominantly non-Zulu with a heavy (but not predominant) Xhosa influence;
- the fact that the one group tends to be affiliated to the Inkatha Freedom Party and the other group to the so-called Patriotic Front, which is heavily influenced by the ANC although the ANC members do not appear to hold the majority of the leadership positions.

63.5.2 A high level of tension and suspicion between the security forces (and the police in particular) and the Phola Park community. On this issue it is

dangerous to generalise. A number of witnesses were outspoken in their compliments for the conduct and role that both the police and the Defence Force have played in the Tokoza area. On the other hand, largely as a result of the sense of persecution and the other factors discussed in paragraph 63.3 above, the residents of Phola Park (and other shack settlements show a deep sense of suspicion and sensitivity towards the security forces. This is illustrated by the following examples:

- When the Holomisa Park residents were required to lay down their weapons at the beginning of the Sam Ntuli funeral proceedings, and later in the day those residents were attacked on the soccer field adjoining the hospital, the residents immediately jumped to the conclusion that their weapons had been removed from them by the police so that they would be defenceless against the subsequent attack.
- None of the communities have rendered any substantial assistance to the police investigating the incidents that are the subject of this inquiry or the innumerable other unsolved crimes in the area.

- When a policeman in a Casspir fired at someone carrying an AK-47 on the open space adjacent to the Natalspruit Hospital at the end of the Ntuli funeral a hospital staff member who saw only the policeman over the top of the hospital wall immediately concluded he was shooting at the funeral-goers and spread a rumour to that effect.
 - When there was a shooting incident in the vicinity of the Katlehong police station (in which we are satisfied the police were not involved) the funeral-goers immediately concluded that they were being fired at by the police, and spread a rumour to that effect.
 - Black policemen living in the Tokoza area are so sensitive to suspicion of the police on the part of the community that they carefully conceal their identity as policemen.
 - Members of the security forces are frequently fired at from Phola Park.
- 63.5.3 The Tokoza Black local authority lacks legitimacy in the eyes of the community, and consequently suffers from an incapacity to act as an effective local authority and conducts itself as yet another

contestant for power. As an example the Black local authority felt its authority to be threatened by the occupation of Phola Park (intended for industrial use) by the invading shack dwellers and adopted an aggressive stance on the issue. This resulted in a sense of persecution on the part of the Phola Park community and further political polarisation and disintegration within the community. A further result has been the disintegration of the formal "government" of the area into residents' committees and civic associations in the various shack settlements, hostels and formal residential areas. These different "local government bodies" are themselves in intense competition with one another.

63.6 Development

Attempts have been made to undertake socio-economic development and upgrading in the area. Of particular significance was the initiative of the Independent Development Trust (IDT) to undertake a "100%" upgrading of Tokoza. Evidence was led that this was of particular significance because the IDT had agreed to undertake the development on the basis that every member of the Phola Park community would benefit and not only a selected portion of the community (as is normally the case in this type of upgrading). Evidence was led that this type of development can in itself result in an intensification in

the rivalry and conflict between the different groups for power and control over the development process. Because socio-economic conditions in the area are so bad, the presence or availability of large sums of money raises suspicions and doubts as to who is benefiting by the development initiative. So for example it appears that the IDT initiative was at least one of the factors (even though at a perceptual and emotional level and not factually so) that led to the over-throw of the Phola Park Residents' Committee by the members of the SDU in April 1992. This is particularly disconcerting because it means that instead of socio-economic development alleviating the tensions and difficulties in the area, socio-economic development itself runs the real risk of intensifying or aggravating such tensions.

63.7 Because there is no single community, but in fact many fractured communities that are frequently in keen political rivalry with one another for power and control over scarce resources, it is extremely dangerous for any agency, whether Governmental, security, developmental or even welfare, to try to interact with those communities on the basis or assumption that they are one community or even that they have common interests. To do so only intensifies the rivalry. Moreover, because there is no open system of democracy there is more than ample scope for individuals to elevate themselves to positions of power without any accountability to any constituency. This further aggravates the development environment, and frustrates the endeavours of those working to change the

dispensation. This state of affairs is unlikely to improve until formal, legal and legitimate local government is established in the area.

64. The phenomenon of violence

64.1 The committee found no reason to disagree with Dr De Kock's analysis of the phenomenon of violence, and what actually triggers that violence, as opposed to the underlying causes of that violence. To summarise very briefly, the phenomenon of violence may be attributed to the following factors:

- Intensification of the horizontal and direct rivalry for political power and scarce resources;
- repeated and escalating expectations and the non-realisation of those expectations;
- a lack of democratic values - for example respect for the right of free political affiliation and political expression;

- a culture of violence;
- fear;
- criminal activity under the cloak of politics;
- a breakdown of social control (whether that breakdown be real or merely perceived by the communities); and
- intimidation and reaction to that intimidation.

These factors are aggravated by ongoing aggression and counter-aggression, rumour, the easy availability of weapons and the existence of "private armies". The only real qualification that we would make to Dr De Kock's analysis is that the factors which actually trigger the violence cannot be considered solely as causative factors. A number of them are actually consequences of the real causes discussed in paragraphs 62 and 63 above, and in many respects the parties to the conflict are as much victims of circumstances as the architects or cause of such conflict.

64.2 There are however a number of factors that appear to be purely causative:

64.2.1 Political conflict and rhetoric

We are satisfied that in the Tokoza area, where there is inevitably a high level of rivalry for the reasons discussed above, aggressive and inflammatory statements made and positions adopted by national leaders immediately further intensify the conflict within the area. By adopting stances of confrontation and conflict those national leaders are making the situation worse where they could, by adopting a constructive and conciliatory stance, improve the situation.

64.2.2 The easy availability of weapons

There was some evidence that the source of AK-47s in Phola Park is Mozambique and that there is a channel via Daveyton. However, there was also evidence that weapons are readily available in the hostels and amongst both the KAPTA squad members and a number of the KAPTA taxi drivers.

64.2.3 The SDU of Phola Park

From the evidence before the committee there were no occasions during the period in question in which the SDU played a defensive role in protecting the lives and property or interests of the residents of

Phola Park. However, there were several incidents that were the subject of this inquiry (notably the first, fourth, probably the sixth and the seventh) and also a number of other incidents both within Tokoza and beyond the boundaries of Tokoza in which the SDU or members of the SDU played a very aggressive and outright criminal role. This type of unit playing such a role cannot claim to fall within the ambit of paragraph 3.7.1 of the National Peace Accord, which reads as follows:

"The law accords all individuals the right to protect themselves and their property and to establish voluntary associations or self-protection units in any neighbourhood to prevent crime and to prevent any invasion of the lawful rights of such communities. This shall include the right to bear licensed arms and to use them in legitimate and lawful self-defence."

- 64.2.4 It is important in this regard to record that although there was some evidence of communication between the SDU and the leaders of Umkhonto we Sizwe (MK), there is no evidence at all that -
- MK was in any way involved in the establishment of the SDU;

- the SDU was in any respect under the command of or acted on the instructions of MK; or
- MK in any way sanctioned or in fact knew about the criminal activities of the SDU.

64.2.5 On the evidence the SDU "adopted" MK and not vice versa. It is also probable on the evidence that the majority of the members of the SDU were as individuals neither members of the ANC or of MK. Several members of the SDU are or were Mozambican immigrants, and others are or were members of the parties making up the so-called Patriotic Front.

64.3 Rumour and speculation have clearly played a role in fuelling and sometimes triggering violence. So for example rumour at least played a part in the involvement of members of the Phola Park community in the attack on the hostel dwellers in the first instance and the involvement of members of the Phola Park community in the attack on the minibus transporting workers of the Rand Water Board in the fourth incident. Totally inaccurate information, that is often blatantly false, and rumour circulate freely. For example, one of the leaders of the Phola Park community was actually at the hearings of the committee in Pretoria on the morning of 27 February 1992 when he received information via a paging device that "Phola Park was under attack from White members of the AWB firing at Phola Park from the Old Vereeniging

Road". This "fact" was based, at best, on the random circumstances described in paragraph 44, but quite probably also on the deliberate initiation of such a rumour as a cover for the murderous intentions of the Phola Park SDU.

65. Maintenance of law and order

65.1 Clearly the primary responsibility for the maintenance of law and order lies with the State, acting through its security forces and the police in particular.

That Tokoza is subjected to such a high level of violence inevitably raises the question of why the security forces are not able to maintain order. Two observations should be made at the outset:

- First, the committee could find no evidence whatsoever of any "third force" activity or involvement of the security forces or any member thereof in any of the incidents, apart from the 32 Battalion incident (on which we have already furnished an interim report).
- Second, as has been reported in relation to each of the incidents in question, the conduct of both the police and the Defence Force at the time of the incidents in question cannot be criticised and should in many respects be complimented (with the solitary exception of the seventh incident).

65.2 The real question is therefore why the security forces are unable to solve the crimes successfully, have the criminals prosecuted and maintain a much higher general state of law and order. Again we found the evidence of Dr De Kock persuasive. The security forces are in many respects "victims" of past policies and practices or of attitudes of the communities in question towards the security forces (which attitudes are themselves a consequence of those past policies and practices). They are, however, also party to aggravating the tensions between themselves and the communities in question by the type of conduct described in paragraph 18. They could be more careful and protective of that relationship.

65.3 As a committee we came to the conclusion that the inability or failure on the part of the security forces to maintain a satisfactory level of law and order and to satisfactorily investigate and subsequently prosecute in respect of crimes committed derive from a very considerable and complex range of factors. However, we believe that this can be summarized in terms of the following four broad factors:

65.3.1 A lack of integration into the community. This is implicit for example in the fact that none of the crimes in question are being investigated by police officers who are either Black or fluent in any of the indigenous languages used by the inhabitants of Tokoza. Nor, obviously, do they live in the Tokoza area.

65.3.2 Polarisation and a combative attitude between the communities in question and the security forces. There is a regrettable lack of respect on the part of the communities in question both for the law and for law enforcement officers. This is a result of historical structures, policies and practices, and instead of the security forces being seen as agents for the protection of the communities and the individual citizen's rights, they are generally perceived as being oppressors.

65.3.3 The resources at the disposal of the security forces. It became evident to the committee, for example, that the security forces were stretched to the limit in policing the funeral procession of Sam Ntuli. They did not have enough men or vehicles to be everywhere, as was necessary if violence was to be prevented. The overall impression gained by the committee was of security forces that are over-extended by the circumstances with which they have to cope, and that would benefit by greater and more appropriate training.

65.4 Rumour and criticism

The committee is satisfied that at least some of the rumour is deliberately initiated as part of the power struggle and

as a cover or to raise the level of suspicion and hence of polarisation. This provides a ripe opportunity for the different groupings to mobilise support. The rumour is a consequence of the first three features of the relationship between the security forces and the communities in question, but is also clearly a cause of the deterioration in the relationship between the security forces and these communities.

RECOMMENDATIONS

1. Unlike other specific incidents that have been the subject of inquiry by committees of the Commission, this inquiry developed into an inquiry into the general malaise of violence in the area in question. Only in respect of the first, fourth and seventh incidents are we able to find a particular grouping responsible for the attacks, and even then neither we nor the investigating officer have been able to say with any certainty which individuals were responsible (with the exception of Ndebele in the third incident).

The evidence was extensive and yet singularly unhelpful in "solving the crime". Moreover, since we found ourselves addressing the general malaise, and since we ourselves had neither the mandate nor the expert evidence nor the expertise to address such broad topics, we came to the conclusion that it would be appropriate for us to make certain broad recommendations in the hope that they will constitute a platform from which to proceed in

addressing the general malaise of violence in this and perhaps other areas where a similar phenomenon exists.

2. The phenomenon

2.1 In view of our conclusion that political rivalry is the primary trigger for the violence, political leaders should take cognisance of the fact that they bear a heavy responsibility to alleviate and not aggravate political tensions at their respective levels. The following points are emphasised in this regard:

2.1.1 It is clear that in the Tokoza area the political rivalry between hostel dwellers and shack dwellers, Zulu-speakers and Xhosa-speakers, Zulus and Xhosas, and migrant workers and those who have their families with them, all tend to resolve themselves into a very simple IFP/ANC tension. The political leaders add fuel to the fire of this tension by the use of political rhetoric, by blaming each other, by hurling insults at each other, and by refusing to be conciliatory towards each other, whereas they could reduce the tension if they were moderate in their language and conciliatory in their behaviour.

2.1.2 The tensions and conflicts between political leaders as perceived at the local level are then

acted out at the local level within the context of the political conflict and the socio-economic deprivation and rivalry that prevail there.

2.1.3 The media, both electronic and written, constitute the primary vehicle for the mass communication of the conflict at the national level. Without that vehicle the conflict at the national level would not be so widely communicated. While we abhor the idea of censorship and are totally opposed to it, it is important that the media are made, and at all times remain, conscious of the fact that they are the disseminators of information which is frequently the trigger for violence and that they bear a heavy responsibility in this regard.

2.2 The ready availability of firearms, and of AK-47s in particular, is clearly a severely aggravating factor in the area. No effort should be spared in identifying the source and distribution routes of such firearms and in removing them.

2.3 The Phola Park SDU has little or nothing to do with defence and much more to do with blatant aggression and also serves as a guise for criminal activity. It does not fall within the ambit of paragraph 3.7.1 of the National Peace Accord. It and any other self-defence units, squads or private armies in the area that act similarly to the Phola Park SDU should

therefore be dissolved and their members who have been involved in violence or crime arrested and charged.

2.4 National political parties and movements and their armies and defence units (such as Umkhonto we Sizwe) should be conscious of the fact that even though they played no part in the establishment of the self-defence and other units described in paragraph 2.3, and even though those units are not subject to their orders, they bear a heavy responsibility in relation to those that "adopt" them. Either they must publicly distance themselves from and disown such units if the units act criminally or violently, or the national organisation or party must accept responsibility for those criminal and violent acts. They cannot have it both ways.

2.5 Rumour is clearly a trigger for violence. Where rumour is deliberately and maliciously started, and is false or is based on a negligently unsubstantiated allegation, it is potentially much more dangerous than a bomb threat, which does in fact carry criminal sanctions. We therefore recommend that urgent consideration be given to imposing criminal sanctions on anyone acting in that way.

3. The socio-economic circumstances

3.1 While political rivalry is the primary trigger for violence, it is clear that the general socio-economic circumstances in the area are the primary cause of violence. It might be

possible to contain the phenomenon (or symptoms) of violence for a period of time through very forceful action, but the cause will always reassert itself until addressed. It is inconceivable that large numbers of people -

- living in close urban concentrations;
- with levels of unemployment in excess of 50%;
- with grossly inadequate housing and basic amenities such as water, sewerage systems and refuse removal;
- with no or negligible social amenities such as medical services, schools or recreation facilities;
- subjected to socially disintegrative forces such as divided and broken families, teenage pregnancy, drug and alcohol abuse, high levels of crime, high levels of violence, and disrespect for the law and law enforcement officers,

will be able to maintain the stability and cohesion necessary for an orderly society for any period of time.

3.2 We therefore conclude that socio-economic development must be undertaken concurrently with the elimination of the triggers for violence and the re-imposition of law and order. We acknowledge that it will frequently be very difficult to undertake development in the area because of the violence and that such development itself might in fact initially aggravate the level of conflict within the community. However, we are convinced that these difficulties will have to be addressed and the development undertaken as a matter of urgency if the basic causes of violence are to be alleviated and not

aggravated. All the development agencies and the public sector at all levels should take note accordingly.

3.3 All authorities and agencies should take cognisance that there is not "a" community but many fractured communities (even in supposedly homogeneous communities such as that of Phola Park). To fail to do so, or worse still to be perceived as supporting one or other faction, could severely aggravate tension and actually trigger violence. Development agencies should take particular note of this point and the security forces should be absolutely meticulous in remaining above political rivalry.

3.4 A complete lack of legitimate, orderly and structured local government based on free and fair elections is a severely inhibiting factor in restoring order and facilitating development. Individuals are able to elevate themselves to positions of power without any accountability to any constituency, and then to aggravate the political conflict in their pursuit of power. It is therefore important that orderly, structured and democratic local government be established in the area at the earliest possible date.

4. Maintenance of law and order

4.1 The relationship between the communities of the Tokoza area and the security forces will have to be altered materially if the security forces are to be effective in -

- maintaining a general and satisfactory level of law and order; and
- investigating and solving crimes.

In certain respects the security forces themselves have been guilty of conduct which aggravated that relationship, and they should at all times be meticulous in working to improve and not damage it. At the same time rumour (some of it deliberate) within the community is very damaging to the relationship and the same comments and recommendations as are made in paragraph 2.5 are applicable.

4.2 However, the general relationship cannot be altered materially in a short period, but will be dependent on a process of "legitimising" the security forces and integrating them into the community which they are responsible for policing. This is a vast and complex subject on which the committee neither heard evidence nor is competent to make recommendations. It is, however, very clear from the evidence heard by us that it is a process that cannot be delayed if the rule of law is to prevail and be respected in the area.

4.3 The human and equipment resources at the disposal of the security forces in the area are clearly inadequate for the role they are expected to play. They are frequently grossly outnumbered by the crowds they have to control and this puts them under threat, which is in itself highly dangerous when

heads and calm actions are called for. This also pre-
 states the use of weapons, frequently of a kind that are
 -specific (such as tear-gas, water cannons, dogs and razor
 e) and that affect the whole crowd, including the inno-
 nt. This has the affect of antagonising the whole crowd,
 d further damages the relationship between the security
 orces and communities in question.

From the evidence it is clear that the terms of the National
 Peace Accord are not effective in the area and that the Local
 Dispute Resolution committee, in particular, is not effec-
 tive. Again, the committee neither heard evidence as to why
 this is so nor is it competent to make recommendations other
 than that, if the National Peace Accord and its institutions
 are to be effective, an appropriate investigation should be
 undertaken.

Specific recommendations

- .1 The committee believes and is convinced that a *prima facie*
 murder case exists against Ndebele and certain members of the
 Phola Park SDU. The said cases should be referred to the
 Attorney-General for a decision in this regard.