

COMMISSION OF INQUIRY REGARDING
THE PREVENTION OF PUBLIC VIOLENCE
AND INTIMIDATION

FIRST INTERIM REPORT

GOLDSTONE REPORT; GK - 1

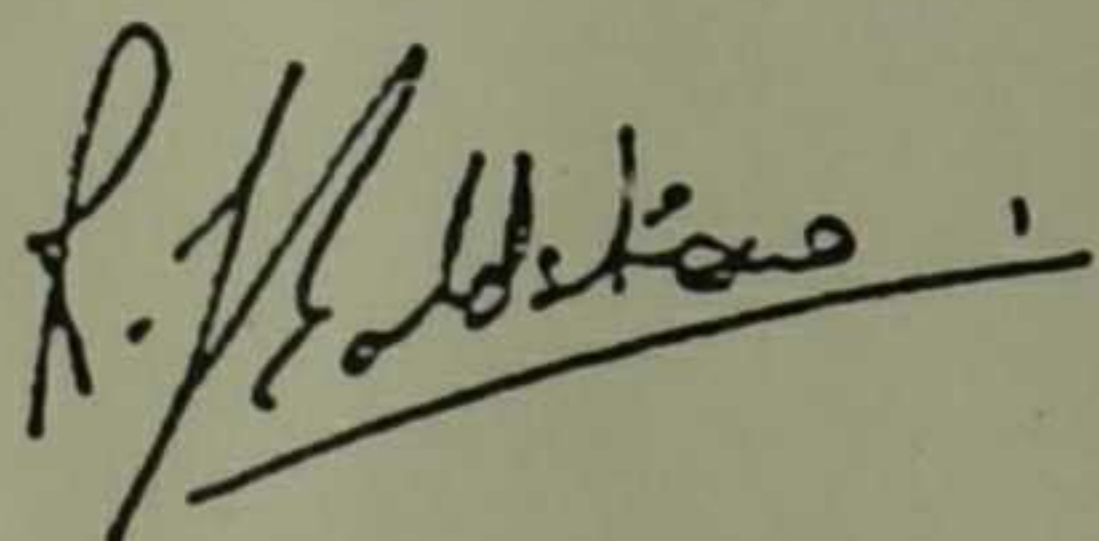
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THE STATE PRESIDENT

THE COMMISSION OF INQUIRY REGARDING THE PREVENTION OF PUBLIC
VIOLENCE AND INTIMIDATION HAS THE HONOUR TO PRESENT ITS FIRST
INTERIM REPORT.



R J GOLDSTONE

CHAIRMAN OF THE COMMISSION

CAPE TOWN

24 JANUARY 1992

THE COMMISSION OF INQUIRY REGARDING THE PREVENTION OF PUBLIC
VIOLENCE AND INTIMIDATION

FIRST INTERIM REPORT

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1. The Commission of Inquiry regarding the Prevention of Public Violence and Intimidation was appointed on 24 October 1991 by the State President in terms of section 3 of the Prevention of Public Violence and Intimidation Act, 1991 (Act 139 of 1991). Its terms of reference are contained in section 7(1) of the Act.

2. The Commission is constituted as follows:

Chairman : Mr Justice R J Goldstone
Vice-Chairman : Adv. D J Rossouw, SC
Member : Adv. M N S Sithole
Member : Ms L G Baqwa
Member : Mr G Steyn

3. The Commission held its first meeting on 28 and 29 October 1991. It discussed its terms of reference and considered the manner in which it should approach the broad mandate given to it. The following broad guide-lines were decided on:

- (a) To emphasise its independence and in particular its independence from the Government and any political party.
- (b) That a primary function of the Commission was to direct and co-ordinate the gathering of facts relating to public violence and intimidation in the Republic.
- (c) That the Commission would not investigate past violence and intimidation save in so far as it might be directly relevant to the prevention of future violence and intimidation.
- (d) That the work of the Commission, save in special circumstances, would be conducted in public.

4. Over 500 written requests for information concerning public violence and intimidation were sent by the Commission to all organisations which might have information relating thereto. These included all political parties, universities, newspaper editors, local authorities and civic associations. In response the Commission received relevant and useful information.

5.1 On 29 October 1991, the Commission established a committee of inquiry into the violence and alleged intimidation in Thokoza,

the East Rand, since 8 September 1991. The allegations appeared to the Commission to reflect aspects of violence which had been reported from various parts of South Africa in preceding months. These included:

- (a) The murder of participants in an Inkatha march.
- (b) The murder of Mr Sam Ntuli, the chairman of the Thokoza Civic Association.
- (c) The murder of people returning from the Ntuli funeral.
- (d) The parlous living conditions in the hostels.

5.2 The Committee inquiring into these events is being chaired by Adv Sithole, sitting with Ms Bagwa and Mr R S K Tucker. The hearings are still in progress and it would be premature to comment on them at this stage. When they are completed the Committee will submit a report to the Commission.

6. In the middle of November 1991 the Commission established a second Committee to inquire into the violence and murders which took place at the President Steyn Gold Mine in Welkom on 3 November 1991 and which were associated with the national stay-away called for by a number of organisations on 4 and 5 November 1991. The terms of reference of this Committee include the relevance to the violence of the hostel system and of the national stay-away. This Committee is chaired by Mr Steyn, who is sitting with Adv. D Bregman, SC, and Mr R Zondo. Its hearings have also not been concluded and in due course it will also report to the Commission.

7.1 During December 1991 a third Committee was established by the Commission to inquire into the procedures relating to the organisation of mass demonstrations, the conduct thereof and the role and duties of the police and other security forces. This Committee was established taking the following into account:

- (a) The fundamental right of free assembly and peaceful protest in a free and democratic society.
- (b) The duty of the police to protect citizens who exercise those rights and members of the public who may be affected by the exercise of such rights.

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- (c) The potential for violence created by unpredictable and undisciplined conduct by mass demonstrators.

7.2 This Committee is under the chairmanship of Mr Justice Goldstone. The other members are Adv. Rossouw and Professor D van Zyl Smit, the Dean of the Faculty of Law of the University of Cape Town. During the week of 13 January 1992 the Committee heard evidence at Mooi River on violence and killings which occurred there on 3 and 4 December 1991. This inquiry was concluded on 21 January 1992. An interim report on urgent aspects of the Mooi River situation will be submitted to the Commission for consideration at its next meeting on 3 February 1992. It should now be reported, however, that the Committee was able to assist materially in the creation of a local dispute resolution committee at Mooi River and that both the IFP and the ANC leaders who will serve on this committee have publicly pledged to work for peace in the area. If any party appears to be blocking the peace process the Committee will return to Mooi River to hold further hearings with regard thereto.

7.3 With regard to mass demonstrations, the Committee has employed the services of leading South African and foreign experts on the subject. Representations have been sought from interested organisations, including the South African Police. In due course the Committee will also hold public hearings.

8. A fourth Committee of the Commission was established during January 1992 to inquire into violence in relation to public transport in South Africa. The need for such an inquiry arose because of the high incidence of violence, including a number of deaths, on trains in certain urban areas and what has been referred to as "taxi wars". The Chairman of this Committee is Adv. Rossouw. The members are Mr Steyn, Adv. B M Ngoepe of the Pretoria Bar and Mr S van Zyl, a Cape Town attorney. Interested parties have been called upon to submit written evidence and the Committee will hold public hearings in due course. Prior to the establishment of this Committee, informal meetings were held by Adv. Rossouw with members of the Cape Town Peace Committee. The Chairman and members

of the Committee also held a meeting with senior members of the security department of Spoornet.

9. On 10 December 1991 the New Nation newspaper referred evidence to the Commission concerning an alleged conspiracy involving two members of the South African Police relating to the abduction and murder of the Chairman of the Civic Association in Schweizer-Reinecke. The evidence included tape recordings of alleged discussions with the policemen concerned. On 17 December 1991 the Commission heard evidence, including that of the two policemen. The policemen denied that it was their voices on the recording. The Commission decided that there was *prima facie* evidence implicating the policemen and the matter was handed over to the Attorney-General of the Transvaal. The attorneys of New Nation and the State Attorney were present during the hearing of the evidence.

10. The Commission was concerned by press reports of the attitudes of the PAC and AZAPO to recent incidents of violence concerning, respectively, the tour of Mr Paul Simon and the murder of policemen. The Commission did not wish to act on the strength of press reports only and has consequently invited the presidents of both organisations to meet with it during the week of 27 January 1992. Further steps will have to be considered in the light of the responses to these invitations.

11. In the Weekly Mail of 3 January 1992 allegations were made concerning the instigation of township violence by a covert operation directed by the South African Defence Force. The Chairman of the Commission immediately requested the Editor of the Weekly Mail to furnish the Commission with any evidence which would tend to establish that such activities were currently continuing. On 9 January 1992, the Minister of Defence, Mr R P Meyer, MP, formally requested the Commission to investigate the allegations. The Commission will begin to hear evidence in Cape Town on 4 February 1992.

12. The Commission has made a number of informal enquiries from the South African Police and other organisations concerning reports of alleged public violence and intimidation. The responses have been helpful and constructive.

13. It is obviously too early to begin to draw conclusions from the information which has already come to the attention of the Commission. In particular, the Committees of inquiry are yet to report. However, the Commission has no doubt that its very existence is serving an important purpose. The fact that there is an independent body which can receive and ask for information in an area which has hitherto been one of secrecy in which rumours have abounded is itself encouraging. The fact that the Commission operates in public stimulates debate on these topics and that is also to the benefit of the public, the Government and political parties and organisations.

14. The Commission is of the view that prompt establishment of and action by its committees may result in the decrease of violence. However, the Prevention of Public Violence and Intimidation Act, 1991, requires committees to have at least three members, one of whom must be one of the five members of the Commission. All the members of the Commission are at present serving on committees and consequently the Commission at this stage is unable to inquire into several situations of violence which require its urgent attention. The Commission recommends that the Act be amended as soon as possible by removing the requirements that a minimum of three persons be appointed to committees and that a member of the Commission should serve on every committee.

15. The Commission would like to express its appreciation for the willingness and enthusiasm with which eminent and busy persons approached by it have agreed to serve on its committees.