COMMISSION OF INQUIRY

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

## FOURTH INTERIM REPORT ON THE VIOLENCE IN THE TAXI & MINIBUS INDUSTRY

## GOLDSTONE REPORT : GK - 19

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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 fourth interim report on the violence in the taxi and minibus industry.

The Commission's committee investigating public violence and intimidation in the taxi and minibus industry has submitted its fourth interim report, which is annexed hereto. The Commission accepts the findings of the report and agrees with its recommendations.

The Commission has decided to submit this report to you at this stage as its publication may be of assistance to the persons and organisations seeking to bring peace, order and co-operation in the minibus industry in the town of Groblersdal and the surrounding areas.

R.J. GOLDSTONE
CHAIRMAN OF THE COMMISSION

PRETORIA
23 FEBRUARY 1993

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THE COMMISSION

Fourth Interim Report to the Commission of Inquiry Regarding the Prevention of Public Violence and Intimidation from the committee established to inquire into public violence and intimidation in the taxi and minibus industry. This report pertains to the circumstances prevailing in Groblersdal and the surrounding areas.

D J ROSSOUW
CHAIRMAN OF THE COMMITTEE

M N S SITHOLE
MEMBER OF THE COMMITTEE

PRETORIA
23 FEBRUARY 1993

# FOURTH INTERIM REPORT TO THE COMMISSION BY THE COMMITTEE INQUIRING INTO PUBLIC VIOLENCE AND INTIMIDATION IN THE TAXI INDUSTRY

## 1. INTRODUCTION

1.1 The inquiry into violence in the minibus industry in Groblersdal and the surrounding areas is an offshoot of the main inquiry into public violence and intimidation in the taxi industry that took place in Cape Town for much of last year; which inquiry will continue on 17 February 1993. Consequently, the committee for Groblersdal, in applying the terms of reference, viz to establish the nature and causes of the violence, the aims of the violence, what persons are involved and what steps are recommended for its cessation, concentrated on these terms of reference as they pertain to Groblersdal in particular.

1.2.1 The committee held its opening session in the Conference Centre of the Loskop Hotel at Groblersdal on Monday, 1 February 1993. Further sessions were held there every day for the rest of that week, concluding with a verbal report, which has been incorporated in this report, on Friday, 5 February 1993. One of the two taxi associations concerned, the Groblersdal United Taxi Association Committee (GUTAC), was legally represented, as was the South African Police. The other taxi association, the Taxi Operators' Peace Initiative Committee (TOPIC) was represented by its chairman, Mr M E Madiba, who is also the Public Relations Officer of the Groblersdal Taxi Association (GTA), one of TOPIC's members.

1.2.2 Viva voce evidence was given by policemen, traffic police, the Town Secretary of Groblersdal and a local businessman. The most important witnesses were Mr M E Madiba, chairman of TOPIC, Mr S M Mogola, chairman of the Nebo Taxi Association (NTA), and Mr M R Mashego, chairman of GUTAC.

1.2.3 During the inquiry we received excellent written submissions. We were accorded every assistance to conduct the inquiry as efficiently and expeditiously as possible. We wish to express our gratitude and appreciation to all concerned.

## 2. BACKGROUND TO THE CONFLICT

2.1 Groblersdal is a town consisting predominantly of White residents, and is surrounded by the KwaNdebele self-governing territory to the south and the Lebowa self-governing territory to the north. The nearest Black township to Groblersdal is Motetema, some eight kilometres distant.

Groblersdal has grown as a commercial centre and attracts customers from the surrounding areas. Years ago customers used to travel to Groblersdal by bus, but increasing use has been made of minibus taxis, to the extent that in 1983 a taxi rank with quite a large capacity was built at the eastern limit of the town for R1,8 million.

2.2 The taxi operators organised themselves into taxi associations, of which the Nebo Taxi Association and the Dennilton Taxi

Association are some of the oldest examples. They were followed by the Jane Furse Taxi Association and the Marble Hall Taxi Association. All these associations used the ranking facilities at Groblersdal in relative peace and administered control themselves. During 1988 an attempt was made to combine the various taxi associations into a joint venture to be called the District of GTA. While this was still in progress the GTA was born. It affiliated itself to SABTA. The way in which the GTA came into being was resented by the older taxi associations and there is evidence that that was the start of the tension that eventually led to open conflict.

2.3 One factor that aggravated the tension seems to have been the policy of the Groblersdal Town Council not to interfere in the running of the ranking facilities, where the GTA gradually took over to the exclusion of other taxi associations.

2.4 The increased tension led to a consumer boycott at Groblersdal with a wide range of demands, inter alia the allocation by the Town Council of taxi pick-up and drop-off points in the town. The Groblersdal Town Council acceded to this demand and 36 such bays were marked out. This, however, did not diminish the tension between the GTA on one hand, which was in practice administering the rank, and the four other taxi associations, which later formed GUTAC. The result was that the 36 zones (as the bays were called) came to be used by GUTAC as a separate ranking facility. This not only created a traffic problem, but these taxis enjoyed an unfair advantage over the taxis using the established rank.

2.5 When numerous attempts to mediate and resolve the problems bore no fruit the Town Council rescinded its decision on the granting of the 36 zones and formally appointed the GTA to administer the established rank. This was seen by GUTAC as partiality on the part of the Town Council.

2.6 Another factor that had an impact on the situation was the granting by the Town Council in March 1991 of 20 permits to use the established rank to members of the June Furse Long Distance Taxi Association (JALDTA), an affiliate of SALDTA. It later transpired that only six permits could validly have been granted. The GTA was prepared to allow the "long-distance taxis" to operate from the Groblersdal rank only if they paid a joining fee of R1 200,00. The question of joining fees is a serious obstacle to peace.

2.7 During 1991 tension increased to the extent that open warfare broke out, resulting in serious loss of life, injury and damage. A number of court cases ensued, but these did nothing to normalise relationships.

## 3. EFFORTS TO COMBAT VIOLENCE

3.1 Since 1988 efforts by various bodies to mediate in the conflict have borne no fruit. Representatives of SABTA and SALDTA visited Groblersdal for this purpose but left - never to return - when it became clear that they could exercise no effective influ-

ence over their affiliates. Efforts by the mogoshi (chiefs) of the area came to nought. As stated, the Town Council was also unable to make headway and unfortunately some of its decisions, however well intentioned, seem rather to have contributed to the tension.

The South African Police also tried their hand and seemingly succeeded in getting three GUTAC members and three members from the GTA, which had by then joined other taxi associations in a committee called TOPIC, to sign a peace agreement on 21 May 1992. The agreement failed to get off the ground because GUTAC repudiated it some months later on the flimsy pretext that the three members who had signed the agreement had done so of their own accord.

3.2 Thereafter, in November 1992, the Northern Transvaal Regional Dispute Resolution Committee undertook mediation and its facilitator, Rev Reddy, was able to get GUTAC and TOPIC to sign the present Groblersdal Taxi Conflict Interim Agreement on 14 December 1992. The agreement was to last until 7 January this year. Fortunately its duration was extended to 7 March 1993 to enable this inquiry to take place.

3.3.1 Our investigation revealed that the Joint Control and Monitoring Committee envisaged by this agreement has not operated because TOPIC interpreted the relevant clause as referring to a committee that would only operate in a crisis instead of a committee to administer Groblersdal and Dennilton ranks on a day-to-day

basis. During our inquiry Mr Madiba, on behalf of TOPIC, declared his association willing to accept the latter interpretation, and to give effect to it.

3.3.2 A further interpretation problem involved joining or membership fees. The GTA charges its members a membership fee of R1 200 and an annual subscription of R50. A weekly ranking fee of R12,50, which goes specifically towards the salaries of queue marshals, is payable by any taxi operator using the rank. The GTA maintains that no membership fees are expected from short-distance operators, but that in the case of long-distance operators with permits stipulating Groblersdal as the point of departure it requires joining fees. GUTAC has not acceded to this.

3.3.3 It seems to us that the resolution of the problem of these membership fees is crucial to the successful operation of the joint committee. Since this is a problem to be solved through negotiation, further steps in that connection do not fall within the terms of the reference of this committee.

## 4. TERMS OF REFERENCE

We will now deal with the terms of reference set out in paragraph 1.1 above, as they apply to Groblersdal.

4.1 Nature of violence. The long catalogue of shootings, assaults and wilful destruction of property leading to a large number of deaths, injuries and damage makes sad reading indeed.

4.2 The parties involved in the violence. As stated, they are taxi operators and other persons supporting TOPIC on the one hand and GUTAC on the other.

4.3 Causes of the violence

4.3.1 There are a variety of causes of the violence in Groblersdal and surrounding areas arising from the taxi conflict. Some causes are immediately apparent; others are underlying causes. Some causes are peculiar to Groblersdal and its environs, while others are common throughout the taxi industry in South Africa.

4.3.2 An over-population of minibus taxis. This is evidenced by the fact that no incidents of violence occur during busy hours. It is also evidenced by the amount of poaching, i.e. taxis plying routes that are not allowed by their permits. Evidence was adduced that in one three-day period 38 arrests for this contravention were made on two routes leading out of Groblersdal.

4.3.3 The ease with which permits were granted at one stage contributed to the explosion in the taxi population.

4.3.4 Economic pressures. The high costs attendant upon participation in the taxi or minibus industry, such as the cost of the vehicle and its maintenance, are aggravated by the high membership fees in the area, which are said to be as much as R5 000

in some cases. The issue of the membership of joining fee mentioned above must rank as a major local cause contributing to tension and hence violence.

4.3.5 The role of the Town Council

4.3.5.1 The Town Council was criticised, as mentioned above, for contributing to the tension through some of its decisions.

4.3.5.2 On the other hand, the Town Council made many attempts to solve the problems. An example of this was the building of the rank.

4.3.5.3 Compared with the rest of South Africa, taxi operators at Groblersdal have very little to complain about as regards the town's ranking facility. As long ago as 1983 the Town Council built the rank, which has shelters, toilets, and space for shops and stalls. Unfortunately the commuters and operators do not make enough of an effort to keep it clean by using the rubbish bins that are available. Not surprisingly the Town Council left the administration of the rank to the taxi associations, as a lessor would have had his lessee in control. The Town Council has recently spent R150 000 on upgrading the rank and is set to spend more money on this undertaking.

4.3.5.4 In the present case a greater degree of interest in the administration of the rank by the taxi associations might well have proved beneficial.

4.3.6 Lawlessness. One major cause of the violence experienced in the taxi industry in this area is the reluctance of taxi operators to abide by the rules. As mentioned, 38 arrests were made in three days for contraventions of the law. The high number of shootings and attacks with firearms bears witness to a culture of taking the law into one's own hands.

The provisions of successive mediated agreements, including the current one, were and are breached in any way that suits the signatories.

4.3.7 Greed. There is a high degree of intolerance, selfishness and greed which militates against co-operation and bedevils attempts at mediation, as is borne out by the sad history of failed attempts at negotiation, which I mentioned above.

4.3.8 Power struggle. Underlying many of the objections to suggestions to remove obstacles to co-operation is a power struggle. Each association regards its territory as its sole kingdom and non-members of the association are not welcome.

4.4 So far, this power struggle has involved mere personal aggrandisement, and does not have any political objective. However, as long as this power struggle is not diffused into meaningful co-operation leading to peace, there is a serious danger that the whole situation may become politicised. Should that happen, it will complicate the search for peace immeasurably.

## 5. RECOMMENDATIONS

5.1 The chairmen and members of each of the taxi associations concerned should address the causes of the public violence and intimidation that have been outlined above.

5.2 The intolerance, selfishness and greed and the lust for power to which we have referred above should be recognised and abandoned. The admonitions contained in paragraph 8.1 of this committee's third interim report are also apposite in this case:

> "Resorting to any kind of physical violence is unacceptable. Not only should each operator withhold himself from indulging in any kind of physical harm to others, he should actively discourage those who want to do so.

All members of both taxi associations should practise tolerance and refrain from provocative acts such as jumping a queue or illicitly using a route or pick-up point. The temptation to assume power in order to dictate to others should be resisted at all costs. Succumbing to this temptation leads to resentment and friction and also fosters the lawlessness that is so widespread in the industry.

Minibus operators are subject to the law just like every other citizen. Mustering members to threaten and intimidate others will not win their willingness to co-operate.

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> What is needed ... is greater empathy with others who are subject to similar stresses, less selfishness, more talking to resolve problems, less anger, greater respect for the rights of other operators, and a genuine desire to provide safe and efficient transport for commuters. In short, unless every person in the minibus industry wants peace and works towards it, all efforts to combat violence are doomed to failure."

5.3 The successful mediation, so far, by the RDRC in the person of its facilitator, the Rev Reddy, should not be allowed to fail. Mediation leading to concrete and meaningful co-operation among taxi associations and with regard to the administration of the ranks and the general conduct of the industry is the only road to peace. Resorting to arms has accomplished nothing but fear, grief and anger. The members of GUTAC and TOPIC are enjoined to work genuinely towards peace. This will inevitably mean that some of the control and power that each of the taxi associations now have will have to be relinquished in order to co-operate with each other in the interests of the public. In particular, the question of a membership fee that presents a serious obstacle to co-operation should be resolved urgently. Moreover, the provisions of the peace agreement should be regarded as binding and should be scrupulously observed. Signatories should be slow to presume breaches by other signatories and such complaints should, at any rate, be discussed and unilateral action should be avoided.

5.4 Proper control at the ranks is important and the joint control and monitoring committee as envisaged by the present interim peace agreement will have an important role to play when it comes into operation. The marshals who control the ranks should be employees of the joint committee and should, if possible, not be taxi operators of members of a taxi association; this will ensure neutrality. A code of conduct for marshals should be drawn up. A suitable procedure to ensure the impartial, orderly and efficient passage of minibuses at the ranks should be implemented.

5.5 The Town Council of Groblersdal took the excellent step of providing a rank and thereafter attempted to mediate in the conflict. Its failure to negotiate peace has led to the complete withdrawal by the Town Council from the affairs of the taxi industry. We believe that some concrete interest on the part of the Town Council of Groblersdal, even if at first this involves no more than appointing a sympathetic person to serve as a listening post, may well have a settling effect.

5.6 As has been said in previous reports, training in business and driving skills would contribute to improving the situation.

5.7 Lastly, fair but firm and consistent law enforcement that is sensitive to the situation is needed to combat the culture of lawlessness that has arisen in the area.

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DIE STAATSPRESIDENT

1. Die Kommissie van Ondersoek insake die Voorkoming van Openbare Geweld en Intimidasie het die eer om sy vyfde tussentydse verslag oor taxigeweld aan u voor te lê.

2. Die Kommissie se komitee wat ondersoek instel na openbare geweld en intimidasie in die taxi- en minibusbedryf het sy vyfde tussentydse verslag ingehandig, wat hierby aangeheg is. Dit is 'n omvattende verslag en sou die finale verslag gewees het, was dit nie vir een aangeleentheid waarna die ondersoek nog nie afgehandel is nie, naamlik die rol wat die Suid-Afrikaanse Polisie in die taxigeweld in Kaapstad gespeel het.

DIE OORSAKE VAN TAXIGEWELD

3. Dit blyk uit die verslag dat politieke mededinging en politieke verbondenheid nie oorsake is van die geweld wat met die taxibedryf geassosieer word nie. Daar is bevind dat die belangrikste oorsake, in historiese volgorde, die volgende is:

3.1 DIE INVLOED VAN APARTHEIDSWETTE OP VERSTEDELIKING

3.1.1 Grootskaalse en snelle verstedeliking en die versuim, vanweë apartheidswette, deur die Regering of plaaslike owerhede om selfs net rudimentêre vervoerfasiliteite te verskaf aan die groot getalle mense vir wie dit 'n daaglikse noodsaaklikheid was.

3.1.2 Die opkoms van die gereelde minibustaxibedryf onder die volle [illegible] en beskerming van die wet ten opsigte van gebiede wat kragtens apartheidswette as [illegible].

3.1.3 Die opkoms van die onreëlmatige of "roof-" minibustaxibedryf ten opsigte van gebiede waar swartes in informele of "onwettige" nedersettings gebly het.

3.1.4 Die konflikte wat ontstaan het as gevolg van die historiese skeidings tussen mense, wat weerspieël is in die taxibedryf wat hulle bedien het.

(Sien paragraaf 3.1 van die verslag.)

KOMMERSIëLE FAKTORE

3.2.1 Die onvermoë van 'n vryemarkstelsel om te slaag vanweë -

3.2.1.1 die koste en vertragings wat verband hou met die permitstelsel;

3.2.1.2 die afwesigheid van besigheidsvaardighede en -sofistikasie by baie van die operateurs;

3.2.1.3 die afwesigheid van begrip van of vertroue in markfaktore;

3.2.1.4 die invloede van onbillike mededinging deur die bus- en treindienste wat swaar deur die Staat gesubsidieer is;

3.2.1.5 die meer onlangse agteruitgang van die hele ekonomie en die invloed van inflasie op lopende uitgawes; en

3.2.1.6 gevolglike oorbelading en die noodsaaklikheid van spoed ten einde 'n hoë omset van passasiers te verseker

(Sien paragraaf 6.2 van die verslag.)

3.3 DIE ROL VAN DIE DEPARTEMENT VAN VERVOER

3.3.1 Afwesigheid van antisipasie en gebrek aan beplanning.

3.3.2 Gebrek aan kommunikasie met die persone betrokke by die taxibedryf.

3.3.3 die geheimhouding en gebrek aan deursigtigheid in die stelsel van die uitreiking van permitte deur plaaslike padvervoerrade en, meer spesifiek, die afwesigheid van redes vir die weiering van permitte en die buitensporige gelde vir appèlle.

3.3.4 Vanweë die faktore wat in 3.3.3 genoem is, die persepsies van korrupsie en onbillikheid aan die kant van die amptenare. Die komitee het bevind dat spesifieke bewerings van korrupsie en partydigheid sonder feitelike regverdiging is.

3.3.5 Die onbilligheid van die subsidiestelsel vir bus- en treinvervoer.

3.3.6 Die afwesigheid van behoorlike beplanning en kommunikasie met persone betrokke by die bedryf met betrekking tot wat "deregulering" genoem is, en wat in werklikheid die wettiging van "roofoperateurs" beteken het.

3.3.7 Die ernstige gebrek aan personeel by die [illegible] Departement van Vervoer.

(Sien pa[illegible].3 van die verslag.)

3.4 GEBREK AAN WETSTOEPASSING

3.4.1 In gebiede waar daar genoeg mannekrag en fasiliteite was, het doeltreffende wetstoepassing 'n positiewe invloed gehad en geweld en intimidasie laat afneem.

3.4.2 Die afwesigheid van behoorlike wetstoepassing in die meeste gebiede het die regstelsel en die doeltreffendheid van die hele beheerstelsel onder verdenking gebring.

(Sien paragraaf 6.4 van die verslag.)

3.5 AFWESIGHEID VAN FASILITEITE

In baie stede en dorpe is daar onvoldoende staanplekfasiliiteite, en dit gee aanleiding tot baie probleme.

(Sien paragraaf 6.5 van die verslag.)

3.6 ONVERDRAAGSAAMHEID EN MAGSTRYDE

3.6.1 Soos blyk uit die mondelinge tussentydse verslae van hierdie komitee en ook uit hierdie verslag, lê baie van die blaam vir die geweld by die operateurs self. Daar word nie onverdraagsaamheid, selfsugtigheid, uittarting en hebsug.

3.6.2 In min gevalle was die operateurs of die organisasies in die bedryf bereid om nuwe stelle in verband met die probleme te aanvaar, laat staan nog te erken.

3.6.3 In laaste instansie is die oorsprong van geweld deur swart-op-swart die onmiddellikste oorsaak van die geweld.

(Sien paragraaf 6.6 van die verslag.)

AANBEVELINGS

4. Die komitee vestig die aandag op die feit dat sy lede nie deskundiges op die gebied van vervoer is nie. Voorts het hy getuienis aangehoor oor 'n tydperk van langer as 'n jaar en menings is aangehoor van mense (met inbegrip van deskundiges) betrokke by die meeste velde in die bedryf.

5. In hierdie omstandighede sou dit klaarblyklik jammer wees as die komitee nie sy oorwoë menings oor baie van die aanbevelings, wat deur so baie getuies gedoen is, openbaar maak nie. Die Kommissie verwelkom en waardeer sonder voorbehoud die sorg wat aan die dag gelê is in die volledige en nuttige bespreking in die deel van die verslag wat aan aanbevelings gewy is.

(Sien paragrawe 9 - 17 van die verslag.)

6. Vir maklike verwysing volg 'n opsomming van die komitee se aanbevelings hier:

6.1 Die taxibedryf moet nie in die afsienbare toekoms gedereguleer word nie, en nie voordat informele dorpe en nedersettings gevestigde en vreedsame gemeenskappe geword het nie. Op 'n meer positiewe noot moet die vordering van die bedryf in die rigting van deregulering gepaard gaan met die verbetering in die lewensgehalte wat die gemeenskappe wat deur die bedryf bedien word, geniet.

(Sien paragraaf 11 van die verslag.)

6.2 Die plaaslike padvervoerrade is gediskrediteerde liggame en die vervanging daarvan deur ander statutêre liggame sal waarskynlik nie tot groter sukses lei nie. Ten einde voorsiening te maak vir regulering in die toekoms, steun die komitee die volgende voorstelle as riglyne:

6.2.1 Vir langtermynstabiliteit in die taxibedryf moet 'n werklike vennootskap aangegaan word tussen taxiverenigings wat taxi-operateurs verteenwoordig en die beheerowerheid.

6.2.2 Die beheerowerheid moet 'n statutêre liggaam wees met die bevoegdheid om maatstawwe neer te lê wat nodig is vir toelating tot die minibustak.

6.2.3. Permitte moet op plaaslike vlak uitgereik word, met behoorlike inagneming van heersende plaaslike omstandighede.

6.2.4 Daar is 'n lys met van die maatstawwe wat in ag geneem moet word by die toestaan van 'n permit (sien paragraaf 12.16.4 van die verslag).

6.2.5 Elke besluit van die uitreikingsliggaam moet onderworpe wees aan 'n eenvoudige, goedkoop vorm van appèl, en daar moet 'n onafhanklike, toeganklike klagtebehandelingsprosedure op plaaslike vlak wees.

Die Kommissie dit die mening van die komitee onderstreep dat die bestaande stelsel van regulering vervang behoort te word deur 'n stelsel wat die plek van die minibus in die bedryf erken en die belange van elkeen beskerm - passasiers, taxi-operateurs en die breë publiek.

(Sien paragraaf 12 van die verslag.)

Die beginsel dat enige sektor van die vervoerbedryf subsidies deur kontantbetalings, word nie gesteun nie. Oorweging moet egter geskenk word aan indirekte subsidies uit

die private sektor, veral met betrekking tot die verbetering van fasiliteite.

(Sien paragraaf 13 van die verslag.)

6.4 Alle verteenwoordigende organisasies in die bedryf (op plaaslike, streek- en nasionale vlak) moet geïdentifiseer en ten volle betrek word by oorlegpleging in verband met die formulering van plaaslike, streek- en nasionale vervoerbeleide.

(Sien paragraaf 14 van die verslag.)

6.5 Verbeterde opleidingsfasiliteite vir alle persone betrokke by die taxibedryf moet verskaf word met die hulp van die georganiseerde handel en nywerheid.

(Sien paragraaf 15 van die verslag.)

6.6 In baie gebiede moet plaaslike owerhede en plaaslike taxiverenigings as 'n saak van dringendheid maniere en middele bespreek en implementeer om taxistaanplekfasiliteite onmiddellik te verbeter. Die komitee verwys met waardering in hierdie verband na die stelsel wat in Durban in bedryf is.

(Sien paragraaf 16 van die verslag.)

6.7 Die komitee erken die probleme wat al die wetstoepassingsliggame in Suid-Afrika tans in die gesig staar. Spesonderlik beveel die komitee aan dat die funksies wat tot nog toe deur inspekteurs van die Departement van Vervoer verrig is, aan plaaslike owerhede en spesifiek die verkeerspolisie oorgedra word. Die Departement van Justisie word dringend versoek om 'n program te ontwikkel wat die spoedige en doeltreffende verhoor sal verseker van persone wat beskuldig word van taxiverwante misdade, waar daar 'n moontlikheid is dat getuies geïntimideer kan word of kan verdwyn. Die polisie moet gemeenskapsleiers op die hoogte hou van die vordering met ondersoeke.

(Sien paragraaf 17 van die verslag.)

6.8 Elke plaaslike owerheid moet minstens een persoon aanstel om met die plaaslike taxiverenigings en leiers van die gemeenskappe wat hulle bedien, te skakel.

(Sien paragraaf 17.5 van die verslag.)

6.9 Geskilbeslegtingsmeganismes moet geskep word waarby alle belanghebbende partye betrokke is - op plaaslike, streek- en nasionale vlak.

(Sien paragraaf 18.1-18.3 van die verslag.)

6.10 Die huidige appèlstelsel van plaaslike padvervoerrade moet onmiddellik vereenvoudig word en toeganklik gemaak word. 'n Ombudsman moet aangestel word om alle tersaaklike verrigtinge van die owerhede na te gaan.

7. Die Kommissie wil ten slotte die aandag vestig en klem lê op die komitee se mening dat die oplossing vir 'n groot deel van die probleme in die hande van die taxi-operateurs self lê.

(Sien paragraaf 19 van die verslag.)

8. Die Kommissie is dank verskuldig aan die lede van die komitee vir hulle toewyding. Hulle het in 'n aantal stede en dorpe gesit met heelwat ongerief vir hulleself. Hulle het dit gedoen ooreenkomstig die beleid van die Kommissie dat sy ondersoeke, waar moontlik, gehou moet word so na moontlik aan die mense wat geraak word deur die geweld wat ondersoek word.

9. Die Kommissie spreek die hoop uit dat die bespreking en aanbevelings vervat in die verslag van hulp sal wees om die vlak van geweld te verlaag en die probleme in die taxibedryf op te los.

R J GOLDSTONE
VOORSITTER VAN DIE KOMMISSIE

KAAPSTAD
26 JULIE 1993

VYFDE TUSSENTYDSE VERSLAG AAN DIE KOMMISSIE VAN ONDERSOEK INSAKE DIE VOORKOMING VAN OPENBARE GEWELD EN INTIMIDASIE DEUR DIE KOMITEE WAT ONDERSOEK INSTEL NA OPENBARE GEWELD EN INTIMIDASIE IN DIE TAXIBEDRYF

D J ROSSOUW, SC
VOORSITTER VAN DIE KOMITEE

L S VAN ZYL
LID VAN DIE KOMITEE

KAAPSTAD
26 JULIE 1993

VYFDE TUSSENTYDSE VERSLAG AAN DIE KOMMISSIE DEUR DIE KOMITEE WAT ONDERSOEK INSTEL NA OPENBARE GEWELD EN INTIMIDASIE IN DIE TAXIBEDRYF

## 1. INLEIDING

Die komitee wat aangestel is om ondersoek in te stel na die openbare geweld en intimidasie wat in onlangse jare verwoesting in die openbare vervoerbedryf en veral die minibus- of taxisektor gesaai het, het besluit om hierdie verslag voor te lê vanweë die voortslepende konflik in die bedryf in verskeie dele van die land. Dít, en die tyd (langer as 'n jaar) wat tot dusver aan die ondersoek bestee is, het die komitee daarvan oortuig dat hy die uitvoering van sy mandaat geensins verder moet vertraag nie, ondanks die feit dat getuienis oor die rol van die Suid-Afrikaanse Polisie tydens die konflik in Wes-Kaapland nog onvolledig is. Die rol en invloed van die SAP was nie 'n primêre oorsaak in die konflik in Wes-Kaapland nie en aangesien dit 'n identifiseerbare en afsonderlike aangeleentheid is, moet 'n gevolgtrekking daaroor oorstaan tot nadat hierdie tussentydse verslag aan die Kommissie voorgelê is.

## 2. WERKWYSE VAN DIE KOMITEE

2.1 Die komitee wat aangestel is om ondersoek in te stel na openbare geweld en intimidasie, het sy eerste sitting op 16 Maart 1992 in Kaapstad gehou. In daardie stadium het die komitee bestaan uit adv D J Rossouw (Voorsitter), mnr L S van Zyl, mnr B M Ngoepe en mnr G Steyn. Gedurende April is die komitee verdeel sodat 'n ondersoek na treingeweld aan die Rand kon begin. Die hersaamgestelde komitee wat met die ondersoek na taxigeweld voortgegaan het, het bestaan uit adv D J Rossouw (Voorsitter) en mnr L S van Zyl. Die getuienis voor die komitee is gelei deur sy regsbeampte, adv J Slabbert. Lt Van Rensburg van die S[illegible] is gesekondeer om hulp te verleen met die administrasie.

Die komitee boekstaaf graag die dank wat hy aan adv Slabbert verskuldig is. Nie net het hy die meeste van die organisering van die sittings by verskillende plekke op sy skouers geneem nie, maar hy het ook lywige korrespondensie gevoer om agter feite te kom en getuies te identifiseer, en hy het elke getuie wat getuig het, geraadpleeg en sy getuienis gelei. Sy finale voorleggings was van hoë gehalte en, saam met dié van adv J A le Roux, van groot waarde vir die komitee.

2.2 Die komitee het in die openbaar getuienis aangehoor op verskeie plekke (daar was drie of vier geslote sittings) oor ongeveer 60 werkdae gedurende die tydperk 16 Maart 1992 tot 31 Maart 1993, toe die laaste voorleggings ontvang is. Ons [illegible] ontvang [illegible] verlede jaar.

2.3 In die loop van die jaar waarin die ondersoek gedoen is, het die komitee ook op vier ander plekke gesit, naamlik Pretoria, Alexandra, Groblersdal en Pietersburg, om spesifiek ondersoek in te stel na geweld in die taxibedryf in die gemeenskappe van Midrand (Ivory Park), Alexandra in Johannesburg, Groblersdal en Pietersburg. Hierdie sittings het plaasgevind op 11 Junie 1992, 30 September tot 16 Oktober 1992, 7 tot 8 Desember 1992 en 1 tot 5 Februarie 1993. Die resultate van die eerste drie ondersoeke is afsonderlik hanteer in ons tweede, derde en vierde tussentydse verslae. Afskrifte van hierdie verslae word volledigheidshalwe aangeheg. Die ondersoek wat in die tweede week van Desember 1992 te Pietersburg plaasgevind het, is onvolledig; vanweë omstandighede hieronder uiteengesit, is geen verslag ingedien nie.

2.4 Hoewel elke gebied waar konflik voorkom faktore of omstandighede kan hê wat eie aan daardie gebied is, en hoewel die onmiddellike oorsaak van geweld in een gebied kan verskil van dié in 'n ander, toon die kernoorsake van konflik en uiteindelik van geweld in alle gebiede sigbare ooreenkomste. Dit word hieronder behandel.

2.5.1 Die komitee het gepoog om sy sittings by die verskillende genoemde plekke so na moontlik te hou aan die sentrum van die konflik. By elk van die ondersoeke in Kaapstad op die ander plekke het die komitee nou saamgewerk met persone en liggame wat in die geskille bemiddel het. Direkte bemiddeling (met die hulp van vredeskomitees) het plaasgevind na die ondersoeke te Alexandra, Pietersburg en Groblersdal. In die meeste gebiede is vergaderings met die protagoniste in die konflikte gehou ten einde te probeer om blywende vrede te bewerkstelling.

In Alexandra het 'n baie belowende vergadering plaasgevind onmiddellik na die afsluiting van die formele ondersoek. [Sien paragrawe 5 en 6 van die Derde Tussentydse Verslag (Alexandra).] Ongelukkig moet daar verslag gedoen word dat ARMSTA twee maande nadat hierdie hoopvolle punt bereik is, steeds geen van die voorgestelde stappe geïmplementeer het nie. As 'n direkte gevolg daarvan het die gevegte weer begin en is meer lewens geëis.

Dit wil voorkom of daar aan die ooreenkoms tussen die strydende partye op Groblersdal geloof geheg word bloot deurdat die verskillende partye uit mekaar se pad bly. [Sien paragraaf 3: "Pogings om geweld te beëindig" van die Vierde Tussentydse Verslag (Groblersdal).]

Nadat getuienis 'n paar dae lank gedurende die tweede week van Desember 1992 te Pietersburg aangehoor is, het die komitee sy pogings daarop gerig om 'n vredesooreenkoms tussen die partye te bereik. Ongelukkig het die vrylating op borgtog van persone wat in hegtenis geneem is vir gewelddadige oortredings tydens die taxikonflik, die poging so erg ontwrig dat dit geag is nóg veilig nóg raadsaam te wees om die ondersoek onmiddellik te hervat. Met verloop van tyd het die inisiatief verlore gegaan en die ondersoek is gestaak tot tyd en wyl omstandighede weer gunstig is.

2.5.2 Dit is moeilik om direkte getuienis te verkry oor waarom hierdie vredespogings misluk het. Die komitee kom tot die gevolgtrekking dat dieselfde faktore wat aanleiding gegee het tot die konflik in die verskillende gemeenskappe wat besoek is, in 'n mindere of meerdere mate steeds 'n rol bly speel het.

## 3. DIE KAAPSTAD-ONDERSOEK

3.1 By die sittings te Kaapstad is die African National Congress, die Black Sash, die Urban Monitoring Awareness Committee en die Kaapstadse Vredeskomitee verteenwoordig deur adv John van den Berg, in opdrag van Mallinick, Ress, Richman en Closenberg. Die Departement van Vervoer is verteenwoordig deur adv J A le Roux en die Suid-Afrikaanse Polisie deur adv G D Griessel, SC, en adv J J Olivier. Aan albei hierdie regspanne is opdrag gegee deur die Staatsprokureur.

3.2 Die getuienis van die 35 getuies wat voor die komitee verskyn het, beloop 4 500 bladsye. Memoranda, verslae en verklarings wat ingehandig is, beslaan 'n verdere 2 500 bladsye.

Die getuies het getuig oor 'n reeks onderwerpe wat tersaaklik is vir die ondersoek. Onder hierdie getuies was verteenwoordigers van verskillende sektore van die openbare vervoerbedryf, met inbegrip van taxi-operateurs; getuies wat direk getuig het oor aspekte van die gevegte en dié wat 'n agtergrond en geskiedenis gegee het van die konflik; getuies met wye ervaring van dorpsbeplanning en verkeerspatrone en -beheer; beamptes van die Departement van Vervoer, die plaaslike padvervoerraad, die Kaapstadse Munisipaliteit, 'n bank en die Suid-Afrikaanse Polisie; en inwoners van die swart dorpe en pendelaars.

3.3 Die komitee het 'n versoek van lede van CODETA eerbiedig om nie daarop aan te dring dat voormalige protagoniste in die openbaar getuienis lewer oor vorige tweespalt nie, uit vrees dat dit die bietjie vertroue wat bestaan, kan skaad en tot hernude geweld lei. Ons het in die privaat met hierdie taxi-operateurs vergader, aangesien ons van mening was dat indien

die komitee daarop sou aandring dat formele prosedures gevolg word, die beskikbare inligting verlore sou gaan. Daar is dus besluit dat enige toepaslike inligting, hoe informeel dit ook al verkry is, beter is as hoegenaamd geen inligting. Die reg om inligting op hierdie wyse in te samel, steek die hand van die komitee en stel persone wat andersins onwillig sou wees om met inligting na vore te kom, in staat om voor die komitee te verskyn. Die komitee het in hierdie verslag gesteun op inligting wat so ingesamel is indien dit óf nie betwis is nie óf algemene kennis was óf versoenbaar was met getuienis wat in die oop sittings gelewer is.

3.4 Die komitee besef dat die onderwerp van die ondersoek so omvangryk en kompleks is dat 'n aantal kwessies moontlik nie genoeg aandag in getuienis geniet het nie, terwyl ander moontlik oorbeklemtoon is. Insgelyks is dit moontlik dat hierdie verslag nie aan elke aspek van die kwessie ten volle reg laat geskied nie. Hierdie probleem is deur die Appèlhof erken in die saak R v Dhlumayo and Another 1948(2) SA Law Reports, p 677, op p 702 waar die volgende ten opsigte van hofuitsprake gesê is:

> "Indeed, even in a written judgment it is often impossible, without going into the facts at undue length to refer to all the considerations that arise. Moreover, even the most careful Judge may forget, not to consider, but to mention some of them. In other words, it does not necessarily follow that, because no mention is made of certain points in the judgment that they have not been taken into account by the trial Judge in arriving at his decision. No judgment can ever be perfect and all-embracing. It would be most unsafe invariably to conclude that everything that is not mentioned has been overlooked"

4. DIE OPDRAG

Die Kommissie het aan hierdie komitee by die aanstelling daarvan dieselfde opdrag gegee as wat bepaal is in artikel 7 van die Wet wat die Kommissie ingestel het, Wet No. 139 van 1991, naamlik -

> "om vas te stel wat die aard en oorsaak is van die geweld en intimidasie, of dit gerig is op die bereiking van enige politieke doelstellinge, watter persone daarby betrokke is en watter stappe gedoen moet word om dit te beperk of te voorkom."

Ons sal nou hierdie opdrag hanteer.

5. DIE AARD VAN DIE GEWELD

5.1 In die eerste tussentydse verslag is 'n beskrywing gegee van die gebeure wat die agtergrond gebied het vir die konflik

in Wes-Kaapland. Die verdere verloop van die konflik in dié gebied kan kortliks soos volg opgesom word:

5.1.1 Gedurende 1990 was die situasie relatief vreedsaam, maar in September/Oktober 1990 het konflik ontstaan oor toegang tot die Strandstraat-staanplek buite die Goue Akker in die middestad van Kaapstad. Die Taxi Crisis Committe (TCC) is gevorm, en sake was vreedsaam tot Februarie/Maart 1991, toe die dorpsraad van Lingulethu-Wes 'n staanplek op Perseel C aan LAGUNYA toegestaan het. Dit het gelei tot ernstige grootskaalse geweld in veral die Khayelitsha-gebied. Die gemeenskap het 'n boikot teen alle taxi's ingestel, en onder leiding van die nuwe Taxi Crisis Co-ordinating Committee (TCCC) het die partye op 10 April 1991 die 10-puntplan onderteken.

5.1.2 Kort nadat die boikot beëindig is, het WEBTA hom egter aan die ooreenkoms onttrek en 'n verdere boikot teen WEBTA-taxi's is uitgeroep, met beperkte sukses. Die gemeenskap is geleidelik by die konflik betrek, en op 2 Julie 1991 is 'n WEBTA-lid by die vergaderplek van 'n "vredesvergadering" om die lewe gebring en op 8 Julie 1991 is ene Michael Mapongwana (van die Western Cape Taxi Association) doodgemaak (blykbaar uit weerwraak).

5.1.3 Op 11 Julie 1991 is 'n tussentydse ooreenkoms oor die toewysing van staanplekke en roetes bereik, en pogings is aangewend om lenings te herskeduleer. WEBTA het begin om terug te keer na die paaie, maar toe hy probeer het om toegang tot Khayelitsha te verkry, is sy voertuie aangeval. Gedurende September 1991 het WEBTA 'n aanval op Khayelitsha gedoen en menseslagtings, ontvoerings en skade aan voertuie het onverpoos voortgeduur. In September 1991 het WEBTA LAGUNYA van die Nyanga-busterminus verdryf, en LAGUNYA het hom in KTC gevestig, waarvandaan hy teenaanvalle op WEBTA gedoen het. Dit het weer daartoe gelei dat WEBTA die mense van KTC aangeval het wat in hulle oë LAGUNYA "beskerm" het. Die gemeenskap het die kant van LAGUNYA gekies, en WEBTA kon nie in Khayelitsha ingaan nie.

Dit is uit die getuienis duidelik dat die swart gebiede in Wes-Kaapland in 'n soort oorlogsone verander het. Aanvalle [illegible] tussen WEBTA, LAGUNYA en die gemeenskap het op groot skaal plaasgevind. Moord, brandstigting, ontvoerings en intimidasie het die minibustaxibedryf lamgelê en gelei tot grootskeepse verliese aan huise, lewens en voertuie.

5.1.4 Nadat geen onderhandelde skikking bereik kon word nie, het die Kaapstadse Vredeskomitee versoek dat 'n kommissie van ondersoek aangestel word. November en Desember 1991 was stil, skynbaar vanweë die teenwoordigheid van die SAW, die nuutgestigte "taxi-eenheid" van die SAP en die terugkeer na Transkei van baie van die operateurs. Op 31 Januarie 1992 is 'n vredesooreenkoms aangekondig, maar net die volgende dag (1 Februarie) het hernude geweld uitgebreek; etlike honderde plakkershutte is in Black City met die grond gelykgemaak en WEBTA is van die Nyanga-staanplek verdryf. Die SAP het die staanplek gesluit, en die ANC het 'n nuwe boikot uitgeroep.

5.1.5 Gelukkig het die onvermoeide pogings van die vredemakers begin vrugte afwerp en onderhandelings is hervat. In Maart 1992 is CODETA gestig. Die komitee is bemoedig deur dié ontwikkeling, wat vrede na die geteisterde gemeenskappe in hierdie deel van Suid-Afrika gebring het. Die partye by die skietstilstand moet daarmee gelukgewens word dat hulle dit laat slaag het ondanks die spanninge wat van tyd tot tyd voorgekom het. Sedert 31 Maart 1993 het geweld weer opgevlam maar nie, so meen ons, tussen die taxiverenigings van voorheen nie. Die komitee is nie van mening dat 'n doel gedien sal word deur die verdere vertraging van hierdie verslag vanweë 'n ondersoek na die nuwe konflik nie en spreek die hoop uit dat dit opgelos sal word.

5.1.6 Aan die begin van 1993 was een raming van die verliese wat in die swart dorpe in Wes-Kaapland gely is, dat meer as 70 mense hulle lewens verloor het, skade van meer as R4 miljoen aan voertuie aangerig is en skade van meer as R25 miljoen aan ander eiendom, wat gelei het tot droefheid, ongerief, verlies aan verblyf, eiendom en inkomste. Dit het weer gelei tot agterstallige betalings van R10 miljoen in Wes-Kaapland; gedurende die hoogbloei van die boikot is 90 tot 100 voertuie per maand teruggeneem.

Hierdie statistieke lig die futiliteit van geweld as 'n metode om probleme te hanteer, sterk uit: dit dien net om meer en groter probleme te skep.

Miskien is die hartseerste aspek van hierdie gruwelike statistieke dat dit net 'n gedeelte van die totale verliese in die land verteenwoordig. Daar is rede om te glo dat die statistieke in ander probleemgebiede soos Soweto, Klerksdorp, Springs en die Verre Noord-Transvaal, om maar enkeles te noem, net so verskriklik is.

5.2 Die ander tussentydse verslae het uiteensettings bevat van die geskiedenis en die aard van die geweld in die gebiede waaroor hulle handel. Wat volg, is 'n skets van verskillende manifestasies van die geweld.

5.2.1 In hierdie ander gebiede is heelwat van die geweld duidelik gemik op die uitskakeling van die opposisie in 'n magstryd om staanplekke en roetes te beheer; dit is 'n stryd om beheer oor die bedryf in 'n bepaalde gebied. Baie van hierdie geweld is voorbedag en gewetenloos; dit bestaan uit aanval en teenaanval. Die geskiedenis van die konflik in sowel Alexandra as Groblersdal getuig hiervan. In hierdie wraakaanvalle is onskuldige passasiers en voetgangers dikwels die slagoffers van geweld. Groep A sal byvoorbeeld verby 'n taxi van Groep B ry, waar dit ook al is - 'n staanplek, winkelsentrum of woongebied - en daarop losbrand. In een voorval te Alexandra is 'n bestuurder en twee passasiers in 'n aanval gedood en vyf passasiers beseer, en in 'n ander voorval is 'n voetganger by 'n staanplek gedood. In Rabie Ridge is 'n persoon op die grasperk van 'n private woonerf gedood. Op 15 November 1992 het 'n aantal taxibestuurders onder 'n boom in Pietersburg gesit, waar hulle aangeval is deur persone gewapen met AK47's en 'n 9 mm-pistool - agt mans is in daardie voorval dood.

5.2.2 Die stryd om mag word dikwels uitgebrei om voorbedagte, beplande sluipmoorde op leiersfigure en -persoonlikhede in die opponerende groep uit te [illegible] van wapens en ammunisie maak dit aansienlik makliker vir dié geweldenaars om hulle doelstellings te bereik.

5.2.3 Taxibestuurders is eersterangse teikens vir roof - nie net van hulle winste nie, maar ook van hulle passasiers. Die komitee het verslae gehoor van gevalle waar taxi's gedwing is om stil te hou en die passasiers dan verplig is om uit te klim en in 'n taxi van 'n opponerende groep te klim.

5.2.4 Volgens getuienis word verdraagsaamheid van mededingers [illegible] die swart taxibedryf onder groot spanning ge[illegible] In die proses van mededinging met mekaar wend [illegible] deelnemers aan die bedryf hulle maklik tot dade van fisieke geweld of intimidasie. Selfsugtigheid en hebsug kenmerk dikwels hulle interaksie met mekaar, en die skaai van passasiers en roetes en die onregverdige uitbuiting van ander is aan die orde van die dag. 'n Voorbeeld van skaaiery word verskaf deur die getuienis dat padverkeersinspekteurs te Groblersdal in een tydperk

van drie dae 38 operateurs in hegtenis geneem het wat handel op roetes gedryf het waarop hulle volgens hulle permitte nie mag nie. (Trouens, enige persoon wat 'n taxi sonder 'n permit bedryf ('n skaaier) buit die operateurs [illegible] wat hulle minibusse in 'n padwaardige toestand hou, gelde betaal en aan alle ander vereistes vir die verkryging van 'n permit voldoen.) Dit is maklik om te verstaan dat met al die druk wat taxi-operateurs moet hanteer, hierdie soort optrede die vonk in die kruitvat van geweld kan wees.

5.3.1 Die gewelddadige mededinging tussen minibustaxi's en busse het baie busdienste gedwing om te sluit. Daar was getuienis dat langafstandbusse op hulle roetes voorgekeer is, passasiers gedwing is om uit te klim en in minibusse te klim en gedwing is om die reisgeld te betaal, en daardeur die gelde verloor het wat hulle reeds betaal het. In Kaapstad is die Golden Arrow-busdiens gedwing om aan die Nyanga-busterminus te onttrek. Hierdie busdiens het talle fisieke aanvalle op sy bestuurders gely; voertuie is met klippe gegooi en verbrand. Gedurende die ondersoek is 'n aantal busbestuurders van hierdie diens in 'n plakkershut ingedwing en met hulle lewens gedreig. Hierdie ontvoering het etlike ure geduur.

5.3.2 Die motorpubliek moet daagliks vir lief neem met swaar gelaaide minibusse (dikwels nie in die beste toestand nie) wat verke[illegible]ls oortree, weinig hoflikheid teenoor ander padgebruikers toon en van elke geleentheid gebruik maak wat hulle vinniger by hulle bestemming sal bring, selfs al kan sulke optrede gevaar vir hulleself en vir ander skep. Baie minibusbestuurdes toon aggressiewe bestuursgewoontes, byvoorbeeld om te jaag, gevaarlik verby te steek, U-draaie te maak, en stil te hou en af te trek op kort kennisgewing. Ondanks ontkennings van die georganiseerde bedryf (SABTA en andere) getuig die hoë getal minibusse betrokke by ongelukke van wat blykbaar 'n hoërisikovervoermiddel geword het. Dat motoriste op die pad 'n mate van aggresiwiteit teenoor minibusse toon, is nouliks verrassend.

5.4.1 Intimidasie het so 'n lewenswyse geword dat die gevolge nie aan die slagoffers uitgespel hoef te word nie. Soms is gebare of gebaar is genoeg om inskemming te verseker. Bestuurders van een taxivereniging is dus in staat om te voorkom dat hulle mededingers staanplekke gebruik deur hulle af te skrik of hulle te dwing om hulle passasiers af te laai en hulle te verhinder om passasiers op te laai, wat dus lei tot 'n vermorste leë terugrit.

5.4.2 Intimidasie en wetteloosheid is sinoniem. Vanweë vrees vir hulle veiligheid het die klein werkmag inspekteurs in diens van die Departement van Vervoer in Wes-Kaapland opgehou om die swart dorpe binne te gaan vir wetstoepassing.

By geleenthede waar verkeersbeamptes bestuurders langs die pad voorgekeer het, het ander taxi's stilgehou, die pad versper en die beamptes gedreig. Hierdie toedrag van sake is opgesom in 'n brief van die Stadsraad van Kaapstad aan die Departement van Vervoer: "Any legal requirement that may impede the economic spoils of a trip is considered to be an unfair restriction and likewise any actions by a traffic officer."

## 6. DIE OORSAKE VAN DIE GEWELD

Die bespreking onder hierdie opskrif en die subopskrifte wat volg, handel met die belangrikste kategorieë van bewerings aangaande gronde vir konflik wat lei tot openbare geweld en intimidasie in die minibusbedryf dwarsdeur die land.

Wat duidelik te voorskyn gekom het uit die maande waartydens getuienis aangehoor en inligting verkry is met die doel om te bepaal wat die oorsake van die geweld en intimidasie is, was dat (soos verwag kon word) baie faktore tot die situasie bygedra het en steeds daartoe bydra. Baie faktore het 'n rol gespeel wat nie oorspronklik bedoel is nie; van die gevolge kon voorsien word, ander kon voorkom geword het as behoorlike en voldoende kommunikasie plaasgevind het.

Die komitee het probeer om sy bevindinge op 'n konstruktiewe wyse uiteen te sit sodat persone of liggame in of betrokke by die taxibedryf hulle eie rolle kan ondersoek en bepaal hoe om tekortkominge en vorige foute te hanteer. Op enkele uitsonderings na was die oorgrote meerderheid van die getuienis wat voor die komitee gelê is, van 'n verontskuldigende aard. Indien mense intimidasie en geweld in hierdie uiters vloeibare bedryf wil vermy, sal selfondersoek deur elkeen betrokke daarby noodsaaklik wees ten einde 'n oplossing te vind vir die probleme waarmee die bedryf te kampe het.

Ten einde die komitee se voorstelle te motiveer oor hoe geweld beperk of hokgeslaan kan word, is 'n uitgebreider bespreking van sekere oorsake vervat in die hoofstuk oor die aanbevelings.

### 6.1 HISTORIESE FAKTORE

Dit is aksiomaties dat tendense en beleide van die verlede toekomstige ontwikkeling vorm. Die versnelde verstedeliking van die afgelope dekade het gelei tot enorme toenames in die

swart bevolkings rondom die belangrikste stede en dorpe in Suid-Afrika. Die beleid van afsonderlike ontwikkeling het bepaal dat nuwelinge net in sekere gebiede mag woon, óf in nuwe swart dorpe óf in plakkerskampe (hierna word na dié twee gesamentlik verwys as swart dorpe) wat vir okkupasie deur swartes uitgehou is. Hierdie swart dorpe is gewoonlik 'n hele ent weg van die sakegebiede van stede of dorpe gevestig, wat vervoer van woonplekke na werkplekke nodig maak. In die meeste gevalle was openbare vervoer nie beskikbaar nie of is dit nie verskaf nie, wat beteken het dat die inwoners van swart dorpe verplig was om alternatiewe vervoer te vind. Treindienste na sulke buiteliggende gebiede het nie bestaan nie en busdienste het stadig op die vraag gereageer. Die minibustaxi het geblyk die gerieflikste en soms die enigste vorm van vervoer te wees.

Die bevolkingsgroei is verder gestimuleer toe die instromingswette herroep is. Dit het gelei tot die stigting van meer informele woongebiede, dikwels verder weg van die sakesentrums as die bestaande swart dorpe. Die bevolkingsgroei het gelei tot 'n toenemende vraag na bekostigbare openbare vervoer, veral onder die stedelike armes.

Ter opsomming: kolossale verstedeliking, wat voorheen beperk is, het bestaande en konvensionele vervoermiddele eenvoudig verswelg. Die tyd van die minibustaxi het aangebreek.

In hierdie stadium is dit nodig om kortliks stil te staan by een aspek van die probleem, waarvan die wortels direk teruggespeur kan word tot by die apartheidsbeleid. Kragtens die wetgewing wat apartheid afgedwing het, kon slegs swartes wat kon bewys dat hulle permanent in blanke gebiede in di[illegible] is, sogenaamde artikel 10-regte kry om wettig binne blanke gebiede te woon. Die swartes wat artikel 10-regte geniet het, is in swart dorpe geakkommodeer, waarvandaan hulle na hulle werkplekke vervoer is deur óf openbare vervoer indien hulle naby genoeg gewoon het om na die stasies of bushaltes te stap, óf minibustaxi's wie se operateurs kragtens permit toegelaat is om passasiers te vervoer vanaf plekke in die swart dorpe na bushaltes en stasies. As gevolg van hierdie reëling het 'n taxibedryf onder die volle gesag en beskerming van die wet ontstaan.

Daarenteen het onwettige immigrante uit stamtuislande en ander plekke byeengekom en in informele nedersettings sonder artikel 10-regte gewoon. [illegible] hulle in die ekonomieë van die stede en dorpe, op wie se voorstoepe hulle geplak het, opgeneem is, het hulle ook vervoer na en van die werk nodig gehad. Aangesien die owerhede geen wetlike erkenning aan hulle gegee het nie, is geen permitte aan minibustaxi-operateurs uitgereik om hulle te vervoer nie. Nogtans was vervoer noodsaaklik en so is die rooftaxibedryf gebore. Deur vernuftig te wees en vervolging om elke draai te systap, het hulle hulle weg gebaan.

Die blote bestaan van 'n groep taxi-operateurs wat op hulle voorstoep werksaam was sonder enige sweem van wettigheid en wat sterk mededinging gebied het om passasiers wie se middele en keuses beperk was vanweë hulle eie ontbering, het geblyk die hoeksteen van konflik te wees in bykans elke metropolitaanse gebied. Dié wat "het", moes op hulle hulpbronne terugval om dit wat hulle as hulle swaarverdiende domein beskou het, te beskerm teen die ongebonde aanslag van dié wat "nie het nie".

Die ontwikkeling van die swart taxibedryf in Wes-Kaapland is in die eerste tussentydse verslag beskryf. Die komitee het getuienis aangehoor dat die taxibedryf in Wes-Kaapland na raming in vier jaar drievoudig gegroei het. In wisselende mate het hierdie geweldige groei ook in die res van Suid-Afrika voorgekom. Dit is nie moeilik om te dink nie (en al die tekens is inderdaad daar) dat hierdie fenomenale toename die instansies oorweldig het wat verantwoordelik was vir vervoer, wie se aanvanklike reaksies meer in reaksie was op die situasie namate dit ontvou het, as die resultaat van vooruitbeplanning.

Daar was reeds in die middel tagtigerjare en selfs vroeër konflik in die taxibedryf in Wes-Kaapland en ook in ander gebiede. Die aankoms van nuwelinge in sulke getalle is deur die gevestigde swart inwoners gesien as 'n bedreiging vir die regte wat hulle deur verblyf verkry het en vir die besigheid wat elkeen vir homself opgebou deur harde werk. Toenemende mededinging om werkgeleenthede was 'n verder bedreiging. Aan die ander kant was die nuwelinge ongeduldig met die kunsmatig afgedwonge beperkings deur wette wat verblyf en dus ... beperk het. In die eerste tussentydse verslag is daar bevestig dat hierdie skeidings binne die gemeenskap ook in die taxibedryf weerspieël is en bygedra het tot die aanvanklike konflik wat in geweld uitgebars het. Die komitee het min huiwering om tot die gevolgtrekking te kom dat die geweld wat tot op hede in die taxibedryf ervaar word, van sy wortels, indien nie al sy wortels nie, in die historiese skeiding het waarna ons verwys het. Die komitee het geen getuienis gevind dat politiek, in die konvensionele sin, 'n rol gespeel het in die skepping van die aanvanklike konflik nie.

## 6.2 KOMMERSIëLE FAKTORE

Die pionier swart entrepreneurs wat die behoefte aan bekostigbare openbare vervoer raakgesien het en die diens verskaf het om daaraan te voldoen, is aanvanklik goed beloon vir hulle pogings. Die nuus het versprei dat baie geld gemaak kan word deur 'n taxi te bedryf.

Die grootte van taxi's het gegroei van die oorspronklike sedans tot agtsitplekvoertuie tot die huidige alomteenwoordige 16-sitplekminibus.

Die prys van minibustaxi's het oor die afgelope 10 jaar in reële terme so gestyg dat deposito's en maandelikse paaiemente verlammend kan wees vir mense wat nie 'n inkomste het wat daarby pas nie. Vanweë die konflikte wat gelei het tot ernstige en herhaalde skade aan voertuie, waarvan hulle baie verloor het, het die versekering van minibusse onbetaalbaar duur geword. Die prys van brandstof en motoronderdele het ook oor die jare gestyg en met die inflasiekoers tred gehou of dit verbygesteek.

Die oorhoofse koste, in terme van geld en tyd, om 'n permit te verkry om 'n taxi te bedryf, kan self dien as 'n afskrikmiddel en kan 'n voornemende operateur beïnvloed in sy besluit of hy wettig moet werk al dan nie. 'n Geskiktheidsertifikaat vir die voertuig, wat 'n kostefaktor behels, is nodig; 'n bedrag is betaalbaar aan die Plaaslike Padvervoerraad (PPVR); die oorweging van die aansoek self behels vertragings en moontlike verlies aan inkomste; die invul en indien van vorms en die raadsaamheid daarvan om 'n agent in diens te neem om te help - al hierdie faktore, afsonderlik en gesamentlik, is 'n afskrikmiddel vir diegene wat nie vertroud is met die werkinge van die owerheid nie en kan heel moontlik die rede wees waarom so baie operateurs nie om permitte aansoek doen nie. (Hierdie aangeleentheid sal later aangeroer word; dit is genoeg om te sê dat die getuienis toon dat die bedryf bestaan uit ruweg 50% van hierdie "roofoperateurs" in enige gegewe gebied.)

Uit 'n oorsig van die getuienis is dit duidelik dat baie min uit al die lede van die bedryf die sakevernuf het om die faktore wat die bedryf beïnvloed, ten volle te verstaan en te ontleed. Daar is gevolglik baie min begrip daarvoor dat gesonde mededinging tot voordeel van elkeen strek. Die vermoë om normale mededinging te assimileer en by die behoeftes daarvan aan te pas, ontbreek blykbaar. Daar word gevrees dat die natuurlike en beproefde manier om mededinging te hanteer, vir baie operateurs is om dit uit te skakel. Ongelukkig sluit die uitskakelingsproses sonder uitsondering geweld in.

Die verstaanbare afwesigheid van sakevaardighede en 'n besef van die aard van besigheid en markkragte het gelei tot 'n situasie waarin die oorgrote meerderheid van die operateurs nie 'n voldoende besef het van die ekonomies druk wat met die verkryging en bedryf van 'n minibus gepaard gaan nie. Baie reageer op gerugte dat daar geld te maak is en dat dit nie nodig is om opgelei te wees nie (ongelukkig is dit nie onmoontlik om vervalste rybewyse en permitte in die hande te kry nie, en hoewel dit duur is, skakel dit die gevaar uit dat aansoeke vir behoorlike rybewyse en permitte nie slaag nie), en betree die bedryf met baie beperkte kapitaalhulpbronne.

Die bedryf het ongeveer 430 verenigings dwarsdeur die land, wat 'n aansienlike invloed het. Vanweë hulle grootte gebruik hierdie verenigings mag om hulle lede te beskerm. Ongelukkig word hierdie mag dikwels aangewend om mededingers aan te val. Lidmaatskap van 'n vereniging is op sigself 'n vorm van

versekering vir 'n minibusoperateur. Party verenigings hef na bewering astronomiese aansluitingsgelde - tot R5 000 en meer in sekere sentra. Die redenasie wat sodanige lidmaatskap onderlê, is duidelik.

Miskien is die enkele belangrikste faktor onder hierdie opskrif wat spanning veroorsaak, die struktuur van reisgeld wat deur minibusoperateurs gevra word. Aangesien hulle in die marksektor inbeweeg het wat deur busse bedien word, is hulle reisgelde daarop gemik om met busgelde mee te ding of dit selfs te onderbie. Twee omstandighede speel hier 'n rol. Eerstens is dit geredelik verstaanbaar dat 'n voertuig met een enjin en een bestuurder wat vier of vyf keer soveel passasiers kan akkommodeer as 'n minibus, maklik meer ekonomies bedryf kan word as vier of vyf minibusse. Tweedens ontvang openbare busmaatskappye subsidies van die Regering, wat reisgelde laag hou deurdat lopende koste vergoed word. (Dié onderwerp sal later behandel word.) Die gevolg vir die minibusoperateur is dat ten einde met busse te kan meeding, hy 'n onrealistiese reisgeld moet vra wat gebaseer is op oorwegings wat min verband hou met sy eie uitgawes.

Die reisgeldstruktuur van operateurs wat uit die swart dorpe werksaam is, word verder beïnvloed deur of namens pendelaars. Getuienis is ontvang dat burgerverenigings ("civic associations") reisgelde reguleer, by tye met dreigemente van boikotte teen taxi's, of erger. Operateurs het hulle by geleentheid op die owerhede beroep vir beskerming teen sulke beperkings, en het gesê dat indien mense 'n loon kan eis waarvan hulle kan lewe, taxi-operateurs toegelaat moet word om 'n reisgeld te eis waarvan ook hulle kan lewe.

Ondanks die faktore wat reeds genoem is, die land se huidige ongesonde ekonomiese toestand, die huidige afdankings en die hoë werkloosheidsyfer en ander negatiewe omstandighede het groot getalle mense die taxibedryf betree. Miskien het die vooruitsig van 'n onafhanklike inkomste deur vir jouself te werk, die relatiewe gemak om die mark te betree (veral wat roofoperateurs betref), die relatief ligte werk en ander positiewe faktore; hulle in die bedryf ingelok. In getuienis voor die komitee is die idee dat die swart taxibedryf versadig is of die versadigingspunt nader, teengestaan: vir ons doeleindes is hierdie punt nie van kardinale belang nie. Dit wil egter voorkom of getalle sodanig is dat operateurs nie volgelaaide ritte kan onderneem gedurende spitstye nie vanweë die aantal ander mededingende minibusse.

Die kommersiële faktore dra gesamentlik by tot die aanloklikheid vir taxi-operateurs om hulle voertuie te oorlaai en hulle bestemmings dan so gou moontlik te bereik. As gevolg daarvan laai spanning op en normale samewerking en selfbeheersing verdwyn.

## 6.3 DIE ROL VAN DIE DEPARTEMENT VAN VERVOER (DVV)

'n Aantal getuies was, om verskillende redes, van mening dat die optrede van die DVV ten opsigte van verskeie aangeleenthede sodanige spanning binne die bedryf gewek het dat hierdie optrede geïdentifiseer moet word as direkte of indirekte (bydraende) oorsaak van die geweld.

Hoewel die komitee aanvaar dat geweld en intimidasie in die taxibedryf nie direk toegeskryf kan word aan handelinge aan die kant van óf die DVV of die PPVR'e nie, kom hy tot die gevolgtrekking dat niks positiefs gedoen is deur óf die DVV óf enige PPVR om die geweld in toom te hou of om tussen die strydende groepe te bemiddel om vrede te bewerkstellig nie. In Kaapstad het PPVR-beamptes blykbaar gedink, ondanks die prominensie wat die dagpers gegee het aan die gruweldade wat in die loop van die taxi-oorlog gepleeg is, dat die oorlog nie hulle maaksel is nie en dat die oplossing daarvan buite hulle mandaat of normale funksies val. Koerantuitknipsels is na Pretoria gestuur om die DVV op die hoogte te hou van verwikkelings. Dit wil voorkom of die DVV uiteindelik die South African Black Taxi Association (SABTA) se redelik fasiele en klaarblyklik foutiewe verduideliking aanvaar het dat politiek aan die wortel van die probleem lê, en wat die DVV aangeraai het om uit die konflik te bly, wat hy dan ook gedoen het, behalwe dat DVV-beamptes dit na Kaapstad gewaag het om vergaderings wat plaaslik gehou is, by te woon ten einde die probleme die hoof te probeer bied.

Die uiters vloeibare aard van hierdie spesifieke bedryf in ag genome, sal die komitee voorstel dat strukture geskep word om op te tree as spreekwoordelike brandweerwaens om die oorlogsvlamme so gou moontlik te blus. Die huidige stand van onbetrokkenheid deur juis daardie owerhede onder wie se jurisdiksie 'n bedryf werksaam is, kan nie toegelaat word om voort te duur nie.

Nadat die owerhede veroordeel is oor hulle versuim om by die vredesproses betrokke te raak (hierdie kritiek is nie op die plaaslike vlak van oplossing nie) is dit nie billik om daarop te wys dat die rolle van sowel die DVV as die PPVR'e deur wetgewing voorgeskryf word wat geen verwysing hoegenaamd bevat na betrokkenheid by geskille nie en geen verpligting in dié verband op die DVV of enige PPVR lê nie. In sy soeke na blywende oplossings is die komitee daarvan oortuig dat sowel die DVV as enige toekomstige plaaslike uitreikingsowerheid die statutêre bevoegdheid moet hê om nie net die voorkoming nie, maar ook die oplossing van enige omstandigheid na te streef wat die oorsaak is of kan wees van ontevredenheid, woede en geweld.

'n Magdom beskuldigings teen beleide en beamptes van die DVV het die volgende herhaalde bewerings ingesluit:

1. Dat die DVV se <u>beleide</u> en strategieë, wanneer dit toegepas word, nie aan die vereistes van die situasie voldoen nie;

2. dat die beamptes korrup is en geneig tot voortrekkery;

3. dat permitte uitgereik word sonder konsekwente behoorlike toepassing van die voorgeskrewe maatstawwe;

4. dat geen redes vir die weiering van permitte verskaf word nie buiten teen betaling van buitensporige geld;

5. dat die subsidiëring van ander vervoermiddele as taxi's onregverdig is en 'n manifestering is van die DVV se vooroordeel teenoor die minibusbedryf;

6. dat die verslapping van toegangsvereistes in die bedryf deregulering uitmaak, wat gesien word as 'n diskriminerende maatreël wat te veel mense toelaat om die mark te betree en die bedryf destabiliseer;

7. dat die PPVR'e aanhou om permitte uit te reik in 'n oorbesette mark terwyl daar geen of onvoldoende staanplekfasiliteite beskikbaar is; en

8. dat die gebrek aan wetstoepassing die geweld vererger.

Daar was ook ander beskuldigings. Na die mening van die komitee sal die bespreking van bogenoemde bewerings al die belangrikste beskuldigings dek.

6.3.1 Aan die begin van die tagtigerjare het die DVV die Welgemoed-verslag ontvang, wat ten gunste van busvervoer was en die minibustaxi's wou uitfaseer. Dit blyk 'n billike afleiding te wees dat die uitbundige groei van hierdie nuwe krag op die horison van openbare vervoer heeltemal onderskat is. Dit is seker waar dat om hierdie rede geen of onvoldoende beplanning en strategieë ontwikkel is om dit binne die raamwerk van openbare vervoer te akkommodeer.

Daar is egter genoegsame getuienis dat beleidmakers in die DVV teen die einde van die tagtigerjare aktief besig was met projekstudies en oorpleging om beleid te formuleer. Die DVV het hom in die onbenydenswaarige posisie bevind om te probeer vooruitbeplan in 'n vinnig en konstant veranderende situasie. Hy het gesteun op SABTA as die oor en stem van die minibusbedryf. SABTA was sekerlik die magtigste georganiseerde krag in daardie bedryf. Hy was egter, skynbaar onbekend aan die DVV, sterk in sekere gebiede en swak in ander. Hierdie stand van sake geld vandag nog. Daarby het ander soortgelyk gemotiveerde organisasies 'n kleim om erkenning afgesteek. Die situasie vra om 'n beter diepgaande begrip van die magte wat werksaam is en die funksionerende kommunikasiekanale tussen die

owerhede en al die verskillende komponente van die bedryf en diegene wat dit verteenwoordig.

6.3.2 Die PPVR'e, veral die Wes-Kaapse PPVR, het kwaai onder kritiek deurgeloop. Daar was bewerings van korrupsie en voortrekkery. Dit is sterk ontken deur getuies namens die DVV en die PPVR'e. Hierdie getuies het daarop gewys dat korrupte praktyke uitgeroei en streng vervolg is, soos in Transvaal gebeur het. Dit is maklik om iemand van korrupsie te beskuldig; om die getuienis te vind om te vervolg, is egter dikwels moeilik. Vanweë die aard daarvan bevoordeel korrupsie sowel die dader as die aanstigter daarvan: deur na vore te kom om te getuig, sal die voordeel vir albei verlore wees.

Die getuienis oor die konkelary van konsultante wat suksesvol namens hulle kliënte om permitte aansoek gedoen, was ontstellend. Soos in paragraaf 4.3 van ons derde tussentydse verslag aan die hand gedoen is, word hulle optrede deur die polisie ondersoek.

Daar kan geen twyfel wees nie dat indien permitte op korrupte maniere bekombaar is, dit sal bydra tot die spanninge in die bedryf.

Die statistieke en getuie[illegible]gat aan die komitee gegee het, stem nie d[illegible] dat die Wes-Kaapse PPVR WEBTA bo LAGUNYA bevoordeel het nie. Daar moet daarop gelet word dat [illegible]galibalele se sukses een van die hoekstene van hierdie bewering was.

Mnr Langalibalele, op daardie tydstip voorsitter van WEBTA, het 'n aantal aansoeke om permitte namens applikante wat lede van sy organisasie was, ingedien. Nadat die aansoeke van die hand gewys is, het mnr Langalibalele by die PPVR ondersoek ingestel en nie-amptelik verkreë inligting het hom tot die gevolgtrekking laat kom dat die afwesigheid van staanplekruimte 'n belangrike oorweging by die PPVR se besluit was.

Op eie inisiatief het mnr Langalibalele daarop onderhandel oor die huur van 'n stuk grond naby die Wynberg-stasie. Hy het die Stadraad van die huur in kennis gestel en het aansoek gedoen om dit as 'n minibusstaanplek te gebruik. Die Stadsraad het die aansoek goedgekeur. Gewapen met hierdie "pakket" het hy die aansoeke van sy lede weer ingedien. Ten einde gebruikers van die nuwe staanplek te identifiseer, het mnr Langalibalele die WEBTA-seël op die aansoeke geplaas. Die aansoeke is goedgekeur.

LAGUNYA het mnr Langalibalele se sukses aan korrupsie en voortrekkery aan die kant van die PPVR toegeskryf en die PPVR beskuldig van onregverdigheid en partydigheid teenoor WEBTA.

Die komitee het tot die gevolgtrekking gekom dat, met inagneming van alles wat die situasie omgewe, dit plaasgevind het soos hierbo uiteengesit en dat die PPVR te goeder trou opgetree het.

6.3.3 Die bewering dat <u>maatstawwe</u> nie konsekwent toegepas is nie, is gedurig in twee kontekste gemaak. Eerstens is daar beweer dat die maatstawwe in sekere gevalle doelbewus nie reg toegepas is nie ten einde een applikant bo 'n ander te bevoordeel. Tweedens is daar beweer dat selfs al was daar geen korrupte motief nie, die inkonsekwente toepassing van maatstawwe gelei het tot verwarring en ontevredenheid.

Albei hierdie inkonsekwenthede, so is gesê, het wantroue in die PPVR verhoog en het moontlik uiteindelik spanninge in die bedryf aangewakker. Die komitee het tot die gevolgtrekking gekom dat dit inderdaad die geval kon gewees het maar dat geen blaam nie op die PPVR geplaas kan word nie.

Eerstens is daar geen gronde vir die gerug dat die Wes-Kaapse PPVR die maatstawwe doelbewus verkeerd toegepas het nie.

Tweedens is die bewering dat die maatstawwe vir aansoeke nie konsekwent toegepas is nie, ongetwyfeld so waar as wat dit is om te sê dat dieselfde hofsaak verskillende uitsprake kon gehad het as dit deur verskillende regters verhoor is.

Die maatstawwe vir die toewysing van permitte word voorgeskryf. Die toepassing van party van die maatstawwe vereis evaluasies wat subjektief is. So kan een persoon, wanneer hy moet uitspraak lewer oor of die "die vervoer wat staan verskaf te word in die openbare belang nodig of wenslik is" (artikel 15(1)(a) van die Wet op Padvervoer, No. 74 van 1977), makliker oorgehaal word na 'n bepaalde siening as die volgende persoon, bloot omdat hulle perspektiewe en ervaring verskil.

6.3.4 Die vergelyking van die prosessering van aansoeke voor 'n PPVR en die verhoor van 'n hofsaak kan verder geneem word.

In hofsake, wat in die openbaar aangehoor word, moet regters <u>redes</u> kan gee vir hulle beslissings: 'n beskuldigde weet, voordat hy skuldig bevind word,

waaraan hy skuldig bevind word en wat die redes vir daardie beslissing is. Indien 'n aangeklaagde van die hof se beslissing verskil, kan hy appèlleer en die beslissing wat die redes bevat, sal nie net dien as die grondslag vir die argumente vir die appèl nie, maar ook as 'n maatstaf vir die moontlikheid dat die appèl kan slaag.

Die getuienis wat voor die komitee aangevoer is, het ons in hierdie opsig teleurgestel. Die rekords van aansoeke het geen notas bevat wat aandui waarom die aansoeke toegestaan of geweier is nie. (Toegegee, ons het net enkele van die lêers van hierdie aansoeke gesien, maar ons is deur getuies van die PPVR verseker dat dit tipiese lêers is.) Geen redes is in die openbaar of in die privaat aan die applikante gegee nie, hetsy by 'n aanhoring of daarna.

Die enigste manier waarop 'n onsuksesvolle applikant kan vasstel wat met sy aansoek verkeerd gegaan het, is om te appèlleer, wat die invul van meer vorms behels. Vir die komitee blyk dit met alle behoorlike prosesreëls in stryd te wees om van 'n onsuksesvolle applikant te verwag om 'n appèl aan te teken sonder dat hy weet wat die gronde van daardie appèl moet wees; trouens, om appèl aan te teken ten einde uit te vind of daar geldige redes vir appèl is. Boonop word buitensporige gelde (voorheen was dit minder, maar in die loop van die ondersoek is dit tot R800 verhoog) vir hierdie reeds verwronge proses vereis. Na die mening van die komitee is hierdie hele prosedure onbillik en moet dit veroordeel word.

Dit is maklik om te sien dat die suggestie van geheimhouding onmiddellik die vermoede laat ontstaan dat die PPVR iets het om weg te steek. Hiervandaan is dit slegs 'n kort stappie na die redenasie dat sekere applikante suksesvol is ten koste van ander, dat dit die gevolg is van voortrekkery en dat korrupsie daarby betrokke is.

Die gevolg is dat die PPVR vanweë 'n gebrek aan kommunikasie, deursigtigheid en verantwoordbaarheid nie net sy eie grootste vyand geword het nie, maar ook as vyand gesien is deur die operateurs. Dit is dus nie verbasend nie dat iemand buite die DVV en die bedryf die PPVR "a remote issuing body" genoem het. Die gevolgtrekking is onvermydelik dat hierdie sieninge, wat in die getuienis oorgedra is, bygedra het tot die spanninge in die bedryf.

Ongelukkig vir die PPVR word al sy handelinge verdag sodra wantroue in party van sy handelinge ontstaan.

6.3.5 Die feit dat busse en treine subsidies van die Staat ontvang het terwyl minibusse dit nie ontvang nie, is in paragraaf 6.2 hierbo genoem as 'n omstandigheid wat die reisgelde vir minibusse beïnvloed. Die subsidies stel treine en busse in staat om teen kunsmatige laer reisgelde bedryf te word, terwyl die taxi-operateur sy volle koste moet dek en dra, maar teen 'n reisgeld wat deur sy mededinging met busse en treine beperk word.

Die bedrae van hierdie subsidies is aansienlik. In 1989 het dit R1 240 miljoen beloop, waarvan R540 miljoen aan busse toegestaan is en R700 miljoen aan treine. Volgens artikels in die pers het die totale bedrag daarna tot R1 800 miljoen toegeneem. Een busmaatskappy alleen het, volgens 'n koerantberig van 7 Februarie 1993, gedurende 1992 R200 miljoen ontvang. Hierdie syfers is nie amptelik nie en kan foutief wees; hulle dien egter om aan te toon dat die subsidies 'n aansienlike invloed het om reisgelde op busse en treine af te dwing. Hoe 'n mens ook al kan redeneer dat die taxi-operateurs hulle die onregverdige mededinging met busse en terine op hulle eie halse gehaal het, bly die feit staan dat, soos een getuie dit gestel het, die speelveld nie gelyk is nie.

'n Aantal negatiewe gevolge vloei uit die feit dat minibusse op onekonomiese reisgelde bedryf word. Een ernstige gevolg is dat minibusoperateurs probeer om winste te verhoog deur soveel ritte moontlik te ry deur te jaag, te skaai en oor die algemeen te versuim om padreëls te gehoorsaam. Hierdie najaag van wins plaas sonder twyfel 'n stremming op die operateur; enige getuienis of siening dat hy onbillik benadeel word deur die optrede van 'n ander operateur, kan geweld ontketen.

Die komitee meen dat om sekere sektore van die openbare vervoerbedryf te finansier en nie 'n ander nie, wat miskien in hierdie stadium die grootste sektor is, onbillik is. Die komitee twyfel glad nie daaraan dat die subsidiëring van busse deur die georganiseerde minibusbedryf, en SABTA in die besonder, as klaarblyklik onbillik gesien word. Terwyl dit miskien nie 'n direkte faktor in die spanninge in die bedryf is nie, moet dit minstens 'n indirekte faktor wees. Die komitee het min twyfel dat segspersone van SABTA, wanneer hulle lede van daardie organisasie toespreek, verwys na die ongelykhede van die situasie en dat die liggaam van lede moet voel dat daar onbillik teen hulle gediskrimineer word.

6.3.6 Die DVV se beleid om 'n verslapping van strengheid by die toestaan van aansoeke om permitte toe te laat ten einde 'n groter aantal roofoperateurs te wettig, is skerp gekritiseer deur 'n aantal getuies.

Hierdie proses word in die algemeen deregulering genoem, 'n term van sterk teenkanting gekry het van die DVV. Die Departement se interpretasie van die woord deregulering is 'n situasie waarin geen kunsmatige beperkings geplaas word in die weg van enige persoon wat 'n taxi wil bedryf nie, buiten om te voldoen aan die veiligheidsvereistes vir die voertuig en dat die bestuurder 'n geldige rybewys moet hê. In 'n gedereguleerde omgewing sal markkragte die lewensvatbaarheid van 'n taxi-besigheid bepaal. In die Witskrif word deregulering in die konteks van bogenoemde omskrywing voorsien, dit wil sê die algehele verwydering van alle beperkings op toegang tot die taxibedryf buiten veiligheidsvereistes. Hoewel dit die ideaal was wat deur die Kabinet aanvaar is, het getuienis wat aangevoer is die komitee daarvan oortuig dat deregulering in sy volste betekenis (soos voorgestaan in die Witskrif) nie deur die DVV toegepas is nie en ook nooit in werking getree het nie.

Die term self het verskillende betekenisse vir verskillende mense. Vir sommige het dit algehele deregulering soos voorsien deur die Witskrif van 30 Januarie 1987 beteken; vir ander was dit beperk tot 'n verslapping van beperkende maatreëls. Die komitee aanvaar dat "deregulering" in die taxibedryf, soos dit toegepas is deur die DVV, nooit bedoel is om iets anders te beteken as 'n meer buigsame en minder formele toepassing van die vereistes rakende die toestaan van 'n permit ingevolge artikel 15 van Wet No. 74 van 1977 nie. In Wes-Kaapland het die PPVR byvoorbeeld nie so streng by hierdie vereistes gehou in die tydperk Augustus 1989 tot November 1990 as voor en na daardie tydperk nie. Gedurende die aanhorings het dit ook duidelik geword dat, ongeag die sin of betekenis van die woord, die versuim deur die owerhede om die wet oor roofoperateurs af te dwing (byvoorbeeld vanweë 'n tekort aan mannekrag in die inspektoraat of vanweë die intimidasie van inspekteurs) 'n resultaat gelewer het wat niks minder is nie as deregulering.

Die bewering deur die DVV en die PPVR's was dat hulle [illegible] van die streng toepassing van vereistes vir 'n permit, toegelaat het dat die mark oorstroom word aangesien baie meer taxi-operateurs tot die bedryf toegetree het. Daar is

beweer dat oorbesetting by die staanplekke (toegeskryf aan nuwelinge in die bedryf) die bedryf selfs nog minder ekonomies gemaak het en die spanning vererger het.

Die sieninge van deregulering deur die taxibedryf was dat dit plaasgevind het op 'n "ad hoc, unsystematic en random basis", en dat dít baie roofoperateurs in staat gestel het om permitte te verkry. Dit het verwarring en wrewel in die bedryf veroorsaak en nog meer brandstof op die spanningsvure gegooi.

Wat egter werklik gebeur het, was nie sinister nie, maar 'n ernstige (weliswaar te laat) poging om die bedryf te rasionaliseer.

Statutêre beperkings het eenvoudig nie voorsiening gemaak vir die aansienlike groei in die bedryf nie. Die aantal persone wat sonder permitte tot die taxibedryf toegetree het, het sodanige afmetings aangeneem dat die DVV aanvaar het dat die blote bestaan van so 'n enorme groep roofoperateurs in bykans elke metropolitaanse gebied bewys was van die behoefte aan hulle dienste, en het dus [illegible] groter beheer oor die bedryf te verkry deur roofoperateurs te wettig. Die PPVR'e moes 'n meer toeskietlike benadering toepas by die toestaan van aansoeke. In samewerking met SABTA is die Implan-skema van stapel gestuur, waardeur die aansoeke van bestaande roofoperateurs van SABTA via die DVV na die onderskeie PPVR'e gekanaliseer kon word, en vir maklike klassifikasie en prosessering sou daardie aansoeke met 'n rooi kol gemerk word. Die moratorium op nuwe aansoeke waartoe SABTA en die DVV ooreengekom het, is egter deur die DVV en die PPVR'e self tot niet gemaak deur nie by die ooreenkoms te hou nie en toe te laat dat aansoeke van bestaande roofoperateurs direk deur PPVR'e ontvang word in plaas van deur die bedoelde kanaal.

In die woorde van die komitee se regsbeampte, adv J Slabbert: "It was one of those quirks of fate (that sometimes change history) that at the time that the DOT was (with the best of intentions) trying to bring some order to the industry by legalising the pirates, this very legalising process favoured one of the organisations involved in a bitter war in Cape Town." Na die mening van die komitee is dit die rede waarom WEBTA, wat baie meer roofoperateurs onder sy lede gehad het as [illegible] UNYA, meer permitte ontvang het en waarom verkeerde persepsies aangaande voortrekkery en korrupsie ontstaan het. Hierdie persepsies is weer beïnvloed deur mnr Langalibalele se optrede deur sy aansoeke aan te stuur met WEBTA

se seël daarop. Die statistieke toon egter dat, vergeleke met die aansoeke goedgekeur met die WEBTA-seël, 'n veel groter aantal aansoeke sonder so 'n seël goedgekeur is.

Die komitee is van mening dat die gebrek aan kommunikasie die rede kan wees waarom so baie goedbedoelde planne misluk het. In hierdie geval was daar 'n skynbare onwilligheid aan die kant van die DVV of die PPVR'e om die verslapping van die vereistes in die openbaar aan te kondig. Die rede was moontlik dat die PPVR'e hulle reputasie van outonomie wou beskerm. Wat die rede ook al was, vanweë 'n gebrek aan kommunikasie is die PPVR'e deur die taxigemeenskap veroordeel dat hulle diskriminerend en onbillik opgetree het.

Na die mening van die komitee kan die wettiging van roofoperateurs egter nie die rede wees vir die oorstroming van die bedryf nie, aangesien die totale aantal operateurs nie vermeerder is deur die wettiging van 'n deel van die roofopreateurs nie. Die komitee is van mening dat die persepsie van 'n oorbesetting of oorstroming ontstaan het omdat daar 'n persepsie in die gemeenskap was dat die toegangsvereistes tot die bedryf verslap is en dat die "wettige" liggaam binne die bedryf bedreig is deur die opkoms van roofoperateurs en nuwe operateurs. Roofoperateursa wat voorheen nie van staanplekke gebruik kon maak nie, het sodanige gebruik geëis by die verkryging van wettigheid. Dit het oorbesetting veroorsaak, wat beskou is as 'n direkte gevolg van "deregulering". Vanweë die persepsie dat die aantal operateurs toegeneem het, het diegene in die bedryf bedreig gevoel deur die nuwe groep mededingers en daar was toenemende geweld en militantheid, ook teenoor die verkeersowerhede, wat gelei het tot swakker wetstoepassing.

Dit was 'n kenmerk van die ondersoeke by die verskillende plekke dat niemand kon bepaal hoeveel roofoperateurs daar in die bedryf is nie. Ramings het gewissel van 40% tot 60%. Dit volg dat hierdie groot onbekende faktor enige vorm van beheer of rasionalisering kortwiek.

6.3.7 Die kriti[illegible] op die PPVR'e da[illegible] <u>pa[illegible]tte</u> in 'n <u>oorvol</u> mark uitgereik is terwyl daar nie voldoende taxistaanplekke beskikbaar was nie, hou nou verband met die voorafgaande paragraaf. Die kwessie van die beskikbaarheid van staanplekke sal later bespreek word; dit is genoeg om hier te sê dat die DVV en die PPVR'e nie verantwoordelik is vir die verskaffing van staanplekke nie en dus nie geblameer kan word

vir die afwesigheid van staanplekfasiliteite of voldoende staanplekfasiliteite nie.

Daar is namens die PPVR'e getuig dat hulle by die uitreiking van permitte geen wetlike verpligting op hulle geneem het om staanplekfasiliteite in ag te neem nie, hoewel daar gesê is dat hierdie aangeleentheid in gedagte gehou word. Die stelling is met reg gemaak dat die PPVR'e dikwels in onhoudbare situasies geplaas word deur plaaslike verwagtinge. Te Groblersdal, waar daar ruim staanplekruimte is, was die wrewel weens die uitreiking van permitte blykbaar omdat dit die aantal mededingers vermeerder het.

Alexandra, 'n swart dorp met meer as 300 000 inwoners, word tans nie deur busse en treine bedien nie; mense moet gevolglik geheel en al op minibusvervoer staat maak. Daar is nie 'n enkele formele taxistaanplek in die dorp nie. Indien die PPVR die beskikbaarheid van staanplekke in ag moes neem, kon hy, volgens die logika hiervan, nie 'n enkele permit uitreik vir die bedryf van minibusse in Alexandra nie. Ondanks die duidelike noodsaaklikheid van vervoer, sou Alexandra sonder wettige operateurs wees, 'n situasie wat ongetwyfeld sou kon lei tot die kritiek dat die PPVR deur sy verwysing na staanplekke daarvoor verantwoordelik is dat Alexandra deur 'n vloot roofoperateurs bedien word. Dieselfde oorweging sou insgelyks van toepassing wees op 'n plek soos Khayelitsha in Kaapstad.

Die komitee kom tot die gevoltrekking dat die kritiek teen die DVV en die PPVR'e in hierdie verband misplaas is.

6.3.8 Die landwye inspektoraat van die DVV bestaan uit 76 inspekteurs, van wie sommige betrokke is by die administrasie van die inspektoraat. Diegene "op die grond" wat die werklike inspeksie doen, is werklik baie min en om die rede in paragraaf 5.4.2 hierbo genoem, is hulle getalle heeltemal onvoldoende.

Die gevolge van die inspektoraat se ondoeltreffendheid en ander negatiewe gevolge word in die volgende paragraaf behandel, wat oor wetstoepassing in die algemeen handel.

Oproepe is gedoen vir die onmiddellike uitbreiding van die inspektoraat sodat dit doeltreffender kan wees. Daar is aan die hand gedoen dat die mag vergroot word tot 300 inspekteurs. Die komitee se mening word in die hoofstuk oor aanbevelings bespreek.

## 6.4 GEBREK AAN WETSTOEPASSING

Geen uitgebreide argument is nodig om te besef dat gebrek aan wetstoepassing wel 'n oorsaak van voorslepende geweld en intimidasie kan wees nie. Die stelling word gemaak op grond van die gewone *conditio sine qua non*-toets, dit wil sê om te vra of dieselfde hoë vlak van geweld in die taxibedryf ervaar sou geweesd het indien daar doeltreffende en behoorlike wetstoepassing was.

Volgens getuienis voor die Kommissie moet die antwoord nee wees. Daar was getuienis namens verskillende wetstoepassers dat in gevalle waar 'n doelgerigte poging om die geweld die hoof te bied met voldoende mannekrag en fasiliteite aangewend is, 'n onmiddellike positiewe resultaat gevolg het.

Daar is daarop gewys dat die bedryf verswelg word deur roofoperateurs wat nie vatbaar is vir dissipline nie en wat nie in die bedryf toegelaat behoort te word nie. Die enigste manier om hulle te hanteer, is deur middel van behoorlike wetstoepassing.

Dit is ook geredelik verstaanbaar dat, veral onder taxi-operateurs met hulle geneigdheid om hulle eie wet te wees, beleide wat daarop gerig is om orde in die bedryf te bring, sal misluk tensy die nodige polisiëring daarmee gepaard gaan. Soos in paragraaf 5.4.2 en 3 genoem is, daag die taxi-operateurs voortdurend die gesag van wetstoepassers uit, en ongelukkig kom hulle daarmee weg.

Kaapstad was geen uitsondering ten opsigte van hierdie toedrag van sake nie. Die meeste van die fisieke konfrontasie tussen die strydende faksies het plaasgevind buite die jurisdiksie van die verkeersowerhede van Kaapstad. Daarbenewens was hulle nie voorbereid op die vloedgolf taxi's wat die onderste deel van Strandstraat oorstroom het nie. Nie net het chaos die oorhand gehad nie, maar op die roetes na die stad is talle verkeersreëls eenvoudig geïgnoreer. Dit wil voorkom of die suksevolle toepassing van verkeersreëls op minibusse geïgnoreer word by geleenthede waar taxi-operateurs versperrings oprig om wetsoortreders te beskerm of om te protesteer teen wetstoepassing of dissiplinêre maatreëls wat as onbillik beskou word.

Toe 'n versperring aan die einde van 1992 in die strate van Claremont gevorm is, is 'n spesiale sitting van die ondersoek gewy aan getuienis rakende daardie gebeurtenis. (Die bestuur van CODETA het die vergadering bygewoon en die komitee aanvaar onvoorwaardelik hulle versekering dat die optrede plaasgevind het sonder dat die bestuur daarvan verwittig of daaroor geraadpleeg is.) Daar is destyds gehoop dat 'n studie van die gebeurtenis sal lei tot doeltreffende maatreëls aan die kant van die verkeersowerhede om 'n herhaling te voorkom of om streng daarteen op te tree.

Die komitee het met misnoë daarvan kennis geneem dat twee versperrings van strate in Kaapstad self binne maande na die voorval plaasgevind het, waardeur wetsgehoorsame motoriste afgedreig is. Die blyk onvermydelik te wees om tot die gevolgtrekking te kom dat geen omvattende plan geformuleer is (of indien dit geformuleer is, geïmplementeer is) om die vorming van 'n versperring te voorkom of om die strate weer begaanbaar te maak indien die vorming van 'n versperring nie voorkom kon word nie.

Die gebrek aan wetstoepassing oor die algemeen het baie ernstige gevolge vir die gemeenskap as geheel. In getuienis is die volgende stelling gemaak: "The law enforcement agencies were either unable or unwilling to enforce the law which is in the statute book. This amounted to a total breakdown of discipline and control from the policy makers, which resulted in creating this kind of anarchy."

Die komitee is verplig om met hierdie stelling saam te stem en wys daarop dat dit nie net roofoperateurs is wat "voordeel trek" uit hierdie gebrek aan wetstoepassing nie, maar ook enige ander persoon wat die wet oortree. Dit plaas die wetstoepassers onder verdenking en lei daartoe dat gewone burgers twyfel aan die doeltreffendheid van die hele beheerstelsel, met inbegrip van die regstelsel.

## 6.5 DIE AFWESIGHEID VAN FASILITEITE

Die aanvanklike opmerking moet gemaak word dat die komitee ondersoek ingestel het na geweld op plekke waar daar geen taxistaanplekke was nie, nie eers 'n oop stuk grond nie (byvoorbeeld Alexandra), op plekke met onvoldoende staanplekke (byvoorbeeld Kaapstad) en op plekke met uitstekende staanplekke en fasiliteite (byvoorbeeld Groblersdal en Pietersburg). Ernstige taxi-oorloë het by al hierdie sentra gewoed en sonder uitsondering was staanplekke of die afwesigheid van staanplekke 'n twisappel.

Nietemin is die beskikbaarheid van staanplekke en fasiliteite en die administrasie daarvan 'n belangrike bron van kommer vir die bedryf. Die afwesigheid van staanplek of die toereikendheid daarvan in 'n bedryf waar mededinging om passasiers wat by sekere plekke saamkom, hewig is, kan maklik veroorsaak dat humeure opvlam.

'n Aantal dorpe en stede het die opkoms en potensiële groei van die minibusbedryf raakgesien en goeie taxistaanplekke opgerig, byvoorbeeld Pietersburg en Groblersdal. Albei hierdie staanplekke is ongelukkig 'n redelike ent van die sentrale sakegebiede geleë en is om hierdie rede in 'n mate ongewild. Pogings wat aangewend is om die situasie reg te stel (in Groblersdal byvoorbeeld is 'n ruim aantal inhamme in die sentrale sakegebied uitgemerk as "minibushaltes"), is deur die taxi-operateurs misbruik.

In die meerderheid van die dorpe bestaan daar egter geen of hopeloos onvoldoende fasiliteite. Hierdie feit kan net toegeskryf word aan traagheid aan die kant van daardie munisipaliteite om voldoende erkenning te gee aan die rol van die minibustaxibedryf in die sfeer van handel en besigheid.

Dit geld ook Kaapstad. Die afwesigheid van staanplekfasiliteite in die stadsgebied, wat die bestemming is van duisende minibuspendelaars, onderstreep die gebrek aan belangstelling aan die kant van die munisipale owerhede tot in 'n redelik laat stadium. Die totale chaos elke dag aan die oostelike punt van Strandstraat is 'n aangeleentheid van die ernstigste openbare belang. Die situasie plaas 'n las op die verdraagsaamheid van die gewone motoris en moet aansienlik bydra tot die spanninge binne die hoogs mededingende bedryf.

'n Aantal wetenskaplike studies oor die probleem het die lig gesien. Die komitee kan net hoop op 'n spoedige oplossing van die probleem.

In verskeie dorpe en stede is die volgende probleme by staanplekke (hetsy dit uitgelê is of nie) geïdentifiseer:

(i) Oorbesetting, veral gedurende spitstye;
(ii) die afwesigheid van of onvoldoende toilette en skuilings;
(iii) geen beheer of swak beheer of partydigheid aan die kant van toesigbeamptes, wat lei tot 'n gestamp en gestoot vir plek, indrukkery in rye en die voortrek van die een operateur bo 'n ander (gewoonlik van verskillende taxiverenigings);
(iv) intimidasie van passasiers;
(v) skaai van passasiers;
(vi) roofoperateurs wat by staanplekke inbars;
(vii) operateurs van een taxivereniging wat onwettig probeer om 'n ander vereniging te verhoed om 'n staanplek te gebruik.

Op grond van 'n [illegible] van die getuienis is voldoende staanplekke vir minibusse so nodig soos staanplekke vir metertaxi's, bushaltes en [illegible]ini vir busse en, trouens, stasies vir treine.

## 6.6 ALGEMENE ONVERDRAAGSAAMHEID EN MAGSTRUWELINGE

By al die ondersoeke wat deur die komitee gedoen is, het dit bo alle twyfel duidelik geblyk dat heelwat van die blaam vir die uitbreking van [illegible] taxi-operateurs self lê. Uit die getuienis het sulke standhoudende onverdraagsaamheid, selfsugtigheid, uittarting en hebsug geblyk dat alle pogings om geweld te beëindig, tot mislukking gedoem sal wees tensy operateurs self hierdie gebreke oorkom.

Dit kom voor of operateurs in die taxibedryf onwillig is om hulle standpunte te verander (wat sonder uitsondering subjektief is), selfs wanneer dit duidelik is dat 'n spesifieke siening of persepsie op 'n verkeerde uitgangspunt berus. Dit was miskien nie verbasend nie dat operateurs in baie min gevalle gemeen het dat hulle self tot die konflik bygedra het. Hulle sou eerder omstandighede soos staanplekke (sien die beginparagraaf van 6.5 hierbo) of persone of liggame buite hulle verenigings en faktore soos die optrede van lede van teenstanderorganisasies of PPVR'e, blameer vir korrupsie of vermeende voortrekkery van hulle teenstanders. Hoewel 'n mens verstaan hoe persepsies (soos voortrekkery van WEBTA in hierdie geval) kan voorkom, is dit gevaarlik om vinnig tot gevolgtrekkings te kom en, soms gewelddadig, te reageer op daardie gevoltrekkings sonder om te probeer om vas te stel wat die werklike situasie is. Taxi-operateurs moet begryp dat geen persoon hom die reg kan toeëien om eers te reageer en daarna vrae te vra nie.

Die komitee neem met spyt kennis daarvan dat, ondanks die intensiewe pogings van 'n groot aantal liggame en persone wat heeltemal onselfsugtig werk om tussen die strydende taxiverenigings te tree bemiddel om vrede te bewerkstellig, hierdie pogings wat tot elkeen se voordeel strek, in die taxibedryf net sporadies suksesvol is. Die persone betrokke by hierdie ondankbare en dikwels gevaarlike poging om vrede en samewerking te bewerkstellig, is die onbesonge helde van

lei die ander oorsake van geweld wat onder word, tot spanning, dikwels tot operateurs in die taxibedryf. wat oor 'n lang tydperk onderdruk is onder die juk van apartheid, behoort egter die eerstes wees om te verstaan dat enorme wrewel die gevolg is wanneer mense deur jou eie optrede uitgebuit word, blootgestel word aan uittarting, gedreig word en hulle regte verontagsaam word. Die getuienis toon egter dat die operateurs hulle skuldig maak aan versperrende stilhou en parkering, misbruik van die padreëls deur te jaag, lane te kruis, gevaarlik verby te steek, in rye in te druk en te skaai. Trouens, die blote skaaidaad is uitbuiting van diegene wat permitte het, wat tyd en geld bestee het om dit te verky en wat by die voorwaardes van die permitte hou.

Hierdie optrede getuig van selfsugtigheid en onverdraagsaamheid, wat die goeie waardes van verdraagsaamheid, wetsgehoorsaamheid, samewerking en eerlikheid ondermyn. Die bogaande is natuurlik net die minder vernietigende gevolge van onverdraagsaamheid en verflou tot 'n nietigheid vergeleke met die oordaad van menseslagting, verminking en brandstigting wat in die bloedige konflikte voorkom.

In 'n atmosfeer van algemene onverdraagsaamheid selfs ten opsigte van mindere waardes, hoe kan respek vir lewe en eiendom verwag word? Trouens, die ondersoeke het maar te duidelik getoon dat selfsugtigheid en hebsug die fondamente is van magstruwelinge dwarsdeur die bedryf. Dit was baie duidelik in Alexandra en Groblersdal, soos genoem in die betrokke verslae; dit was ook in Kaapstad duidelik dat albei taxiverenigings aanspraak maak op hierdie of daardie staanplek ter uitsluiting van die ander vereniging.

In die lig van die voorgaande het dit het vir die komitee voorgekom of 'n kollektiewe siening onder lede van taxiverenigings wat aan die geweld deelneem, bestaan dat hulle hulle wil op ander kan afdwing deur die gebruik van geweld. Dit het, indien dit die doel was, nie net misluk nie, maar ook geweld gebaar in die vorm van teenaanvalle, wat die patroon van 'n taxi-oorlog is.

Met behoorlike inagneming van die oorspronge van die struweling en die baie faktore wat ontevredenheid, spanning en woede veroorsaak, kom die komitee tot die gevolgtrekking dat, in finale instansie, die geneigdheid tot en toepassing van geweld deur taxi-operateurs die onmiddellikste oorsaak van die konflik en die gevolglike vernietiging van lewens en eiendom is.

7. DIE ROL VAN POLITIEK

7.1 By die ontleding van die oorsake van geweld binne die taxibedryf het die komitee tot die gevolgtrekking gekom dat politiek tot nog toe nie 'n beduidende, indien enige, rol gespeel het in die geskille wat in geweld uitgebreek het nie. Die komitee stem heeltemal saam met die oorwig getuienis dat die oorsake van die konflik grootliks beperk was tot kommersiële mededinging - "a battle for space and turf", soos sagkens gestel deur een van die getuies.

7.2 Hoewel daar met genoeg regverdiging gesê kan word dat die geskil sy oorsprong het in die rasgebaseerde wette wat die ongelykhede geskep het tussen die wat het en die wat nie het nie, en dat 'n onbuigbare politieke beleid aan die wortel van die geweld lê, het politiek as sodanig en politieke partye nie werklik 'n rol gespeel toe die smeulende mededinging in geweld uitgebars het nie. Daar is trouens aan die hand gedoen dat, minstens in die Kaap, die lede van teenstandergroepe almal ondersteuners van die ANC is en dat laasgenoemde hom taktvol uit die oorlog gehou het, buiten sy tydige tussentrede met die inspirering van 'n burgerlike boikot van alle taxi's, wat sekerlik daartoe bygedra het dat taxi-operateurs aan albei kante tot hulle sinne gekom en CODETA gestig het.

7.3 Dit wil vir die komitee voorkom of daar 'n gevaar bestaan dat taxikwessies verpolitiseer kan word. Indien dit met geskille sou gebeur wat intrinsiek huishoudelik van aard is en

wat op huishoudelike vlak deur bemiddeling of normale wetstoepassing opgelos moet word, sal dit in 'n ander sfeer betrek word waar meer algemene agenda's van toepassing is. Indien daar toegelaat word dat dit gebeur, kan die taxibedryf agterkom dat hy in 'n onbenydenswaardige posisie verkeer. Soos daar in die vierde tussentydse verslag gesê is: indien enige taxigeskil verpolitiseer sou word, sal dit beslis die soeke na vrede oneindig bemoeilik.

7.4 Die komitee glo egter dat persone en liggame buite die taxibedryf, met inbegrip van politiek georiënteerde liggame, 'n beduidende rol kan speel, byvoorbeeld met die implementering van onpartydige geskilbeslegting en sekerlik in beleidsformulering wat die verbetering van toestande in die openbare vervoerbedryf in die hand sal werk.

## 8. WATTER PERSONE BY DIE GEWELD BETROKKE IS

8.1 Geen individu is onder die SA Polisie of mededingertaxiverenigings geïdentifiseer as moordenaars of brandstigters nie, en die SAP is hewig gekritiseer vir hulle beweerde dadeloosheid en onbekwaamheid. Die Polisie het hierdie bewering ontken, en hierdie aangeleentheid staan oor.

8.2 Daar was inderdaad vervolgings van individue vir ernstige misdade, maar baie is vrygespreek, of die verrigtinge is omskep in geregtelike doodsondersoeke.

8.3 Hoewel daar geen getuienis is van enige sameswering deur enige groep wie se mikpunt dit is om die (huidige of vorige) geweld aan te stig nie, blyk dit redelik te wees om die afleiding te maak dat (onbekende) lede van taxiverenigings in [illegible] het om doelbewus lede van 'n teenstanderorganisasie aan te val, dikwels as 'n vergeldingsdaad. Dit is byna ondenkbaar dat die misdadigers in die dosyne aanvalle wat oor 'n tydperk deur die hele land plaasgevind het, deur niemand herken is nie. Dit is egter die getuienis. Geen taxileier op enige plek het na vore gekom met die nodige inligting om 'n suksesvolle vervolging te verseker nie, en hulle het almal onkunde bely oor die identiteit van die moordenaars en brandstigters.

8.4 Sommige leiers en die SAP sê nou dat sluipmoordenaars "ingevoer" word om die moorde te pleeg, maar tot nog toe is niemand in hegtenis geneem nie.

8.5 Gedurende die ondersoek het geen konkrete getuienis aan die lig gekom wat die komitee in staat stel om 'n aanbeveling aan die Prokureur-generaal te doen om enige individu of groep te vervolg nie, ondanks die duidelike bewyse van brandstigting, intimidasie en moord op 'n groot en landwye skaal oor 'n lang tydperk

## 9. AANBEVELINGS

1. Die komitee se opdrag behels onder andere 'n ondersoek na stappe wat gedoen kan word om openbare geweld en intimidasie in die taxibedryf aan bande te lê of te voorkom. Ten einde maatreëls te identifiseer wat moontlik kan help met die bekamping van geweld en intimidasie, is dit nodig om kortliks vyf belangrike bydraende oorsake van geweld in die bedryf te noem wat deur die komitee geïdentifiseer is, naamlik:

1.1 Die enorme en skielike groei van die kombitaxi- of minibustaxibedryf, wat steeds toenemende kommersiële mededinging tussen operateurs veroorsaak.

1.2 'n Algemene gebrek aan besigheidsopleiding en -vaardighede binne die bedryf wat, indien sulke vaardighede en ervaring teenwoordig was, daartoe sou kon bydra dat die taxi-operateurs die ekonomiese omstandighede wat in die vervoerbedryf heers, asook ernstige mededinging onder mekaar, kan hanteer.

1.3 Ontevredenheid met die vermeende beleid van deregulering wat gemanifesteer word in die lukrake uitreiking van permitte aan onwettige operateurs.

1.4 Probleme ten opsigte van die doeltreffende toepassing van wette, regulasies en reëls, gepaard met ontevredenheid met of gebrek aan respek vir die bestaande wetstoepassingsagentskappe, met inbegrip van die SA Polisie.

1.5 'n Heersende kultuur van geweld wat blykbaar daarop dui dat geweld op sigself 'n middel tot die bereiking van 'n oplossing van 'n probleem is en dat die dreigement van geweld sal dien as afskrikmiddel vir die voorkoming of die staking verrigting van handelinge deur die persoon/persone wat gedreig word.

2. 'n Ontleding van die komitee se opdrag toon dat dit die komitee se plig is om aanbevelings voor te lê nie net ten opsigte van die vind van oplossings op die kort termyn nie (dit wil sê om aan die hand te doen hoe bestaande voortslepende geweld bekamp moet word), maar ook ten opsigte van die aanbeveling van langtermynoplossings wat sommige of selfs alle oorsake van geweld of potensiële geweld in die bedryf permanent kan hanteer.

3. Met betrekking tot die korttermynsituasie was die komitee verheug om te verneem, in die eerste plek, dat 'n skietstilstand tot stand gekom het as gevolg van die vorming van CODETA in Kaapstad. Hoewel daar te kenne gegee is dat CODETA as 'n organisasie nie sterk genoeg is nie en dat konflik kort voor lank weer sou opvlam, het daaropvolgende gebeure die komitee bemoedig om te glo dat daar binne die Kaapse taxibedryf 'n blywende antwoord vir 'n hardnekkige probleem gevind is. Dit is noodsaaklik dat die gemeenskaplikheid van belange, wat gekulmineer het in die

algemene wens onder taxi-operateurs dat hulle toegelaat moet word om in vreedsame omstandighede sake te doen, op elke moontlike manier beskerm en bevorder moet word.

Die komitee is bewus daarvan dat daar deurlopend konflik in CODETA is en dat diegene wat betrokke is by die handhawing van vrede binne CODETA voortdurend op hulle hoede is om te keer dat die situasie hand-uit ruk. Hoewel daar geen maklike oplossing vir die heersende konflik binne CODETA is nie (wat moontlik die onderwerp van 'n spesiale ondersoek kan word), kan die noodsaaklikheid om selfdissipline te beoefen en om nie die wet in eie hande te neem nie, nie genoeg beklemtoon word nie.

4. Aangesien dit moeiliker kan wees om 'n langtermynoplossing te bereik, moet dit 'n totale waardering van die minibustaxibedryf as komponent van die passasiersvervoerbedryf behels. In die loop van baie openbare sittings vir die aanhoor van getuienis oor 'n tydperk van meer as 'n jaar is die komitee voorsien van getuienis van 'n hoogs tegniese aard ter stawing van verskeie gevolgtrekkings, afleidings en verslae deur getuies. In baie gevalle is daar deur getuies, met inbegrip van 'n verteenwoordiger van die DVV, te kenne gegee dat hierdie verslag van die Goldstone-kommissie oor geweld in die taxibedryf afgewag word, aangesien dit vermoedelik 'n vertrekpunt sal word vir die formulering van nuwe beleid, regulasies en verordeninge wat dié bedryf raak. Hoewel die komitee kennis neem van die hoë verwagtinge wat van sy aanbevelings gekoester word, moet die komitee nogtans beklemtoon dat hy nie van mening is dat dit sy opdrag is of dat hy genoeg ondervinding het of bevoeg is in aangeleenthede wat verband hou met die baie gespesialiseerde onderwerp van passasiersvervoer om met iets soos 'n bloudruk vorendag te kom waarop die toekomstige minibustaxibedryf gestruktureer kan word nie. Hierdie verslag bevat niks meer nie as aanbevelings wat die komitee se ernstige poging is om leiding te bied vir diegene wie se groot taak dit sal wees om blywende oplossings vir 'n baie komplekse situasie te vind.

5. In sy poging om antwoorde te vind vir die probleem om sinvolle maatreëls voor te stel wat, indien dit aangeneem sou word, sal help om die geweld en intimidasie te verminder of te beperk, het die komitee kennis geneem van 'n aantal moontlike oplossings en maatreëls wat aan die hand gedoen is deur getuies en diegene wat by die ondersoek verteenwoordig is. Sonder om die persone of organisasies wat sulke aanbevelings aan die hand gedoen het te identifiseer, is die volgende van die belangrikste maatreëls wat in die loop van die uitgerekte sittings voorgestel is:

5.1 Die daarstelling van 'n billike reguleerstelsel, streng toegepas en billik gepolisieer.

5.2 'n Beheerraad wat wat beheer oor die taxibedryf moet uitoefen, standaarde moet stel, die verskillende taxiverenigings moet koördineer en dissipline moet uitoefen.

5.3 Fasiliteite vir die onderrig van bestuursvaardighede, om besigheidsopleiding te verskaf en om nuwelinge in die bedryf op te voed ten opsigte van hulle verantwoordelikhede teenoor hulle passasiers en die publiek.

5.4 Die skep van toereikende fasiliteite vir die gebruik van taxi-operateurs en passasiers, met inbegrip van voldoende taxistaanplekke met skuilings en toilette, op- en aflaaipunte en gereserveerde bane vir minibustaxi's.

5.5 Verbeterde verkeersbeheer deur gevestigde bestuursbeginsels.

5.6 Die totstandkoming van goeie kommunikasiekanale, wat gepaard gaan met 'n funksionerende, toeganklike klagtehanteerstelsel op plaaslike vlakke.

5.7 'n Openbare opvoedings- en bewustheidsprogram wat daarop gemik is om dit vir die publiek [illegible] dat taxi's 'n integrale deel van die Suid-Afrikaanse vervoerstelsel is.

5.8 'n Subsidieskema wat deur die Staat geborg word, wat taxi-operateurs finansieel op gelyke voet met busoperateurs sal plaas, aangesien laasgenoemde tans gesubsidieer word.

5.9 Doeltreffende wetstoepassing.

6 Die opbloei van die taxibedryf die afgelope tyd is 'n verskynsel wat grootliks toegeskryf kan word aan die vinnige en voortgesette verstedeliking in Suid-Afrika. Dit vind in feitlik elke metropolitaanse gebied plaas en sal waarskynlik voortduur tot in die volgende eeu. Die afskaffing van statutêre instromingsbeheer in 1985 het meegebring dat 'n bestendige vloei van mense uit tuislande en stamgebiede na dorpe en stede 'n vloedgolf geword het. Die nuwe aankomelinge het hulle in dorpe en informele nedersettings aan die buitekante van stede en dorpe gevestig, waarvandaan en waarheen daar geen gereelde openbare vervoer was nie, en die minibustaxi het in hierdie behoefte aan openbare vervoer voorsien. Nie almal het daarvan gehou nie. Teenkanting teen die erkenning van die behoefte aan sodanige vervoer is gevind in die verslag van die Welgemoed-kommissie, wat in 1983 aanbeveel het dat 'n taxi 'n voertuig moet wees wat vier persone plus 'n bestuurder vervoer, dat die agtsitplekminibusse oor vier jaar uitgefaseer moet word en dat busdienste die mark met kleiner busse moet betree. Teenkanting teen minibustaxi's, ongeag die bron daarvan, is vinnig uit die weg geruim deur die steeds groeiende getal van hierdie soort taxi's. Die taxi's het nie net vervoer en werkgeleenthede verskaf nie, maar was ook instrumente vir

welvaartskepping binne die verskillende gemeenskappe van waar hulle bedryf is en wat hulle bedien het. Die minibustaxi het lof ontvang vir sy rol in die bevordering van ondernemerskap en vir die skepping van geleenthede vir die vooruitgang en bemagtiging van swartes. Nodeloos om te sê, die outomobielverwante bedrywe het vinnig gereageer om bystand en ondersteuning aan die bedryf te bied, natuurlik in ruil vir klandisie. Die minibustaxi het gekom om te bly.

7. Die glorie van die minibustaxibedryf was egter van korte duur. Die bedryf se reputasie het verswak as gevolg van steeds herhalende berigte oor swak bestuurdersgedrag. Daar was 'n vloed van berigte oor ongelukke waarby minibustaxi's betrokke was, veral na lang naweke en vakansies. Verteenwoordigers van die taxibedryf het desperaat probeer om die impak van die aantygings teen die bedryf weg te keer, totdat ook hulle verplig was om 'n paar heel fundamentele feite te erken: mededinging in die bedryf het in so mate gegroei dat dit ontaard het in 'n werklike jag na passasiers op winsgewende roetes, wat gelei het tot baie swak bestuurdersgedrag; 'n gebrek aan besigheidsopleiding en -vaardighede het verhoed dat taxi-operateurs reisgelde teen winsgewende koerse bepaal; en konflik veroorsaak deur spanning dwarsdeur die bedryf het sporadies uitgebars in geweld tussen lede van die bedryf. Aanvanklik het 'n vete tussen taxi-operateurs aansienlik aandag in die media geniet; deesdae is 'n volskaalse skietgeveg tussen wedywerende groepe nouliks 'n paragraaf in die nasionale pers werd. In feitlik elke provinsie is die minibustaxi dikwels die spil waarom geweld en misdaad draai.

8. Ongelukkig was die openbare sektor skynbaar glad nie gereed vir 'n aanslag op 'n bloeiende bedryf nie. In 'n ander deel van hierdie verslag handel die komitee met die owerhede se vermeende versuim om die werklike aard van die probleem te besef. Dit is voldoende om te sê dat die behoeftes van die bedryf en die mense wat daardeur vervoer word, jammerlik verwaarloos is. In sy ondersoek na die oorsake van die taxikonflik verwys die komitee na die geheel en al ontoereikende voorsiening van fasiliteite deur plaaslike owerhede. Tydens die aanhoor van getuienis in Kaapstad was daar 'n voortdurende stroom van beskuldigings deur getuies wat gekla het dat taxistaanplekke nie bestaan nie of waar dit wel bestaan, die fasiliteite heeltemal ontoereikend is. Die gebrek aan skuiling en toilette by staanplekke het gelei tot ontevrede passasiers; konflik tussen bestuurders en passasiers en 'n stryd om ruimte en grondgebied het uitgebars tussen wedywerende taxiverenigings wat aanspraak maak op die gebruik van bestaande staanplekke. Die oorsaak van die hele probleem lê blykbaar daarin dat die vervoerowerhede in gebreke gebly het (in geheel of dan minstens gedeeltelik) om voorsiening te maak vir die uitwerking wat die wettiging van roofoperateurs wat voorheen onwettig was, sou hê op die bedryf, en veral op diegene wat wettig in die bedryf was.

9. Getuies van verskillende dissiplines en van verskillende sentra waar taxikonflikte ondervind word, het die komitee gewaarsku dat konflikte en konfrontasie wentel om die kwessie van staanplekke en roetes en dat geweld as die enigste instrument om die probleme op te los, gebruik word. Dieselfde getuies het gewaarsku dat indien totale anargie vermy wil word, iemand tussenbeide moet tree en 'n sterk beleidsrigting vestig. Ander het gewaarsku dat ernstige spanning binne die bedryf bestaan en dat geweld enige oomblik op enige plek in die land kan uitbreek. Dit is insiggewend dat so 'n waarskuwing reeds in 1986 deur SABTA in 'n brief aan die Minister van Vervoer gerig is.

10. Nadat die komitee met verteenwoordigers van die bedryf in 'n aantal sentra gepraat het, aanvaar hy die siening dat dit onbevredigend en selfs teenproduktief sou wees om 'n onderhandelde kompromis tussen strydende taxiverenigings as meer as net 'n tussentydse oplossing te beskou. Hoewel die komitee waardering het vir die pogings van almal wat betrokke is en wat betrokke raak by die beslegting van taxigeskille, waar ook al dit plaasvind en waar dit in die toekoms kan plaasvind, sal stabiliteit in dié bedryf bereik word slegs indien blywende oplossings wat deur die taxigemeenskap aanvaar en gerespekteer word, gevind word.

11. DEREGULERING (VOORDELE EN NADELE)

11.1 Die komitee het reeds sy standpunte vermeld oor die vraag of deregulering - vermeende of werklike deregulering - bygedra het tot die algemene gevoel van ontevredenheid binne die taxibedryf. Die komitee moet nou slegs sy standpunte stel en sy aanbevelings maak oor die omstrede en reeds dikwels bespreekte vraag of deregulering in die taxibedryf op sigself deel moet uitmaak van toekomstige beplanning vir die bedryf en of die implementering van die Regering se beoogde beleid waarskynlik sal bydra tot meer of voortdurende geweld.

Die Regering se beoogde beleid word opgesom in sy Witskrif oor Nasionale Vervoerbeleid, wat hoofsaaklik die volgende voorgestel het:

11.1.1 Die afwenteling van mag na die laagste moontlike vlak van regering;

11.1.2 die bevordering van privaat inisiatief; en

11.1.3 die verwydering van regulatoriese beperkings wat vrye mededinging voorkom.

11.2 Daar is baie voor die komitee geredeneer oor die voor- en nadele van regulatoriese beleide in die taxibedryf. Meer as een getuie het verduidelik dat deregulering in die taxibedryf 'n deel is van nasionale ekonomiese beleid om doeltreffende mededinging binne 'n vryemarkstelsel aan te moedig. Die komitee is meegedeel dat die Regering besluit het

om so 'n nasionale beleid in te voer en dat vervoer in die breedste sin in ooreenstemming met daardie beleid gebring moet word. Prakties beteken dit dat permitte wat op grond van ekonomiese oorwegings uitgereik is, uiteindelik vervang sou word deur permitte wat uitgereik is na die beoordeling van kwalitatiewe maatstawwe, dit wil sê toetse om bestuurdersbevoegdheid, die geskiktheid van die voertuig en die bestaan van versekeringsdekking vir passasiers en derde partye, te bepaal. 'n Applikant vir so 'n permit sal nie hoef te bewys dat daar 'n behoefte is aan 'n diens wat hy van plan is om te verskaf nie, maar sal in beginsel daarop geregtig wees om op enige plek tot die mark toe te tree en om vervoer aan passasiers te verskaf teen tariewe wat net hy bepaal.

11.3 Dr P E J Brooks, voorsitter van die Raad op Mededinging, het getuig dat die Raad poog om beperkings op toetrede tot enige vorm van besigheid uit te skakel. Hy doen, met regverdiging, aan die hand dat indien die uitreiking van permitte onderworpe sou wees aan die een of ander vorm van ekonomiese beperking, die feitelike gevolg sal wees dat sekere persone wat om watter rede ook al nie kwalifiseer vir sulke permitte nie, nietemin tot 'n bedryf sou toetree wat as winsgewend beskou word, of hulle nou 'n permit het of nie. Hy voer aan dat die regulatoriese stelsel van permitte onvermydelik strafregtelike sanksies meebring, wat persone wat sonder permitte tot die bedryf toetree, in misdadigers omskep. Dié toedrag van sake moet volgens dr Brooks klaarblyklik vermy word.

Hy aanvaar dat baie taxi-operateurs sonder besigheidsopleiding of -vaardighede taxi's bedryf ('n stand van sake wat herhaaldelik in die loop van besprekings met lede van die komitee deur taxi-operateurs bevestig is), maar doen aan die [illegible] probleme en hulle te versoen met ekonomiese realiteite en mededinging binne die taxibedryf en van ander vervoeroperateurs. [illegible] word deur 'n opvoedingsproses onder die lede van [illegible] en deur die probleem self te bestuur. Hy het ook gewaarsku dat 'n regulatoriese stelsel wat probeer om gevestigde belange te beskerm en wat die uitwerking het dat ander persone uitgesluit word ten spyte van hulle vermoë om 'n ewe doeltreffende diens aan die gemeenskap te verskaf, nie geduld moet word nie.

Dr Brooks het egter toegegee dat beheer oor onpadwaardige voertuie, bestuurdersvaardighede en rybewyse, en die toepassing daarvan deur die een of ander vorm van voorgeskrewe dissipline, 'n regulatoriese stelsel wat toegepas word deur middel van 'n beheerliggaam, kan regverdig. Dr Brooks het onder andere 'n oorkoepelende gekoördineerde dereguleringsbeleid bepleit, en het die aandag gevestig op die verskillende vlakke van regering waarvandaan die vervoerbedryf beheer word; hy het beklemtoon dat dit lei tot 'n geheel en al onbevredigende toedrag van sake. Hoewel hy klem daarop gelê het dat vrye onderneming en mededinging nie 'n doel op sigself is nie, het hy verklaar dat die doel is dat die

samelewing sy hulpbronne op die beste moontlike manier gebruik. Hy het ook verklaar dat daar in sekere omstandighede "valid justification for a measure of regulation to counteract the negative effects that might possibly ensue from a totally open deregulated society" bestaan.

Die oorkoepelende indruk wat die komitee gekry het, was egter dat dr Brooks en die Raad op Mededinging nie enige regulatoriese stelsel ondersteun wat beperkings op die taxibedryf sou plaas of toegang daartoe verhinder nie, en dat hulle glo dat markkragte, indien hulle toegelaat sou word om deur opvoeding en behoorlike bestuur te funksioneer, uiteindelik die bedryf sal reguleer op 'n wyse wat vir die algemene publiek aanvaarbaar is.

11.4 In teenstelling met die getuienis wat deur dr Brooks namens die Raad op Mededinging gelewer is, het feitlik elke ander getuie wat getuienis gelewer het, besliste steun uitgespreek vir 'n allesomvattende regulatoriese stelsel wat streng toegepas en gepolisieer word. Hierdie benadering is gevolg deur konsultante, verteenwoordigers van plaaslike owerhede, die DVV en die taxibedryf self. Hoewel SABTA voorheen die beginsel van deregulering ondersteun het, het hy sy ondersteuning daarvan gekwalifiseer deur te sê dat deregulering 'n program moet wees wat oor 'n aantal jare ingefaseer word ten einde chaos in die bedryf te voorkom. Namens SABTA is daar aan die hand gedoen dat 'n bedryf wat geweldige groei oor 'n baie kort tydperk getoon het, onderworpe moet wees aan aansienlike regulatoriese dissipline ten einde die ontwikkeling van spanning en voortdurende uitbreek van geweld binne die bedryf, blokkades in stede en algemene anargistiese neigings te voorkom. Die regsverteenwoordiger van die DVV by die aanhoor van getuienis (adv J van den Berg) het, toe hy oor hierdie kwessie ondervra is, ook ongekwalifiseerde ondersteuning vir die handhawing van 'n duidelike, ondubbelsinnige regulatoriese stelsel vir die taxibedryf uitgespreek.

11.5 Die komitee beoog nie om die presiese aard van die getuienis wat deur elkeen van die getuies voorgelê is, te behandel nie, omdat hy tot die gevolgtrekking gekom het dat deregulering van die taxibedryf in die afsienbare toekoms nie aanbeveel kan word nie. Hierdie standpunt word nie net gebaseer op grond daarvan dat al die partye wat betrokke is by die taxibedryf 'n regulatoriese stelsel ondersteun nie, maar ook omdat die komitee van mening is dat deregulering binne 'n bedryf wat deur inherente geweld geteister word, 'n chaotiese situasie tot gevolg sal hê indien die aantal operateurs wat om klandisie meeding, dramaties sou toeneem. Die komitee neem veral die feit in ag dat die meeste minibustaxi-operateurs self erken het dat hulle 'n gebrek aan besigheidsopleiding en -vaardighede het. Verteenwoordigers van die bedryf het getuig dat omdat die minibustaxi beskou word as 'n bron van potensiële rykdom, baie persone aansienlike finansiële verantwoordelikhede en risiko's op hulle neem om 'n

minibustaxi te bekom, net om te vind dat die beloning nie so goed is as wat daar gesê word dit is nie. Ten einde hierdie verantwoordelikhede na te kom is die operateur verplig om aktief en selfs aggressief mee te ding. Dit lei tot konflik en geweld. Die komitee is hoegenaamd nie oortuig daarvan dat vryemarkkragte in hierdie spesifieke bedryf sal seëvier nie, aangesien die lede daarvan herhaaldelik hulle toevlug neem tot wetteloosheid en geweld om ontevredenheid en griewe reg te stel. Hierdie standpunt word ondersteun deur 'n aantal feite en faktore waarmee die operateurs in die bedryf tans op 'n daaglikse grondslag gekonfronteer word, naamlik:

11.5.1 Hoewel die taxibedryf vroeër jare 'n goeie inkomste verskaf het en 'n potensiële bron van rykdom vir operateurs was, is die bedryf tans onder ernstige druk met 'n netto inkomste (dit wil sê bruto inkomste afkomstig uit reisgeld minus bykoste) op vlakke wat moontlik onder die bestaanspeil is. Oor die algemeen word daar nie voorsiening gemaak vir slytasie op taxi's of vervangingskoste nie, wat beteken dat die toestand van voertuie vinnig agteruitgaan, wat hulle ongeskik vir passasiersvervoer maak.

11.5.2 Hoewel leningsfinansiering in die vroeë stadiums redelik maklik beskikbaar was, bestaan die gevaar dat die finansieringsbronne gou sal verdwyn as gevolg van die deurlopende versuim aan die kant van baie operateurs om gereelde betalings op kontrakte te maak.

11.5.3 Konflikterende belange het van tyd tot tyd tussen passasiers en taxi-operateurs ontstaan, en ongeag die oorsaak daarvan, wat van enige kant afkomstig kan wees, kan die verbruiker kies om ander vervoermiddele te gebruik, dit wil sê treine, busse, ensovoorts, omdat dit goedkoper, veiliger en betroubaarder is.

11.5.4 Openbare vervoer word gesubsidieer, maar nie die taxibedryf nie. Hoewel die Regering aangedui het dat hy besluit het om taxi's te subsidieer, is sy program in hierdie verband nog nie gepubliseer nie. Verwagtinge waaraan nie voldoen word nie, kan verdere ontevredenheid aanblaas in die bedryf, wat oortuig is dat daar onregverdig teen hom gediskrimineer word. Dit is moeilik om sien hoe enige vorm van subsidiëring op 'n gedereguleerde taxibedryf toegepas kan word.

11.5.5 Ten spyte van die uitreiking van permitte aan 'n groot aantal operateurs wat voorheen minibustaxi's sonder permitte bedryf het, word die bestaan van 'n permit steeds deur die houer daarvan as 'n bate beskou wat kommersiële waarde het. Die grootskaalse

uitreiking van permitte in die proses van deregulering sal natuurlik die waarde van die bate verminder. Dit op sigself kan die oorsaak van ontevredenheid en konflik wees.

11.6 Die onderliggende motivering vir deregulering is die aanvaarding van die beginsel dat 'n vrye mark die skaal of maatstaf sal verskaf waardeur die verbruiker die gehalte van diens en die prys wat daarvoor betaal moet word, kan meet. Dit veronderstel dat die verbruiker vry is om te kies en dat die diensverskaffers in staat is om te reageer op die seine wat deur die mark gegee word.

11.7 Indien deregulering geïmplementeer sou word (daar word reeds gemeen dat dit gedeeltelik in bedryf is) deur die uitreiking van permitte aan enigiemand wat die kwalitatiewe toets slaag, sal die gevolglike handelsmededinging lei tot verdere spanning, wat moontlik in geweld sal kulmineer.

11.8 In getuienis voor die komitee is daar aangevoer dat dit verkeerd sou wees om die vermoë van die gemiddelde taxi-operateur te onderskat om binne 'n vrye mark op te tree of om hom aan te pas by die eise wat ernstige handelsmededinging stel. Die feite wat aan die komitee voorgelê is, dui egter daarop dat baie klem geplaas moet word op die versoeke vir besigheidsopleiding wat van binne die bedryf kom. Die enigste interpretasie wat aan hierdie versoeke geheg kan word, is dat daar 'n algemene gebrek aan besigheidsvaardighede onder taxi-operateurs bestaan, wat hulle verhinder om die probleme wat deur 'n baie mededingende mark geskep word, ten volle te aanvaar. Voorbeelde van die tipe spanning wat ontstaan as gevolg van handelsmededinging is aan die komitee gegee; hierdie voorbeelde dui daarop dat in 'n omgewing waar sterk [illegible] handelsdruk (dit wil sê bedryfskoste en finansieringskoste) geplaas word op die operateurs wat om klandisie in dieselfde mark meeding, die resultaat nie is wat die voorstanders van die vryemarkstelsel sal verwag nie, naamlik 'n prysaanpassing om hulle in staat te stel om sodanige druk te hanteer en steeds 'n redelike wins op te lewer. Indien gehalte of die aard van die mededinging as onbillik gesien word, is die gevolg dikwels dat die reg in eie hande geneem word, wat tot fisiese geweld lei.

11.9 Daar is sterk getuienis dat die gemeenskap wat die passasiers vir die bedryf verskaf, 'n kragtige instrument tot sy beskikking het wat gebruik kan en moet word om geweld teen te staan, veral waar dit op die gemeenskap oorgaan. Vroeg in 1991 [illegible] die swart dorpe rondom Kaapstad op sy ergste was, het die ANC, as 'n maatreël om geweld tot 'n einde te bring, uitgeslape aan die hand gedoen dat die gemeenskap alle minibustaxi's moet boikot totdat die geweld ophou. Die gemeenskap het gereageer, met positiewe resultate, wat uiteindelik gekulmineer het in die stigting van CODETA.

Die komitee sien egter nie 'n boikot in bogenoemde omstandighede as 'n manifestering van die vrye mark in werking nie. Dit is eerder 'n geval van 'n gemeenskap wat aggressief reageer op die geweld waarby hy teen wil en dank betrokke geraak het. Die boodskap aan die taxibedryf, wat dié boodskap net tot sy eie nadeel sou ignoreer, is dat 'n gemeenskap kan kies om ander meer aanvaarbare vervoermiddele te vind ten einde te verhoed dat hy by taxigeweld betrokke raak.

11.10 Die komitee se gevolgtrekking dat deregulering as 'n moontlike metode om 'n einde te maak aan chaos in die taxibedryf nie oorweeg moet word nie, word verder versterk deur die volgende oorwegings:

11.10.1 Dit is nie onredelik om te verwag dat deregulering na alle waarskynlikheid baie nuwe operateurs na die mark sal bring nie. Vermoedelik sal die logiese gevolg die verwydering of onttrekking wees van diegene wat geen aanspraak op 'n ekonomiese bestaan binne daardie mark het nie. Dit is egter ernstig te betwyfel of dit in die praktyk sal gebeur. Die getuienis dui daarop dat operateurs wat onder druk geplaas is deur die mededinging van ander, of wat dit moeilik gevind het om wettig in die bedryf te wees deur voertuie in 'n padwaardige toestand te hou, afgewyk het van die "wettige" roetes om roofoperateurs te word wat met die goedkeuring, borgskap of verlof van 'n taxivereniging funksioneer op roetes wat nie aan gereelde wetstoepassing onderwerp word nie. (Volgens die getuienis is daar 'n aansienlike aantal rooftaxi's wat informeel optree [dit wil sê op roetes binne swart dorpe wat nie in die gewone gang van sake gepolisieer word nie] onder beskerming van sekere taxiverenigings. Dit is baie twyfelagtig of hierdie informele uitbreiding van die bedryf 'n moontlike bron van konflik of geweld is, maar daar is sekerlik die moontlikheid dat passasiers in gevaar verkeer omdat die voertuie nie padwaardig is nie.) Enige groei in die "rooftaxibedryf" moet vermy word.

11.10.2 Reisgelde betaalbaar deur passasiers is blykbaar nie direk gekoppel aan bedryfskoste nie, maar word eerder vasgestel in reaksie op mededinging van openbare vervoer, veral busoperateurs, en selfs in reaksie op aggressiewe eise van die gemeenskap. Die onvermydelike ekonomiese argument dat 'n taxirit duurder as 'n busrit moet wees, word deur die taxibedryf verwerp. Trouens, reisgelde word blykbaar bepaal om 'n goedkoper rit te verskaf, ongeag die feit dat, om duidelike redes, busse 'n groter aantal passasiers meer ekonomies en dus meer bekostigbaar teen laer tariewe as taxi's kan vervoer.

11.10.3 Die taxibedryf word deur magstryde geteister. Op nasionale vlak is SABTA, die grootste nasionale liggaam, die teiken van SALDTA en andere. Op plaaslike vlak ding individuele taxiverenigings met mekaar mee om klandisie. Geskiedkundig word die plaaslike sake van die bedryf toevertrou aan plaaslike taxiverenigings wat funksioneer op 'n manier wat daarop gemik is om die belange van hulle lede te beskerm, met inbegrip van die beskerming van belange op spesifieke roetes en by spesifieke staanplekke. Die geweld wat oor die algemeen bekend staan as die "taxi-oorlog", is in werklikheid 'n vete tussen mededingende taxiverenigings. 'n Deel van die funksies van 'n plaaslike taxivereniging is om die reisgeld te bepaal waarteen passasiers vervoer moet word, en hoewel die bepaling daarvan in 'n mate verband hou met reisgelde wat deur ander verenigings gevra word, hang dit meer af van ander faktore. Die komitee het tot die gevolgtrekking gekom dat die vrye mark 'n baie klein rol by die bepaling van tariewe speel.

11.10.4 Aangesien baie nuwe operateurs tot die mark toetree (op grond van die persepsie dat die vergoeding goed is), het die gemiddelde inkomste afkomstig uit 'n enkele taxi gedaal tot op 'n vlak wat oor die algemeen as onekonomies beskou word. Daar kan miskien verwag word dat die onekonomiese vlakke eenvoudig die swakste mededingers uit die mark sal dryf. Hoewel akkurate statistiek nie beskikbaar is nie en hoewel daar rede is om te glo dat sommige operateurs die bedryf verlaat het, is die algemene indruk wat die komitee gekry het, dat die taxibedryf steeds in sekere gebiede oorbevolk is.

Die stelling wat die komitee wil maak, is dat die gesofistikeerde oplossing van die probleem deur toe te laat dat vryemarkkragte wanbalanse herstel in 'n onvolwasse bedryf wat 'n grootliks ongesofistikeerde sektor van die bevolking bedien, waarskynlik meer negatiewe resultate as positiewe resultate sal oplewer. Die komitee gee geredelik toe dat wanneer informele dorpe en vestigings eers goed gevestigde, vreedsame gemeenskappe elk met sy eie infrastruktuur word, die bedryf self deregulering sal versoek.

11.11 Nieteenstaande sy ondersteuning vir die handhawing van 'n regulatoriese stelsel is die komitee ernstig van mening dat toegang tot die taxibedryf verkieslik nie gereserveer moet word vir 'n paar bevoorregtes en ontsê moet word aan andere wat net so gekwalifiseer en in staat is om die publiek veilig en gerieflik teen redelike pryse te vervoer nie. Gesonde mededinging binne die bedryf moet in belang van die publiek aangemoedig word. Ideaal gesproke moet daar 'n beleid wees wat uitgaan van 'n streng toegepaste regulatoriese stelsel, en wat beweeg na 'n stelsel wat groter klem plaas op kwalitatiewe

maatstawwe in teenstelling met ekonomiese maatstawwe. Die mate van beweging in die rigting van die vrye mark moet ooreenstem met die verbetering van die lewensgehalte van die gemeenskappe wat deur die bedryf bedien word.

## 12. REGULERING (IN TEENSTELLING MET DEREGULERING)

12.1 Die huidige stelsel van regulering word in sy geheel deur die DVV geadministreer. Verskillende getuies het aan die hand gedoen dat die klem wat deur die Regering gelê is op privatisering, deregulering en die vermindering van sy finansiële verantwoordelikhede, gelei het tot 'n beleidsvakuum wat op sy beurt bygedra het tot 'n toestand van onsekerheid en verwarring in alle sektore betrokke by die vervoerbedryf.

Die komitee het sekerlik 'n aansienlike mate van onsekerheid ten opsigte van die pad vorentoe in die getuienis van beamptes van die DVV bespeur. Hulle het sonder voorbehoud verklaar dat daar slegs 'n beperkte mate van deregulering toegelaat is om voorsiening te maak vir die wettiging van die rooftaxi's wie se teenwoordigheid in die bedryf juis die behoefte aan hulle bestaan bewys het, en dat deregulering in die bedryf nie 'n formule vir sukses sal wees nie ten spyte van die besluit van die Regering om die bedryf te dereguleer. Hierdie getuienis is gelewer na 'n onlangse openbare verklaring deur die Minister van Vervoer in die TV-program "Agenda" dat die minibustaxibedryf heeltemal gedereguleer is. Uit 'n verduidelikende verklaring wat daarna aan die komitee voorgelê is, het dit geblyk dat die Minister slegs verwys het na die huidige situasie in Johannesburg waar taxiblokkades plaasgevind het, en dat hierdie verklaring in die TV-program nie bedoel was om te verwys na die deregulering van die hele bedryf nie. Nietemin is die algemene persepsie aan die kant van baie getuies dat aansienlike of selfs totale deregulering die beleid van die DVV geword het, en dat permitte vrylik beskikbaar is.

12.2 Gedurende die aanhoor van getuienis het die komitee tot die besef gekom dat "deregulering" verskeie betekenisse gekry het, naamlik:

12.2.1 Daar word gereken dat dit die uitreiking van permitte met geen of min inagneming van die bepalings van artikel 15 van Wet 74 van 1977 beteken. In artikel 15(2)(a) van daardie Wet word voorsiening gemaak vir 'n bewyslas waaraan die applikant moet voldoen voordat 'n permit toegestaan kan word, maar voldoening aan al hierdie vereistes word blykbaar nie van applikante verwag nie. Ten tyde van die lewering van getuienis aan die komitee was die belangrikste maatstaf blykbaar dat 'n "behoefte" aan 'n diens bewys moet word. Die proses van die wettiging van rooftaxi's is blykbaar 'n goeie voorbeeld van hierdie tipe "deregulering".

12.2.2 Dit word vertolk as die totale deregulering van die bedryf soos deur die Witskrif beoog.

12.2.3 Dit word ook vertolk as *de facto*-deregulering in die sin dat die versuim deur die owerhede om die wet toe te pas (hoofsaaklik as gevolg van die gebrek aan mannekrag in die inspektoraat, en intimidasie) beteken dat die bedryf homself gedereguleer het.

12.3 Op beskuldigings van veral konsultante van die Munisipaliteit van Kaapstad dat daar 'n gebrek aan rigting en doelgerigtheid aan die kant van die DVV ten opsigte van beheer oor die taxibedryf is en, veral, dat die DVV en die PPVR'e nie aktief betrokke geraak het by die vind van oplossings vir die vele probleme wat uit die minibustaxibedryf ontstaan het nie, het beamptes van die DVV onweerlegbare bewys gelewer dat die hele probleem ten opsigte van die bedryf die onderwerp van intensiewe ondersoek, baie studies deur konsultante en ander kundiges, en talle verslae was. Die komitee is seker dat die DVV nie net baie bewus van die bestaan van die vele probleme in die bedryf is nie, maar ook aansienlike pogings aangewend het om die situasie te hanteer. Die deurlopende betrokkenheid van die DVV by die vind van oplossings is nie beperk tot wat interne studies en ondersoeke genoem kan word nie. Trouens, die DVV het wyd en omvattend oorleg pleeg. Indien hy wel gefouteer het ten opsigte van die geweld in Wes-Kaapland, lê sy fout daarin dat hy SABTA se verduideliking aanvaar het dat politiek die probleem veroorsaak, dat hy nagelaat het om by die vredesproses betrokke te raak en dat hy nagelaat het om met die betrokke taxigemeenskappe te kommunikeer.

12.4 Dit is egter simptomaties van die hele probleem ten opsigte van geweld in die bedryf dat die amptenary in werklikheid ver verwyderd is van die probleme wat op grondvlak in die bedryf voorkom. Dit is op hierdie gebied, miskien meer as op ander gebiede, dat oplossings nodig is. Die komitee het byvoorbeeld bevind dat die beskuldiging dat die PPVR'e as "remote issuing bodies" optree, goed gegrond is.

12.5 Die komitee het tot die gevolgtrekking gekom dat 'n ingrypende fundamentele herstrukturering van die regulatoriese stelsel nodig is. Hierdie probleem moet dringend hanteer word. Dit is noodsaaklik dat huidige operateurs binne die taxibedryf en voornemende toetreders tot die bedryf absolute duidelikheid moet hê ten opsigte van die regte, pligte en verpligtinge van taxi-operateurs wat binne die stelsel funksioneer.

12.6 Aangesien 'n regulatoriese stelsel noodwendig die oplê van strawwe vir die oortreding van regulasies impliseer, moet diegene wat binne hierdie stelsel funksioneer, noodwendig instem om hulle deur die regulasies te laat bind. Dit veronderstel die aanvaarding van geldige reëls en regulasies deur die taxibedryf, waarsonder die wettigheid van die bedryf altyd bevraagteken sal word. Die komitee beskou dit dus as

noodsaaklik dat die minibustaxibedryf direk betrokke moet wees by die daarstelling van die raamwerk van 'n stelsel wat bedoel is om sy bestaan te reguleer. Die minibustaxibedryf moet deel van die oplossing van die probleem word.

12.7 Hoewel die komitee aanvaar dat die daarstelling van 'n nasionale beleid vir openbare vervoer die plig van die Sentrale Regering moet wees, en dat die minibustaxi een van die komponente van openbare vervoer sal wees wat ingevolge so 'n beleid gereguleer moet word, hoort fisiese beheer oor die uitreiking van permitte en die toepassing van die regulatoriese stelsel natuurlik op 'n laer vlak van regering, veral indien daar 'n afwenteling van mag van die sentrale regering na streek- of plaaslike regeringsvlakke gaan wees.

12.8 Tot dusver was die PPVR'e die agente van die regering wat met die beheer oor openbare padvervoer belas is. Hoewel die PPVR'e volgens wet outonome liggame is, word hulle deur die taxibedryf en die publiek as 'n verlenging van die DVV gesien. Elke PPVR het as sy voorsitter 'n staatsamptenaar wat in die voltydse diens van die staat is. Die lede van die PPVR'e, hoewel hulle deur verskeie liggame genomineer word, word deur die Minister aangestel. Die algemene publiek, en veral die taxibedryf, het hoegenaamd geen direkte seggenskap in die verkiesing of aanstelling van die persone wie se besluite 'n baie wesenlike invloed op hulle lewens en inkomste kan hê nie. Die PPVR's, hoewel statutêr outonoom en dus nie [illegible] aan enigiemand nie, word [illegible]ien as 'n instrument wat deur die Regering gebruik word om sy padvervoerbeleid uit te voer. Hulle h[illegible] die oordra van die boodskap dat hul[illegible]nomie direk toegeskryf kan word aan die wetgewer se bed[illegible] om die permituitreikingsproses teen moontlike Staatsinmenging te beskerm. [illegible] uitgetekende beginsel is gekortwiek deur die proses waardeur die voorsitter en lede van die PPVR'e aangestel is. Die eindresultaat was dat die PPVR'e begryplikerwys beskou is as 'n arm van die Regering en onder sy beheer.

12.9 Die begrip van 'n outonome raad wat jurisdiksie oor 'n bepaalde geografiese gebied geniet, moet van nader ondersoek word. Kragtens die Wet op Padvervoer No 74 van 1977 word geen bepaalde erkenning aan die minibustaxibedryf gegee nie. Toe daardie Wet van krag geword het, was slegs konvensionele sedantaxi's op 'n metergrondslag in bedryf. Die funksies van die PPVR'e, wat op 'n streekgrondslag kragtens daardie Wet tot stand gekom het, het ingesluit oorweging van aansoeke om permitte deur toetreders tot die konvensionele taxibedryf, en die maatstawwe wat van toepassing was, het geen bepaalde erkenning aan die vervoer van passasiers in enige ander vorm as konvensionele taxi's en busse gegee nie. Taxi-operateurs is van permitte voorsien om binne 'n bepaalde radius te werk, gemeet van die ligging van 'n bepaalde staanplek.

Die negepassasierminibus het feitlik ongemerk op die toneel verskyn, en is op dieselfde grondslag permitte toegestaan.

Busoperateurs het mededinging van hierdie sektor as onbillik beskou en het beswaar aangeteken teen feitlik elke aansoek om 'n negesitplektaxipermit op grond daarvan dat die bestaande busdienste toereikend in die behoefte aan openbare vervoer voorsien.

Hierdie feit en Regeringsbeleid het die aantal wettige negesitplekminibustaxi's in die bedryf doeltreffend beperk. Ten spyte van die subsidie wat deur busoperateurs ontvang is, was die minibus 'n meer aanvaarbare vorm van vervoer, soveel so dat baie onwettige ("roof-") operateurs tot die mark toegetree het.

Daar is geen statistiek beskikbaar om met enige mate van akkuraatheid te weerspieël wat die omvang van die rooftaxibedryf was of wat dit op enige gegewe moment is nie. Verskeie ramings dui daarop dat roofoperateurs in die bedryf enigiets tussen 40% en 60% van die totale taxivloot uitmaak. Hoofsaaklik twee tipes roofoperateurs bied hulle dienste aan die publiek: diegene sonder permitte van enige aard, en diegene wat die voorwaardes verbonde aan hulle permitte oortree. Die uiteindelike gevolg is dat nóg die DVV nóg die plaaslike owerhede enige presiese inligting kan verskaf ten opsigte van die aantal taxi-operateurs wat hulle dienste bied aan die verskillende gemeenskappe waarbinne hulle in bedryf is. Die komitee het dus tot die gevolgtrekking gekom dat die PPVR'e, as meganismes deur wetgewing daargestel om die poort na die taxibedryf te wees, soos hulle tans bestaan, grootliks ondoeltreffend geword het.

12.10 Die probleem word deur drie belangrike faktore vererger.

12.10.1 Die PPVR'e - en die DVV - werk kragtens 'n regulerende wet in 'n beleidsvakuum wat geskep is deur die verwarring wat gevolg het op die Sentrale Regering se aanvaarding van die vryemarkbeginsel soos vervat in die Witskrif, wat die totale afskaffing van ekonomiese maatstawwe vir toetrede tot die bedryf beoog het.

12.10.2 Hoewel die regulatoriese aard van die Wet streng, deurlopende wetstoepassing veronderstel, het die aantal inspekteurs wat deur die DVV in diens geneem is om die regulasies toe te pas, glad nie voldoen aan die behoefte aan inspekteurs wat aktief en sigbaar in die proses van wetstoepassing moes wees nie.

12.10.3 Sonder doeltreffende wetstoepassing om enige regulatoriese stelsel te rugsteun, het die rooftaxibedryf natuurlik gefloreer, met die uiteindelike gevolg wat neergekom het op *de facto*-deregulering.

12.11 Regulatoriese ontoereikendhede het 'n perfekte teelaarde gevorm vir operateurs wat die wet in eie hande wil neem. Die gebrek aan 'n toegewyde wetsraamwerk waarin die bedryf moet funksioneer, gepaard met 'n gebrek aan toereikende wetstoepassing, skep omstandighede waarin geweld en misdaad steeds floreer.

12.12 Die geografiese streke wat deur die verskillende PPVR'e bedien word, is duidelik so groot dat doeltreffende beheer van enige aard dwarsdeur 'n bepaalde streek deur enige PPVR (indien dit ooit die bedoeling was) fisiese onmoontlik is. Die PPVR in Kaapstad dek 'n gebied van George in die ooste tot Vioolsdrif (waar 'n taxi waarskynlik min gesien word) in die noordweste. Die PPVR in Johannesburg dek die gebied van Vanderbijlpark in die suide tot Pongola in die suidooste en sluit in Westonaria, Krugersdorp, Randfontein en omringende gebiede.

12.13 Die permanente personeel van die kantoor van 'n PPVR bestaan onder andere uit die voorsitter en die sekretaris, bygestaan deur ander klerklike personeel. Aangesien sy statutêre [illegible] tot die oorweging van aansoeke om permitte vir deelname aan die hele padvervoerbedryf, is dit nie verbasend nie dat die PPVR'e, nie deur hulle eie toedoen nie, wyd gekritiseer is as niks meer nie as "remote issuing bodies". Die siening dat die PPVR'e net 'n beperkte statutêre funksie het om te verrig en dat hulle pligte nie strek tot bemiddeling in of selfs ondersoek na die oorsake van onenigheid en geweld in die taxibedryf nie, was skynbaar ook die siening van ten minste die voorsitter van Kaapstad se PPVR, wie se getuienis getuig het van 'n ontstellende gebrek aan besorgdheid oor en besef van die behoeftes van die gemeenskap. Die vrees dat die weiering van toestemming vir permitte kan lei tot hersieningsverrigtinge en negatiewe beslissings deur die howe, het blykbaar 'n baie groter rol in die besluitnemingsproses gespeel. Daar was skynbaar ook 'n algehele gebrek aan oorkoepelende beplanning en koördinering van beleid tussen die PPVR'e en plaaslike owerhede, wat gekulmineer het in 'n neiging dat die een die ander blameer vir die onvermoë van die bestaande regulatoriese stelsel om die chaos waarin die bedryf vasgevang was, te hanteer.

12.14 Die aansienlike verdeeldheid tussen die bedryf en die DVV word beklemtoon deur die eng interpretasie wat sommige PPVR'e aan hulle pligte en funksies heg. 'n Onsuksesvolle applikant vir 'n permit is wetlik nie daarop geregtig om meegedeel te word waarom die aansoek gemisluk het nie, en hoewel 'n beampte in die PPVR-kantoor nie-amptelik 'n applikant kan bystaan met die regstelling van foute in die aansoekvorm voor die voorlegging daarvan vir oorweging deur die PPVR, kan die reg om vas te stel waarom 'n aansoek geweier is, uitgeoefen word slegs deur appèl aan te teken en buitensporige voorgeskrewe gelde (tans R800) te betaal. Die komitee ag dit belaglik om van 'n onsuksesvolle applikant te verwag om R800 te betaal ten einde die redes waarom 'n aansoek

om 'n permit nie geslaag het nie, te verneem. (Die komitee se aanbevelings ten opsigte van die appèlstelsel word later vollediger behandel onder die opskrif "Geskilbeslegting, appèlle en stelsels vir die hantering van klagtes").

12.15 Die lisensie, permit of magtiging, in watter vorm dit ook al uitgereik word, wat die houer daarvan magtig om binne die bedryf op te tree, sal natuurlik die grondslag van enige regulatoriese stelsel vorm. Aangesien die beskikbaarheid van die diens aan die publiek sal afhang van die aantal permitte uitgereik binne die gebied of streek, en aangesien die gehalte van die diens beskikbaar vir die publiek sal afhang van die voorwaardes verbonde aan sodanige permitte, volg dit dat die uitreikingsliggaam aanspreeklik moet wees teenoor die publiek, aangesien sy enigste funksie is om die openbare belang te dien. Aanspreeklikheid, in die politieke sin van die woord, hou direk verband met die proses van demokratiese verkiesing. Die komitee het dus tot die gevolgtrekking gekom dat die liggaam wat met die funksie van die uitreiking van permitte belas word, aangestel moet word op 'n wyse wat openbare aanspreeklikheid behels.

12.16 Ten spyte van al hulle tekortkominge sal die vervanging van die PPVR'e deur 'n ander statutêre liggaam nie noodwendig groter sukses of 'n antwoord op die bestaande probleme bied nie, tensy so 'n liggaam spesifiek belas word met pligte en verantwoordelikhede wat tot dusver nie aan PPVR'e toevertrou is nie. Die komitee huiwer om 'n veld te betree wat in die eerste plek die terrein behoort te wees van persone wat kundiges geword het op grond van omvattende studies oor passasiersvervoer in al sy modusse en omstandighede, en tweedens van wetgewers wie se aandag toegespits moet wees op oorlegpleging en onderhandelinge met die oog op die vind van wesenlike konsensus onder almal wat waarskynlik deur toekomstige beleid geraak gaan word. Nietemin sal die getuienis wat aan die komitee gelewer is, dien as waardevolle bakens vir die vind van 'n aanvaarbare plaasvervanger vir die huidige gediskrediteerde PPVR'e. Verskeie getuies wat kundiges op die gebied van passasiersvervoer is, het na vore gekom met wat na hulle mening die pligte en funksies moet wees van 'n liggaam belas met die uitreiking van permitte of lisensies. Hulle voorstelle sluit die volgende in:

12.16.1 Vir langtermynstabiliteit in die taxibedryf sal 'n werklike vennootskap tussen taxiverenigings wat taxi-operateurs verteenwoordig, en die beheerowerheid tot stand moet kom.

12.16.2 Die beheerowerheid moet 'n statutêre liggaam wees met bevoegdheid om die maatstawwe wat nodig is vir toelating tot die minibustaxibedryf, daar te stel.

12.16.3 Permitte moet op plaaslike vlak uitgereik word, met inagneming van heersende plaaslike toestande.

12.16.4 Die maatstawwe wat 'n applikant op 'n permit geregtig sal maak, moet insluit -

12.16.4.1 bewys van beskikbaarheid van toereikende fasiliteite (wat oor die algemeen geïnterpreteer word as staanplekfasiliteite, maar wat ook gereserveerde bane, houfasiliteite wat deur tweerigtingradio's bedien word, ensovoorts, kan insluit);

12.16.4.2 'n geldige rybewys;

12.16.4.3 'n geskiktheidsertifikaat vir die betrokke voertuig, wat periodiek hernubaar is;

12.16.4.4 afwesigheid van 'n kriminele rekord ten opsigte van die operateur en/of bestuurder;

12.16.4.5 bewys van goeie gesondheid en sig, indien nodig;

12.16.4.6 'n permit of lisensie om 'n voertuig wat passasiers vervoer te bestuur, wat uitgereik word by voorlegging van bewys dat bepaalde opleidingstoetse slaag is (wat waarskynlik ook onderworpe moet wees aan periodieke hersiening);

12.16.4.7 bewys van eienaarskap van die betrokke voertuig;

12.16.4.8 bewys van lidmaatskap van 'n erkende taxivereniging.

12.16.5 Die uitreikingsliggaam moet in sekere omstandighede in staat wees om die minibustaxipermit in te trek. Hierdie uiterste sanksie, wat nie van die kriminele vervolging van die permithouer behoort af te hang nie, sal die ergste vorm van ekonomiese straf wees, wat slegs in gevalle van ernstige oortredings opgelê moet word.

12.16.6 Elke besluit van die uitreikingsliggaam moet onderworpe wees aan 'n eenvoudige, goedkoop vorm van appèl en daar moet 'n onafhanklike, toeganklike prosedure vir die hantering van klagtes op plaaslike vlak wees.

12.17 Die komitee vind aansienlike meriete in elk van bogenoemde voorstelle, en beveel aan dat die nodige oorweging daaraan geskenk word wanneer beleid op sowel nasionale as plaaslike vlak geformuleer word. Die komitee beklemtoon dat sy aanbevelings niks meer as riglyne is nie, wat gekristalliseer het uit die getuienis wat deur 'n groot aantal ingeligte en goed gekwalifiseerde getuies aan hom voorgelê is.

Langtermynstabiliteit in die minibustaxibedryf, wat so 'n belangrike rol in feitlik elke Suid-Afrikaanse gemeenskap speel, sal bereik word slegs indien daar 'n opregte deurlopende verbintenis tot samewerking tussen die taxiverenigings en die beheerowerhede bestaan. Die bestaande stelsel het misluk omdat dit nooit bedoel was as 'n gebruikersvriendelike stelsel gerig op 'n nuwe bedryf in die vervoersektor nie. Dit moet vervang word deur 'n stelsel wat die plek van die minibus in die bedryf erken en die belange van almal beskerm - passasiers, taxi-operateurs en die algemene publiek.

## 13. SUBSIDIëRING

13.1 Die woordvoerders van die taxibedryf het ernstig versoek dat 'n vorm van subsidiëring vir die bedryf ingevoer moet word om hom op gelyke voet te stel met sy mededingers in die busbedryf, wat tans gesubsidieer word. Verskillende metodes, soos 'n vervoerkoeponstelsel, is voorgestel om die praktiese implementering van subsidies vir taxi's te vergemaklik.

13.2 Hoewel die Minister van Vervoer blykbaar in beginsel tot die subsidiëring van taxi's toegestem het (geen besonderhede van so 'n stelsel is gepubliseer nie), en hoewel die komitee homself nie as bevoeg beskou om by 'n bespreking oor die voor- of nadele van taxisubsidies betrokke te raak nie, het die komitee 'n probleem met die konsep van subsidies wat op 'n deurlopende grondslag betaal word, totdat die presiese totale koste van sulke subsidies gekwantifiseer kan word. 'n Subsidie veronderstel beskikbaarheid van statistiek waarvolgens die koste van die subsidie bereken kan word. Die getuienis dui daarop dat daar 'n besliste gebrek aan akkurate statistiek is waarop betekenisvolle berekenings gegrond kan word. Ramings deur getuies ten opsigte van die aantal taxi's wat in metropolitaanse Kaapstad in bedryf is, het byvoorbeeld gewissel van 3 000 tot 9 000. Statistiek in ander gebiede is ook onderworpe aan aansienlike variasie.

13.3 Aangesien daar aanvaar word dat subsidiëring tot voordeel sal wees van slegs wettige taxi-operateurs wat op erkende roetes of tussen gespesifiseerde punte werk, kan die skema om subsidies in te voer die uitwerking hê dat dit die onwettige of "rooftaxi's" marginaliseer en hulle uiteindelik uit die bedryf dwing of om hulle te oorreed om gewettig te word. Hoewel dit 'n wenslike gevolg kan wees, kan dit ook 'n baie duur manier wees om die roofelement in die bedryf uit te skakel.

13.4 Indien die afwenteling van mag na streke en metropolitaanse gebiede deel gaan word van 'n nuwe politieke bedeling wat tans onderhandel word, sal enige subsidieskema logieserwys 'n streek- of selfs plaaslike kwessie word. Dit lyk ook logies dat indien vervoeraangeleenthede, wat tot nou toe die verantwoordelikheid van die Sentrale Regering was, afgewentel moet word na 'n ander regeringsvlak, laasgenoemde

volle gesag, verantwoordelikheid en aanspreeklikheid vir die regulering van hierdie aangeleenthede binne sy streek sal moet aanvaar. Indien 'n subsidieskema ingevoer gaan word, kan dit die meganismes kompliseer wat gebruik word om enige subsidie wat aan vervoeroperateurs beskikbaar is, op billike wyse toe te ken. Die komitee het sekere voorbehoude ten opsigte van die toepassing van sodanige meganismes, veral aangesien enige subsidie primêr die taxi-operateurs moet help om doeltreffender op te tree en om die peil van diens beskikbaar aan passasiers te verbeter. Daar is voor die komitee getuig dat daar in ander gebiede waar subsidies ingevoer is, en waar subsidies ontwerp is om reisgelde te verminder en dienste te verbeter, slegs beperkte sukses behaal is. Slegs ongeveer die helfte van die subsidie is in werklikheid in laer reisgelde weerspieël en daar was min verbetering van die dienste (volgens 'n beleidstudie van die Wêreldbank).

13.5 Die komitee is ook ietwat skepties oor die vraag of 'n subsidieskema die verlangde resultaat sal hê om die taxibedryf in 'n meer winsgewende en minder gewelddadige bedryf te omskep. Die komitee is bang dat, net soos ander vorme van subsidiëring, die subsidie self eenvoudig in die gemeenskaplike rekening van inkomste en uitgawes sal beland en indien die eindresultaat teleurstellend is, 'n groter subsidie nodig sal wees, wat indien dit om die een of ander rede nie beskikbaar is nie, meer rede tot ontevredenheid kan skep.

Die komitee is nie daarvan oortuig dat 'n subsidie die probleme in die bedryf in so mate sal verlig dat geweld verminder of uitgeskakel sal word nie. Nietemin is dit klaarblyklik onbillik dat een deel van die openbare vervoerbedryf gesubsidieer word, terwyl 'n ander, wat miskien groter is, nie gesubsidieer word nie. Direkte subsidiëring in die vorm van kontantbetalings kan nie gesteun word nie en moet nooit oorweeg word nie. Die komitee het verskeie aanbevelings met betrekking tot indirekte subsidiëring ontvang.

13.6 Gedurende die aanhoor van getuienis is daar ook aan die hand gedoen dat die Regering en die oliebedryf versoek moet word om die sogenaamde rasionaliseringsplan (die RAS-plan) te wysig ten einde taxi-operateurs toe te laat om brandstof teen verminderde of groothandelpryse te koop. Indien die enorme volume brandstof wat elke dag in die tenks van minibustaxi's beland (daar word gesê dat dit meer as 10% van die totale nasionale brandstofverbruik is) en die enorme aantal passasiers wat elke dag vervoer na en van die werk nodig het op roetes wat nie deur openbare vervoer bedien word nie, in ag geneem word, vind die komitee regverdiging daarvoor om aan te beveel dat hierdie indirekte metode van subsidiëring ernstig en so gou as moontlik oorweeg moet word. Indien dit beteken dat plaaslike taxiverenigings hulleself moet laat inkorporeer as koöperatiewe verenigings om die verlangde voordele te verkry, sal 'n presiese beleid om die koop van brandstof deur *bona fide*-taxi-operateurs teen verlaagde pryse te reguleer, uitgewerk moet word en sal riglyne oor hoe om toegang tot die

skema te verkry, deur die DVV en/of die oliebedryf aan die taxibedryf voorsien moet word.

13.7 Daar is ook voorstelle gemaak dat, in plaas van die invoering van 'n direkte subsidie wat deur taxi-operateurs ingesamel moet word, 'n indirekte subsidiëring oorweeg moet word deur die beskikbaarstelling van fondse vir die daarstelling van fasiliteite, soos staanplekke, vir die taxibedryf. Daar word geredeneer dat deur bystand te verleen vir die daarstelling van verbeterde fasiliteite vir taxi's, die bronne van ontevredenheid en spanning binne die bedryf verminder sal word. Die komitee kon geen logiese rede vind waarom hierdie voorstel teengestaan moet word nie, en beveel aan dat dit oorweeg word.

13.8 Die komitee vind aansienlike meriete in hierdie aanbevelings, veral indien daar 'n tekort aan fondse vir die skepping van fasiliteite bestaan. Daar kan ook inderdaad ernstige oorweging geskenk word aan 'n skema, wat deur middel van 'n gewysigde RAS-plan ingevoer moet word, wat sal lei tot 'n tweevoudige resultaat in die vorm van goedkoper brandstof aan die een kant, en 'n heffing of bydrae wat by die bron ingesamel moet word wat aangewend kan word vir fasiliteite vir [illegible], aan die ander kant.

## 14. ERKENNING VAN DIE GEORGANISEERDE MINIBUSTAXIBEDRYF

14.1 Die sukses of mislukking van enige strategiese plan of nasionale beleid om passasiersvervoer te reguleer, sal afhang van die betrokkenheid by en deelname aan die formulering en uitvoering daarvan deur die verskillende taxiverenigings wat die minibustaxi-operateurs verteenwoordig, sonder wie se bystand en samewerking enige sodanige plan tot mislukking gedoem is. Trouens, die formulering van enige nasionale beleid sal 'n inset van alle betrokkenes by die vervoer van passasiers vereis.

14.2 Die onderliggende sterkte, en dus die vooruitsig van die bereiking van langtermynstabiliteit in die bedryf, lê juis in die bestaan van die vele taxiverenigings dwarsdeur die land. Dit sal dus nodig wees om die verenigings wat geraadpleeg sal moet word by die formulering van 'n strategiese plan vir enige bepaalde gebied, te identifiseer. Verteenwoordigers van taxiverenigings wat aanspraak maak op erkenning binne die onderhandelingsforum en uiteindelik in enige vervoerowerheid wat tot stand kan kom, moet op 'n proporsionele grondslag gereël word, waardeur erkenning verleen word aan die getallesterkte van elke [illegible] verteenwoordigde taxivereniging.

14.3 Op die oomblik is daar 'n aantal nasionale taxiverenigings, bv. SANTA, SALDTA, NAFTO, ensovoorts, wat elkeen beweer dat hy 'n groot aantal minibustaxi-operateurs verteenwoordig. Die komitee is nie daarvan [illegible] van die nasionale taxiverenigings 'n ledelys het voorlê wat die name en adresse van opbetaalde lede van die vereniging

[illegible] verenigings met die aantal operateurs wat die verenigings [illegible] hulle verteenwoordig nie. Dit is verstaanbaar dat lede kom en gaan en dat die totale lidmaatskap uitgedruk word in syfers wat daartoe neig om te skommel. Aangesien dit egter noodsaaklik is dat hierdie verenigings deur die owerhede geraadpleeg moet word by die formulering van 'n nasionale vervoerbeleid vir die vervoer van passasiers, moet daar van elke vereniging wat geraadpleeg wil word, vereis word om sy ledetal te bewys, en indien besluite deur middel van stemming geneem moet word, moet sulke verenigings proporsionele verteenwoordiging vir daardie doel verkry.

Die komitee wil die Regering ernstig versoek om nie te poog om 'n enkele vereniging te identifiseer as die verteenwoordiger van die hele taxibedryf nie. Getuienis voor die komitee het daarop gedui dat nasionale verenigings sterk kan wees in sommige streke en swak kan wees in ander streke, dat dit [illegible] denkbaar dat sekere plaaslike taxi-[illegible] verteenwoordig sal wil word by die besprekings wat die formulering van 'n nasionale beleid voorafgaan en dat word die plaaslike verenigings [illegible].

14.4 Die komitee is van mening dat, wanneer die georganiseerde taxibedryf in metropolitaanse gebiede erken word, slegs die plaaslik gebaseerde [illegible], in teenstelling met die nasionale verenigings, verkieslik geraadpleeg moet word, hoewel dit die moontlikheid laat dat daar by geleentheid voldoende rede kan wees om 'n nasionale vereniging oor spesifieke kwessies te raadpleeg, veral by die beslegting van geskille of die bemiddeling van konflikte tussen plaaslike verenigings wat by dieselfde nasionale vereniging geaffilieer is.

## 15. OPLEIDING

15.1 Daar is dikwels melding gemaak van die baie ongelukke op Suid-Afrikaanse paaie wat toegeskryf word aan swak bestuursvernuf en die oortreding van verkeersreëls deur taxi-operateurs. Die gebrek aan besigheidsopleiding wat oor die algemeen binne die bedryf heers en die druk wat deur die afwesigheid van besigheidsvaardighede geskep word, is reeds vermeld.

15.2 Die komitee doen aan die hand dat ten einde te kwalifiseer vir 'n bedryfspermit, daar van elke nuwe toetreder tot die bedryf vereis moet word om benewens die gewone rybewys, ook bewys te lewer van die vermoë om 'n minibus in alle verkeerstoestande veilig te hanteer. Dit beteken dat elke nuwe toetreder 'n toets moet ondergaan, en die resultaat daarvan moet vir die uitreikingsliggaam aanvaarbaar wees. Voordat 'n toets afgeneem word, sal die aspiranttaxibestuurder noontlik geleer moet word om te bestuur. Erkende bestuurskole wat genoeg bestuurders kan oplei, is natuurlik noodsaaklik.

15.3 Verskeie skemas is genoem, waarvan Project Spear, wat aanvanklik deur SABTA geborg is, maar een is. Daar is aan die hand gedoen dat 'n tekort aan geld die beskikbaarheid van bestuurskole ernstig beperk en dat die privaat sektor as 'n moontlike bron van finansiering geïdentifiseer is, natuurlik op die grondslag dat werkers wat in die privaat sektor in diens is, veilige en betroubare vervoer na en van werk nodig het.

Die komitee versoek die nasionale taxiverenigings om hulle hulpbronne te monster ten einde die privaat sektor, en veral die outomobielverwante bedrywe wat by 'n suksesvolle taxibedryf kan baat, te betrek by die daarstelling van genoeg bestuurskole waardeur die vereiste vlak van vaardigheid vir aspirantbestuurders beskikbaar sal wees. Sommige organisasies in die privaat sektor het reeds bygedra, maar 'n nasionale program met die ondersteuning van almal wat betrokke is by die vervoer van passasiers deur minibustaxi's, sal moontlik 'n antwoord op hierdie probleem bied. Ideaal gesproke moet die georganiseerde handel en nywerheid betrokke raak by die vind van praktiese oplossings vir hierdie probleem.

15.4 Die verskaffing van besigheidsopleiding is blykbaar 'n komplekser probleem. Die komitee is meegedeel dat baie taxibestuurders geheel en al ongeletterd is, terwyl ander slegs gedeeltelik geletterd is. Enige basiese opleiding ten opsigte van aangeleenthede betreffende besigheid veronderstel die vermoë om te lees en te skryf. Hoewel dit nie lyk of daar 'n maklike oplossing is nie, is die komitee van mening dat die finansiële instellings wat huur- of huurkoopfinansiering aan die bedryf verskaf, stelsels moet invoer wat daarop gemik is om aan hulle sekerheid te bied dat enigiemand wat aansoek doen om finansiering, in staat is om ten volle te besef wat sy of haar finansiële verpligtinge sal wees, en hoe hierdie verpligtinge nagekom sal word. Indien elke sodanige instelling van tyd tot tyd 'n basiese kortkursus in die finansiële bestuur van 'n minibustaxi kan aanbied, kan die beskikbaarheid van sulke kursusse deur middel van die plaaslike taxiverenigings geadverteer word, wie se woordvoerders herhaaldelik om hulp op hierdie gebied gevra het.

## 16. FASILITEITE EN FINANSIERING

16.1 Mededinging om staanplekke is een van die vernaamste oorsake van onenigheid in ten minste een metropolitaanse gebied. Daar is baie gesê oor die weiering van 'n PPVR om die gebrek aan staanplekfasiliteite in ag te neem by die uitreiking van permitte omdat, so is aangevoer, dit beteken het dat die houer van die nuwe permit aanspraak sou maak op reeds oorvol staanplekfasiliteite. Dit was inderdaad die geval.

Aan die ander kant het die PPVR aangevoer dat dat, wanneer daar besluit moet word of die beskikbaarheid van

staanplekfasiliteite in ag geneem moet word, daar voorkeur gegee moet word aan die belange van die pendelaar wat vervoer nodig het. Die kern van hierdie argument is die feit dat daar in sommige gebiede plaaslike owerhede is wat versuim het of nie in staat was nie om met 'n bloeiende bedryf tred te hou ten opsigte van die verskaffing van geskikte staanplekfasiliteite.

16.2 In die loop van die ondersoek is 'n aantal staanplekke en die funksionering daarvan op verskillende plekke geïnspekteer, met inbegrip van Kaapstad, Pietersburg, Groblersdal, Marble Arch en Durban.

16.2.1 Dit is 'n feit dat daar steeds 'n werklike behoefte, veral in Kaapstad, aan toereikende fasiliteite bestaan. In die Kaapstadse stadsentrum, in Strandstraat, waar verskeie taxiverenigings staan en passasiers oplaai of aflaai, is daar geen sigbare verandering nie in die fasiliteite wat bestaan het gedurende die hoogtepunt van die taxi-oorlog toe daar dikwels klagtes was oor die probleme wat ontstaan as gevolg van ontoereikende staanplekfasiliteite. Die komitee is verstom dat daar na verloop van meer as 'n jaar 'n debat in die Stadsraad voortgeduur het oor waar SSD-staanplekke geplaas moet word. Die situasie is te ernstig dat dit deur 'n burokratiese vertraging op plaaslike politieke vlak belemmer moet word.

16.2.2 Op Pietersburg en Groblersdal is daar pragtige staanplekke geskepp 'n end weg van die groot winkelsentrums, met die gevolg dat die fasiliteite, hoe goed dit ook al mag wees, grotendeels nie gebruik word nie. Een oplossing kan wees om so 'n fasiliteit as 'n hougebied te gebruik en oplaai- en aflaaipunte in die sentrale gebied te skep, wat soos gewone bushaltes gebruik kan word. Indien hierdie metode gebruik gaan word, sal dit goed wees om alle belanghebbende partye deeglik te raadpleeg en deur toereikende toepassing van die ooreenkoms te verseker dat sodanige oplaai- en aflaaipunte nie omskep word in ministaanplekke deur minibusse wat te lank vir passasiers wag nie.

16.2.3 Die Marble Arch-staanplek is in privaat besit. Die eienaar, mnr Gigi Giddan, stel persoonlik intens belang in die staanplek en is in voortdurende aanraking met die operateurs. Dit is 'n klein staanplek wat baie sentraal geleë is, en dit word feitlik uitsluitlik deur die Marble Arch Taxi Association gebruik. Dit word sonder enige taxiverwante geweld bedryf sedert die begin daarvan 'n aantal jare gelede.

16.3 Die organisering van die taxibedryf in die stad Durban is indrukwekkend. Die Stadsraad van Durban en sy "agent", die Durbanse Stadspolisiemag, werk nou saam met die bedryf en het 'n model ontwikkel wat goed werk en wat kortliks hieronder beskryf sal word. Hoewel dit as 'n praktiese voorbeeld dien, is dit nie die komitee se bedoeling dat dit die enigste oplossing is wat nagevolg moet word nie. Trouens, die geografiese eienskappe van 'n stad of dorp kan hulle dalk nie daartoe leen nie. Byvoorbeeld, in plaas van 'n groot aantal klein staanplekke kan een groot staanplek met hougebiede meer geskik wees. Sekere verdelingstelsels in 'n groot staanplek kan moontlik prakties wees aangesien die Durban-model getoon het dat dit oor die algemeen makliker is om met kleiner groepe te kommunikeer en oorleg te pleeg.

Die essensiële eienskappe van die Durban-taxistelsel is die volgende:

(i) 'n Toegewyde openbare vervoereenheid van die Durbanse Stadspolisie onder sersant Moorhouse, wat beskryf kan word as die plaaslike "mnr Taxi", patrolleer die staanplekke, kommunikeer en pleeg oorleg oor probleme.

(ii) Ongeveer 90 staanplekke van wisselende grootte, elkeen met sy eie toegewyde inhamme, omring die sentrale sakedistrik. Hierdie staanplekke verkry passasiers van omringende gebiede. Aparte dienste is in bedryf binne die "ring".

(iii) Staanplekke word geskep ooreenkomstig die vraag sodat 'n verhouding gehandhaaf word tussen die aantal permitte uitgereik en die aantal staanplekke beskikbaar. Elke staanplek het 'n staanplekkomitee wat gekies word uit al die permithouers wat daarop geregtig is om daar te staan.

(iv) Staanplekke word deur die Stadsraad geplaas. In oorleg met die staanplekkomitee bepaal die Stadsraad die getal minibusse wat by elke staanplek geakkommodeer gaan word in 'n verhouding van twee tot vier minibusse per inham.

(v) Operateurs wat daarop geregtig is om 'n staanplek te gebruik, word voorsien van staanplekpermitte met betrekking tot 'n spesifieke staanplek, welke permitte getoon moet word. Staanplekpermitte word elke jaar hernu, maar is nie oordraagbaar nie en kan nie gekoop of verkoop word nie. Wanneer 'n staanplek 'n opening het, word dit geadverteer. Voorkeur word gegee aan operateurs wat woon in die gebied wat deur die staanplek bedien word.

Hierdie en ander eienskappe word verder bespreek in die geredigeerde weergawe van 'n memorandum deur sersant Moorhouse, wat by hierdie verslag aangeheg word.

16.4 Die komitee beveel aan dat plaaslike owerhede en plaaslike taxiverenigings dringend ontmoet om die volgende te bepaal:

164.1 Die aard en toereikendheid van bestaande staanplekfasiliteite;

16.4.2 die behoefte aan die verskaffing van nuwe of uitbreiding van bestaande fasiliteite.

Daar word beklemtoon dat taxi-operateurs deur middel van hullé plaaslike taxiverenigings geraadpleeg moet word om te verseker dat hulle betrokke is by die vind van oplossings vir probleme ten opsigte van staanplekke en oplaai- en aflaaipunte.

Wanneer antwoorde op bogenoemde vrae gevind is, moet die betrokke plaaslike owerhede dringende stappe doen om die fasiliteite te skep wat nodig is om die gladde en vreedsame bedryf van die minibustaxistelsel in hulle gebiede te verseker.

16.5 Hoewel die afwesigheid van skuilplekke en openbare toilette nie direk kan bydra tot die stryd tussen wedywerende taxigroepe nie, het baie operateurs dit genoem as 'n bron van ontevredenheid en frustrasie. Hierdie aspekte van toekomstige beleid moet dringende aandag geniet, en alle plaaslike owerhede word versoek om voorkeur te gee aan die daarstelling van sulke fasiliteite.

16.6 Die komitee is van mening dat toesighouding en beheer oor verkeer deur die staanplekke, sowel voertuig- as voetgangerverkeer, deur die taxi-operateurs self behartig moet word. In ander digbevolkte lande werk taxi-operateurs suksesvol saam met die regulering van die vloei van verkeer deur staanplekke, wat gewoonlik toegeken word ooreenkomstig die roetes of bestemmings wat vanaf sulke staanplekke bedien word. Deur hulle eie verkeerstoesighouers in te voer, aan wie se gesag wesenlike statutêre erkenning gegee moet word, sal taxiverenigings die waarskynlikheid van wrywing tussen operateurs en die verkeerspolisie verminder. Dit moet in elk geval die verkeerspolisie se noodsaaklike taak wees om die verkeers- en ander wette toe te pas wat op passasiersvervoer op openbare paaie van toepassing is.

## 17. WETSTOEPASSING

17.1 In die veronderstelling dat die minibustaxibedryf in geheel direk betrokke sal wees by die formulering van 'n beleid vir die beheer oor die vervoer van passasiers en die regulasies wat nodig is om daardie beleid toe te pas, moet daar noodwendig 'n verbintenis van die bedryf wees om binne

die raamwerk van die beleid te werk en om by die regulasies te hou. Dit impliseer die aanvaarding deur die bedryf van die sanksies wat moet volg wanneer die regulasies oortree word. Dit impliseer ook noodwendig aanvaarding deur die bedryf van die regsoewereiniteit, asook gewilligheid om wetstoepassing deur die erkende wetstoepassingsagentskappe te aanvaar.

17.2 Die komitee aanvaar dat, reg of verkeerd, in sekere gebiede die verhouding tussen die verkeerspolisie en taxi-operateurs en in ander gebiede tussen verkeersoperateurs en die SA Polisie veel te wense oorlaat. Dit is te hope dat 'n nuwe konstitusionele bedeling onmiddellik, moontlik as een van die belangrikste gevolge daarvan, wetstoepassingsagente tot stand sal laat kom wat respek en gesag afdwing, waarsonder doeltreffende wetstoepassing misluk, soos wat dit in groot mate in die taxibedryf gebeur het. Intussen word die bestaande wetstoepassingsagente (SA Polisie, verkeerspolisie en inspekteurs in diens van die DVVs) dringend versoek om betrokke te bly by die doeltreffende toepassing van die bestaande wette en regulasies. Hoewel die komitee tot die gevolgtrekking gekom het dat die bestaande regulatoriese stelsel vervang moet word, is dit steeds in bedryf en regulasies moet nagekom en toegepas word totdat dit deur ander vervang word.

17.3 Die komitee is van mening dat die funksies wat tot dusver deur inspekteurs in diens van die DVV verrig is, oorgeplaas moet word na die plaaslike owerhede, en meer spesifiek na die verkeerspolisie. Die inspekteurs se pligte behels tans blykbaar net om te bepaal of 'n taxi-operateur 'n behoorlike permit het, en hierdie funksie kan maklik deur die verkeerspolisie verrig word. Die komitee is ook van mening dat daar aansienlike duplisering van funksies op hierdie gebied is. Indien daar ander goeie redes is waarom die inspektoraat behou moet word, beveel die komitee aan dat hulle getalle drasties vermeerder word om die mag meer doeltreffend te maak. Volgens getuienis tree die inspekteurs in Kaapstad nie meer in die satellietdorpe op nie, hoofsaaklik as gevolg van die bedreiging van geweld, maar ook omdat hulle swak toegerus is om enige konfrontasiesituasie te hanteer. Indien hulle moet aanbly, moet die owerhede toesien dat hulle getalle vermeerder word en dat toestande geskep word wat hulle toelaat om hulle werk te doen.

17.4 Die komitee het hom daarvan vergewis dat vervolging in baie gevalle misluk omdat getuies wat gewoonlik na vore sou kom om te getuig, geïntimideer word in 'n mate wat dit onmoontlik maak om met sekere vervolgings voort te gaan. Die Prokureur-generaal, Kaapstad, wat deur die komitee geraadpleeg is, het bevestig dat 'n aantal vervolgings van persone wat aangekla is van die pleeg van taxiverwante geweld, nie kon voortgaan nie omdat getuies nie op die vasgestelde dag opgedaag het nie of die inhoud van verklarings wat voorheen gemaak is, verander het, waardeur die substansie van getuienis waarop skuldigbevindings gebaseer sou word, verwyder is.

Dit lyk vanselfsprekend dat die klag van partydigheid of ondoeltreffendheid aan die kant van die polisie die beste hanteer kan word indien daar aan die gemeenskap bewys kan word dat mense wat tereg aangekla word van die pleeg van geweld, voor die hof gedaag word en skuldig bevind word. Aangesien die tydsverloop tussen die datum van die ondersoek deur die polisie en die uiteindelike datum van die strafregtelike verhoor op sigself lei tot omstandighede waarin intimidasie van getuies kan plaasvind, is die komitee van mening dat reg moet geskied, sigbaar moet geskied en ook so vinnig as moontlik moet geskied. Die komitee vra die Departement van Justisie en die howe om dringend 'n program te ontwikkel wat vinnige, doeltreffende vervolging verseker van alle persone wat van taxiverwante misdade aangekla word, waar die moontlikheid bestaan dat getuies geïntimideer kan word of kan verdwyn.

17.5 Indien 'n daad van taxiverwante geweld in enige bepaalde gemeenskap gepleeg word, raak dit die hele gemeenskap in so 'n mate dat passasiers en inwoners in die gebied in gevaar verkeer. Geweld en reaktiewe geweld is geneig om oor te spoel na die omringende gemeenskappe, en onskuldige mense word die slagoffers van geskille waarby hulle glad nie betrokke was nie.

Hoewel daar botsende standpunte oor die onderwerp bestaan, lyk dit of die polisie 'n rol gespeel het of ten minste probeer het om 'n rol te speel ter bemiddeling van konflik tussen verskillende taxigroepe. Onvermydelik kan hierdie rol (soos dit in Kaapstad gebeur het) lei tot die persepsie dat die polisie [illegible]partytydig is nie of dat hulle die een groep bo die ander groep bevoordeel. Hoewel hulle *bona fides* aanvanklik aanvaar kan word, kan die eindresultaat lei tot verlies aan vertroue in die polisie as gevolg van hulle onvermoë om die geskil te besleg of om die skuldiges suksesvol te vervolg. In sommige gevalle lyk dit vir die klaer of aanmeldings by die polisie nie opgevolg word nie en of die ondersoek van misdade wat teen lede van die taxigemeenskap gepleeg is, tot 'n onbesliste einde kom.

Die komitee beskou dit as noodsaaklik dat indien aanmeldings en verklarings ten opsigte van sodanige geweld deur lede van die gemeenskap aan die polisie gemaak word, laasgenoemde, waar dit hoegenaamd moontlik is, die gemeenskapsleiers en die taxigroepe ingelig moet hou oor die vordering wat met die ondersoek van die misdaad en die vervolging van die skuldige persone gemaak word. Doeltreffende kommunikasie sal voorkom dat die polisie daarvan beskuldig word dat hulle niks doen nie of selfs partydig is in so mate dat hulle die wandade van die skuldiges toesmeer.

17.6 Aangesien doeltreffende wetstoepassing 'n noodsaaklike bestanddeel van 'n suksesvolle regulatoriese stelsel is en aangesien die sukses van die stelsel afhang van die

ondersteuning wat dit ontvang van die bedryf wat gereguleer word en die gemeenskap wat daardeur bedien word, beskou die komitee dit as noodsaaklik dat ten minste een persoon deur die betrokke plaaslike owerheid aangestel moet word wie se primêre taak dit sal wees om kommunikasiekanale tussen die plaaslike taxiverenigings en die res van die gemeenskap wat deur dié verenigings bedien word, daar te stel. Soos hierbo vermeld, is daar ten minste een sentrum in Suid-Afrika waar die taxibedryf definitief minder stormagtig is, en hierdie toestand kan direk toegeskryf word aan die teenwoordigheid en geredelike beskikbaarheid van 'n persoon wat geïdentifiseer is as 'n onafhanklike, onpartydige skeidsregter of toegewyde ombudsman as gevolg van sy deurlopende toewyding aan bemiddeling in konflik en geskille in die taxibedryf. Ondersoeke toon dat hierdie persoon deur die taxigemeenskap aanvaar en vertrou word, wat beteken dat hy in staat is om te bemiddel sonder om bang te wees dat hy van partydigheid beskuldig kan word.

## 18. GESKILBESLEGTING, APPèLLE EN STELSELS VIR DIE HANTERING VAN KLAGTES

18.1 As gevolg van die felheid van die mededinging in die bedryf lyk toekomstige konflik onvermybaar. Permanente meganismes moet geskep en beskikbaar wees om geskille in 'n vroeë stadium te bemiddel en sodoende die eskalering van frustrasie en die moontlikheid van geweld te vermy.

18.2 Verskeie vredestrukture is geskep in 'n poging om daartoe by te dra om die vlak van geweld in die taxibedryf te verlaag. Die Munisipaliteit van Kaapstad was veral aktief in sy pogings om oplossings te vind en om 'n skietstilstand te bemiddel. Die komitee glo dat hierdie pogings grootliks bygedra het tot die skepping van CODETA. In teenstelling hiermee het die DVV en die Wes-Kaapse PPVR geen rol hoegenaamd by die stigting van CODETA gespeel nie.

18.3 Die komitee se standpunt is dat die konflik in die taxibedryf die probleem is van almal wat by die bedryf betrokke is, hetsy wetgewer, plaaslike owerheid of wetstoepassingsagent. Hy beveel dus aan dat daar op plaaslike vlak 'n taxiskakelkomitee gestig word met genomineerde verteenwoordigers van die streek- of plaaslike vervoerowerheid, die plaaslike owerhede, die wetstoepassingsagente (polisie en verkeerspolisie), die taxiverenigings en die gemeenskap, met inbegrip van burger- of belastingbetalersverenigings. Geskille moet na hierdie komitees verwys word vir informele ondersoek en bemiddeling. Die sukses van so 'n komitee sal grootliks afhang van die steun wat dit ontvang van die lede waaruit dit bestaan. Daar moet dus 'n aktiewe reklame- en bemarkingsprogram oor die beskikbaarheid en toeganklikheid van die geskilbeslegtingsfasiliteit onderneem word.

18.4 Die stelsel van appèlle teen besluite van 'n PPVR voldoen blykbaar nie aan die vereistes van die taxibedryf nie. As gevolg van hulle ongesofistikeerde agtergrond vind baie taxi-operateurs dit moeilik om die formalistiese aard van die aansoek- en appèlprosedure te bemeester. Hulle het in 'n baie vroeë stadium bystand nodig wanneer die besluit om tot die taxibedryf toe te tree, geneem word en aansoek om 'n permit gedoen word. Sodanige bystand moet na die mening van die komitee van die vervoerowerhede self afkomstig wees. Ten minste een persoon, wat in staat is om met die applikant in sy eie taal te kommunikeer, moet aangewys word om die voornemende taxi-operateur by te staan met die invul van die aansoekvorms en om hom te adviseer oor die maatstawwe wat die vervoerowerheid sal toepas wanneer die aansoek oorweeg word.

Die volgende stadium waarin verduideliking dikwels nodig is, is wanneer 'n applikant nie suksesvol was nie. Enige suksesvolle applikant is geregtig op 'n skriftelike verduideliking en dit moet, roetinegewys, deur die vervoerowerheid gegee word, in duidelike ondubbelsinnige taal, met vermelding van die redes waarom die aansoek nie geslaag het nie.

18.5 Die appèlreg moet nie belemmer word nie. 'n Appèl moet so eenvoudig, goedkoop en toeganklik as moontlik gemaak word. Enige applikant wat voel dat, gegee dieselfde omstandighede, 'n ander owerheid tot 'n ander gevolgtrekking sou kom, moet in staat wees om daardie appèlreg uit te oefen. Verkieslik moet appèlle vroeg aangeteken word by en verhoor word deur persone genomineer deur die nasionale vervoerowerheid, welke persone aansienlike ervaring op daardie gebied moet hê maar nie in diens van die Staat moet wees nie.

18.6 Benewens die wetlike appèlreg moet elke applikant wat benadeel voel deur die resultaat van sy aansoek en glo dat dit nie ten volle en regverdig oorweeg is nie, die reg hê om die lêer ten opsigte van die aansoek te laat ondersoek en te laat hersien deur 'n onafhanklike instansie wie se funksie soortgelyk aan dié van die klassieke ombudsman moet wees.

Aangesien die ondersoek van klagtes ten opsigte van onbillike behandeling waarskynlik nie op 'n daaglikse of selfs gereelde grondslag sal plaasvind nie, moet die taak opgedra word aan die Suid-Afrikaanse ombudsman, wat die wetlike gesag het om sy funksie aan andere te delegeer en wat in staat moet wees om 'n gepas gekwalifiseerde persoon binne die gemeenskap of bepaalde streek te identifiseer om daardie funksie op 'n *ad hoc*-grondslag te verrig. In die metropolitaanse gebiede waar die plaaslike owerheid oor 'n voltydse ombudsman beskik, moet die plig om ondersoek in te stel en om 'n aanbeveling te maak aan sodanige ombudsman opgedra word deur vooraf reëlings te tref.

19. ALGEMEEN

19.1 Benewens bogenoemde aanbevelings is die komitee oortuig dat die oplossing van 'n groot gedeelte van die probleem in die hande van die taxi-operateurs lê.

In vroeëre verslae het die komitee die onaanvaarbare vlakke van selfsugtigheid, hebsug en onverdraagsaamheid vermeld wat in die taxibedryf heers, wat alles lei tot ewe onaanvaarbare vlakke van wetteloosheid en minagting van die reg. Soos vroeër in hierdie verslag vermeld, is die magstryde en wetteloosheid op die ou end die oorsaak van baie van die konflikte.

19.2 Taxi-operateurs het telkens wanneer daar gereageer is op ondersoeke ten opsigte van geweld, verontskuldigende houdings aangeneem deur andere te blameer in plaas daarvan om self 'n gedeelte van die blaam te dra. Verwere van selfverdediging en die behoefte aan selfbeskerming is voorgehou; enige aanval op lewe of eiendom het sonder voorbehoud gewelddadige reaksie geregverdig. Indien tradisionele vetes wat in verskillende dele van die land heers in ag geneem moet word, sal taxi-oorloë as dit eers begin het, moontlik nooit eindig nie. Die eeue-oue ingesteldheid dat gewilligheid om te onderhandel neerkom op swakheid of lafhartigheid, heers ook onder taxi-operateurs.

Die koms van die minibustaxi as 'n verkieslike vervoermiddel vir 'n groot deel van die Suid-Afrikaanse samelewing skep waardevolle geleenthede vir swart vooruitgang en die bereiking van welvaart. Ongelukkig word hierdie geleenthede voortdurend vernietig en sal dit heeltemal verdwyn tensy diegene wat deel uitmaak van die taxibedryf, besef dat daar 'n onmiddellike behoefte aan selfdissipline en selfregulering is. Die handel en nywerheid het reeds tasbare erkenning aan die koms van hierdie relatief nuwe bedryf gegee; daar bestaan geen twyfel oor hulle gewilligheid om daardie bedryf se hand te vat en om selfs beter, winsgewender geleenthede vir taxi-operateurs te skep nie. Die outomobielverwante bedryf en die finansiële dienstebedryf, gesamentlik en afsonderlik, was bereid om deel te neem aan die ontwikkeling en ontplooiing van die minibustaxibedryf toe die potensiaal daarvan vir die eerste keer in die middel tagtigerjare erken is. Dat hulle teruggetrek het as gevolg van die grootskaalse skade aan eiendom en bedreiging van lewens, is nie verbasend nie. Hierdie bedryf is in 'n posisie om die opwindende uitdaging om te groei en 'n bydrae tot die welvaart van almal daarby betrokke te maak, of, indien geweld voortduur, om homself te vernietig. Die antwoord lê in sy eie hande.

THE STATE PRESIDENT

GC 29

1. The Commission of Inquiry regarding the Prevention of Public Violence and Intimidation has the honour to present its fifth interim report on taxi violence.

2. The Commission's committee investigating public violence and intimidation in the taxi and minibus industry has submitted its fifth interim report, which is annexed hereto. This is the comprehensive report and would have been the final report but for one aspect the investigation of which is not yet complete, viz the role played by the South African Police in the taxi violence in Cape Town.

## THE CAUSES OF TAXI VIOLENCE

3. It emerges from the report that political rivalry and political affiliation are not causes of violence associated with the taxi industry. The main causes, in historical sequence, were found to be:

### 3.1 THE EFFECT OF APARTHEID LAWS ON URBANISATION

3.1.1 Massive and rapid urbanisation and the failure, because of apartheid laws, by Government or local authorities to provide even rudimentary transportation facilities to masses of people who required it as a daily necessity;

3.1.2 The rise of the regular minibus taxi industry under the full authority and protection of the law in respect of areas which were regarded as "lawful" under apartheid laws;

3.1.3 The rise of the irregular or "pirate" minibus taxi industry in respect of areas where blacks were living in informal or "illegal" settlements;

3.1.4 The conflicts which arose because of those historical divisions between people which was mirrored in the taxi industry which served them.

(See paragraph 6.1 of the Report)

3.2 COMMERCIAL FACTORS

3.2.1 The inability of a free market system to operate because of:

3.2.1.1 The cost and delays of the permit system;

3.2.1.2 The absence of business skills and sophistication by many of the operators;

3.2.1.3 The absence of understanding of or confidence in market factors;

3.2.1.4 The effects of unfair competition from the heavily State-subsidised bus and train services;

3.2.1.5 More recent deterioration of the whole economy and the effect of inflation on running expenses;

3.2.1.6 Consequent overloading and the necessity for speed in ensuring a high turnover of passengers.

(See paragraph 6.2 of the Report)

3.3 THE ROLE OF THE DEPARTMENT OF TRANSPORT

3.3.1 Absence of anticipation and lack of planning;

3.3.2 Lack of communication with the persons involved in the taxi industry;

3.3.3 The secrecy and absence of transparency in the system of issuing permits by local road transportation boards and, more particularly, the absence of reasons for refusal of permits and the exorbitant fee charged for an appeal;

3.3.4 Because of the factors referred to in 3.3.3, the perceptions of corruption and unfairness by the

officials. Specific allegations of corruption and bias were found by the committee to be without factual justification;

3.3.5 The unfairness of the system of subsidies for bus and train transportation;

3.3.6 The absence of proper planning and communication with people involved in the industry with regard to what was referred to as "deregulation" and which in effect was the legalising of "pirates";

3.3.7 The serious understaffing of the inspectorate of the Department of Transport.

(See paragraph 6.3 of the Report)

## 3.4 LACK OF LAW ENFORCEMENT

3.4.1 In those areas where there was sufficient manpower and facilities, effective law enforcement had a positive effect in reducing violence and intimidation;

3.4.2 The absence of proper law enforcement in most areas has brought the legal system and the efficiency of the whole system of control into disrepute.

(See paragraph 6.4 of the Report)

3.5 ABSENCE OF FACILITIES

In many cities and towns there are inadequate ranking facilities leading to many problems.

(See paragraph 6.5 of the Report)

3.6 INTOLERANCE AND POWER STRUGGLES

3.6.1 As appears from the previous interim reports from this committee and also from this one, much of the blame for violence lies with the operators themselves. In particular reference is made to intolerance, selfishness, provocation and greed;

3.6.2 In few cases were operators or organisations in the industry prepared to accept, let alone recognise their own faults in relation to the problems;

3.6.3 In the final analysis the use of violence by taxi operators is the most immediate cause of the violence.

(See paragraph 6.6 of the Report)

RECOMMENDATIONS

4. The committee draws attention to the fact that its members are not experts in the field of transport. At the same

time its hearings were held over a period in excess of one year and views were heard from people, (including experts), involved in most areas of the industry.

5. In these circumstances it would obviously be a matter for deep regret if the committee did not make public its considered views on various of the recommendations which were made by so many witnesses. The Commission unreservedly welcomes and appreciates the care taken and the full and helpful discussion in the section of the report devoted to recommendations.

(See paragraphs 9 - 17 of the Report).

6. For ease of reference, the following is a summary of the recommendations of the committee:

6.1 The taxi industry should not be deregulated for the foreseeable future and not before informal townships and settlements have become established and peaceful communities. More positively, the advance of the industry towards deregulation should be commensurate with the improvement in the quality of life enjoyed by the communities served by the industry.

(See paragraph 11 of the Report)

6.2 The local road transportation boards are discredited bodies and their replacement with other statutory bodies will not be likely to provide greater success. In providing for

future regulation the following suggestions are supported by the committee as guidelines:

6.2.1 For long-term stability in the taxi industry, a genuine partnership will have to be brought about between taxi associations representing taxi operators and the controlling authority;

6.2.2 The controlling authority should be a statutory body which must have powers to set the criteria necessary for admission to the minibus taxi industry;

6.2.3 Permits should be issued at a local level, with due regard to prevailing local conditions;

6.2.4 Some of the criteria which should be taken into account for the grant of a permit are listed (See paragraph 12.16.4 of the Report).

6.2.5 Every decision of the issuing body should be subject to a simple, inexpensive form of appeal and there should be an independent, accessible complaint handling procedure at local level.

The Commission wishes to underline the view of the committee that the existing system of regulation "needs to be replaced by a system which acknowledges the place of the minibus in the industry and protects the interests of everyone - passengers, taxi operators and the general public".

(See paragraph 12 of the Report)

6.3 The principle of subsidising any sector of the transport industry by cash payments is not supported. However, consideration should be given to indirect subsidies from the private sector in particular with regard to improving facilities.

(See paragraph 13 of the Report)

6.4 All representative organisations in the industry, (i.e. local, regional and national), should be identified and drawn into full consultation in the formulation of local, regional and national transport policies.

(See paragraph 14 of the Report)

6.5 Improved training facilities for all persons involved in the taxi industry should be provided with the assistance of organised commerce and industry.

(See paragraph 15 of the Report)

6.6 In many areas, as a matter of urgency, local authorities and local taxi associations should discuss and implement ways and means of immediately improving ranking facilities. The committee refers with appreciation in this regard to the system which is in operation in Durban.

(See paragraph 16 of the Report)

6.7 The committee recognises the problems facing all law enforcement agencies in South Africa at the present time. This notwithstanding the committee recommends that the functions hitherto performed by Department of Transport inspectors should be transferred to local authorities and, in particular, traffic police. The Department of Justice is urged to develop a programme which would ensure speedy and effective prosecution of persons charged with taxi-related crimes, where there is a prospect of witnesses being intimidated or disappearing. The police should keep community leaders informed on the progress of investigations.

(See paragraph 17 of the Report)

6.8 Every local authority should appoint at least one person to liaise with the local taxi associations and leaders of the communities they serve.

(See paragraph 17.5 of the Report)

6.9 Dispute mediation mechanisms should be created which involve all interested parties - at local, regional and national levels.

(See paragraphs 18.1-18.3 of the Report)

6.10 The present system of appeals from local road transportation boards should immediately be simplified and made accessible. An ombudsman should be appointed to review all relevant proceedings of the authorities.

7. The Commission, finally, would draw attention to and emphasise the committee's view that the solution to a major portion of the problem lies in the hands of the taxi operators themselves.

(See paragraph 19 of the Report)

8. The Commission is grateful to the members of the committee for their dedication. They sat in a number of cities and towns at considerable inconvenience to themselves. They did so in consequence of the policy of the Commission that its inquiries, wherever possible, should be held as close as possible to the people who are affected by the violence which is being investigated.

9. The Commission expresses the hope that the discussion and recommendations contained in the report will be helpful in reducing the level of violence and solving the problems in the taxi industry.

R J GOLDSTONE
CHAIRMAN OF THE COMMISSION

CAPE TOWN
26 JULY 1993

# FIFTH INTERIM REPORT TO THE COMMISSION OF INQUIRY REGARDING THE PREVENTION OF PUBLIC VIOLENCE AND INTIMIDATION BY THE COMMITTEE INVESTIGATING PUBLIC VIOLENCE AND INTIMIDATION IN THE TAXI INDUSTRY

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CAPE TOWN
26 JULY 1993

# FIFTH INTERIM REPORT TO THE COMMISSION BY THE COMMITTEE TEE INVESTIGATING PUBLIC VIOLENCE AND INTIMIDATION IN THE TAXI INDUSTRY

## 1. INTRODUCTION

The committee which was appointed to inquire into the public violence and intimidation which in recent years has wracked the public transport industry and in particular the minibus or taxi sector has decided to present this report because of the on-going conflict in the industry in various parts of the country. That and the amount of time [more than a year] taken up by the inquiry so far, has convinced the committee that it should not delay the execution of its mandate any further despite the fact that evidence on the role of the South African Police during the conflict in the Western Cape is incomplete. The role and influence of the SAP was not a primary cause in the conflict in the Western Cape and since it is an identifiable and separate aspect, its conclusion will stand over until this interim report has been submitted to the Commission.

## 2. OPERATION OF THE COMMITTEE

2.1 The committee established to inquire into public violence and intimidation had its first session on 16 March 1992 in Cape Town. At that stage the committee consisted of Adv D J Rossouw [chairman], Mr L S van Zyl, Mr B M Ngoepe and Mr G Steyn. During April the committee was divided to allow investigation into train violence on the Reef to commence. The reconstituted

committee which continued the investigation into taxi violence comprised Adv D J Rossouw chairman] and Mr L S van Zyl. The evidence before the committee was adduced by its legal officer, Adv J Slabbert. Lt van Rensburg of the South African Police was seconded to assist in investigations.

The committee wishes to record its indebtedness to Adv Slabbert. Not only did he take most of the organisation of the sittings at various venues on his shoulders, he conducted voluminous correspondence to discover facts and identify witnesses, he consulted and led the evidence of every witness to testify. His final submissions were of a high quality and, together with that of Adv J A le Roux, were of great value to the committee.

2.2 The committee heard evidence in public at various venues [there were three or four closed sessions] over some 60 working days during the period 16 March 1992 and 31 March 1993 when the final submissions were received. Our first interim report, dated 27 May 1992, dealt with the evidence concerning the situation in the Western Cape that had been received up to April last year.

2.3 During the course of the year spanning the inquiry the committee also sat at four other venues, namely, Pretoria, Alexandra, Groblersdal and Pietersburg to inquire specifically into violence in the taxi industry in the communities of Midrand [Ivory Park], Alexandra township in Johannesburg, Groblersdal and Pietersburg. These hearings took place on 11 June 1992, 30 September until 16 October 1992 and 7 to 8 December 1992 and 1

to 5 February 1993. The results of the first three of these inquiries have been separately dealt with in our second, third and fourth interim reports respectively. Copies of these reports are attached for the sake of completeness. The inquiry which took place at Pietersburg in the second week of December 1992 is incomplete; because of the circumstances set out hereunder no report has been rendered.

2.4 Although each area where conflict occurs may have factors or circumstances which are peculiar to that area, and although the proximate cause of violence in one area may differ from that pertaining in another, the root causes of conflict and, ultimately, of violence in all areas show discernible similarities. These are dealt with hereinafter.

2.5.1 The committee has endeavoured to hold its sessions at the various places mentioned as close to the centre of the conflict as practicable. At every one of the inquiries in Cape Town and the other venues the committee has worked closely with persons and bodies that have been mediating the disputes. Direct mediation [with the assistance of peace committees] has occurred after the inquiries at Alexandra, Pietersburg and Groblersdal. Meetings with the protagonists in the conflicts in most areas were held to try and establish a lasting peace.

In Alexandra a very promising meeting took place immediately after the conclusion of the formal inquiry.

[See paragraphs 5 and 6 of the Third Interim Report (Alexandra)]. Sadly it must be reported that two months after this hopeful juncture had been reached ARMSTA had still failed to implement any of the steps suggested. As a direct result the fighting has resumed and more lives have been lost.

The agreement between the warring parties in Groblersdal is observed, it seems, only by the different parties staying out of each others' way. [See paragraph 3: "Efforts to combat violence" of the Fourth Interim Report (Groblersdal)].

After evidence had been adduced for some days at Pietersburg during the second week of December 1992, the committee bent its efforts to achieve a peace agreement between the parties. Unfortunately the release on bail of persons who had been arrested for violent offences during the taxi conflict scuttled the attempt so thoroughly that it was considered neither safe nor expedient to resume the inquiry immediately. With the passage of time the initiative was lost and the inquiry has been discontinued until circumstances are again propitious.

2.5.2 It is difficult to obtain direct evidence on why these efforts to achieve peace have failed. The committee concludes that, to a greater or lesser extent, the same

factors which gave rise to the conflict in the various communities visited continue to play a role.

## 3. THE CAPE TOWN INQUIRY

3.1 At the sessions in Cape Town the African National Congress, the Black Sash, the Urban Monitoring Awareness Committee and the Cape Town Peace Committee were represented by Adv John van den Berg, instructed by Mallinick, Ress, Richman and Closenberg. The Department of Transport was represented by Adv J A le Roux and the South African Police were represented by Adv G D Griessel SC and Adv J J Olivier. Both these legal teams were instructed by the State Attorney.

3.2 The testimony of the 35 witnesses who appeared before the committee runs to 4 500 pages. Memoranda, reports and depositions which were handed in fill another 2 500 pages.

The witnesses testified to a range of subjects relevant to the inquiry. Among these witnesses were: representatives of various sectors of the public transport industry, including taxi operators; witnesses who gave direct evidence on aspects of the fighting and those who gave a background and history of the conflict; witnesses with wide experience in town planning, traffic patterns and control; officials from the Department of Transport, the local Road Transportation Board, Cape Town Municipality, a bank, the South African Police as well as township residents and commuters.

3.3 The committee respected a request from members of CODETA not to insist on erstwhile protagonists giving evidence about the previous schisms in public for fear that it may damage the tenuous trust that existed and lead to violence again. We met with these taxi operators in private because we believed that if the committee had insisted on formal procedures being followed the available information would have been lost. It was therefore decided that any relevant information, however informally obtained, was better than no information at all. The right to gather information in this way strengthens the hand of the committee and enables persons who would otherwise be reluctant to come forward with information to appear before the committee. The committee in this report relies on evidence so gathered where it is either undisputed, common cause or compatible with evidence given in open sessions.

3.4 The committee realises that the subject matter of the inquiry is so vast and complex that a number of issues may not have received enough attention by way of testimony while others may have been over-emphasized. Likewise this report may not do full justice to every aspect. This difficulty was recognised by the Appeal Court in the case of R v Dhlumayo and Another 1948(2) SA Law Reports p 677 at p 702 where it was said in respect of court judgments:

> "Indeed, even in a written judgment it is often impossible, without going into the facts at undue length, to refer to all the considerations that

arise. Moreover, even the most careful Judge may forget, not to consider, but to mention some of them. In other words, it does not necessarily follow that, because no mention is made of certain points in the judgment that they have not been taken into account by the trial Judge in arriving at his decision. No judgment can ever be perfect and all-embracing. It would be most unsafe invariably to conclude that everything that is not mentioned has been overlooked".

## 4. THE TERMS OF REFERENCE

In appointing this committee the Commission charged it with the same terms of reference laid down in section 7 of the Act founding the Commission, Act No 139 of 1991, namely

> "to establish the nature and causes of the violence and intimidation, whether it aims at the achievement of any political goal, what persons are involved and what steps should be taken to curb or prevent it".

We turn now to deal with these terms.

## 5. THE NATURE OF THE VIOLENCE

5.1 In the first interim report a description is given of the events which set the scene for the conflict in the Western Cape.

The further course which the conflict in the Cape followed can be briefly summarised as follows.

5.1.1 During 1990 the situation was relatively peaceful, but in September/October 1990 conflict arose over access to the Strand Street rank outside the Golden Acre in central Cape Town. The Taxi Crisis Committee [TCC] was formed, and matters were peaceful until February/March 1991 when Lingulethu West Town Council granted a rank to LAGUNYA at Site C, and this led to serious violence on a large scale especially in the Khayelitsha area. The community imposed a boycott of all the taxis, and under the guidance of the new Taxi Crisis Coordinating Committee [TCCC] the parties signed the 10 Point Plan on 10 April 1991.

5.1.2 However, shortly after the boycott was terminated, WEBTA withdrew from the agreement and a further boycott of WEBTA taxis was called for, with limited success. The community started to be drawn into the conflict, and on 2 July 1991 a WEBTA member was killed at the venue of a "peace" meeting, and on 8 July 1991 Michael Mapongwana [of the Western Cape Civic Association] was killed [apparently in revenge].

5.1.3 On 11 July 1991 an interim agreement over the allocation of ranks and routes was reached, and attempts were made to reschedule loans. WEBTA started to return to the roads, but when they tried to gain access to Khayelitsha

their vehicles were attacked, and during September 1991 WEBTA launched an attack on Khayelitsha and killings, abductions and damage to vehicles continued unabated. During September 1991 WEBTA drove LAGUNYA from the Nyanga bus terminus, and LAGUNYA sought refuge in KTC, from where they launched counter-attacks on WEBTA. This, in turn, led to WEBTA attacking the people of KTC who were perceived to be "protecting" LAGUNYA. The community sided with LAGUNYA, and WEBTA could not enter Khayelitsha.

It is quite obvious from the evidence that the black areas in the Western Cape had turned into a virtual war-zone. Attacks and counter-attacks between WEBTA, LAGUNYA and the community took place on a large scale. Murder, arson, abductions and intimidation paralysed the kombi-taxi industry and led to losses of homes, lives and vehicles on a large scale.

5.1.4 When no negotiated settlement could be reached, the Cape Town Peace Committee called for a Commission of Inquiry. November and December 1991 were quiet, apparently because of the presence of the SADF, the newly-formed "taxi unit" of the SAP and the return to the Transkei by many operators. On 31 January 1992 a peace agreement was announced, but on the very next day [1 February] renewed violence erupted and several hundred shacks were razed in Black City and WEBTA was driven from the Nyanga rank. The

SAP closed the rank, and the ANC called for a new boycott.

5.1.5 Fortunately, the tireless efforts of the peacemakers bore fruit and negotiations were resumed. In March 1992 CODETA was established. The committee was heartened by this development which brought peace to the stricken communities in this part of South Africa. The parties to the truce must be congratulated on making it work in spite of strains which occurred from time to time. Since 31 March 1993 violence has again flared up but not, so we believe, between the former taxi associations. This committee does not believe that a purpose will be served by further delaying this report by inquiring into the new conflict and expresses the hope that it will be resolved.

5.1.6 As at the beginning of 1993 one estimate of the losses sustained in the townships of the Western Cape were that in excess of 70 lives had been lost, damage in excess of R4 million had been caused to vehicles, in excess of R25 million to other property occasioning grief, inconvenience, loss of accommodation, property and earnings. This in turn resulted in arrears in payments in the Western Cape of R10 million; during the height of the boycott 90-100 vehicles were being repossessed per month.

These statistics show in stark relief the futility of violence as a method of dealing with problems: it only serves to create more and bigger problems.

Perhaps the saddest aspect of these horrifying statistics is that it represents only a fraction of the total losses in the country. There is reason to believe that the statistics in other trouble spots like Soweto, Klerksdorp, Springs, the far northern Transvaal, to name but a few, are equally horrifying.

5.2 The other interim reports contain expositions of the history and the nature of the violence in the areas to which they pertain. What follows is a sketch of various manifestations of the violence.

5.2.1 In these other areas much of the violence is clearly aimed at eliminating the opposition in power struggles to control ranks and routes; it is a fight for control of the industry in a particular area. Much of this violence is premeditated and unscrupulous; it consists of attack and counter-attack. The history of the conflict in both Alexandra and Groblersdal is evidence of this. In their revenge attacks upon one another innocent passengers and pedestrians are often the victims of violence. For example, Group A would drive past a taxi of Group B wherever it might be - a rank, shopping centre or residential area - and open fire. In two incidents at

Alexandra a driver and 2 passengers were killed and 5 passengers were injured in the one incident, and in the other incident a pedestrian was killed at a rank. In Rabie Ridge a person was killed on the lawn of a private residence. On 15 November 1992 a number of taxi drivers were sitting under a tree in Pietersburg when they were ambushed by persons armed with AK47's and a 9 mm pistol, leaving 8 men dead.

5.2.2 The struggle for power is frequently extended to include pre-conceived, planned assassinations of leading figures and personalities in the opposing group reminiscent of concentrated gang warfare. Ready access to and availability of arms and ammunition make it substantially easier for the perpetrators of these acts of violence to achieve their objectives.

5.2.3 Taxi drivers are prime targets for robbery, not only of their takings, but also of the passengers. The committee heard reports of taxis being forced to stop and the passengers compelled to alight and board the taxi belonging to an opposition group.

5.2.4 According to the evidence tolerance of rival groups in the black taxi industry is placed under great strain. In the process of competing with each other, participants in the industry readily resort to acts of physical violence or intimidation. Selfishness and greed often mark their

dealings with each other with poaching (of passengers and routes) and taking unfair advantage of others being the order of the day. An example of poaching is afforded by the evidence that in one period of three days at Groblersdal road traffic inspectors arrested 38 operators plying on routes not allowed by their permits. [Indeed, any person operating a taxi without a permit (a pirate) is taking unfair advantage over those operators who keep their minibuses in a roadworthy state, pay the fee and fulfil all of the other requirements for obtaining a permit.] It can readily be appreciated that with all the pressures taxi operators have to cope with, this kind of conduct may just provide a trigger for violence to flare.

5.3.1 The violent competition between kombi taxis and buses has forced many bus services to close down. There was evidence that long distance buses had been stopped along their routes, passengers forced to alight and enter minibuses and forced to pay the fare, thereby forfeiting the fares already paid. In Cape Town the Golden Arrow bus service has been forced to move from the Nyanga bus terminus. This bus service has suffered numerous physical attacks on its drivers; vehicles have been stoned and burnt. During the course of the inquiry a number of bus drivers of this service were forced into a shed and threatened with their lives. This abduction lasted several hours.

5.3.2 The motoring public daily has to contend with heavily laden minibuses (frequently not in the best of condition) infringing traffic rules, showing scant courtesy to other drivers and taking advantage of any situation that will get them to their destination faster, even if such actions may create danger for themselves or others. Many minibus drivers display aggressive driving habits, eg speeding, dangerous overtaking, U-turns, stopping and pulling out at short notice. Despite disclaimers from the organised industry (SABTA and others) the high toll of minibuses in accidents bear witness to what has ostensibly become a high risk form of transport. That motorists on the road show a degree of hostility to minibuses is hardly surprising.

5.4.1 Intimidation has become such a way of life that the results do not have to be spelled out to the victims: signs or gestures are enough to ensure compliance with demands. Drivers from one taxi association are thus able to prevent the use of ranks by their rivals by scaring them off or forcing them to off-load passengers only and preventing them from taking on passengers, resulting in a wasteful empty return trip.

5.4.2 Intimidation and lawlessness are synonymous. Because of the fear for their safety, the small force of inspectors in the service of the Department of Transport in the Western Cape stopped going into the black townships to do law enforcement.

On occasion, when traffic officers have stopped drivers on the road, other taxis have stopped, blocked the road and threatened the officers. This state of affairs was summed up in a letter from the Cape Town City Council to the Department of Transport: ."Any legal requirement that may impede the economic spoils of a trip is considered to be an unfair restriction and likewise any actions by a traffic officer."

## 6. THE CAUSES OF THE VIOLENCE

The discussion under this heading and the sub-headings which follow deal with the main categories of allegations regarding grounds for conflict resulting in public violence and intimidation in the minibus industry countrywide.

What clearly emerged from months of hearing evidence and obtaining information for the purpose of determining the causes of the violence and intimidation, was that (as was to be expected) many factors contributed, and still contribute, to the situation. Many of the factors played a role not originally intended; some results should have been foreseen, others could have been prevented if proper and adequate communication had been practised.

The committee has tried to set out its findings in a constructive way in order that persons or bodies in or related to the taxi industry may examine their own roles and determine

how to address defects and past mistakes. With limited exception, the thrust of the evidence presented to the committee was of an exculpatory nature. If intimidation and violence are to be avoided in this extremely volatile industry, self-examination by everyone involved therein will be essential in order to find a solution to the many problems with which the industry is afflicted.

In order to motivate the committee's suggestions on how to curb or stop violence some elaboration of certain causes is contained in the chapter dealing with recommendations.

## 6.1 HISTORICAL FACTORS

It is axiomatic that past trends and policies shape future development. The accelerated urbanisation of the past decade has led to enormous increases in the black populations around the major cities and towns in South Africa. The policy of separate development dictated that the newcomers could only reside in certain areas, either new townships or squatter camps (collectively referred to hereafter as townships), set aside for occupation by black people. These townships are generally established some distance from the business areas of cities or towns, necessitating transport from places of residence to places of employment. In most instances public transport was not available or provided, which meant that township dwellers were compelled to find alternative transportation. Train services to such outlying areas were non-existent and bus services were slow

to respond to the demand. The minibus taxi proved to be the most convenient and sometimes only form of transport.

The growth in population received added impetus when the influx laws were repealed leading to the establishment of more informal living areas, often further away from business centres than the existing townships. The growth in population has led to an increased demand for affordable public transport, in particular amongst the urban poor.

In summation: massive urbanisation, previously limited, simply engulfed existing and conventional modes of transportation. The time of the minibus taxi had arrived.

At this point there is need to dwell, briefly, on one aspect of the problem of which the roots can be traced directly to the policy of apartheid. Under legislation enforcing apartheid, only blacks who were able to prove their permanent employment in white areas were given so-called Section 10 rights to reside legally in the white areas. Those blacks who enjoyed Section 10 rights were housed in townships from which they were transported to their places of work either by public transport if they resided close enough to walk to the stations or bus stops, or by minibus taxis whose operators were allowed, by permit, to transport passengers from places within the townships to bus stops and stations. In the wake of this arrangement, a minibus taxi industry arose under the full authority and protection of the law.

By contrast, illegal immigrants from tribal homelands and elsewhere congregated and found habitation in informal settlements without Section 10 rights. As they were absorbed into the economies of the cities or towns on whose thresholds they had squatted, they too required transport to and from work. Because they received no legal recognition by the authorities, no permits were issued to minibus taxi operators to transport them. Yet transport was a necessity and thus the pirate taxi industry was born. Living by their wits, evading prosecution at every turn, they made their way.

The very existence of a band of taxi operators operating virtually upon their doorstep without any semblance of legality and providing stiff competition for passengers whose means and choices were limited by their own deprivation, proved to be the touchstone of conflict in virtually every metropolitan area. The "haves" were thrust upon their resources to protect what they regarded as their hard-earned domain against the free-wheeling onslaught from the "have-nots".

The development of the black taxi industry in the Western Cape has been described in the First Interim Report . The committee heard in evidence an estimate that the taxi industry in the Western Cape had grown threefold in 4 years. To varying degrees this tremendous growth is also true in the rest of South Africa. It is not difficult to imagine (and indeed all the signs are there) that this phenomenal increase had overwhelmed the institutions responsible for transport whose initial responses

were more in reaction to the situation as it unfolded rather than the result of forward planning.

Conflict existed in the taxi industry in the Western Cape as well as in other areas in the middle eighties and even prior to that. The arrival of newcomers in such numbers were seen by the established black residents as a threat, both to the rights they had acquired through residence; to the business which each one had built up for himself through hard work and through the increased competition for employment. On the other hand, the newcomers were impatient with the artificially imposed restrictions by laws restricting residence and the like. In the First Interim Report it is confirmed that these divisions within the community were also reflected in the taxi industry and contributed to the initial conflict which erupted into violence. The committee has little hesitation in concluding that the violence being experienced in the taxi industry to this day has some, if not all, its roots in the historical divisions to which we have alluded. The committee found no evidence that politics, in the conventional sense, had played a role in creating the initial conflict.

## 6.2 COMMERCIAL FACTORS:

The pioneering black entrepreneurs who saw the need for affordable public transport and provided the service to meet it were initially well rewarded for their efforts. The news spread that a lot of money could be made by operating a taxi.

The size of the taxis grew out of the original sedans through eight seater vehicles to the present pervasive 16 seater minibus.

The price of minibus taxis in real terms has increased over the past ten years to the stage where the deposits and monthly instalments can be crippling for persons who don't have an income to match. Because of the conflicts which have resulted in serious and repeated damage to vehicles many of which were lost, insurance on minibuses became prohibitively high. The price of fuel and motor parts have also increased over the years, keeping pace with, or outstripping, the inflation rate.

The overall cost, in terms of time and money, to obtain a permit to operate a taxi could in itself serve as a deterrent and may influence a prospective operator in his decision whether or not to operate legally. A certificate of fitness for the vehicle, which entails a cost factor, is necessary; a fee is payable to the LRTB; consideration of the application in itself entails delays and possible loss of income; the completion and lodgement of forms and the advisability of engaging an agent to assist - all these factors taken individually and collectively are daunting to those who are unfamiliar with the workings of government and may well be the reason why many operators have not applied for permits. (This aspect will be touched on later; suffice it to state that the evidence shows that the industry consists of ± 50% of these "pirates" in any one area).

On a conspectus of the testimony it is evident that among all the members of the industry very few indeed possess the business skills to fully comprehend and analyse the factors that affect the industry. There is consequently very little comprehension that healthy competition is of benefit to everyone. The ability to assimilate normal competition and to adapt to its needs would appear to be lacking. It is feared that for many operators the natural or time honoured way of dealing with competition is to eliminate it. Regrettably the process of elimination invariably includes violence.

The understandable absence of business skills and an appreciation of the nature of business and market forces lead to the situation that the vast majority of operators do not have an adequate realisation of the economic pressures attendant upon acquiring and operating a minibus. Many react to rumours that money is to be made, that it is unnecessary to have any education (unfortunately forged drivers' licences and permits are not impossible to come by and, although costly, obviate the danger of applications therefor being unsuccessful) and enter the industry with very limited capital resources.

The industry has approximately 430 associations throughout the country which command considerable influence. These associations, due to their size, wield power to protect their members. Unfortunately this power is frequently employed to attack competitors. Membership of an association in itself is a form of insurance for a minibus operator. Some associations

reportedly charge astronomical entrance fees - up to R5 000 and more in some centres. The rationale behind such membership is plain to see.

Perhaps the single most important factor under this heading that is causing tension is the structure of fares charged by minibus operators. Because they have moved in on the market sector serviced by buses fares are pitched at competing with or even undercutting bus fares. Two circumstances play a role. Firstly, it is readily understandable that a vehicle with one engine and one driver which can accommodate 4 or 5 times the number of passengers which one minibus can take, may well be operated more economically than four or five minibuses. Secondly, public bus companies receive subsidies from the government which keep fares low by off-setting running expenses. (The subject will be dealt with later). However, the result for the minibus operator is that in order to compete with buses he has to charge an unrealistic fare based on considerations bearing little relationship to his own expenses.

The fare structure of operators operating out of black townships is further influenced by or on behalf of commuters. Evidence was received of civic associations regulating fares, at times under threats of boycotting taxis and worse. Operators have on occasion appealed to the authorities for protection against such restrictions, saying that if people can demand a living wage taxi operators should also be allowed to demand a living fare.

Despite the factors already enumerated, the country's current unhealthy economic situation, the current retrenchments and high unemployment figure and other negative circumstances, large numbers of persons have entered the taxi industry. Perhaps the prospect of an independent income through self-employment, the relative ease of entry (especially for a pirate), the relatively light work and other positive factors have lured them to the trade. In evidence before the committee the notion that the black taxi industry was saturated or approaching saturation point was resisted: for our purposes nothing turns on this point. It would, however, appear that the numbers are such that operators are unable to make fully laden trips during peak hours because of the number of other minibuses competing.

The commercial factors collectively contribute to temptation for taxi operators to overload their vehicles and then to reach their destinations as quickly as possible. In the result tensions develop, normal cooperation and self control disappear.

## 6.3 THE ROLE OF THE DEPARTMENT OF TRANSPORT (DOT)

Quite a number of witnesses held the view, for different reasons, that the conduct of the DOT in regard to various subjects engendered such tension within the industry that the conduct should be identified as direct or indirect (contributory) causes of the violence.

Although the committee accepts that intimidation and violence in the taxi industry are not directly attributable to acts of commission on the part of either the DOT or the LRTB, it does conclude that nothing positive was done by either the DOT or any of the LRTBs to contain the violence or to mediate between warring groups to bring about peace. In Cape Town the LRTB officials, despite prominence given in the daily press to atrocities committed in the course of the war, seemed to think that the fight was not of their making and that its resolution was beyond their mandate or normal functions. Press clippings were sent to Pretoria to keep the DOT informed of developments. At that end the DOT seemed to have accepted SABTA's rather facile and obviously incorrect explanation that politics lay at the root of the problem and advised the DOT to stay out of the fight, which it did save that DOT officials did venture to Cape Town to attend meetings convened locally to address the problems.

Having regard to the extreme volatility of this particular industry, the committee will recommend that structures be created to act as the proverbial fire-engines to douse the fires of war as early as possible. The present state of non-involvement by the very authorities under whose jurisdiction an industry operates, cannot be allowed to continue.

Having condemned the authorities for failure to become involved in peace brokering (this criticism does not apply to local authorities), it would only be fair to point out that the role of both the DOT and the LRTB is circumscribed by legislation

which contains no mention whatever nor is any duty placed upon the DOT or any LRTB, of involvement in disputes. In seeking lasting solutions the committee is persuaded that both the Department and any future local issuing authority should have the statutory authority to seek not only prevention but also a cure of any circumstance which is or could be the cause of dissatisfaction, anger and violence.

A plethora of accusations against policies and officials of the DOT included the following recurring allegations:

1. that the DOT's policies and strategies, when in place, did not meet the exigencies of the situation;

2. that officials were corrupt and prone to favouritism;

3. that permits were issued without consistently proper application of the prescribed criteria;

4. that no reasons for refusing applications for permits were furnished except upon payment of an exorbitant fee;

5. that the subsidisation of other modes of transport excluding taxis was unfair and a manifestation of the DOT's partiality against the minibus industry;

6. that the relaxation of entry requirements into the industry constituted deregulation which was perceived as a

discriminatory measure allowing too many persons to enter the market and destabilising the industry;

7. that the Local Road Transportation Boards (LRTB) continued issuing permits into an overcrowded market when no or inadequate ranking facilities were available; and

8. that lack of law enforcement exacerbated the violence.

There were other accusations as well. In the committee's view discussion of the above allegations will cover all the important accusations.

6.3.1 At the beginning of the eighties the DOT received the Welgemoed report which favoured bus transport and sought to phase out minibus taxis. It would seem a fair inference that the rampant growth of this new force on the public transport horizon was completely underestimated. It is certainly true that because of this no or inadequate planning and strategies were devised to accommodate it within the framework of public transport.

There is, however, ample evidence that, towards the end of the nineteen-eighties, policy-makers in the DOT were actively engaged in project studies and consultations to formulate policy. The DOT found itself in an unenviable position of attempting to plan ahead in a fast and constantly changing situation. They relied on the South

African Black Taxi Association (SABTA) as the ear and voice of the minibus industry. Certainly SABTA represented the most powerful organised force in that industry. However, apparently unbeknown to the DOT, it was strong in some geographic areas and weak in others. This position pertains to this day. Moreover, other similarly motivated organisations have staked a claim for recognition. The situation calls for a better in-depth understanding of the forces at work and functioning channels of communication between the authorities and all the various components of the industry and those who represent it.

6.3.2 The LRTBs, especially the Western Cape LRTB, came in for severe criticism. There were allegations of <u>corruption and favouritism</u>. This was strenuously opposed by witnesses on behalf of the DOT and the LRTB's. These witnesses pointed out that corrupt practices were rooted out and vigorously prosecuted as had happened in the Transvaal. It is easy to accuse someone of corruption; however, to find the evidence to prosecute is often difficult. By its very nature corruption benefits both the perpetrator and the instigator: by coming forward to testify the benefit would be lost to both.

The evidence of the machinations of consultants who applied for permits on behalf of their clients and achieved success, was disturbing. As suggested in

paragraph 4.3 of our Third Interim Report, their actions are under scrutiny by the police.

There can be no doubt that if permits are obtainable through corrupt means, it would add to tensions within the industry.

The evidence and statistics produced before the committee do not support a charge that the Western Cape LRTB favoured WEBTA above LAGUNYA. It is to be noted Mr Langalibalele's success was one of the foundation stones of this allegation.

Mr Langalibalele, at the time the chairman of WEBTA, had lodged a number of applications for permits on behalf of the applicants who were members of his organisation. When the applications were refused Mr Langalibalele instituted inquiries at the LRTB and unofficially obtained information leading him to conclude that an absence of ranking space had been an important consideration in the LRTB's decision.

On his own initiative Mr Langalibalele thereupon negotiated the lease of an open piece of ground near Wynberg station. He then informed the City Council of the lease and applied to use it as a minibus rank. The City Council granted permission. Armed with this "package" he resubmitted the applications of his members. In order to

identify users of the new rank, Mr Langalibalele affixed a WEBTA stamp to the applications. The applications were approved.

LAGUNYA ascribed corruption and favouritism on the part of the LRTB as the basis of Mr Langalibalele's success and accused the LRTB of being unfair and partial to WEBTA.

The committee concluded, taking account of everything surrounding the incident, that it took place as set out above and that the LRTB had acted in good faith.

6.3.3 The allegation that <u>criteria</u> were not applied consistently was made in two contexts. Firstly, it was alleged that the criteria were purposely misapplied in certain cases to favour one applicant above another. Secondly, it was said that even if there was no corrupt motive, the inconsistent application of criteria led to confusion and dissatisfaction.

Both of these inconsistencies, it was said, increased the mistrust of the LRTB and may ultimately have fuelled tensions in the industry. The committee concluded that that may indeed be the case but that no blame can be attributed to the LRTB.

Firstly, there was no foundation to the rumour that the Western Cape LRTB had purposely misapplied criteria.

Secondly, the allegation that the criteria for applications were not applied consistently is no doubt as true as the saying that the same trial may have different results if it were tried by different judges.

The criteria for the allocation of permits are prescribed. The application of some of the criteria calls for evaluations which are subjective. For example, one person, in judging whether "the transportation to be provided is necessary or desirable in the public interest" (section 15(1)(a) of the Road Transportation Act, No 74 of 1977), may be more easily persuaded to one view or another than the next person simply because their perspectives and experience are different.

6.3.4 The comparison of the processing of applications before an LRTB and the process of a court case may be taken further.

In court cases, which are heard in public, judges are at pains in their judgments to give <u>reasons</u> for their findings: an accused will know before he is convicted what it is that he is convicted of and the motivation for that finding. If any accused disagrees with the court's finding he may appeal and the judgment containing the reasons will not only serve as the basis for the arguments on appeal but also as a measure of the possibility of succeeding on appeal.

The evidence adduced before the committee disappointed us in this respect. The records of applications contained no notes indicating why the applications were granted or refused. (Admittedly, we only saw a few of the files of these applications, but we were assured by witnesses from the LRTB that these were typical files). No reasons are given in public or privately to the applicants, either at the hearing or thereafter.

The only way that an unsuccessful applicant can establish what went wrong with his application, is to initiate an appeal, entailing the completion of more forms. It seems to the committee to be anathema to all proper rules of procedure to require a dissatisfied applicant to institute an appeal without knowing what the grounds of appeal should be; in fact, to initiate an appeal in order to find out whether there are valid grounds for an appeal. Moreover, for this already convoluted process an exorbitant fee (previously less but during the course of the inquiry it became R800-00) was demanded. In the committee's view this whole procedure is unfair and should be condemned.

It is easy to see that the suggestion of secrecy immediately gives rise to the suspicion that the LRTB had something to hide. It is only a short jump from there to reason that certain applicants were successful at the expense of others, that it is due to favouritism and that that was achieved by corruption.

The result is that through lack of communication, transparency and accountability LRTBs not only became their own worst enemies but were seen as enemies by the operators. Small wonder that someone outside the DOT and the industry called the LRTB "a remote issuing body". The conclusion is inescapable that these perceptions which were conveyed in evidence, contributed to the tensions in the industry.

Unfortunately for the LRTB, once suspicion adhered to some of its actions, all its actions became tainted with suspicion.

6.3.5 The fact that buses and trains receive <u>subsidies</u> from the State while minibuses do not, was mentioned in paragraph 6.2 above as a circumstance influencing the fares set by minibuses. The subsidies allowed trains and buses to operate at artificially lower fares whereas the taxi operator had to cover, and carry, his full costs but at a fare restricted by his competition with buses.

-The amounts of these subsidies are considerable - In 1989 they amounted to R1 240 million of which R540 million was allotted to buses and R700 million to trains. According to articles in the press the total amount subsequently increased to R1 800 million. One bus company alone, according to a press report of 7 February 1993, received R200 million during 1992. These figures are not official

and may be open to correction; they suffice, however, to show that the subsidies must have a considerable influence on forcing down the price of fares on the buses. However one may protest that the unequal competition with buses and trains were brought upon themselves by taxi operators, the fact is that, as one witness put it, the playing fields were not even.

A number of negative results flowed from the fact that minibuses operate at uneconomical fares. There is the serious effect that minibus operators try to increase profits by making as many trips as possible by speeding, poaching and generally failing to observe the rules of the road. No doubt this chasing of profit puts a strain on the operator; any evidence or perception that he is being unfairly prejudiced by the actions of another could trigger violence.

The committee believes that to subsidise one sector of the public transport sector and not another, perhaps at this stage even the largest sector, is unfair. The committee has no doubt that subsidisation of buses was regarded by the organised minibus industry and SABTA in particular, to be manifestly unfair. Whereas it may not have been a direct factor in the tensions within the industry, it must have been at least an indirect factor. The committee has little doubt that spokespersons for SABTA, in addressing members of that association, must

have referred to the inequities of the situation and that the body of members must have felt that they were being discriminated against unfairly.

6.3.6 The DOT policy of allowing a relaxation of strictness in the granting of applications for permits in order to legalise a greater number of pirates was sharply criticised by a number of witnesses.

This process was commonly called <u>deregulation</u>, a term strenuously resisted by the DOT. The Department's interpretation of the term deregulation is that situation where no artificial restrictions are placed in the way of any person wishing to operate a taxi except to conform to safety requirements on the vehicle and for the driver to have a valid driver's licence. In a deregulated environment market forces will determine the viability of a taxi operation. In the White Paper deregulation is envisaged in the context of the aforementioned definition, i.e. a total removal of all restrictions upon entry to the taxi industry save for the safety requirements. Although this was the ideal accepted by the Cabinet, evidence adduced persuaded the committee that deregulation in its fullest sense (as advocated by the White Paper) had never been applied by the DOT nor did it ever come into effect.

The term itself had different meanings for different people. For some it meant total deregulation as

envisaged by the White Paper of 30 January 1987; for others it was limited to a relaxation of restrictive measures. The committee accepts that "deregulation" in the taxi industry as it was applied by the DOT was never meant to be more than a more flexible and less formalistic adherence to the requirements applicable to the granting of a permit in terms of section 15 of Act No 74 of 1977. In the Western Cape, for instance, these requirements were not as strictly adhered to by the LRTB during the period August 1989 to November 1990 as before and after that period. During the hearings it also became evident that irrespective of the sense or meaning applied to the term, the failure on the part of the authorities to enforce the law on pirates (eg because of a shortage of manpower in the inspectorate or because of intimidation of inspectors) produced a result tantamount to deregulation.

The allegations against the DOT and LRTBs were that in relaxing the strict adherence to legal requirements for a permit, they allowed the market to be flooded in that many more taxi operators plied the trade. It was alleged that overcrowding at the ranks (attributed to newcomers to the industry) made the trade even more uneconomical and exacerbated tension.

The perceptions of deregulation by the taxi industry were that it took place on "an ad hoc, unsystematic and random

basis", and that this enabled many pirate operators to obtain permits. This caused confusion and resentment in the industry and added yet more wood to the fires of tension.

However, what had happened in fact was not sinister but a serious (albeit belated) attempt at <u>rationalising</u> the industry.

Statutory restrictions simply did not provide for the substantial growth in the industry. The number of persons plying the taxi trade without permits assumed such proportions that the DOT accepted that the very existence of an enormous body of pirate operators in virtually every metropolitan area was proof of the need for their services and therefore resolved to obtain greater control of the industry by legalising pirates. The LRTBs were to apply a "meer toeskietlike benadering" in the granting of applications. In cooperation with SABTA the Implan scheme was launched whereby the applications of existing pirates would be channelled from SABTA via the DOT to the various LRTBs and for easy identification and processing those applications would be marked with a red dot. However, the moratorium on new applications agreed to between the DOT and SABTA was nullified by the DOT and LRTBs themselves by not adhering to the agreement and allowing applications of existing pirates to be received directly by LRTBs instead of via the intended channel.

In the words of the committee's legal officer, Adv J Slabbert: "It was one of those quirks of fate (that sometimes change history) that at the time that the DOT was (with the best of intentions) trying to bring some order to the industry by legalising the pirates, this very legalising process favoured one of the organisations involved in a bitter war in Cape Town". In the committee's view this is the reason why members of WEBTA, containing many more pirates among its members than LAGUNYA, received more permits, and why incorrect perceptions of favouritism and corruption arose. These perceptions were again influenced by Mr Langalibalele's action of forwarding the applications with a WEBTA stamp. The statistics, however, show that, compared to the applications approved with a WEBTA stamp, a much larger number of applications were approved without such a stamp.

The committee believes that lack of communication may be the reason why so many well intentioned plans failed. In this case there was an apparent unwillingness on the part of the DOT or the LRTBs publicly to announce the relaxation of the requirements. The motivation was possibly because LRTBs wanted to protect their reputation for autonomy. Whatever the reason, because of lack of communication the LRTBs stand indicted by the taxi community of having acted discriminately and unfairly.

In the view of the committee, however, the legalisation of the pirates cannot account for the flooding of the industry because the total number of operators was not increased by the legalisation of a portion of the body of pirate operators. The committee is of the view that the perception of overcrowding or flooding took place because there was a perception in the community that the entry requirements to the industry had been relaxed and that the "legal" body within the industry was being threatened by the advent of pirates and new operators. Pirates who were previously denied the use of ranks; laid claim to such use upon acquiring legitimacy. This caused over-crowding which was regarded as a direct consequence of "deregulation". Because of the perception that the number of operators had increased, those within the industry felt threatened by the new body of competitors; there was increased violence and militancy, also towards traffic authorities, resulting in weaker law enforcement.

It was a feature of the inquiries at the various venues that no one was able to quantify the number of pirates in the trade. Estimates varied between 40% and 60%. It follows that this large unknown factor bedevils any form of control or rationalisation.

6.3.7 The criticism of LRTBs that <u>permits</u> were issued into an <u>overcrowded</u> market when no or inadequate ranks were available is closely connected to the preceding

paragraph. The question of the availability of ranks will be discussed later; suffice it to say here that the DOT and the LRTBs are not responsible for providing ranks and therefore cannot be blamed for an absence of ranking facilities or adequate ranking facilities.

It was explained on behalf of LRTBs that in issuing permits there is no legal obligation to take ranking facilities into account, although, so it was said, this aspect was borne in mind. The point was correctly made that LRTBs were often placed in untenable positions by local expectations. In Groblersdal where there is ample ranking space the resentment at the issue of permits seemed to be that it increased the number of competitors.

Alexandra, a township of over 300 000, is not served by buses or trains at present; people consequently have to rely totally on minibus transport. There is not a single formal rank in the township. If the LRTB were to take the availability of ranks into account it could, by this logic, not issue a single permit for minibuses to operate in Alexandra. Despite the clear need for transport, Alexandra would be without legal operators, a situation which would no doubt have led to the criticism that the LRTB by its reference to ranks, was responsible for Alexandra being served by a fleet of pirates. The same consideration would apply to a place like Khayelitsha in the Cape.

The committee concludes that the criticism of the DOT and LRTBs in this regard is misdirected.

6.3.8 The inspectorate of the DOT countrywide consists of 76 inspectors, of whom some are engaged in the administration of the inspectorate. Those "on the ground" who do the actual "inspection" are very few indeed and, for the reason mentioned in paragraph 5.4.2 above, totally inadequate.

The result of the inspectorate's inability to be effective and other negative consequences are dealt with in the next paragraph dealing with law enforcement generally.

Calls were made for the immediate expansion of the inspectorate to be more effective. It was suggested that the force be brought to the strength of 300 inspectors. The committee's view is discussed in the chapter on recommendations.

## 6.4 LACK OF LAW ENFORCEMENT

It needs no elaborate argument to realise that lack of law enforcement may indeed be a cause of continued violence and intimidation. The statement is made on the basis of the ordinary conditio sine qua non test, i.e. to postulate whether the same high level of violence would have been experienced in

the taxi industry had there been efficient and proper law enforcement.

According to evidence before the Commission, the answer must be in the negative. There was evidence on behalf of different law enforcers that in those cases where a concerted effort with sufficient manpower and facilities was launched to address the violence an immediate positive result ensued.

It has been pointed out that the industry is crowded with pirates who are not amenable to discipline and who should not be allowed in the industry. The only way to deal with them is by way of proper law enforcement.

It is also readily understandable that, in particular among taxi operators with their tendency to be a law unto themselves, policies aimed at bringing order to the industry will fail unless the necessary policing goes with it. As mentioned above in paragraph 5.4.2 and 3, the taxi operators continually challenge the authority of law enforcers and, unfortunately they get away with it.

Cape Town was no exception to this state of affairs. Most of the physical combat between the warring factions took place outside the jurisdiction of the traffic authorities of Cape Town. In addition they were unprepared for the flood of taxis when it engulfed lower Strand Street. Not only did chaos reign supreme, but along the routes into the city many traffic laws

were simply ignored. Successful enforcement of the traffic laws in regard to minibuses seem to be overshadowed by those occasions when taxi operators create traffic blockades to protect law breakers or to protest against law enforcement or disciplinary measures deemed to be unfair.

When a blockade of the streets of Claremont occurred towards the end of 1992, a special session of the inquiry was devoted to evidence relating to that incident. (The executive of CODETA attended the hearing and the committee accepts unreservedly their assurance that the action had taken place without the executive being informed or consulted). It was hoped then that the study of the incident would lead to effective measures on the part of the traffic authorities to prevent or to deal firmly with any recurrence.

The committee noted with dismay that within months after the incident two blockades of the streets of Cape Town itself occurred holding law-abiding motorists to ransom. The inference seems inescapable that no contingency plan has been formulated (or if formulated, it has not been implemented) to prevent the formation of a blockade or to unjam the streets if the formation cannot be prevented.

The lack of law enforcement generally has very serious consequences for the community as a whole. In evidence the following statement was made: "The law enforcement agencies were either unable or unwilling to enforce the law which is in the

statute book. This amounted to a total breakdown of discipline and control from the policy makers, which resulted in creating this kind of anarchy".

The committee is constrained to agree with this statement and points out that it is not only pirates who "benefit" from the lack of law enforcement but any other person who breaks the law. This brings law enforcers into disrepute leading ordinary citizens to doubt the efficacy of the whole system of control, including the legal system.

## 6.5 THE ABSENCE OF FACILITIES

The initial observation should be made that the committee had inquiries into violence at places where there were no ranks, not even a piece of open ground (eg Alexandra), at places with inadequate ranks (eg Cape Town) and at places with excellent ranks and facilities (Groblersdal and Pietersburg). Serious taxi wars had taken place at all these centres and without exception ranks or the absence of ranks or facilities were a bone of contention.

Nevertheless, the availability of ranks and facilities and their administration are matters of major concern to the industry. The absence of ranking space or the adequacy thereof in an industry where the competition for passengers who congregate at certain places is fierce, can readily cause tempers to flare.

A number of towns and cities recognised the emergence and potential for growth of the minibus industry and erected good ranks, eg Pietersburg and Groblersdal. Both these ranks are unfortunately situated some distance from the central business area and are to an extent unpopular because of that factor. Efforts to meet the situation, eg in Groblersdal a generous number of bays in the central business area were marked out as minibus "Stops", were abused by the taxi operators.

However, in the majority of towns no or grossly inadequate facilities exist. This fact can only be ascribed to tardiness on the part of those municipal authorities to give adequate recognition to the place of the minibus industry in the firmament of trade and business.

This is also true of Cape Town. The absence of ranking facilities in the city area, the destination of thousands of minibus commuters, underscores the disinterest of the municipal authorities until rather late in the game. The utter chaos every day at the eastern end of Strand Street is a matter of the gravest public concern. The situation taxes the tolerance of the ordinary motorist and must add considerably to the tensions within the highly competitive industry.

A number of scientific studies of the problem have seen the light. The committee can only hope for a speedy resolution of the problem.

In various cities or towns, the following problems at ranks (whether laid out or not) were identified:

(i) overcrowding, especially during peak hours;

(ii) an absence of or inadequate toilets and shelters;

(iii) no or weak control or partiality by marshals, resulting in jostling for position, queue jumping and favouring one operator above another (usually from different taxi associations);

(iv) intimidation of passengers;

(v) poaching passengers;

(vi) pirates muscling in at ranks;

(vii) operators from one taxi association unlawfully trying to stop another association from using a rank.

On a conspectus of the evidence adequate ranks for minibuses are as necessary as ranks for metered taxis, bus stops and termini for buses and, indeed, stations for trains.

## 6.6 GENERAL INTOLERANCE AND POWER STRUGGLES

At all the inquiries held by the committee it became clear beyond doubt that much of the blame for the eruption of violence lay with the operators themselves. There appeared from the evidence such pervasive intolerance, selfishness, provocation and greed that all efforts to stop violence will be doomed to failure unless operators themselves overcome these vices.

Operators in the taxi trade seemed to be loath to change their stances (which were invariably subjective) even if it was clear that a particular view or perception was based on a wrong premise. It was perhaps not surprising that in very few cases did operators consider that they themselves had contributed to the conflict. They were more likely to blame circumstances such as ranks (see the opening paragraph in paragraph 6.5 above) or persons or bodies outside their association such as the conduct of members of a rival organisation or LRTBs for corruption or perceived favouritism to their opponents. Whereas one understands how perceptions (such as favouritism of WEBTA in this instance) may occur it is dangerous to jump to conclusions and react, sometimes violently, to those conclusions without attempting to verify the situation. Taxi operators must understand that no person may arrogate to himself the right to react first and ask questions afterwards.

The committee notes with regret that in the taxi industry, despite the intensive efforts of a large number of bodies and persons working completely selflessly to mediate between warring taxi associations to establish peace, these efforts which will be to everyone's benefit, are only sporadically successful. The persons engaging in this thankless and often dangerous endeavour to bring peace and cooperation, are really the unsung heroes of these conflicts.

Understandably the other causes of violence listed under this heading lead to tension, sometimes to breaking point. However,

laws which caused the unnatural divide between the haves and the have-nots, and that an ill-conceived political policy lay at the very root of the violence, politics as such and political parties were not in evidence when the smouldering rivalry erupted into violence. Indeed, it was suggested that, in the Cape at least, the members of the rival groups were all supporters of the ANC and that the latter had prudently remained outside the war, save for its timeous involvement in inspiring a civic boycott of all taxis which certainly contributed to taxi operators on both sides coming to their senses and establishing CODETA.

7.3 It seems to the committee that there is a danger of taxi issues becoming political. If that were to happen disputes which are intrinsically of a domestic nature and which needs to be resolved at a domestic level through mediation or normal law enforcement will be drawn into another sphere of influence where more general agenda obtain. If this were allowed to happen the taxi industry may find itself to be the proverbial ham in the sandwich. As was said in the Fourth Interim Report, if any taxi dispute were to become political it will surely complicate the search for peace immeasurably.

7.4 However, the committee believes that persons and bodies outside the taxi industry, including politically orientated bodies, could play a significant role, for example, in the implementation of impartial dispute resolution and certainly in policy formation which would favour the improvement of conditions for the public transport industry.

It seemed to the committee in the light of the aforegoing that a collective view prevailed among those members of taxi organisations participating in the violence that they could impose their will on others by the use of violent means. Not only did it fail, if that were the purpose, but it engendered violence in the form of counter-attacks which is the pattern of a taxi war.

With due regard to the origins of the strife and the many factors causing dissatisfaction, tension and anger, the committee concludes that, in the final analysis, the inclination to, and application of violence by taxi operators is the most immediate cause of the conflict and the resultant devastation of lives and property.

## 7. THE ROLE OF POLITICS

7.1 In analysing the causes of violence within the taxi industry, the committee concluded that politics have hitherto not played a significant role, if at all, in the disputes which erupted into violence. The committee is in complete agreement with the preponderant evidence that the causes of conflict have largely been confined to commercial competition - "a battle for space and turf" was how it was euphemistically described by one of the witnesses.

7.2 Although it could be said, with substantial justification, that the dispute had its origins in the racial

the operators in the taxi industry, regarding themselves as people who have been oppressed over a long period of time under the yoke of apartheid, ought to be the first to understand that enormous resentment follows when through one's own conduct other people are exploited, exposed to provocation, threatened and have their rights disregarded. Yet the evidence shows that operators indulge in obstructive stopping and parking, abusing the rules of the road by speeding, lane cutting, dangerous overtaking, jumping queues and poaching. Indeed, the very act of pirating is exploitation of those who have permits, who spent time and money to obtain them and who abide by the conditions of the permits.

These actions bespeak selfishness and intolerance, which defeat the good values of being tolerant, cooperative, law-abiding and honest. Of course, the aforegoing are only the less devastating results of the intolerance and pales into insignificance next to the profusion of killing, maiming and arson occurring in the bloody conflicts.

In an atmosphere of general intolerance even in regard to lesser values, how can respect for life and limb be expected? Indeed, the inquiries showed only too clearly that selfishness and greed were the foundations of power struggles throughout the industry. This was very clear in Alexandra and Groblersdal as mentioned in those reports; it was also clear in Cape Town that both taxi associations laid claim to this or that "rank" to the exclusion of the other taxi association.

## 8. WHAT PERSONS ARE INVOLVED IN THE VIOLENCE

8.1 No individual has been identified amongst the SA Police or rival taxi associations as being perpetrators of murder or arson, and the SA Police have been heavily criticised for their alleged inaction or ineptitude. The Police have denied these allegations, and this aspect stands over.

8.2 There have indeed been prosecutions of individuals for serious crimes, but many have been acquitted, or the proceedings have been converted into inquests.

8.3 Although there is no evidence of any conspiracy by any group whose aim it is to foster the (past or present) violence, it seems to be a reasonable inference to draw that (unknown) members of taxi associations have conspired with one another at various stages of the conflict, to deliberately attack members of a rival organisation, often as an act of reprisal. It is almost inconceivable, in the dozens of attacks that have taken place countrywide over a period of time, that the perpetrators have not been recognised by someone. Yet that is the evidence. No taxi leader anywhere has come forward with the necessary information to ensure a successful prosecution, and they all profess ignorance of the identities of the perpetrators of arson and murder.

8.4 Some leaders and the SA Police now say that "hitmen" are "imported" to commit the murders, but no one has yet been identified.

8.5 During the inquiry no concrete testimony came to light which allows this committee to make a recommendation to the Attorney-General to prosecute any individual or group despite the clear evidence of arson, intimidation and murder on a vast and countrywide scale over a long period of time.

## 9. RECOMMENDATIONS

1. The committee's terms of reference entail, *inter alia*, an inquiry into steps to be taken to curb or prevent violence and intimidation in the taxi industry. In order to identify measures which could possibly assist to curb violence and intimidation, it is necessary to recapitulate, briefly, five principal contributory causes of violence in the industry which have been identified by the committee, namely:

1.1 Enormous and sudden growth of the kombi-taxi or minibus taxi industry, causing ever increasing commercial competition amongst operators;

1.2 A general lack of business training and skills within the industry which, if such skills and experience had been present, would have served to assist the operators of taxis to come to terms with economic circumstances prevailing in the transport industry and with severe competition amongst themselves;

1.3 Dissatisfaction with the perceived policy of deregulation manifested in the random issue of permits to illegal operators;

1.4 Problems surrounding the effective enforcement of laws, regulations and rules coupled to dissatisfaction with or lack of respect for the existing law enforcement agencies, including the S A Police.

1.5 A prevailing culture of violence which seems to suggest that violence, in itself, is a means towards the achievement of a solution of a problem and that the threat of violence will serve as a deterrent to prevent acts of omission or commission by the person(s) threatened;

2. An analysis of the committee's terms of reference shows that it is incumbent upon the committee to submit recommendations not only towards the finding of solutions in the short term (i.e. to suggest how existing on-going violence should be curbed) but also towards suggesting long-term solutions which would permanently address some if not all the causes of violence or potential violence in the industry.

3. As far as the short-term situation is concerned, the committee was most gratified to learn, in the first instance, of the truce which had come about as a result of the formation of CODETA in the Cape. Although it was suggested that CODETA, as an organisation, might prove to be fragile and that conflict would again emerge at an early date, subsequent events have encouraged the committee to suggest that a lasting answer has been found within the Cape taxi community to what could have proved to be a most resilient problem. It is essential that the communality of

interests which culminated in the common wish amongst taxi operators that they should be allowed to carry on business in peaceful circumstances, should be protected and nurtured in every possible way.

The committee is aware that there is on-going conflict within that organisation and that those persons who are involved in maintaining peace within the ranks of CODETA, are on full alert to prevent the situation from getting out of hand. Although there is no ready answer to the prevailing conflict (which might conceivably become the subject of a special inquiry) within CODETA, the need to exercise self-discipline and not to take the law into one's own hands, cannot be emphasised enough.

4. As the long-term solution may prove to be more elusive, it must involve a total appraisal of the minibus taxi industry as a component of the passenger transport industry. In the course of many public hearings which covered a period of more than a year, the committee was presented with evidence of a highly technical nature in substantiation of various conclusions, deductions and reports made and submitted by witnesses. On several occasions it was intimated by witnesses, including a representative of the Department of Transport, that this report of the Goldstone Commission on violence in the taxi industry was being awaited as it would presumably become a point of departure for the formulation of new policies, regulations and by-laws affecting that industry. Although mindful of the high expectations placed on its recommendations, the committee

nevertheless emphasises that it did not consider itself mandated or sufficiently experienced, or competent, in matters pertaining to the very specialised subject of passenger transport, to produce anything resembling a blueprint upon which the future minibus taxi industry could be structured. This report contains nothing more than recommendations which constitute the committee's earnest attempt to provide some direction for those whose substantial task it will be to find lasting solutions to a most complex situation.

5. In its effort to find answers to the problem of suggesting meaningful measures which, if taken, would serve to reduce or limit the prospect of violence and intimidation, the committee has taken note of any number of possible solutions and measures which were put forward by witnesses and by those who were represented at the inquiry. Without identifying the persons or organisations who submitted such suggestions, the following are amongst the most important measures which were put forward during the course of the protracted hearings namely:

5.1 The establishment of a fair regulatory system, firmly applied and fairly policed;

5.2 Control of the taxi industry should be vested in a Board of Control which would set standards, coordinate the various taxi associations and exercise discipline;

5.3 Facilities to teach driving skills, to provide business

training and to educate entrants to the industry regarding their responsibilities towards their passengers and the public;

5.4 The establishment of adequate facilities for the use of taxi operators and passengers, including a sufficiency of taxi ranks with shelters and toilets, drop-off and pick-up points, and reserved lanes for minibus taxis;

5.5 Improved traffic control through established management principles;

5.6 The establishment of good communication channels, coupled to a functioning, accessible complaint handling system at local levels;

5.7 A public education and awareness programme designed to facilitate the acceptance by the public that taxis are an integral part of the South African transport system;

5.8 A subsidisation scheme sponsored by the State which would have the effect of placing taxi operators on the same financial footing as bus operators, the latter being subsidised at the present time; and

5.9 Effective law enforcement.

6. The burgeoning of the taxi industry in recent times is a phenomenon which is largely attributable to the rapid and

continued urbanisation which has taken place in South Africa. It has occurred in virtually every Metropolitan area and is likely to continue into the next century. The abolition of statutory influx control in 1985 merely allowed a steady flow of people from homelands and tribal territories to towns and cities to assume tidal proportions. Having settled themselves in townships and informal settlements upon the perimeters of towns and cities, from and to which no regular public transport existed, the minibus taxi stepped into the breach, meeting a need in public transport. Its advent was not to everyone's liking. Resistance to the recognition of the need for such transport was to be found in the report of the Welgemoed Commission which, in 1983, recommended that a taxi should be a vehicle carrying 4 persons plus a driver, that the 8 seater Kombis should be phased out over 4 years and that bus services should enter the market with smaller buses. However, irrespective of its source, resistance to minibus taxis was simply swept away by an ever increasing number of such taxis taking to the road. Not only did they provide transport and employment, but they constituted the instruments for the attainment of wealth within the various communities from which they operated and which they served. The minibus taxi was lauded for its role in fostering entrepreneurship and for creating opportunities for black advancement and empowerment. Needless to say, the automotive-related industries were quick to respond in offering support and assistance to the industry; obviously in exchange for its custom. The minibus taxi had arrived and was here to stay.

7. The ascent of the minibus taxi star was, however, short-lived. The industry's reputation became tarnished by ever-recurring reports about rotten driver behaviour. A flood of accident reports in which minibus taxis were involved, was experienced, particularly after long weekends and holidays. Representatives of the taxi industry tried desperately to deflect the impact of the accusations levelled at the industry until they, too, were compelled to recognise certain very fundamental facts: competition in the industry was growing to an extent that it became a veritable hunt for passenger business on lucrative routes, resulting in very poor driver behaviour; lack of business training and skills prevented taxi operators from settings fares at profitable rates; and conflicts caused by tensions throughout the industry erupted sporadically in violence amongst members of the industry. At first, a feud between taxi operators attracted substantial attention in the media; latterly a full-scale shoot-out between rival groups hardly merits a paragraph in the national press. In virtually every province the minibus taxi is frequently the pivot of violence and crime.

8. On the public sector front the preparedness for an onslaught of a mushrooming industry seemed to have been sadly lacking. In another part of this report the committee has attempted to deal with the authorities' perceived failure to grasp the true nature of the problem. Suffice it to say that the needs of the industry and the people transported by it, were sadly neglected. In its examination of the causes of the taxi.

conflict the committee refers to the most inadequate provision of facilities by local authorities. During the hearings in Cape Town a constant litany of accusations were voiced by witnesses complaining that taxi ranks did not exist or where they did exist, the facilities, if any, were grossly inadequate. The lack of shelter and toilets at ranks resulted in dissatisfied passengers; conflict between drivers and passengers and a fight for "space and turf" between rival taxi associations in claiming use of existing ranks, erupted. At the root of it all seems to lie a failure (if not complete, then at least partial) on the part of the transport authorities to anticipate the effect which the legalising of hitherto pirate operators would have upon the industry and, particularly, upon those who were operating legally.

9. Witnesses from different disciplines and from the various centres where taxi conflict was experienced, warned the committee that conflicts and confrontation revolve around the issue of ranks and routes with violence being used as the sole instrument to resolve them. The same witnesses warned that, if total anarchy is to be avoided, intervention must occur and strong policy direction established. Others warned that extreme tension exists within the industry with the probability that violence will break out at any moment anywhere in the country. It is significant that such a warning was voiced as far back as 1986 in a letter addressed by SABTA to the Minister of Transport.

10. Having spoken to representatives of the industry in a number of centres, the committee accepts the view that it would be unsatisfactory, and even counter-productive, to regard a negotiated compromise between feuding taxi associations as anything more than an interim solution. Whilst the committee lauds the efforts of everyone who has been involved and who becomes involved in the resolution of taxi disputes, wherever they have occurred and wherever they may occur in the future, stability in that industry will be achieved only if lasting solutions, which are accepted and respected by the taxi community, are found.

11. DEREGULATION (MERITS AND DEMERITS)

11.1 The committee has already expressed its views on the question whether or not deregulation - perceived or real - contributed to the general feeling of dissatisfaction within the taxi industry. It only remains from the committee to submit its views and, hence, its recommendations, on the vexed and much discussed question whether deregulation in the taxi industry, in itself, should be part of future planning for the industry and whether the implementation of the Government's proposed policy is likely to contribute to greater or continued violence.

The Government's proposed policy was summarised in its White Paper on National Transport Policy which, in the main, suggested:

11.1.1 the devolution of power to the "lowest level of Government" possible;

11.1.2 the furtherance of private initiative; and

11.1.3 the removal of regulatory constraints which prevented free competition.

11.2 There was much debate before the committee as to the merits and demerits of regulatory policies in the taxi industry. More than one witness explained deregulation in the taxi industry as part of national economic policy to encourage effective competition within a free market system. The committee was told that the Government had decided to adopt such a national policy and that transport, in its widest sense, should be brought into line with that policy. This meant, in practical terms, that permits issued on economic considerations would eventually be replaced by permits issued after the assessment of qualitative criteria, i.e. tests to determine driver competency, vehicle fitness and the existence of insurance cover for passengers and third parties. An applicant for such a permit would not be required to show a need for a service which he intended providing but would notionally be entitled to enter the market at any place and provide transport to passengers at rates which he alone would determine.

11.3 Dr P E J Brooks, Chairman of the Competition Board, testified that the Board has been at pains to eliminate

restrictions on entry to any form of business. He suggests, with justification, that if the issue of permits is subject to some form of economic limitation, the factual result is that certain people who do not qualify for such permits for whatever reason, will nevertheless find their way into an industry which is thought to be profitable, whether they have a permit or not. He argues that the regulatory system of permits inevitably carries criminal sanctions which has the effect of criminalising those persons who enter an industry without permits. That state of affairs, according to Dr Brooks, must clearly be avoided.

He accepts that many taxi operators operate without prior business training or skills (a state of affairs which was repeatedly confirmed by taxi operators in the course of discussions with members of the committee) but suggests that their problems in coming to terms with economic realities and competition from within the taxi industry and from other transport operators, should be addressed by an education process amongst the members of the organised taxi industry and through management of the problem itself. He also warned that a regulatory system which seeks to protect vested interests and which has the effect of keeping others out despite their ability to provide equally efficient service to the community, should not be tolerated.

Dr Brooks did, however, concede that control of unroadworthy vehicles, control of driver competency and driver's licences and the enforcement thereof through some form of imposed discipline,

might justify a regulatory system applied through the medium of a controlling body. Dr Brooks pleaded, *inter alia*, for an overall coordinated deregulation policy and drew attention to the various levels in Government from which the transport industry is governed, emphasising that this led to a wholly unsatisfactory state of affairs. Whilst emphasising that free enterprise and competition is not an end in itself, he stated that it is aimed at society using its resources in the best possible way. He also stated that in certain circumstances there might be a very "valid justification for a measure of regulation to counteract the negative effects that might possibly ensue from a totally open deregulated society".

The overall impression left with the committee was, however, that Dr Brooks and the Competition Board would not support any regulatory system which would prevent restrictions on or prevent entry into the taxi industry and that their belief in market forces, if they were allowed to operate through education and proper management thereof, would ultimately regulate that industry in a manner acceptable to the general public.

11.4 In contradistinction to the evidence given by Dr Brooks on behalf of the Competition Board, virtually every other witness who testified expressed firm support for an all-embracing regulatory system, firmly applied and policed. This approach was adopted by consultants, by representatives of local authorities, by the Department of Transport and by the taxi industry itself. Although SABTA had previously supported the

principle of deregulation, they had qualified their support by saying that deregulation should be a programme which is phased in over a number years to avoid chaos in the industry. On their behalf it was suggested that an industry which has shown tremendous growth over a very short period, should be subjected to substantial regulatory discipline to avoid the development of tension and continuous outbreaks of violence within the industry, blockades within cities and general anarchistic tendencies. The representative of the ANC at the hearing (Adv J van den Berg), when questioned on this issue, also voiced unqualified support for the maintenance of a clear, unambiguous regulatory system for the taxi industry.

11.5 The committee does not propose to deal with the precise nature of the evidence submitted by each of the witnesses because it has concluded that deregulation of the taxi industry in the foreseeable future cannot be recommended. This view is based not only on the grounds that all the parties who are involved in the taxi industry support a regulatory system but also because the committee is of the view that deregulation within an industry which is racked with endemic violence could produce a chaotic situation if the number of operators competing for custom were to increase dramatically. The committee is particularly mindful of the fact that the majority of minibus taxi operators, on their own confession, lack business training and skills. Representatives of the industry attested to the fact that, because the minibus taxi was considered to be a source of potential wealth, many persons assume substantial

financial responsibility and risk to acquire a minibus taxi, only to find that the rewards are not as good as they were made out to be. To meet those responsibilities, the operator is compelled to compete vigorously and even aggressively. This leads to conflict and violence. The committee is by no means persuaded that free market forces will prevail in this particular industry, the members of which have repeatedly resorted to lawlessness and violence in order to redress dissatisfaction and grievances. This view is underscored by a number of facts and factors which exist and with which the operators within the industry are confronted on a daily basis at the present time, viz:

11.5.1 Although the taxi industry provided good income and a potential source of wealth to operators in the early years, the industry labours under severe stress at the moment, with nett income (i.e. gross income from fares less out of pocket expenses) at levels which are arguably below subsistence levels. On average, allowance is not made for wear and tear on taxis or the cost of replacement, which means that vehicles are rapidly deteriorating in condition, rendering them unfit for passenger transport.

11.5.2 Whilst loan finance was fairly freely available in the early stages, the sources of such finance are in danger of rapid evaporation in the face of consistent failure on the part of many operators to meet regular payments on contracts.

11.5.3 Conflict in interests has arisen from time to time between passengers and taxi operators and irrespective of the cause thereof, which could emanate from either side, the consumer may elect to use other methods of transport i.e. trains, buses, etc, because they are cheaper, safer and more reliable.

11.5.4 Public transport is subsidised whilst the taxi industry is not. Although the Government has signified a decision taken to subsidise taxis, its programme in this regard has not been published. Unrequited expectations may fuel further dissatisfaction within the industry which sees itself as being at the receiving end of unfair discrimination. It is difficult to envisage how any form of subsidisation could be applied to a deregulated taxi industry.

11.5.5 Despite the issue of permits to a large number of operators who had previously operated minibus taxis without permits, the existence of a permit is still perceived by the holder to be an asset which has commercial value. The wholesale issue of permits in the process of deregulation would naturally erode the value of the asset. This, in itself, could be the cause of dissatisfaction and conflict.

11.6 The underlying motivation for deregulation is the acceptance of the principle that a free market will provide the

scale or yardstick whereby the consumer will measure the quality of service and the price to be paid for it. This presupposes that the consumer will be free to make the choice and that the offerors of services will be able to respond to the signals given by the market-place.

11.7 If deregulation were to be implemented (it is already perceived to be in partial operation) through the issue of permits to anyone who passes the qualitative tests, the commercial competition which will result could lead to further tensions, possibly culminating in violence.

11.8 In evidence given before the committee it was suggested that it would be wrong to underestimate the ability of the average taxi operator to operate within a free market or to adapt to the demands which severe commercial competition produces. However, the facts presented to the committee suggest that a great deal of weight must be given to the pleas for business training which came from the industry itself. The only interpretation which could be placed upon those pleas, is that there is a general lack of business skills prevalent amongst taxi operators which prevents them from fully coming to terms with the problems presented by a very competitive market. Examples of the type of tension which is produced by commercial competition which were given to the committee, suggest that in an environment where extraneous commercial pressures (i.e. operating expenses and finance charges) are brought to bear on operators competing for custom in the same market, the result is

not that which the proponents of the free market system would expect, namely a price adjustment to be able to meet such pressures and still produce a reasonable profit. If quality or the nature of the competition is perceived to be unfair, the result is frequently experienced as the taking of the law into own hands leading to physical violence.

11.9 There is strong evidence to suggest that the community which provides the passengers to the industry has a powerful instrument at its disposal which could and should be brought into play to curb violence, particularly where it spills over into the community. Early in 1991, when the taxi war in the townships surrounding Cape Town was at its worst, the ANC shrewdly suggested that the community should boycott all minibus taxis until the violence had subsided, as a measure to bring violence to an end. The community responded, with positive results which ultimately culminated in the forming of CODETA.

The committee does, however, not regard a boycott under the above circumstances as a manifestation of the free market in operation. It is more an instance of a community reacting aggressively to the violence in which it had involuntarily become involved. The signal to the taxi industry, which it would ignore at its peril, is that a community could well choose to find other more acceptable forms of transport to avoid being involved in taxi violence.

11.10 The committee's conclusion that deregulation, as a possible method of bringing an end to chaos in the taxi

industry, should not be considered, is strengthened further by the following considerations:

11.10.1 It is not unreasonable to expect that deregulation will in all probability bring numbers of new operators into the market. Presumably the logical result should be the removal or withdrawal of those who have no claim to economic existence within that market. It is, however, extremely doubtful whether this will happen in practice. Evidence suggested that operators who were put under pressure by competition from others, or who found it difficult to continue operating legally by keeping vehicles in a roadworthy condition, departed from the "legal" routes to become "pirates" operating under the sanction, sponsorship or licence of a taxi association along routes which were not subjected to regular law enforcement. (According to the evidence, there are a substantial number of pirate taxis who operate "informally" [i.e. along routes within townships which are not policed in the normal course of events] under the protection of certain taxi associations. It seems very doubtful whether this informal extension of the industry is the possible source of conflict or violence but there is certainly the possibility that passengers are at risk because the vehicles are not roadworthy). Any growth in the "pirate" taxi industry should be avoided.

11.10.2 Fares payable by passengers do not appear to be directly linked to operating costs but would rather seem to be fixed in reaction to competition from public transport, more particularly bus operators, and even in response to aggressive civic demands. The unescapable economic logic that a taxi ride must be more expensive than a bus ride, is rejected by the taxi industry. Indeed, fares are apparently determined to provide a cheaper ride, regardless of the fact that, for obvious reasons, buses must transport a larger number of passengers more economically and therefore more affordably at lower rates than taxis.

11.10.3 The taxi industry is racked by power struggles. At national level, SABTA, the largest national body, is the target of SALDTA and others. At local level individual taxi associations compete with each other for custom. Historically the domestic affairs of the industry have been entrusted to local taxi associations which operate in a manner designed to serve the interests of their members including the protection of interests along specific routes and at specified ranks. The violence commonly referred to as a "taxi war" is, in fact, a feud between rival taxi associations. Amongst its functions a local taxi association determines the fare at which passengers would be conveyed and although that determination does bear some relationship to the

fares charged by others, it is more heavily dependent upon other factors. The committee has concluded that the free market plays a very minor role in the fixing of tariffs.

11.10.4 If regard is had to the fact that because many new operators entered the market (on the perception that the rewards were good) the average income derived from a single taxi has dropped to a level which is generally regarded as uneconomic. It might perhaps be expected that the uneconomic levels might simply drive the weakest out of the market. Although accurate statistics are not available and although there is reason to believe that some operators may well have departed for other pursuits, the general impression gained by the committee is that the taxi industry is still heavily over-populated in certain areas.

The point which the committee wishes to make is that the sophisticated remedy of allowing free market forces to adjust imbalances in an immature industry serving a largely unsophisticated sector of the populace, is likely to have more negative results than positive. The committee readily concedes that once the informal townships and settlements have become well-housed, peacefully settled communities, each with its own infrastructure, the industry itself may seek its deregulation.

11.11 Notwithstanding its support for the maintenance of a.

regulatory system, the committee is strongly of the opinion that ideally entry to the taxi industry should not be reserved to a privileged few and denied to others who are suitably qualified and able to transport the public safely and conveniently at reasonable rates. Healthy competition within that industry is to be encouraged in the general interest of the public. Ideally there should be a policy which commences from a firmly applied regulatory system towards a system which places greater emphasis upon qualitative criteria in contrast to economic criteria. The measure of its advance towards the free market should be commensurate with the improvement in the quality of life enjoyed by the communities served by the industry.

## 12. REGULATION (AS OPPOSED TO DEREGULATION)

12.1 The present system of regulation is administered in its entirety by the Department of Transport. Various witnesses have suggested that the emphasis which has been placed by the Government on privatisation, deregulation and the decreased in its financial responsibilities, has resulted in a policy vacuum, which in turn has contributed to a state of uncertainty and confusion in all sectors involved in the transport industry.

The committee certainly did detect a substantial measure of uncertainty regarding the way forward in the testimony of officials of the Department of Transport. They stated unreservedly that only a limited measure of deregulation had been allowed to accommodate the need to legitimise the body of pirate taxis whose very presence in the industry proved the need

for their existence, and that deregulation in the taxi industry would not be a formula for success, despite the decision of the Government to deregulate the industry. This evidence was given in the face of a recent statement publicly made by the Minister of Transport on the TV programme "Agenda" that the minibus taxi industry had been totally deregulated. In an explanatory statement subsequently submitted to the committee, it transpired that the Minister was referring only to the prevailing situation in Johannesburg where taxi blockades had occurred and that this statement on the TV programme was not meant to refer to the deregulation of the entire industry. Nevertheless, the general perception on the part of many witnesses was that substantial, if not total, deregulation had become the policy of the Department and that permits were freely available.

12.2 During the course of the hearings it became evident to the committee that "deregulation" had taken on several meanings, viz:

12.2.1 It has been understood to mean the issue of permits with little or no regard to the provisions of Section 15 of Act 74/1977. In Section 15(2)(a) of that Act, provision is made for an onus which the applicant must discharge before a permit could be granted, but all those requirements do not seem to have been demanded of applicants. At the time when evidence was presented to the committee, the main criterium appeared to have been the necessity to prove the "need" for a service. The

legalisation process of pirates seems to be a prime example of this type of "deregulation".

12.2.2 It has been interpreted to mean the total deregulation of the industry as envisaged by the White Paper.

12.2.3 It has also been interpreted to mean *de facto* de-regulation in the sense that the failure by the authorities to apply the law (due mostly to the lack of manpower in the inspectorate and to intimidation) meant that the industry had deregulated itself.

12.3 Encountering accusations, particularly from consultants engaged by the Cape Town Municipality, that there was a lack of direction and purpose on the part of the Department of Transport in controlling the taxi industry and, more particularly, that the Department and the Local Road Transportation Boards ("LRTB's") had not become actively involved in finding solutions to the many problems emanating from the minibus taxi industry, the Department's officials produced incontrovertible evidence that the entire problem surrounding that industry had been the subject of most intensive investigation, many studies by consultants and other experts, and innumerable reports. The committee is satisfied that the Department is not only very conscious of the existence of the many problems within that industry but also that it has made substantial efforts to come to grips with the situation. Its on-going involvement in finding solutions is not limited to what could be termed "in-house"

studies and investigations. Indeed, the Department has consulted widely and comprehensively. If it erred at all as far as the violence in the Western Cape was concerned, its fault lies in accepting SABTA's explanation that politics lay at the core of the problem, in failing to become involved in the peacemaking process and in failing to communicate with the affected taxi communities.

12.4 It is, however, symptomatic of the entire problem concerning violence in the industry, that officialdom is indeed far removed from the problems which occur at the grassroots of the industry. It is in this area, perhaps more than others, that solutions are necessary. For example, the committee found the accusation that the LRTB's operate as "remote issuing bodies" to be well founded.

12.5 The committee has concluded that an incisive fundamental restructuring of the regulatory system is required. This problem needs to be addressed as a matter of substantial urgency. It is essential that current operators within the taxi industry and prospective entrants to that industry should have absolute clarity with regard to the rights, duties and obligations of taxi operators functioning within the system.

12.6 As a regulatory system necessarily implies the imposition of penalties for contravention of regulations, those who operate within this system must necessarily agree to be bound by the regulations. This presupposes acceptance of valid rules and

regulations by the taxi industry, without which the legitimacy thereof will always be brought into question. The committee therefore considers it essential that the minibus taxi industry should be directly involved in establishing the framework of a system which is to regulate their livelihood. The minibus taxi industry must become part of the solution to the problem.

12.7 Although the committee accepts that the establishment of a national policy for public transport should be the duty of the central Government, and that the minibus taxi will be one of the components of public transport to be governed in terms of such policy, physical control over the issue of permits and the application of the regulatory system naturally belongs to a lower tier of Government, particularly if there is to be a devolution of power from the central Government to regional or local levels of Government.

12.8 Hitherto LRTB's have been the agencies of Government dedicated to the control of public road transportation. Although the LRTB is, by legislation, an autonomous body, it is seen by the taxi industry and the public as an extension of the Department of Transport. Every LRTB has, as its Chairman, a civil servant who is in the full-time employ of the State. The Board's members, although nominated by various bodies, are appointed by the Minister. The general public and, more particularly, the taxi industry have no direct say whatever in the selection or appointment of those persons whose decisions could have a very substantial impact upon their lives and

livelihood. The LRTB, although statutorily autonomous and therefore not accountable to anyone, is perceived to be an instrument employed by the Government to carry out its road transport policy. It has palpably failed in conveying the message that its autonomy is directly attributable to the Legislature's intention to immunise the permit issuing process against possible State interference. That excellent principle was frustrated by the process by which the Chairman and members of LRTB's were appointed. The end result was that the LRTB was understandably perceived to be an arm of government and under its control.

12.9 The concept of an autonomous board which enjoys jurisdiction over a specified geographic region, needs to be examined more closely. Under the Road Transportation Act No 74 of 1977, no particular recognition is given to the minibus taxi industry. When that Act came into force, only conventional sedan taxis operating on a metered basis were in operation. The functions of LRTB's established on a regionalised basis under that Act, included consideration of applications for permits by entrants to the "conventional" taxi industry and the criteria which were applied gave no particular recognition to the transportation of passengers in any form from other than conventional taxis and buses. Taxi operators were given permits to work within a specified radius measured from the location of a specified rank.

Almost imperceptibly the 9-passenger minibus appeared on the scene and were granted permits on the same basis. Bus operators

considered competition from this sector to be unfair and objected to virtually every application for a 9-seater taxi permit on the grounds that the need for public transport was adequately served by existing bus services.

This circumstance and Government policy effectively limited the number of legal 9-seater minibus taxis in operation. Despite the subsidy enjoyed by bus operators, the minibus proved to be a more acceptable form of transport, to the extent that many illegal ("pirate") operators came into the market.

No statistics are available to reflect with any degree of accuracy what the size of the pirate taxi industry was or happens to be at any given moment. Various estimates suggest that pirates in the industry could represent anything between 40% and 60% of the total taxi fleet. Essentially, two types of pirates ply their services to the public: those without permits of any nature and those who exceed the conditions attaching to their permits. The ultimate effect is that neither the Department of Transport nor the local authorities can provide any precise information regarding the number of taxi operators who offer their services to various communities within which they operate. The committee has therefore concluded that the LRTB's, as mechanisms established by legislation to be the gateway into the taxi industry, in their current guise, have largely become ineffective.

12.10 The problem has been exacerbated by three important factors:

12.10.1 The LRTB's - and the Department of Transport - were operating under a regulatory Act into a policy vacuum created by confusion which followed the central Government's acceptance of the free market principle "as contained in the White Paper", which envisaged the total abolition of economic criteria for entry to the industry.

12.10.2 Although the regulatory nature of the Act presupposes strict, on-going law enforcement, the number of inspectors employed by the Department of Transport to enforce the regulations fell hopelessly short of the need for inspectors who should have been active and visible in the process of law enforcement.

12.10.3 Without effective law enforcement to back up any regulatory system, the pirate taxi industry inevitably flourished with the ultimate effect tantamount to de facto deregulation.

12.11 Regulatory inadequacies provided a perfect playground for operators who are given to taking the law into their own hands. The lack of a dedicated legal framework in which the industry should operate, coupled with a lack of adequate law enforcement, creates circumstances where violence and crime will continue to flourish.

12.12 The geographical regions served by the various LRTB's are obviously so vast that effective control of any description throughout a particular region by any LRTB (if that was ever intended) is a physical impossibility. The LRTB in Cape Town serves an area from George in the East to Vioolsdrif (where a taxi is probably seldom seen) in the North-west. The LRTB in Johannesburg covers the area from Vanderbijlpark in the South to Pongola in the South-east and includes Westonaria, Krugersdorp, Randfontein and the surrounding areas.

12.13 The permanent staff of the office of an LRTB compromise, *inter alia*, the chairman and the secretary supported by other clerical staff. As its statutory functions are limited to the consideration of applications for permits to participate in the entire road transport industry, it is no wonder that, through no fault of its own, it was widely criticized as being nothing more that a remote issuing body. The view that the LRTB had but a limited statutory function to perform and that its duties did not extend in the direction of mediation or even investigation as to the causes of strife and violence in the taxi industry, was apparently also held by at least the chairman of Cape Town LRTB whose evidence spoke of an appalling lack of concern and appreciation for the needs of the community. The fear that the refusal of applications for permits may result in review proceedings and adverse rulings by the Courts seemed to play a far greater role in the decision making process. There also appeared to be a complete lack of overall planning and co-ordination of policies between the LRTB's and local authorities

which culminated in a tendency of one to blame the other for the failure of the existing regulatory system to come to terms with the chaos into which the industry had erupted.

12.14 The substantial divide which exists between the industry and the Department of Transport is accentuated by the narrow interpretation placed upon their duties and function by some LRTB's. An unsuccessful applicant for a permit is legally not entitled to be told why the application has failed and although an official in the LRTB office may unofficially assist an applicant in rectifying mistakes in the application form before its submission for consideration by the LRTB, the right to establish why an application has been refused can only be exercised by the noting of an appeal accompanied by the payment of an exorbitant prescribed fee which is R800 at the present time. The committee considers it to be ridiculous in the extreme to expect an unsuccessful applicant to have to deposit R800 in order to determine the reasons why an application for a permit has failed. (The committee's recommendations regarding the system of appeals are more fully set forth hereinafter under the heading "Dispute Resolution, Appeals and Complaint Handling Systems").

12.15 The basis of any regulatory system will obviously be the licence, permit or authority in whatever form it may be issued, which entitles the holder thereof to operate within the industry. As the availability of service to the public will be dependent on the number of permits issued within the area or

region, and as the quality of service available to the public will be dependent upon the conditions attaching to such permits, it follows that the issuing body must be accountable to the public as its sole function is to serve the public interest. Accountability, in the political sense, is directly linked to the process of democratic selection. The committee has therefore concluded that the body to be charged with the function of issuing permits, should be one which is appointed in a manner which carries public accountability.

12.16 Despite its many shortcomings, the replacement of the LRTB with another statutory body will not necessarily provide greater success or an answer to the existing problems unless such a body is specifically charged with duties and responsibilities not hitherto entrusted to LRTB's. The committee hesitates to enter into a field which should belong, in the fist instance, to persons who have become experts on the basis of exhaustive studies of passenger transport in all its modes and circumstances and, secondly, to legislators whose efforts should be concentrated upon consultation and negotiations with a view to finding substantial consensus amongst everyone likely to be affected by future policy. Nevertheless, the evidence tendered to the committee will serve as valuable signposts towards finding an acceptable surrogate for the present discredited LRTB's. Various witnesses, steeped in the business of passenger transport, have put forward what they consider should be the duties and functions of a body charged with the issue of permits or licences. Their suggestions include the following:

12.16.1 For long-term stability in the taxi industry, a genuine partnership will have to be brought about between taxi associations representing taxi operators and the controlling authority.

12.16.2 The controlling authority should be a statutory body which must have powers to set the criteria necessary for admission to the minibus taxi industry.

12.16.3 Permits should be issued at a local level, with due regard to prevailing local conditions.

12.16.4 The criteria which would entitle an applicant to a permit, should include -

12.16.4.1 proof of availability of adequate facilities (which are generally interpreted as ranking facilities but may also include reserved lanes, holding facilities serviced by two-way radios, etc);

12.16.4.2 a valid driver's licence;

12.16.4.3 a certificate of fitness for the vehicle in question, periodically renewable;

12.16.4.4 absence of a criminal record for the operator and/or driver;

12.16.4.5 proof of good health and eye-sight, if required;

12.16.4.6 a permit or licence to drive a vehicle transporting passengers, issued upon production of proof that specific training tests have been passed (which should probably also be subject to periodic review);

12.16.4.7 proof of ownership of the vehicle in question;

12.16.4.8 proof of membership of a recognised taxi association;

12.16.4.9 The minibus taxi permit should be capable of being withdrawn by the issuing body under certain circumstances. This ultimate sanction, which need not be dependent upon the criminal prosecution of the holder of the permit, would be the severest form of economic punishment, to be imposed only in instances of serious transgressions;

12.16.4.10 Every decision of the issuing body should be subject to a simple, inexpensive form of appeal and there should be an independent, accessible complaint handling procedure at local level.

12.17 The committee finds substantial merit in each of the aforementioned suggestions and recommends that due consideration should be given thereto in the formulation of policy both at national and local level. The committee emphasises that its recommendations are nothing more than guidelines extracted from the substance of evidence presented by a very large number of informed and well-qualified witnesses. Long term stability in the minibus taxi industry, which has assumed such an important role in virtually every South African community, will be achieved only if there is a genuine, on-going commitment to co-operation between the taxi associations and the controlling authorities. The existing system failed because it was never meant to be a user-friendly system intended for a newly arrived industry in the transport sector. It needs to be replaced by a system which acknowledges the place of the minibus in the industry and protects the interests of everyone - passengers, taxi operators and the general public.

## 13. SUBSIDISATION

13.1 The spokesmen for the taxi industry strongly urged that a form of subsidisation for the taxi industry should be introduced to "level the playing fields" in its competition with the bus industry, which is currently subsidised. Various methods, such as a transport coupon system, were suggested to facilitate the practical implementation of subsidies for taxis.

13.2 Although it is understood that the Minister of Transport

has agreed in principle to the subsidisation of taxis (no details of such a scheme have been published) and although the committee does not consider itself qualified to enter into any discussion on the merits or otherwise of taxi subsidies, the committee does have difficulty with the concept of subsidies being paid on an on-going basis until the precise total cost of such subsidies can be quantified. A subsidy presupposes the availability of statistics upon which the cost of the subsidy can be calculated. The evidence suggests that there is a decided lack of accurate statistics upon which meaningful calculations could be based. For example, estimates by witnesses regarding the number of taxis operating in metropolitan Cape Town ranged between 3000 and 9000. Statistics in other areas are also subject to substantial variation.

13.3 As it is presumed that subsidisation will only benefit legitimate taxi operators operating along recognised routes or between specified points, the scheme to introduce subsidies could have the effect of marginalising illegitimate or pirate taxis and ultimately forcing them out of the industry or compelling them to acquire legitimacy. Although this might be a desirable result, it could prove to be a most expensive method of eliminating the "pirate" element in the industry.

13.4 If it should become part of the new political dispensation now under negotiation that power should be devolved to regions and metropolitan areas, any subsidisation scheme will logically become a regional or even a local issue. It also seems

logical that if transport matters which have hitherto been the responsibility of central Government are to be devolved to another tier of Government, the latter should assume full authority, responsibility and accountability for the regulation of such matters within its region. If a subsidisation scheme is to be introduced, it may serve to complicate the mechanisms employed to allocate fairly any subsidy which is available for transport operators. The committee entertains reservations in regard to the application of such mechanisms, particularly as any subsidy must primarily serve to assist taxi operators to act more efficiently and to improve the level of service available to passengers. Evidence was placed before the committee that in other areas where subsidies were introduced, and where subsidies were designed to reduce fares and to improve services, only limited success was experienced. Only about half the subsidy was actually reflected in lower fares and there was little improvement in services (as per a World Bank Policy Study).

13.5 The committee is also somewhat sceptical as to whether a subsidisation scheme will have the desired result of turning the taxi industry into a more profitable and less violent industry. The committee fears that, in common with most other forms of subsidisation, the subsidy itself will simply be poured in the mixing bowl of income and expenditure and if the end result proves to be disappointing, a bigger subsidy will be required which, if unavailable for any reason, might provide more reason for dissatisfaction.

On balance, the committee is not convinced that a subsidy will alleviate the problems within the industry to the extent that violence will be reduced or eliminated. Nevertheless, it is manifestly unfair that one section of the public transport industry is subsidised while another, perhaps larger, section is not. Direct subsidisation in the form of cash payments cannot be countenanced and should never be attempted. The committee heard various suggestions regarding indirect subsidisation.

13.6 During the hearings it was also suggested that the Government and the oil industry should be prevailed upon to amend the so-called "Rationalisation Plan" (the RAT Plan) to allow taxi operators to purchase fuel at reduced or wholesale rates. If regard is had to the enormous volume of fuel which goes into tanks of minibus taxis every day (said to be in excess of 10% of total national fuel consumption) and the enormous numbers of passengers which require transport to and from work every day along routes not served by public transport, the committee finds every justification for recommending that this indirect method of subsidisation should be seriously considered as soon as possible. If it means that local taxi associations have to incorporate themselves as cooperative societies to obtain the required benefits, a precise policy to regulate the purchase of fuel at reduced prices by bona fide taxi operators will have to be worked out and guidelines on how to obtain access to the scheme will have to be provided to the taxi industry by the Department of Transport and/or the oil industry.

13.7 Suggestions were also put forward that, instead of introducing a direct subsidy collectable by taxi operators, thought should be given to an indirect subsidisation of the industry through the making available of funds for the establishment of facilities for the taxi industry, such as ranking facilities. It is argued that by assisting in establishing improved facilities for taxis, the sources of dissatisfaction and tension within the industry will be reduced. The committee could find no logical reason why this proposal should be opposed and recommends that due consideration be given to it.

13.8 The committee finds substantial merit in these suggestions, particularly if there should be a shortage of funds for the creation of facilities. In fact, serious consideration could also be given to a scheme, introduced via an amended RAT Plan, which would have a two-fold result in the form of cheaper fuel on the one hand and a levy or contribution collected at source to be applied towards facilities for the taxi industry on the other.

## 14. RECOGNITION OF THE ORGANISED MINIBUS INDUSTRY

14.1 The success or failure of any strategic plan or national policy to regulate passenger transport will depend on the involvement and participation in its formulation and execution by the various taxi associations representing the minibus taxi operators, without whose assistance and cooperation any such

plan is doomed to fail. Indeed, the formulation of any national policy will require input from everyone involved in transporting passengers.

14.2 The underlying strength and, hence, the prospect of achieving long-term stability in that industry, are to be found in the very existence of the many taxi associations throughout the country. It will therefore be necessary to identify the associations which will have to be consulted in the formulation of a strategic plan for any particular area. Representation of taxi associations claiming recognition within the negotiating forum and, ultimately, upon any transport authority which may come into existence, should be arranged on a proportional basis, thereby giving recognition to the strength in numbers of each accredited taxi association.

14.3 At the moment there are a number of national taxi associations eg SABTA, SALDTA, NAFTO, etc, each claiming to represent large numbers of minibus taxi operators. The committee is not convinced that each of the national taxi association can produce a members' list reflecting the names and addresses of fully paid-up members of that association, which corresponds with the number of operators which the associations claim to represent. It is understandable that members come and go and that total membership is expressed in figures which tend to fluctuate. However, as it is essential that these associations should be consulted by the authorities in formulating a national transport policy for the transportation of passengers, each

association wishing to be consulted should be required to prove its membership and if decisions are to be taken by means of voting, such associations should be afforded proportional representation for that purpose.

The committee would strongly urge the Government not to attempt to identify a single association as the representative of the entire taxi industry. Evidence placed before the committee tended to show that national associations may be strong in some regions and weak in others. It is also conceivable that certain local taxi associations may wish to be represented in the deliberations preceding the formulation of national policy and that consultation should not be limited to national taxi associations.

14.4 The committee is of the opinion that, in giving recognition to the organised taxi industry in metropolitan areas, only the locally based taxi associations, as opposed to the national associations, should preferentially be consulted although it concedes the possibility that there may on occasion be sufficient cause to consult with a national association on particular issues, particularly in resolving disputes or mediating in conflicts between local associations which are affiliated to the same national association.

## 15. TRAINING

15.1 Reference was frequently made to the many accidents on

South African roads which were attributed to poor driving and the breach of traffic rules by taxi operators. Reference has already been made to the lack of business training generally prevailing within the industry and the pressures which are created by the absence of business skills.

15.2 The committee suggests that, to qualify for an operating permit, it should be required of every new entrant to the industry to produce, in addition to the customary driver's licence, proof of ability to handle a minibus safely under all traffic conditions. This means that every new entrant will have to undergo a test, the result of which must be acceptable to the issuing body. Before undergoing a test, the aspirant taxi driver may have to be taught to drive. Recognised driving schools capable of training a sufficient number of drivers are obviously necessary.

15.3 Several schemes, of which Project Spear initially sponsored by SABTA is but one, were mentioned. It was suggested that a shortage of money severely limits the availability of driving schools and that the private sector was identified as a possible source of finance, obviously on the basis that workers employed in the private sector require safe and reliable transport to and from work.

The committee urges the national taxi associations to marshal their resources in order to engage the private sector and, particularly, the automotive-related industries which stand to

gain from a successful taxi industry, in establishing a sufficient number of driving schools through which the required level of competence will be available to aspirant drivers. Some of the members of the private sector have already contributed but a national programme, supported by everyone who is involved in the transport of passengers by minibus taxis, would appear to provide the answer to that problem. Ideally, organised commerce and industry should become involved in finding practical answers to this problem.

15.4 The provision of business training would appear to be a more complex problem. The committee was told that many taxi drivers are completely illiterate whilst others are only partially literate. Any basic training in matters pertaining to business presupposes an ability to read and write. Although there does not appear to be a ready answer, the committee is of the view that the financial institutions which provide lease or hire purchase finance to the industry, should introduce systems designed to satisfy themselves that anyone applying for finance is able to appreciate fully what his or her financial commitments will be and how those commitments will be met. If each such institution could periodically provide a basic short course in the financial management of a minibus taxi, the availability of such courses could be advertised through the medium of local taxi associations whose spokesmen repeatedly uttered cries for help in this area.

## 16. FACILITIES & FINANCING

16.1 Competition for ranking facilities proved to be one of the main sources of strife in at least one metropolitan area. Much was said about the refusal of an LRTB to take the lack of ranking facilities into account in agreeing to the issue of permits because, so the argument went, it meant that the holder of the newly issued permit would lay claim to ranking facilities at already overcrowded ranks. This indeed proved to be the case.

On the other hand, the LRTB argued that, in assessing whether the availability of ranking facilities should be taken into account, preference should be given to the interests of the commuter who requires to be transported. At the heart of this argument lies the fact that in some areas local authorities failed or were unable to keep pace with a mushrooming industry in providing suitable ranking facilities.

16.2 During the course of the inquiries a number of ranks and their operation were inspected at diverse places including Cape Town, Pietersburg, Groblersdal, Marble Arch and Durban.

16.2.1 That there is still a very real need, particularly in Cape Town, for adequate ranking facilities, is beyond question. In the city centre, in Strand Street, where several taxi associations rank, pick up or drop off passengers, there is no visible change in the facilities

which existed at the height of the taxi war when frequent complaints were voiced about the strife arising from inadequate ranking facilities. The committee is astounded that after the lapse of more than a year, a debate continued in the Municipal Council as to where CBD ranks should be established. The situation is too serious to be bogged down by bureaucratic delay on local politics.

16.2.2 In Pietersburg and Groblersdal magnificent ranks have been created some distance from the main shopping areas, with the result that the facilities, exemplary though they might be, are largely unused. One solution might be to use such a facility as a holding area and provide pick-up and drop-off points in the central area to be used like regular bus stops. If this method is to be used, it would be wise to consult thoroughly beforehand with all interested parties and ensure through adequate enforcement of the agreement that such pick-up and drop-off points are not converted to mini ranks by minibuses waiting overlong for passengers.

16.2.3 The Marble Arch rank is privately owned. The owner, Mr Gigi Giddan, takes an intense personal interest and is in constant touch with the operators. It is a small rank, very centrally situated and used almost exclusively by the Marble Arch Taxi Association. It has operated free from taxi related violence since its inception a number of years ago.

16.3 The organisation of the taxi industry in the city of Durban is impressive. The Durban City Council and its "agent", the Durban City Police Force, work closely with the industry and has evolved a model which works well and which will be broadly described hereunder. Although it serves as a practical example, the committee does not suggest that it is the only solution which needs to be copied. Indeed, geographical features of a town or city may not lend itself to replication. For instance, instead of having many small ranks, one big rank with holding areas may be more feasible. Perhaps certain divisions in a big rank may be practical as the Durban model has shown that it is generally easier to communicate and consult in smaller groups.

The essential features of the Durban taxi system are:

(i) A dedicated public transport unit of the Durban City Police Force under Sergeant Moorhouse, who may be described as the local "Mr Taxi", patrols the ranks, communicates and consults on problems.

(ii) Approximately 90 ranks, varying in size, each with its own dedicated bays, surround the central business district. These ranks are fed with passengers from surrounding areas. Separate services operate inside the "ring".

(iii) Ranks are created commensurate with demand so that a ratio is maintained between the number of permits issued and the number of ranks available. Each rank has a rank committee elected from all the permit holders entitled to rank there.

(iv) Ranks are positioned by the City Council. In consultation with the rank committee the City Council establishes the number of minibuses to be accommodated at each rank in the proportion of 2-4 minibuses to each bay..

(v) Operators entitled to rank are issued with ranking permits pertaining to a specific rank which have to be displayed. Rank permits are renewed every year but are not transferable and cannot be bought or sold. When a vacancy occurs at a rank, it is advertised. Preference is given to operators living in the area served by the rank.

These and other features are further dealt with in the edited version of a memorandum by Sergeant Moorhouse which is attached to this report.

16.4 The committee recommends that, as a matter of urgency and priority, local authorities and local taxi associations should meet to determine -

16.4.1 the nature and adequacy of existing ranking facilities;

16.4.2 the need for the establishment of new or the extension of existing facilities.

It is stressed that taxi operators, through their local taxi associations, must be consulted to ensure that they are involved

in finding solutions to problems surrounding ranks, pick-up and drop-off points.

Having found the answers to the above questions, the local authorities in question should take urgent steps to create the facilities which are necessary to ensure the smooth and peaceful operation of the minibus taxi system within their areas.

16.5 Although the absence of shelters and public toilets may not contribute directly to the feud between rival taxi groups, many operators mentioned it as a source of dissatisfaction and frustration. These are aspects of future policy which need urgent attention and all local authorities are urged to afford preference to the establishment of such facilities.

16.6 The committee is of the view that supervision and control of traffic through the ranks, both vehicular and pedestrian, should be undertaken by taxi operators themselves. In other densely populated countries taxi operators cooperate successfully in regulating the flow of traffic through ranks which are usually allocated in accordance with the routes or destinations serviced from such ranks. By introducing their own traffic marshals, to whose authority substantial statutory recognition ought to be given, taxi associations would reduce the likelihood of friction between operators and traffic police whose necessary function it should be, in any event, to enforce the traffic and other laws applicable to passenger transport on the public roads.

## 17. LAW ENFORCEMENT

17.1 On the assumption that the minibus taxi industry in its entirety will be directly involved in the formulation of a policy governing passenger transport and the regulations required to carry out that policy, there must inevitably be a commitment by the industry to work within the framework of the policy and to abide by the regulations. This implies acceptance by the industry of the sanctions which must follow upon a breach of the regulations. It also implies, necessarily, acceptance by the industry of the Rule of Law and willingness to suffer law enforcement by the recognised law enforcement agencies.

17.2 The committee accepts that, rightly or wrongly, the relationships in certain areas between the traffic police and taxi operators and in others between traffic operators and the SA Police, leave a lot to be desired. It is to be hoped that a new constitutional dispensation will bring in its immediate wake, perhaps as one of its most important sequels, law enforcement agencies which command the respect and authority without which effective law enforcement falls, as it has done to a large extent in the taxi industry. In the interim the existing law enforcement agencies (S A Police, Traffic Police and Inspectors employed by the Department of Transport) are urged to remain involved in the effective enforcement of the existing laws and regulations. Although the committee has concluded that the existing regulatory system needs to be replaced, it is still in operation and regulations require to be observed and enforced until they are replaced by others.

17.3 The committee is of the opinion that the functions hitherto performed by inspectors employed by the Department of Transport, should be transferred to the local authority and, more particularly, to the traffic police. Their present duties seem to be confined to the determination of whether a taxi operator is possessed of a proper permit and this function seems capable of easy implementation by the traffic police. The committee is also of the opinion that there is substantial duplication of functions in this area. If there are other good reasons why the inspectorate should be retained, the committee recommends that their numbers should be drastically increased to make that force more effective. According to the evidence, the inspectors in Cape Town are no longer operative in the satellite townships, mainly because of the threat of violence but also because they are ill-equipped to deal with any confrontational situation. If they are to remain, the authorities must see to it that their numbers are increased and that conditions are created to allow them to do their job.

17.4 The committee has satisfied itself that in many instances successful prosecution has failed because witnesses who would ordinarily have come forward to attest, have been intimidated to the extent that it became impossible to proceed with certain prosecutions. The Attorney-General of the Cape, who was consulted by the committee, confirmed that a number of prosecutions of persons accused of committing taxi-related violence, could not proceed because witnesses either failed to come forward on the appointed day or changed the content of

statements previously made, thereby removing the substance of evidence on which convictions would be based.

It seems self-evident that the accusation of partiality or ineptitude on the part of the police would be best addressed if it could be proved to the community that persons justly accused of committing violence are brought to justice and convicted. As the time-lag between the date of the investigation by the police and the ultimate date of the criminal trial is, in itself, conducive to circumstances in which intimidation of witnesses could occur, the committee is of the view that justice should be done and seen to be done as quickly as possible. The committee urges the Department of Justice and the Courts to urgently develop a programme which would ensure speedy, effective prosecution of all persons charged with taxi-related crimes where there is a prospect of witnesses being intimidated or disappearing.

17.5 If an act of taxi-related violence is committed in any particular community, it affects the entire community to the extent that passengers and residents in the area are placed at risk. Violence and counter-violence have tended to spill over into the surrounding communities and innocent people have become the victims of disputes in which they had no share.

Although conflicting views are held on the subject, the police would appear to have played or, at the very least, attempted to play, a mediating role to resolve conflict between various taxi

groups. Inevitably this role could give rise (as it has done in Cape Town) to the perception that the police are not impartial or that they favour one group above the other. Although their bona fides may be accepted at the outset, the end result may amount to a loss of faith in the police because of their inability to resolve the dispute or to successfully prosecute culprits. In some instances reports to the police appear to the complainant not to have been followed up and the investigation of crimes perpetrated upon members of the taxi community seemed to have come to an irresolute end.

The committee considers it essential that if reports and statements concerning such violence are made by members of the community to the police, the latter should, where it is at all possible to do so, keep the community leaders and the taxi groups informed of the progress made with the investigation of the crime and the prosecution of the guilty persons. Effective communication will prevent their being accused of doing nothing or even of being partial to the extent of covering up the wrongdoings of the culprits.

17.6 Because effective law enforcement is an essential ingredient of a successful regulatory system and because the success of the system is dependent upon the support which it receives from the regulated industry and the community served by it, it is considered essential by the committee that at least one person should be appointed by the local authority in question whose principal function it will be to establish lines

of communication with the local taxi organizations and the remainder of the communities served by those associations. As stated hereinbefore, in at least one centre in the RSA the taxi industry is certainly less turbulent and this state of affairs is directly attributable to the presence and ready availability of a person who has been identified as an independent, impartial referee or dedicated ombudsman because of his on-going commitment towards mediation of conflict and disputes in the taxi community. Investigations show that this person is accepted and trusted by the taxi community, which means that he is able to mediate without fear of being accused of partiality.

## 18. DISPUTE RESOLUTION, APPEALS AND COMPLAINT HANDLING SYSTEMS

18.1 Because of the keenness of the competition within the industry, future conflict seems inevitable. Permanent mechanisms should be created and be in place to mediate in disputes at an early stage, thus avoiding an escalation of frustration and the prospect of violence.

18.2 Several peace-keeping structures were created in an effort to assist in curbing the level of violence in the taxi industry. The municipality of Cape Town, in particular, was active in its efforts to find solutions and to mediate towards a truce. The committee believes that these efforts contributed largely to the creation of CODETA. In contrast, the Department of Transport and Western Cape LRTB played no role whatever in the establishment of CODETA.

The committee's view is that conflict in the taxi industry is the business of everyone who is involved in the industry, whether as legislator, local authority or law enforcement agency. Therefore it recommends that at local level a taxi liaison committee should be established with nominated representatives from the regional or local transport authority, the local authorities, the law enforcement agencies (police and traffic police), the taxi associations and the community, including civic or ratepayers associations. Disputes should be referred to these committees for informal investigation and mediation. The success of such a committee will depend entirely on the support it receives from its constituent members. It therefore follows that a concerted advertising and marketing programme of the availability and accessibility of the dispute resolution facility should be embarked upon.

18.4 The system of appeals against decisions of an LRTB does not seem to meet the requirements of the taxi industry. Because of their unsophisticated background many taxi operators find it difficult to appreciate or master the formalistic nature of the application and appeal procedures. They need assistance at a very early stage, when the decision to enter the taxi industry is taken and application for a permit is to be made. Such assistance should, in the view of the committee, be forthcoming from the transport authority itself. At least one person, who is able to communicate with the applicant in his own language, should be designated to assist respective taxi operators with the completion of application forms and to advise on the

...

criteria which the transport [illegible] the application.

The next stage, where explanation is frequently needed, occurs when an application has not been successful. Any successful applicant is entitled to a written explanation and this should be given, as a matter of course, by the transport authority in clear, unambiguous language, providing the reasons why the application has failed.

18.5 The right of appeal should not be disturbed. An appeal should be as simple, inexpensive and accessible as possible. Any applicant who feels that, given the same circumstances, another authority may have come to a different conclusion, must be able to exercise that right of appeal.. Ideally, appeals should be noted to and heard by persons nominated by the national transport authority who should have substantial experience in that field but who should not be in the employ of the state.

18.6 In addition to the legal right of appeal, every applicant who feels aggrieved by the result of his application and believes that it has not received full and fair consideration, should have the right to have the file relating to the application examined and reviewed by an independent agency whose function should be similar to that of the classical ombudsman.

As the investigation of complaints concerning unfair treatment will probably not occur on a daily or even a regular basis, the

task should be entrusted to the South African ombudsman who has the legal authority to delegate his function to others and who should be able to identify a suitably qualified person within the community or particular region to fulfil that function on an ad hoc basis. In the metropolitan areas where the local authority is served by a full-time ombudsman, the duty to investigate and to recommend could be entrusted to such an ombudsman by prior arrangement.

## 19. GENERAL

19.1 In addition to the aforementioned recommendations, the committee is convinced that the solution to a major portion of the problem lies in the hands of the taxi operators.

In earlier reports this committee alluded to the unacceptable levels of selfishness, greed and intolerance which prevail in the taxi industry, all of which give rise to equally unacceptable levels of lawlessness and contempt for the law. As stated earlier in this report, the power struggles and lawlessness are, in the final analysis, the proximate cause of many of the conflicts.

19.2 Invariably, in responding to inquiries concerning violence, taxi operators adopted exculpatory positions, blaming others rather than accepting a share of the blame. Pleas of self-defence and the need for self-protection were heard; any attack upon life or property unreservedly justified violent

reaction. If regard is had to traditional feuds which have raged in parts of this country, taxi wars, once commenced, may never end. The time-honoured mindset that willingness to negotiate is tantamount to weakness and loss of face, also prevails amongst taxi operators.

The advent of the minibus taxi as a preferred means of transport in a large section of the South African society creates invaluable opportunities for black advancement and the attainment of wealth. Regrettably, these opportunities are steadily being destroyed and will disappear completely unless those who are part of the taxi industry come to grips with the realisation that there is an immediate need for self-discipline and self-regulation. Commerce and industry have already given tangible recognition to the advent of this relatively new industry; its willingness to grasp the hand of that industry to constitute and to create even greater, more lucrative opportunities for taxi operators, is undoubted. The automotive-related and the financial services industries jointly and severally, were prepared to stand in line to participate in the development and deployment of the minibus taxi industry when its potential was first recognised in the middle eighties. That they have backed off in the wake of large scale damage to property, life and limb, is not surprising. This industry has within its grasp both the power to accept the exciting challenge to grow and to make its contribution to the welfare of everyone involved therein, or, if violence continues, to destroy itself. The answer is in its own hands.