

COMMISSION OF INQUIRY REGARDING
THE PREVENTION OF PUBLIC VIOLENCE
AND INTIMIDATION

REPORT ON THE VIOLENCE AT MOSSEL BAY
DURING JULY 1993

GOLDSTONE REPORT: GK - 31

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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 report on incidents of violence at Mossel Bay during July 1993.

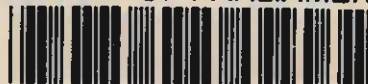
The Commission's committee investigating the said incidents has submitted its report, which is attached hereto.

The Commission accepts the findings and agrees that the situation calls for continued negotiation.


R J GOLDSTONE
CHAIRMAN OF THE COMMISSION

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THE COMMISSION

REPORT ON THE VIOLENCE AT MOSSEL BAY DURING JULY 1993

A. INTRODUCTION

On 9 August 1993 in Cape Town, the Chairman of the Commission of Inquiry regarding the Prevention of Public Violence and Intimidation issued the following press statement:

"1 Die konflik tussen instansies in Mosselbaai wat met die dood van 'n persoon op 15 Julie 1993 en weer op 19 Julie 1993 verband hou, wek groot kommer. Die Kommissie het besluit om te voldoen aan die versoek van die Wes-Kaapse Vredeskomitee (Suid Kaap en Klein Karoo substreek) dat 'n ondersoek na die onlangse geweld ingestel word.

2. Gevolglik sal twee lede van die Kommissie, nl advv D J Rossouw en M N S Sithole, as 'n komitee van die Kommissie, om 10 vm op Dinsdag, 17 Augustus 1993 in die D'ALMEIDA GEMEENSKAPSAAL te Mosselbaai 'n openbare voorlopige ondersoek hou ten einde die aard en oorsake van die geweld vas te stel en voorstelle oorweeg oor welke stappe geneem behoort te word om verdere geweld te voorkom; in besonder, welke rol 'n vrederegter in die verband mag vervul".

In pursuance of its mandate as contained in paragraph 2 of the press statement above, the committee held a one-day preliminary hearing in the D'Almeida Community Hall,

Mossel Bay, on 17 August 1993.

B. THOSE PRESENT AT THE HEARING

Those present at the said hearing included the following:

1. The Rev Krotz - who opened the meeting with a prayer;
2. Adv R F van Rooyen (Cape Bar) - who represented the South African Police;
3. Ms K Savage of Chennels Albertyn, Attorneys, Stellenbosch - who represented the Mossel Bay Crisis Civic Association and the Civic Association of KwaNogqaba (hereinafter referred to as "the Civics");
4. Mr D K Zietzman of Rauch-Gertenbach, Attorneys, Mossel Bay - who represented the Mossel Bay Town Council;
5. Ms Pamela Maponga - observer for the United Nations Observer Mission in South Africa (UNOMSA);
6. Mr Dejan Sahovic - observer for UNOMSA;
7. Members of the community and Civic Associations at D'Almeida and KwaNogqaba in Mossel Bay, and others.

C. THE PARTIES

Initially it appeared as if there were three parties to the conflict in Mossel Bay, to wit: the Mossel Bay Town Council, the Civics and the South African Police. Upon hearing the parties, however, it emerged that members of the SAP came into the picture

at a late stage of the conflict to maintain law and order, when communication between the other two parties and law and order had broken down.

D. THE FACTS

The gravamen of the conflict in Mossel Bay is mainly socio-economic and attitudinal in the sense that it centres around issues such as the shortage of housing; the non-payment of electricity and water accounts by some D'Almeida township residents and the subsequent disconnection of the electricity supply by the Town Council, the institution of legal action by the Town Council to evict residents who were in default of paying their electricity and water accounts and the subsequent rent boycott; the ousting of the elected local Management Committee by the Civics and the subsequent refusal or failure of the Mossel Bay Town Council to recognise the Civics as the authentic representatives of the D'Almeida Community; and complaints about the upgrading of houses at D'Almeida.

Documentary evidence from both sides, i.e. the Mossel Bay Town Council and the Civics, indicates that the Town Council did make some effort to address some of the grievances presented by the Civics in that:

- (a) evictions and prosecution of rent defaulters were discontinued;

- (b) transfer costs of houses which were put up for sale were written off;
- (c) electricity and rent accounts were separated to allow rent defaulters to buy electricity without also having to pay their rental arrears;
- (d) attention was to be given to the development of recreational parks.

The Town Council, however, could not respond favourably to all the demands made by the Civics, as it considered attending to some of them as being beyond its powers. But what seems to have exacerbated the already strained relations between them was the Town Council's insistence on recognising the Management Committee and its refusal to recognise the Civics. On this point MR ZIETSMAN stated that from the perspective of the Town Council the representatives of the D'Almeida Township community had changed so many times that it became unclear as to who were true spokespeople of the township's residents. In any event the Town Council, he said, preferred to deal with the Management Committee as it was an elected body. It would appear that the Civics were stung by the Town Council's attitude since they felt undermined. They chafed at the assumption that only the Management Committee represented the majority of the D'Almeida residents. The Mossel Bay Chamber of Commerce tried to mediate between them, but in vain.

When the municipality, with police protection, moved into the

township on 12 July to cut off electricity, about 300 residents occupied the Housing Offices in the township in protest. On 13 July 1993 a meeting was arranged between the parties to solve their differences, but it was aborted because they could not agree on simple issues such as who was to be chairman of the meeting, whether English could be used as a medium for conducting the meeting and what the agenda should be. It was stated that the intransigence of MR JOHANN OOSTHUIZEN, the Mayor of Mossel Bay, played a key role in the failure of the said meeting. The said occupation continued until 10h00 that day (i.e. 13 July 1993), when they were ordered to vacate the premises within a specified time. The Internal Stability Unit of the SAP had by this time moved in to maintain law and order. A video recording of the events at the scene and at Da Gamaskop Police Station shows, inter alia, much bickering and some attempts at negotiations by the Civics, the Peace Secretariat officials and the police.

It would appear that later in the day, after 16h00, the situation got out of hand in that there was indiscriminate violence and much stone throwing from a crowd standing next to the Housing Offices. These were apparently aimed at the police. Some members of the police were hit (e.g. one SGT AGGEBACH whose bloodied ear was discernible on the video recording). Extensive damage to property and looting followed. According to a letter dated 12 August 1993 from Mossel Bay Industrial Caterers CC to the Commission, R137 537-00 worth of liquor was stolen from the

Hotel Diaz in D'Almeida Township on the said day and R34 743-08 worth of hotel equipment was vandalised and broken. The police apparently responded to this mayhem with various types of ammunition, to wit "skokgranate, donshael, rubberhael" and teargas. It would also appear that a number of people were arrested and others were injured, and two are reported to have succumbed to the injuries they sustained. In the end, after about three days, the situation returned to normal and the Internal Stability Unit pulled out of D'Almeida Township.

E. THE FINDINGS OF THE COMMITTEE

In the light of the oral and written representations placed before it, the Commission's committee finds that:

- (a) Although the Town Council did make a determined effort to address some of the grievances of the Civics, tensions heightened and communication broke down unnecessarily as a result of the attitude and error of judgment of certain functionaries of the Town Council, e.g. the Mayor, MR JOHANN OOSTHUIZEN, when he insisted on being chairman in his own cause at the meeting arranged for 12 July 1993. We believe that he should have foreseen that the Town Council was a party to the dispute and that a neutral chairman in the person of a third party was necessary.
- (b) Although there is no logical reason why the meeting could

not be conducted in English, there seems equally little reason for the insistence upon English. While language preferences ought to be respected, in a conflict situation parties to the conflict ought not to become obsessed with the use of a particular official language - especially if they are serious about resolving the conflict.

- (c) The Town Council ought to have taken into account the prevailing realities in D'Almeida Township in so far as recognising the mouthpiece of the community is concerned. The reality on the ground was that although the Management Committee had been a legally elected body, it had lost all legitimacy in the eyes of the majority of the community in that it was seen as an "apartheid structure" which was part of the 1983 Constitution whose rejection was, according to the Civics, "visible in election boycotts and extremely low polls" throughout the country. For the Town Council to continue according only the now defunct Management Committee official recognition is to ignore the realities and to make legitimacy give way to "legality".

- (d) The general attitude and approach of the Civics, on the other hand, was provocative and confrontational, to say the least. For example, they called for the immediate resignation of the "bestuurskomitee en KP Stadsraad", as they described the D'Almeida Management Committee/Mossel Bay Town Council, and yet they expected official

recognition from the Town Council and that it give attention to their grievances. They saw the mote in the Mayor's eye and not the beam in their own. In some sense they painted themselves into a corner by declaring that they would refuse to leave the Housing Offices which they had occupied until the Management Committee resigned or was dissolved. Thus they predetermined a position from which they could not retreat, so to speak.

- (e) In the attempted negotiations and correspondence that took place between the Civics and the Town Council the Civics seem to have shifted the proverbial goalposts by making a range of demands which started with housing problems, then moving to the writing off of electricity arrear payments, and ultimately ending with their refusal to vacate the Housing Offices.
- (f) Some of the demands made by the Civics were unrealistic and contradictory, for example, the demand that electricity tariffs be done away with and that the electricity consumer in D'Almeida refuse to pay them, whereas they were clamouring for the improvement of the area and the upgrading of housing. They expected money to be expended to their benefit while making no contribution of their own. Also contradictory was the call by the Civics upon the Management Committee and the Town Council to resign while expecting them to improve housing and services in

D'Almeida.

- (g) In so far as consideration was given by the committee to the role which a justice of the peace might play in mediating between the parties at Mossel Bay, this term of reference cannot be pursued because the necessary structures, as required by section 17 of the Internal Peace Institution Act, No. 135 of 1992, are not in place yet.

F. RECOMMENDATIONS

Save for saying that the parties to the conflict in Mossel Bay should continue talking to and negotiating with each other and among themselves, the committee makes no recommendations. The committee believes that it is only by means of bona fide negotiations between the parties that the deadlock in Mossel Bay can be overcome. Ultimatums coupled with unreasonable demands from the Civics and an uncalled-for display of a "kragdadigheid" attitude by the Town Council will not do. What is needed is introspection and a change in attitude. What is needed is patience and conciliation, to forswear arrogance and confrontation. What is needed is mutual respect and tolerance. The committee also notes with encouragement and hope that the meeting held by the warring parties on 4 August 1993 at Mossel Bay with certain third parties as mediators - Messrs Louw, Suikers and Kannemeyer - will prove to be an important milestone in resorting peace to the area. Finally, the committee is

indebted to all those who made the preliminary public hearing at the D'Almeida Community Hall the success that it was.

Signed (1)

D J ROSSOUW
(CHAIRMAN)

(2)

M N S SITHOLE
(COMMITTEE MEMBER)