

MINUTES OF A TRC MEETING HELD ON 4 DECEMBER 2007

1. PRESENT:

Dr Ramatle
Adv Akeremah SC
Comm Jacobs
Josias Lekalakala
Irene Freeman (standing in for Mr Ngidi)
Maryin Raswisi
Mithunzi Mhaga
Brian Koopedi (overseas)
Yvonne Mabule (sick leave)
Mhlauli Ngidi (meeting)

2. APOLOGIES:

3. MINUTES OF PREVIOUS MEETING

The minutes of the last meeting were read and adopted with amendments.

4. MATTERS ARISING

4.1 Matters that arose from the minutes were the following:

- 4.1 Draft report on the progress of the task team; and
- 4.2 The Highgate Hotel case.

4.2 Josias suggested that members need to consult with their principals before the trial report is submitted to the National Director. Members were requested to mail their inputs after consulting their principals before 7 December 2006.

4.3 Josias also asked if NIA had submitted any opinion relating to security aspects of cases identified for prosecution.

4.4 Dr Ramatle drew attention to page 2 of the minutes on Yvonne's concern.

4.5 Commissioner Jacobs informed members that he has sent a letter to Commissioner de Beer and the list of all investigators will be ready soon.

4.6 Adv Chris Macadam indicated that we need to adopt a wait and see approach as all perpetrators will probably make representations in anticipation of prosecution upon completion of investigations.

4.7 He also briefed the meeting on the Claire Stewart case.

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He also informed the meeting of media reports on reopening of the Highgate Hotel attack in East London. It was agreed that Commissioner Jacobs and Adv Mhaga will work together on the matter.

Adv Macadam suggested that there is a need to establish a data base to determine information available on all cases.

~~The meeting ends at 4.30~~

6. NEXT MEETING

The next meeting will take place next year at a date to be arranged by Mthunzi.

7. Proposed agenda for next meeting
- (a) Minutes of the last meeting ✓
 - (b) Matters arising
 - (c) Finalization of draft report
 - (d) Appointment of investigators
 - (e) Other matters
 - (f) Next meeting

Jacobs PC - Assistant Commissioner

From: Mthunzi C. Mhaga [cmhaga@mpa.gov.za]
Sent: 07 August 2007 02:07 PM

To: Ras Helena - Director, Jacobs PC - Assistant Commissioner, Lekajakala Josias - Senior Superintendent, yvonem@nia.gov.za; bkoopedi@webmail.co.za; peter@nia.gov.za; Vellwa Nzukuma; Helena H. Zwart
Cc: Vellwa Nzukuma; Helena H. Zwart
Subject: Emailing: MINUTES OF TASK TEAM MEETING 29



MINUTES OF TASK
TEAM MEETING 2...

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MINUTES OF TASK TEAM MEETING 29

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MINUTES OF TASK TEAM MEETING 29/01/2007

Members Present:

Adv Ackermann SC
Nhlanhla Ngidi
Mthunzi Mhaga
Cemum Jacobs
Brian Koopele
Yvonne Mabule
Martyn Raswisi
Josias Lekalakala

Apologetes: Dr Ramatse

The meeting was chaired by Mr Ngidi due to unavailability of our Convenor Dr Ramatse.

The minutes of the last meeting were read and adopted with some amendments and Yvonne requested for elaborations on minutes in future.

Adv Ackermann SC requested members for their inputs with a view to finalise the draft report to be submitted to the National Director. Commissioner Jacobs indicated that he was made to understand that Rev Chikane was not interested in the prosecution of the accused in his case, therefore he needs to be consulted and the matter needs to be discussed with their principals before making recommendations.

Adv Ackermann SC reminded the meeting that the National director has made his decision on the matter. Yvonne concurred with Comm. Jacobs on Rev Chikane matter. Mr Ngidi however had no objection to the National director's decision on the Rev Chikane matter.

Comm Jacobs informed the meeting that he has gone through the docket on the Highgate Hotel attack and is of the view that no further investigations is necessary. It was agreed that PCLU would have to look at the docket.

It was then agreed that Mthunzi will be provided with all the views of the agencies after meeting with their principals before 7/2/7 and finalise the report.

Comm Jacobs informed the meeting that he is waiting for a feed back from Provincial Commissioners on the appointment of investigators. Some had responded and provided him with a list of the investigators. He also requested a list of SAPS dockets in possession of the PCLU.

The meeting was then closed.



**Office of the
National Director of Public
Prosecutions**



Ref: NDPP/KP

Mr J.S. Selebi
National Commissioner
South African Police Service

Fax no.: (012) 393 - 1530

6 February 2007

Dear Commissioner Selebi

Re: OUTSTANDING TRC CASES

Your letter of 6 February 2007 refers.

I advise that it is clear that our understanding of the mandate of the task team, as well as the guidelines that Cabinet approved, are not the same. In the circumstances, this matter, as well as other issues that have emerged in the course of the NPA dealing with the TRC cases, are currently being taken up with the Minister of Justice and Constitutional Development.

Kind regards

ADV. V.P. PIKOLI
NATIONAL DIRECTOR OF PUBLIC PROSECUTION
DATE: 06.02.2007

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Justice in our society, so that people can live in freedom and security

"Tegemoet staande die
droom van 'n beter Suid-Afrika"

P.01

98%

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My reference/ My verwysing

National Commissioner Selebi

PRETORIA

THE NATIONAL COMMISSIONER
DIE NASIONALE KOMMISSARIS

Enquiries/Navoe

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0001

(By telefax No. 845-7291)

Dear Advocate Pikoll

OUTSTANDING TRC CASES

I have been briefed on the last meeting of the Task Team set up in terms of the Cabinet guidelines on outstanding Truth and Reconciliation Commission (TRC) matters.

It was brought to my attention that in Sv. Otto (complainant Rev. F. Chikane) a decision on prosecution was taken without consultation with the respective Departments.

I have insisted that the complainant be consulted in terms of the guidelines on the basis that the Directors-General will have an opportunity to provide input before a decision on prosecution is taken.

I am also under the impression that there is no common understanding on the process to be followed.

My understanding was that the officials designated on the Task Team by the Directors-General will provide recommendations to the Directors-General who will, as a collective, advise the National Prosecuting Authority as the decision maker on prosecutions.

[Handwritten signatures]

In my view a comprehensive report such as the one directed to the NPA, dated 24 November 2006, and revised on 29 November 2006, should be discussed by the Directors-General.

Although I do not insist on a meeting of the Directors-General after each meeting of our officials, I deem it necessary that the substantive reports and recommendations of the officials should be discussed by the Directors-General before a decision is made.

I am of opinion that the Directors-General should meet as soon as possible to provide guidance on the procedures to be followed by the officials in the Task Team.

I am also of the opinion that the Chikane matter should be discussed, both in terms of the procedures followed, and the way forward.

I have requested the NPA to convene a meeting as soon as possible, and I trust that you will be in agreement with that request.

With kind regards.

J. S. SELEBI
NATIONAL COMMISSIONER

NATIONAL COMMISSIONER

Date: 6/2/07

PCJ 3148



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 Privatebag X94

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National Commissioner Selebi

PRETORIA

THE NATIONAL COMMISSIONER
 DIE NATIONALE KOMMISSARIS

Advocate Menzi Simelane

Director-General

Department of Justice, and Constitutional Development

Private Bag X81

PRETORIA

0001

Dear Colleague

OUTSTANDING TRC CASES

I have been briefed on the last meeting of the Task Team set up in terms of the Cabinet guidelines on outstanding Truth and Reconciliation Commission (TRC) matters.

It was brought to my attention that in Sy Otto (complainant Rev. F Chikane) a decision on prosecution was taken without consultation with the respective Departments.

I have insisted that the complainant be consulted in terms of the guidelines on the basis that the Directors-General will have an opportunity to provide input before a decision on prosecution is taken.

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I am also of the opinion that the Chikane matter should be discussed, both in terms of the procedures followed, and the way forward.

I have requested the NPA to convene a meeting as soon as possible, and trust that you will be in agreement with that request.

With kind regards,

J. S. SELEBI
NATIONAL COMMISSIONER

NATIONAL COMMISSIONER

Date: 6/03/07

PCJ3148

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I have been briefed on the last meeting of the Task Team set up in terms of the Cabinet guidelines on outstanding Truth and Reconciliation Commission (TRC) matters. It was brought to my attention that in Sy Otto (complainant Rev. F Chikane) a decision on prosecution was taken without consultation with the respective Departments. I have insisted that the complainant be consulted in terms of the guidelines on the basis that the Directors-General will have an opportunity to provide input before a decision on prosecution is taken. I am also under the impression that there is no common understanding on the process to be followed. My understanding was that the officials designated on the Task Team by the Directors-General will provide recommendations to the Directors-General who will, as a collective, advise the National Prosecuting Authority as the decision maker on prosecutions.

OUTSTANDING TRC CASES

Dear Colleague

Mr M Manzini
Director-General
National Intelligence Agency
Private Bag X87
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National Commissioner Selebi

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Enquiries/Inquiries

My reference/My verwysing

Your reference/Your verwysing



South African Police Service

South African Police Service

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In my view a comprehensive report such as the one directed to the NPA, dated 24 November 2006, and revised on 29 November 2006, should be discussed by the Directors-General.

Although I do not insist on a meeting of the Directors-General after each meeting of our officials, I deem it necessary that the substantive reports and recommendations of the officials should be discussed by the Directors-General before a decision is made.

I am of opinion that the Directors-General should meet as soon as possible to provide guidance on the procedures to be followed by the officials in the Task Team.

I am also of the opinion that the Chikane matter should be discussed, both in terms of the procedures followed, and the way forward.

You are requested to convene, as soon as possible, a meeting with the Directors-General in order to discuss the above matters.

With kind regards,

S. S. LEBE
NATIONAL COMMISSIONER

NATIONAL COMMISSIONER

Date: 6/02/07

PGJ 3148

South African Police Service



Guided by the values of the South African Police Service

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National Commissioner Selebi

Advocate Menzi Simelane
Director-General
Department of Justice and Constitutional Development
Private Bag X81
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Dear Colleague

OUTSTANDING TRC CASES

My letter dated 6 February 2007, regarding the above matter, has reference to As mentioned, I have requested the NPA to convene a meeting as soon as possible, to discuss the case in which the Reverend Chikana is a complainant, as well as the understanding of the workings of the Committee of officials. I have received a response from the National Prosecuting Authority, stating that:

"I advise that it is clear that our understanding of the mandate of the task team, as well as the guidelines that Cabinet approved, are not the same. In the circumstances, this matter as well as other issues that have emerged in the course of the NPA dealing with the TRC cases, are currently being taken up with the Minister of Justice and Constitutional Development."

Submitted for your information.

With kind regards,

J. S. SELABI
NATIONAL COMMISSIONER
NATIONAL COMMISSIONER

POSTAL

Date: 21/2/07

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Date: 07/02/07
Justice and Constitutional Development
Director-General
Adv. Mera Simelane

[Handwritten signature]
With kind regards

I would like to propose that, as most of the Directors General will be in Cape Town, the meeting should take place there tomorrow or Friday, 9 February 2007.

I am in agreement with the sentiments contained in your letter. Indeed I was also expecting that the Directors-General would be consulted formally, in a meeting, on the decisions regarding TRC cases. Whilst I agree that an urgent meeting of the DGS be convened, I am of the respectful view that it must also be to obtain a detailed report on all the cases on which the Task Team has deliberated and to recommend how those cases should be finalized.

Your letter in the above matter dated 6 February 2007 refers.

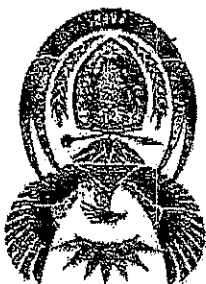
RE: OUTSTANDING CASES

Dear Colleague

Mr J S Selebi
National Commissioner
South African Police Service
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Office of the Director-General
Private Bag 201, Pretoria, 0001
Tel. (012) 315 1645 Fax (012) 322 3155

DEPARTMENT: JUSTICE AND CONSTITUTIONAL DEVELOPMENT
REPUBLIC OF SOUTH AFRICA



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Vlok, generaal aangekla oor Chikane

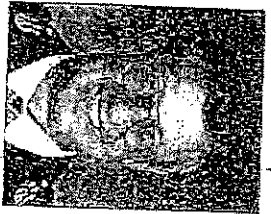
Oud-min. Adriaan Vlok en genl. Johan van der Merwe gaan binnekort aangekla word van poging tot moord op eersvr. Frank Chikane, voormalige stryde-aktiwis en tans hoof van pres. Thabo Mbeki se kantoor. Dit het Rapport op goeie grond vasgestel.

Drie voormalige polisie-manne gaan saam met Vlok en Van der Merwe, oud-polisie-hoof, aangekla word. Volgens die Stellenbosse geleerde prof. Wille Esterhuysen is 'n plektooreenkoms egter reeds tussen die nasionale vervolgingsgesag en die beskuldigdes aangegaan. Esterhuysen is

Oud-min.
Adriaan
Vlok



al 'n geruime tyd agter die skermns besig met amnestiekwessies. Hy was genoemd met die Vlok-saak. Volgens Rapport se inligting sal die vyf skuldbeke wanneer hulle binnekort in die Pretoriase hooggeregshof verskyn. Hulle sal 'n opgeskortte vonnis van tien jaar tronksnel kry.



Genl.
Johan
van der
Merwe

Chikane, destyds hoofsektariss van die Suid-Afrikaanse Raad van Kerkke, het in 1989 by die dood ongetraat toe sy onderklere met 'n sentrif behandel is. Vlok en Van der Merwe is die nees senior owerheidslui van die vorige bedeling wat aangekla word sedert die ont-

binding van die Waarheid-en-versoeningskommissie.

Die inhegtenisneming van die drie polisielede is in November 2004 ter elfter ure deur die nasionale vervolgingsgesag afgelas omdat, volgens die destydse vertuideliking, "n meer holistiese benadering" nodig was.

Esterhuysen as goewer sy kennis strek, is daar geen getuienis van medeplegtheid teen Vlok en Van der Merwe nie. "Hulle neem bloot aanspraaklikheid vir hul 'voetsoldate'."

Esterhuysen het Vrydag opnuut sy besorgtheid oor vervolgings van die aard uitgespreek en ernstig gewaarsku dat dit op "n kabbes" kan uitloop waarvan die gevolge nie

voorsien kan word nie.

Hy wys daarop dat die parlement reeds in 2005 besluit het dat die direkteur van openbare vervolging die reg het om in bepaalde gevalle nie te vervolgne.

"Elk spreek my nie uit oor die regaspekte nie, maar net oor die politiek-morele implikasies en is daarom ten gunste van hierdie direkteur."

Volgens Esterhuysen is die komende vervolgings 'n groot toets omdat dit sal lei tot die vraag: Wat van die res?

"My stelling is steeds dat ons die proses nou tot 'n einde moet bring. Ek hoop dat die komende vervolging die katalisator sal wees wat ons by vrede en versoening sal bring."