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1. INTRODUCTION

This report is the culmination of three years of intensive and arduous investigations by the Commission into the Department often under extremely difficult and hostile conditions.

In order to place this Final Report in its proper context and to obviate unrealistic expectations, it is important to reiterate that this Commission's authority and mandate, like all Commissions, is derived solely from its Terms of Reference as promulgated which broadly requires it to report on the outcome of its investigations into the Department generally focusing on the nine Management Areas listed in the Terms of Reference and the Department's Head Office.

Accordingly, in this report, the Commission has dealt with all the evidence led before it in the various hearings relating to nine (9) Management Areas and Head Office. Some of the evidence led, however has already been dealt with in the eleven (11) Interim Reports, which were filed by the Commission.¹

During its investigations, the Commission has also had to consider information and complaints referred to the Commission which have not necessarily led to the formal hearing of evidence.²

¹ See volumes 3 and 4 of this report for the Commission's Interim Reports.

² These spurious complaints received by the Commission from numerous persons that were pursued but did not lead to any results are dealt with in the chapters dealing with Management Areas.

2. COMMISSION'S REPORTS

The Commission's task in preparing the Interim Reports and this Final Report has been very demanding and time consuming. The Commission was required to collate evidence from numerous witnesses, members of the Department and various other stakeholders, including prisoners, whose credibility may be questionable because of the very unfortunate circumstances they find themselves in. Prisoners remain the most vulnerable group in any correctional equation that includes the members and the Department. Their vulnerability stems from their background and their current circumstances. In considering any issue or recommendation relating to corrections, such vulnerability should never be overlooked.

Notwithstanding these challenges, the Commission has tried its best to evaluate all evidence that has been presented to it and, where necessary, sought to have the evidence corroborated by some other independent evidence.

In considering the evidence, the Commission adopted an approach that is frank, bold and impartial but always ensured that fairness prevailed and that the values of the Constitution were upheld.

The majority of Chapters in Volume One deal with issues that the Commission considered important and that the Department should deal with on an individual basis. Whilst these issues are dealt with in a particular order, it does not necessarily mean that it is the order of preference which the Department should adopt in dealing with these problems. The remainder of the evidence which is not dealt with in Volume One and the Misconduct Chapters has been dealt with in the Chapters dealing with the Management Areas.

In seeking and offering solutions, the Commission has in almost every Chapter, endeavoured to present constructive concluding remarks in respect of the subject matter discussed.

This conclusion supplements the concluding remarks set out in the various Chapters

3. THE DEPARTMENT

In criticizing the Department, the Commission has sought always to be constructive and where appropriate, has tried to make recommendations to improve governance within the Department. In doing so, the Commission has not lost sight of the fact that the Public Service as a whole has adopted a people orientated administration.³

Similarly, with regard to the Department of Correctional Services, the Commission is mindful of the fact that after the Commission's establishment, numerous changes have occurred to the senior management of the Department, with a new Commissioner and ministerial team being appointed to lead the Department in a new direction.

The White Paper on Corrections which has as its main ideal a new approach of aligning corrections with the constitutional and transformation objectives of the country and which seeks to place rehabilitation at the centre of all correctional activities, is clearly a step in the right direction.

While the Commission is encouraged by the interventions of the new management as contained in the White Paper and its various strategic documents to address the challenges faced by the Department, they remain long term solutions to the problems endemic to the Department and it may be

³ This is the principle of "Batho Pele".

many years before they have a significant impact on the conditions prevailing at prisons around the country.

The Commission's investigations have found a culture of lawlessness in many areas of the Department. Such lawlessness has been embedded in the minds of a large body of members, many of whom are corrupt. However, having said that, one should not lose sight of the fact that there are still those committed and loyal members of staff who continue to do an honest day's work under extremely difficult circumstances. They remain loyal to the values enshrined in our Constitution and are doing everything in their power to ensure that such values are upheld within the correctional facilities despite the daily challenges, like overcrowding, staff shortages and poor working conditions.

The Commission is fully aware that the life of a correctional officer is not an easy one. They are required to carry out their duties humanely yet at the same time they need to be constantly vigilant against the obvious dangers of being often in close proximity to some inmates who are manipulative, cunning and extremely dangerous. They also have to strike that difficult balance between ensuring safe custody, protecting inmates' constitutional rights and yet at the same time maintain the distinction between member and inmate.

The Commission's ultimate conclusion on the Management Areas investigated is that there is clearly a lack of synergy between the day to day operations and the vision and objectives of the White Paper which was issued by the Department to move the Department away from its militaristic approach to a Department driven by human rights and the humane treatment of all inmates.

The impression gained by the Commission is that there is also a lack of communication between senior management and the members on the ground. To the extent that members are ill informed of the various policies, the direction the Department is seeking to take is at risk, particularly the need to put the welfare of the prisoners first before anything else in the Department.

Some officials seem to forget that the safe custody of prisoners and their rehabilitation is the core business of the Department.

There is no overnight solution to changing the mindset of the prison officials who are in direct contact with prisoners. The biggest challenge for the Department is to transform the existing institutional culture of lawlessness and corruption without losing sight of the difficulties attached to the job.

A series of workshops and an intensified training programme for officials from the lowest rank upwards are essential for equipping officials with the insight into their role in the broader constitutional and human rights context. Such workshops are necessary for officials to recognise the importance of the role they play in rehabilitation, the security requirements of the Department and in the lives of prisoners generally.

It is of vital importance in an effective correctional system for each prison official to see himself or herself as a rehabilitator. The official should strive to create a cordial relationship with the prisoner without crossing the boundary and at the same time maintain high moral standards, which obviously requires a great deal of professionalism.

The major challenge facing the Department of Correctional Services is therefore the transformation of the mindset of the officials, which cannot be done in a short space of time. The White Paper on Corrections is the beginning of such a process and it gives an indication as to where the Department is going. Having said that, the White Paper is not an end in itself; neither is it the answer to all the problems facing the Department, just as this report is not the end itself.

If one considers the state of affairs that prevailed in the Department during a certain period, it compares well with a war zone. There was extreme violence, people were tortured, traumatised, assaulted, insulted, spat upon and all of this happened under the banner of transforming the workplace.

Many officials, some still in the employ of the Department, were severely traumatised and emotionally scarred by the events in that period of the Department's history. Such members were traumatised by either being personally violated or by observing the rights of other people being violated.

It is evident that unless the Department embarks on a major process to heal these wounds and offer some form of counselling to these members who have been traumatised, all its efforts directed at the rehabilitation of prisoners will remain a "pipe dream". One cannot expect traumatized officials to rehabilitate prisoners whilst they themselves are in need of help in the form of counselling and/or rehabilitation. In the circumstances, it would be difficult for them to be "rehabilitators" as the White Paper on Corrections anticipates unless their needs are taken care of.

In conclusion, the Commission is convinced that its establishment has generally resulted in an increase in the public's awareness of the lives of prisoners and that this has had a positive contribution to the strengthening of our democracy as all South Africans have been compelled to confront the fact that prisoners are also a sector of our democratic society whose rights should be equally recognised and protected like all South Africans.

The Commission has now concluded its work and leaves it to the Department to deal with the issues that have been raised in this report.

DATED AT DURBAN THIS DAY OF DECEMBER 2005.

JUSTICE T S B JALI
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