

STRICTLY CONFIDENTIAL

THE FINAL REPORT:

COMMISSION OF ENQUIRY INTO THE

CAUSES OF TAXI VIOLENCE AND

RELATED UNRESOLVED DEATHS

IN GAUTENG PROVINCE

TO: THE PREMIER OF THE PROVINCE OF GAUTENG

PREFACE:

May it please you, Mr Premier:

1.

Your Commissioners were appointed under your predecessor's hand. by way of Proclamation published under Government Notice No 12 in Government Gazette Extraordinary dated 9 February 1999.

2.

After consideration by the Commissioners of the provisions of the Provincial Commissions Act, No 1 of 1997 ("the Provincial Commissions Act"), it was decided that the provisions thereof are applicable to the Commission, and further that in the conduct of the proceedings and the general functions of the Commission, the Commissioners would be guided by the provisions of same.

The Commission held its first meeting at its headquarters in Johannesburg on 10 February 1999. Immediately subsequent to proclamation of the Commission in the Provincial Gazette in terms of Section 2 of the Provincial Commissions Act, the Commissioners caused the Proclamation to be published, in most of the leading newspapers circulating within Gauteng, with a view to making known to the public the appointment, and the terms of reference of the Commission. Notices were also published in most of the leading newspapers circulating within the Gauteng Province, drawing attention to the Commission's appointment, further, inviting all who wished to make representations to the Commission on any of the matters under investigation, to submit to the Secretary of the Commission, memoranda, setting out such representations as they sought to make. While the response to this invitation was encouraging, the Commission deemed it expedient to repeat the invitation, direct to certain organisations, individuals and office bearers, who were presumed to be closely concerned and connected with the subject matter of the enquiry, by letters specifically calling upon them to make representations and/or submissions to the Commission on matters under investigation.

4.

After a comprehensive study and analysis of the representations received, hearings were commenced with on 26 February 1999. Such hearings were held at the seat of the Commission, namely 17th Floor, the African Life Arcade, 111 Commissioner Street, Johannesburg.

5.

The Commission noted that its terms of reference were widely couched in so far as they provided as follows:

“2. The Commission is specifically directed to investigate the causes of recent and past taxi violence and unresolved deaths related thereto in Gauteng Province . . .”

Having come to that realisation, the Commission decided that what occurred, for example in 1950 in the taxi industry, would probably be of very little assistance towards the resolution of the taxi violence today.

This lead to the conclusion that the scope of the enquiry be limited to the taxi violence as it unfolded during the period 1994 to date. This view was supported by the logic that it was necessary to limit the investigation in some respects in order that this report may be completed and presented within a reasonable space of time. This meant that matters could not be reported upon where relevant information was not available or could not be obtained without undue delay.

6.

The Commission wishes to express its thanks for, and appreciation of, the great assistance which has been readily afforded by various Government Departments.

7.

The Commission now has the honour to submit, for your consideration, its report on the matters referred to it for enquiry.

EXECUTIVE SUMMARY:

a.

The terms of reference of the Commission are set out in the main report.

9.

FINDINGS OF THE COMMISSION:

**AD THE FIRST TERM OF REFERENCE: TO INVESTIGATE THE CAUSES
OF RECENT AND PAST TAXI VIOLENCE AND UNRESOLVED DEATHS
RELATED THERETO IN GAUTENG PROVINCE:**

The Commission finds the following to be the causes of recent taxi violence and the unresolved deaths related thereto:

- 9.1 The absence of monitoring systems regarding the routes on which the various operators are operating within the Gauteng Province, which absence led to people taking the

law into their own hands and developed the concept of "squads" whose initial intention was to ensure that every operator stuck to their routes, but was later on transformed and changed into a squad employed to acquire as much "work" as possible by way of, if necessary, engaging in violent activity.

- 9.2 The absence of regulatory mechanisms in relation to the general running and/or acquisition of taxi ranks resulting in the greedy and violent seeking to monopolise the use thereof.
- 9.3 The ownership of taxis, and membership to some taxi associations, by members of the South African Police Services (SAPS) leading to a conflict of interest and the interest of the general public being compromised.
- 9.4 Police complicity, ineptitude and inefficacy, founded upon their having a financial interest in the taxi industry, as set out above.

9.5 The forceful collection of money from taxi operators in respect of which there is no accountability resulting in the said collection being effected for personal gain, for the hiring of contract assassins, the leasing of SAPS armaments and for the bribery of some SAPS members.

9.6 The undermining of taxi operators' right to freedom of association in as much as they are being coerced into joining certain organisations on the basis that the more members an association has the more lucrative its business becomes.

9.7 The Commission finds the causes of past taxi violence and the unresolved deaths related thereto in the Gauteng Province to be:

9.7.1 Political violence;

9.7.2 All the causes referred to herein above.

10.

AD THE SECOND TERM OF REFERENCE: OBTAIN AS MUCH INFORMATION AS POSSIBLE ON SUCH CAUSES:

The Commission found the following regarding this term of reference:

- 10.1 That cross border operators, with conflicts arising outside of the borders of the Gauteng Province have their conflicts which turn into taxi violence spilling into Gauteng, thereby exaggerating the degree and extent of the taxi violence problem within the Gauteng Province.
- 10.2 That the concept of members of the SAPS becoming taxi owners makes the SAPS members vulnerable to exploitation by the taxi industry hence there are cases where the members of the SAPS, out of the allegiance owed by them to the taxi industry, have made Government property

available for use by the taxi industry in the fuelling and carrying out of the taxi violence.

10.3 That people owning many taxis and taking control of the industry by way of having their fingers all over.

10.4 That there is a lack of pro-active policing.

10.5 That there is an abdication of responsibility present in the police stations and the various taxi violence components within Gauteng, founded upon a lack of effective coherent co-ordination of the existing structures and the lack of a mechanism in place to serve as a back-up for the various taxi violence components.

11.

~~AD THE THIRD TERM OF REFERENCE: TO ESTABLISH THE PERSONS RESPONSIBLE FOR SUCH VIOLENCE:~~

In line with Regulation 12 contained in the Schedule to the Proclamation

10916 of 99, by the Premier of the Province of Gauteng, which is in the following terms:

“whenever the Commission is satisfied upon evidence or information presented to it that the Commission’s enquiry may adversely affect an existing, instituted or pending legal proceedings or any investigation instituted in terms of any law, the evidence which is relevant to such legal proceedings or investigation shall be dealt with by the Commission in such a manner as not to affect adversely such legal proceedings or investigation.”;

the Commission reports separately on this term of reference.

12.

AD THE FOURTH TERM OF REFERENCE: MAKE RECOMMENDATIONS FOR APPROPRIATE ACTION:

Having considered the evidence presented before the Commission, and

having arrived at the findings herein contained, the Commission recommends the following:

12.1 That there be a special monitoring task team set up by the Department of Transport and Public Works (“the Department”) to monitor the operations conducted on the various routes on an ongoing basis, with a view to ensuring that all the operators and/or associations operate within their registered and/or allocated routes. It is recommended further that this measure be implemented in consultation with the Office of the Registrar. In the event of an operator being found not operating on his or her allocated route, such operator should be dealt with in accordance with the law.

12.2 That there be stricter control and regulation in relation to the ranks. The fact that operators acquire and/or discover ranks for themselves without Government intervention is one of the major sources of conflict resulting in the need on the part of the so-called discoverers to put measures in place to protect the said discovery. It is recommended that the government should regulate same, by way of, for

example, creating a legislative framework in terms whereof, those that “discover” a rank should immediately draw the fact of that discovery to the Department of Transport and Public Works (“the Department”) which would in turn conduct its own study to satisfy itself on the viability of same and further on whether the registration of same would be in the public interest and thereafter make the decision whether or not to register same. It is recommended further that to the creation of the legislature framework referred to above, that democratically established committees reporting, from time to time, to the MEC for Transport and Public Works on the general activities taking place at the rank be set up. This would serve the purpose of keeping the Department abreast with the activities on the ground. It would be preferable for local government to be involved in the process due to its proximity to the situation.

- 12.3 That appropriate measures be put in place for the regulation and control of the manner in, the purpose for and the frequency at which sums of money are collected from taxi operators. Such measure should, for example, include

accounting for all the money collected during a specified period. It is further recommended that a financial audit of all the books of the Associations be carried out for the period 1994 to date with a view to establishing how much money has been collected by the various taxi associations and further the purpose for which the said funds had been employed. In the event it being found, at the completion of the said financial audit, that certain income earned was never declared with the South African Revenue Services and/or its predecessors in title, same should immediately be brought to its attention. This may assist to eradicate the taxi violence as the evidence show that these funds are employed in the engagement of contract assassins.

- 12.4 That, as there is overwhelming evidence proving police complicity, collusion and/or corruption, and further, the commission of criminal offenses including those of defeating the ends of justice and the unlawful use of Government property **in the cause of the taxi violence**, it is recommended that a review of all the dockets relating to the taxi violence committed in Gauteng, from 1994 to date be

conducted by the National Directorate of Prosecution. It is recommended that the setting up of a special task team be set up, in collaboration with the National Directorate of Prosecutions, to re-open the investigations in relation to unresolved deaths and attempted deaths related to taxi violence, and in respect of those cases where a prosecution and subsequent conviction could be achieved, same should be conducted with a view to restoring confidence in the entire criminal justice system in the Gauteng Province.

- 12.5 That regard being had to what has been stated, above, an internal investigation be conducted at Rietgat Police Station, Soshanguve Police Station, Phutanong Police Station and further, at the three (3) taxi violence components in Gauteng with a view to discovering if some of the police officers there employed, were involved in acts of corruption and criminal activity referred to above. In the event of the internal investigation proving corruption and/or the commission of a criminal offence by the said officers, appropriate action should be taken against the Police officers implicated.

12.6 That the performance of the three taxi violence components be reviewed and evaluated with the view to determining its efficiency, efficacy and continued need, alternatively to have it restructured to meet the purpose for its establishment.

1-2.7 That a plan be developed to ensure an effective and coherent co-ordination of the Police Stations, the Taxi Violence Units, the Provincial Department of Transport and Public Works and the National Department of Transport and Public Works so as to avoid a situation of abdication of responsibility arising. This plan would assist in dealing with, for example:

(a) The spillage, into Gauteng, of conflict from other Provinces, in the likes of the QUALDTA and Johannesburg Minibus Taxi Association conflict; and

(b) Where local police stations would plead a lack

of jurisdiction on taxi violence matters when approached by civilians who would have fallen victim to the violence, stating that the taxi **violence units are the ones with exclusive jurisdiction and mandate, which units are usually not easily and readily accessible, in as much as they would be far from the scenes of crime.**

CHAPTER 1

SCOPE OF THE INQUIRY:

ESTABLISHMENT OF THE COMMISSION:

13.

The Commission of Inquiry into the causes of taxi violence and related unresolved deaths in Gauteng Province (“the Commission”) was established and appointed in terms of Section 2 of the Provincial Commission’s Act, by way of Proclamation 916 of 1999 (“the Proclamation”).

THE TERMS OF REFERENCE OF THE COMMISSION:

14.

The terms of reference were couched in the following terms:

“7. To probe the causes of taxi violence and

related unresolved deaths in Gauteng Province, make a finding and recommendations to the Premier by no later than 1 May 1999.

2. *The Commission is specifically directed to -*

(a) *Investigate the causes of recent and past taxi violence and unresolved deaths related thereto in the Gauteng Province;*

(b) *Obtain as much information as possible on such causes;*

(c) *Establish the causes of such violence and the persons responsible; and*

(d) *Make recommendations for appropriate action.*

3. *If the Commission is unable to make any finding on any such matters, it shall report that*

fact.

4. *The Commission must commence it's work on 7 February 1999.*
5. *The Commission is directed to submit a preliminary report to the Premier on 28 February 1999 and the second preliminary report on 31 March 1999.*
6. *The Commission is directed to submit a final report to the Premier on 1 May 1999. ”*

15.

During May 1999 the Premier of Gauteng Province, under his hand, extended the lifespan of the Commission and accordingly directed same to submit a final report on 31 July 1999.

16.

It is on that basis that **this report is now being made.**

INTERPRETATION OF THE TERMS OF REFERENCE:

17.

The Commission realised that clause 2(a) of the afore-referred to terms of reference to the following effect:

“ The causes of recent and past taxi violence. “

is couched in rather too wide terms. Regard being had to the time within which the Commission was expected to finalise its work, the Commission came to the realisation that a cutting point had to be decided upon. In deciding upon the cutting point, the Commission was informed further by the fact that the three taxi violence components of the South African Police Services (“SAPS”) were established on 15 November 1995. It was suggested to the Commission that that was the time during which

the taxi violence had assumed very high proportions. The Commission consequently decided to investigate taxi violence as it obtained from 1994 to date. There are, however, some witnesses who appeared and made submissions to the Commissions in relation to periods outside of the 1994 to 1999 period and the Commission has heard their evidence.

The Commission has, however, laid emphasis on the period stipulated above.

18.

Insofar as clause 2(c) is concerned, couched as follows:

“Establish the causes of such violence and the persons responsible”,

It is significant to state that the Commission is no Court of Law and can consequently make no finding of guilt.

19.

The Commission has, in compliance with clause 5 of the terms of

reference, submitted its first and second preliminary reports. The first preliminary report was merely a report on process. May it be mentioned at this stage that, much as the original intention was that the Commission should commence with its work on 1 February 1999 as stipulated in the terms of reference, clause 4 thereof, due to the delay insofar as compliance with Section 2(1)(a) of the Provincial Commission's Act, which reads:

*“The Premier may by proclamation in the Provincial Gazette
... appoint a commission . . .”*

the said publication was only effected on the 9th February 1999. That carried with it the result that, technically speaking, prior to 9 February 1999 there was no Commission of Inquiry in existence.

20.

The second preliminary report was also duly submitted. At the time of its submission the Western Gauteng Region had already been investigated. The second preliminary report's contents will be incorporated in this report for ease of reference and further, for the

reason that some findings made therein were only provisional and therefore warrant a re-evaluation with a view to either confirming or totally discarding same.

21.

GENERAL GUIDELINES:

The Commission adopted the following general guidelines:

- 21.1 The Commission views itself as a fact-finding body as opposed to a quasi-judicial tribunal. Much resistance and public hostility was expected from some affected quarters. It is for those reasons, therefore, that both efficiency and professionalism formed the code of conduct affecting all the members of the Commission.
- 21.2 It has been the approach of the Commission that the witnesses appearing before it are witnesses of the Commission and that the Commissioners are, accordingly entitled to be inquisitorial in their approach, observing such

limits as may be required by both justice and fairness.

22.

THE SECRETARY:

An officer designated as the Secretary of the Commission was appointed by the Premier. The following were the powers and functions of the Secretary:

- 22.1 To keep proper records of the Commission;
- 22.2 To see to the smooth running of the hearings of the Commission;
- 22.3 To cause to be recorded, by mechanical means, the oral evidence heard by the Commission;
- 22.4 To supervise the submission and the taking down of statements provided by potential witnesses;

22.5 To cause to be issued summons, under his name, to all potential witnesses; and

22.6 To carry out any duties assigned to him by any member of the Commission, relevant to the discharge of their duties as Commissioners.

23.

WITNESSES:

23.1 The Commissioners identified all the witnesses required to appear before it after a perusal of *inter alia* the following:

23.1.1 The police dockets in the possession of the Commission;

**23.1.2 The statements submitted to the Commission;
and**



23.1.3 Any other official documentation that the Commission was in possession of.

23.2 Where possible the witnesses were given at least 10 days' notice before the date of hearing. This stipulation was departed from, from time to time, according to necessity but the underlying reason was to discourage potential witnesses from raising a technical point based on constitutional law to the effect that short notice was given.

23.3 The witnesses were entitled to consult with their legal representatives and be legally represented before the Commission. They were accordingly advised of this entitlement.

23.4 The witnesses were further entitled to the ordinary witness's fees, equal to those payable to witnesses appearing in a division of the High Court of South Africa.

24.

PROCEDURE:

24.1 The Rules of Evidence were adhered to insofar as it was practicable.

24.2 No inspection of documents submitted to the Commission was allowed at any stage during the existence of the Commission. Documents submitted to the Commission are treated with the utmost confidentiality.

24.3 In evaluating the evidence of the various witnesses that appeared before the Commission, we adopted the following approach and principles:

24.3.1 We looked at all the evidence presently before the Commission;

24.3.2 We considered the credibility of the witnesses

and the lack of the inherent probabilities, taking into account, where we thought fit, that demeanour of a particular witness.

24.3.3 We took into account the fact that evidence which is improbable is not necessarily untrue and that uncontradicted evidence is not necessarily true. Furthermore, we considered the fact that a witness may lie or be mistaken on one matter and yet be truthful on another.

24.3.4 Considering circumstantial evidence, we applied the well-known test that the evidence must be consistent with the proven facts and that the inference sought to be drawn therefrom must be the most plausible.

25.

25.1 In view of the fact that the investigation with which the Commission was seized, is a matter of both public interest

and great sensitivity, the Commission, at no stage allowed the members of the press to sit in the hearings, the reason therefor being to afford the witnesses appearing before the Commission some measure of protection.

25.2 We have divided the investigations into regions and we deal with each separately. We do not deal with all the conflicts due to the time constraints viewed against the number of incidents that took place in each region. The Commission is of the view that the conflicts considered are sufficient to establish trends which would assist in taking remedial action.

CHAPTER 2

THE WESTERN GAUTENG AND LEKOA-VAAL INVESTIGATIONS:

26.

26.1 **The Commission has been able to hear oral evidence from numerous witnesses, testifying:**

26.1.1 **In their personal capacities;**

26.1.2 **in their representative capacities as office-bearers in certain taxi associations; and**

26.1.3 **the aforesaid two capacities ;**

with a view to clarifying and elucidating on certain of the issues relevant to the inquiry.

26.2 **Regard has also been had to:**

26.2.1 The various written submissions submitted to the Commission relating to the investigations into this region; and

26.2.2 The police dossiers obtained in pursuit of the investigation.

27.

The following disputes were identified in the course of the investigation:

27.1 The Carletonville Local and Long Distance Taxi Association (“CALLDTA”) and Carletonville United Taxi Association (“CUTA”) (hereinafter referred to as “the CALLDTA and CUTA dispute”).

27.2 The Greater Krugersdorp Taxi Association (“GKTA”) and Kagiso Johannesburg Baragwanath Taxi Service (“KJBTS”) (hereinafter referred to as “the GKTA and “KJBTS dispute”).

- 27.3 **Supercab Taxi Association (“STA”) and Greater Westonia Taxi Association (“GWTA”) (hereinafter referred to as “the STA and GWTA dispute”).**
- 27.4 **Jika Bus Company (“JBC”) and Greater Westonia Taxi Services (“GWTS”) (hereinafter referred to as “the JBC and GWTS dispute”).**
- 27.5 **Black Union Taxi Association (“BUTA”) and Carletonville Union United Taxi Association (“CUUTA”) (hereinafter referred to as “the BUTA and CUUTA dispute”).**
- 27.6 **United Taxi Council (“UTC”) and Internal Taxi Association (“ITA”) (hereinafter referred to as “the UTC and ITA dispute”).**
- 27.7 **Poortjie Taxi Association (“PTA”) and Wits-Vaal Taxi Association (“WVTA”) (hereinafter referred to as “the PTA and Wits-Vaal Taxi dispute”).**

27.8 Inhlangano/Kopano Taxi Association conflict.

THE CALLDTA AND CUTA DISPUTE:

BACKGROUND TO THE DISPUTE:

28.

The Association, CUTA, was according to the evidence established in 1978. It was at the time known as Khutsong Black Taxi Association. In 1986 the name of the Association was changed from Khutsong Black Taxi Association to Carletonville United Taxi Association ("CUTA").

29.

CUTA has two main sections, namely the long distance section and the short distance section. According to the evidence, the short-distance section is affiliated to a so-called mother body known as South African Black Taxi Association ("SABTA") whereas the long-distance section thereof is affiliated to a mother body known as Letlhabile Taxi Organisation ("LTO"). The above referred to mother bodies are the

national taxi associations that get the smaller associations to affiliate under them in return for territorial protection.

30.

Witnesses from both associations are agreeable that CALLDTA is a break-away from CUTA. This is a pointer towards a lack of unity within the industry and towards the fact that self-regulation of the industry has not been successful in addressing the difficulties encountered therein.

31.

There are different accounts as to the reason for the said breakaway.

32.

32.1 According to some witnesses, during the period prior to 1994, the taxi operators in Carletonville were operating individually on any route within that territory.

32.2 During mid-1 994, the taxi operators came together and

discussed how they could work together and share the routes on which they were operating.

32.3 Consequent upon that, it was agreed that the long-distance operators would be limited to the long-distance operations and that the same would apply in respect of the short-distance operators.

32.4 Some individuals in the short-distance section operated along the long-distance routes, despite their not having been authorised to do so by CUTA. According to the evidence, the major difficulty was the conveyance of passengers along the Botswana route by people from the short-distance section to the prejudice of the members (emanating) from the long-distance section of CUTA.

32.5 On 13 November 1994, some members of CUTA realised that the same people who used to convey people to Botswana as set out above, had registered a Close Corporation in the name of Carletonville Botswana Close Corporation ("CBCC") and subsequently broke away from

CUTA. The CBCC subsequent to its registration changed its name to UNCEDO. This group of operators is presently operating as CALLTA and is affiliated to South African Local and Long Distance Taxi Association ("SALLDTA"), presently known as SALLTBO.

33.

- 33.1 According to the witnesses from CALLTDA, the break-away from CUTA occurred as a result of the fact that the then chairperson of CUTA, Nomandla, failed to adequately deal with the concerns raised by him, at the time, to the effect that some of the CUTA members who used to load individually traveling as far as Botswana were being assaulted on their way thereto. According to the evidence, CBCC was formed by the very same group of people who were being assaulted and attacked under the circumstances set out above, and in so forming CBCC, they sought to protect themselves. It is, however, not clear as to how the formation of CBCC would have ensured their protection.

33.2 Ever since the break-away of CBCC from CUTA, Carletonville was taken over by a wave of taxi violence.

33.3 These highhanded actions on the part of the group of eleven were actuated by the quest to exclusively operate on the routes in question.

34.

During the period September 1995 to date, no less than seven taxi owners within the ranks of CUTA have been murdered, namely:

34.1 Philip Tshabalala, who was murdered on 22 September 1995;

34.2 John Viljoen, who was shot and killed on 3 October 1995;

34.3 Jacob Molelwang also was shot and killed on 3 October 1998;

34.4 Mr Themba Ntebe, who was shot and killed on 2 February 1997;

34.5 Mr Philip Garejane, who was shot and killed on 14 February 1997;

34.6 Mr Simon Modise, also shot and killed on 12 March 1997; and

34.7 Mr Molefe Manoko, also shot and killed on 12 February 1997 (this group of deceased people will hereinafter be collectively referred to as "the deceased taxi owners").

35.

The following taxi drivers have also, among others, been murdered during 1997, operating within the ranks of CUTA, namely:

35.1 Mr Letsholo;

35.2 Mr Selemela;

35.3 Mr Serobatse; and

35.4 Mr Michael Mohale. (These people will hereinafter be referred to as “deceased taxi drivers”).

36.

The following members of CUTA were, among others, also injured during the period under review:

36.1 Mr K J Majola;

36.2 Mr N G Manci;

36.3 Mr J Kheswa;

36.4 Mr M S Letsholo;

36.5 Mr S Mashabe;

36.6 Mr J Mangena;

36.7 Mr L Demani;

36.8 Mr Maluleka. (They will hereinafter be referred to as “the CUTA victims”).

37.

CALLDTA on the other hand, was also visited by a series of deaths of its members. Amongst the people murdered, were the following:

37.1 Mr S Menoe, who was shot and killed on 6 January 1996;

37.2 Mr G Mopedi, who was hijacked at the rank and found after seven days at the railway on 11 January 1996;

37.3 Mr S Gwayi was shot and killed at the taxi rank on 14

February 1996;

- 37.4 Mr P Khokong, who was shot and killed whilst conveying passengers to work on 4 March 1996;
- 37.5 Mr Mahashe, who was shot and killed at his mother-in-law's house;
- 37.6 Mr Zwane, who was shot and killed on 19 February 1997;
- 37.7 Mr Kgosi, who was assassinated at his father-in-law's house in Daveyton on 29 May 1997;
- 37.8 Mr Alexis Mobote, who was shot and killed whilst relaxing in his motor vehicle on 5 June 1997; and
- 37.9 Mr J Ndindla, who was shot and killed at his home.

38.

What the Commission finds to be disturbing in relation to all the

aforementioned murders and attempted murders, is the fact that the perpetrators were at no stage brought **to book**.

39.

From the information furnished to the Commission by the South African Police Services (“SAPS”), which relates to occurrences from 15 November 1995 to date, it appears to be the position that:

39.1 There has been a total of fifty-nine (59) incidents of murders and attempted murders related to the taxi industry (“incidents”);

39.2 Of the fifty-nine incidents, twenty-three (23) thereof were murders, whilst thirty-six (36) thereof were attempted murders; and that

39.3 One out of the fifty-nine incidents, one incident namely an attempted murder incident, has been resolved by a conviction and a sentence of one year imprisonment.

40.

The rest of the incidents are either:

40.1 Still under investigation;

40.2 Filed as “undetected”; or

40.3 The charges against the suspects had been withdrawn.

These incidents are in the opinion of the Commission “unresolved”.

41.

It is noteworthy that there had been some incidents prior to the 15 November 1995, some of which the Commission has had occasion to consider.

42.

The Commission, on the basis of what has been stated above, draws an adverse inference to the effect that, regard being had to the success rate of the investigations and the fact of the seriousness of the subject matter of the investigations, there is at present police inaptitude hence the disappointing success rate referred to above.

43.

THE FINDINGS RELATING TO THE CAUSES OF THE AFORE-MENTIONED TO INCIDENTS:

The Commission finds the causes of the taxi violence within the context of the CUTA and CALLDTA disputes to be:

43.1 The lack of regulatory measures regarding the taxi ranks;

43.2 The lack of effective monitoring systems regarding the routes to ensure that operators operate only within the

route as registered with the Provincial Registrar;

43.3 Inadequate police investigations,

44.

THE RANKS:

44.1 It appears from the evidence that the first incident, namely the killing of Mr Phillip Tshabalala on 22ⁿd September 1995, occurred as a result of what was perceived by CUTA to be an “invasion” of their taxi rank.

44.2 The said “invasion” occurred as a result of CALLDTA having been informed by a certain Police officer that nobody owns a taxi rank and further that anybody could operate therefrom as they pleased.

44.3 It appears, however, to be the position that CALLDTA was prior thereto, operating within the taxi rank at a place designated for such purpose by CUTA. What occurred on

22 September 1995 was that CALLDTA sought to employ the parking zone designated for CUTA's exclusive employ.

44.4 It appears to be the position that there are no regulatory mechanisms in place in relation to the ownership and occupation of taxi ranks by individuals and/or associations of persons.

44.5 The Commission accordingly finds such lack of regulatory mechanisms to have been a contributory factor towards the occasioning of the incidents.

45,

THE ROUTES:

45.1 As already alluded to earlier in this report, the formation and subsequent break-away of CBCC from CUTA was due to the fact that some members of CUTA were being prohibited from operating long-distance routes due to them being in the short-distance section of CUTA.

- 45.2 There are two versions as to the manner in which it was sought to prohibit the invasion into the long-distance section by CUTA members belonging to the long-distance section.
- 45.3 What appears to be common cause is, however, the fact that some members of CUTA from short-distance section would load passengers from the mines and convey them to destinations *inter alia* Botswana, to the detriment of the members of the long-distance section of CUTA.
- 45.4 It is on the foregoing basis that the Commission finds further that the other cause of the incidents to have been the fight over those routes that appear to be the most lucrative.
- 45.5 There has, for a long time, been absent regulatory mechanisms in relation to the operation of “taxis” on specific routes, This gave rise to a situation where the taxi industry operated on the basis of the “*discover and own basis*”. In other words, a group of people would discover

a route and a rank and from that fact acquire ownership rights in relation thereto. The effect thereof would be that the discoverers would seek to preserve the exclusive use of the rank and the route as discovered for themselves and to that end put law-enforcement measures in place outside of the Government.

46.

INADEQUATE AND/OR UNPRODUCTIVE POLICE INVESTIGATION:

46.1 As already alluded to herein above, it is a matter of grave concern that in most of the incidents, the perpetrators were never brought to book.

46.2 The Commission has had occasion to peruse most of the police dossiers relating to the aforesaid incidents. In most of the police dossiers, the assailants are said to be *“unknown black males”*.

46.3 It is surprising, however, that certain names are consistently