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Media statement

Release of Marikana Panel of Experts report is critical for engagement with new SAPS bill

More than 20 civil society organisations fighting for social justice, supported by the Marikana Commission Chairperson Judge Ian Farlam, state that meaningful engagement with the new draft SAPS Bill is being undermined due to the 2018 report of the Panel of Experts on Policing being kept secret

The organisations and individuals below note with serious concern that, almost two and a half years after it was finalised and handed to the Minister of Police, the final report of the Marikana panel of experts has not been released. The release of the report, which was scheduled to take place at the Portfolio Committee on Police meeting tomorrow, the 25th of November, has now been postponed indefinitely. Without the release of the report, we believe that we cannot engage properly with the new SAPS Act amendment Bill.

The multi-disciplinary panel consisted of local and international policing experts. It was established by the Cabinet on the recommendations of the Marikana Commission and required to examine systemic problems in policing highlighted by the August 2012 Marikana massacre.

According to Themba Masuku, a former member of the panel, and now with the African Policing Civilian Oversight Forum,

“The panel’s report is not just grounded in the events at Marikana but also in the current policing, protest and crowd management environment. The report focuses on key challenges related to police governance, leadership and accountability and the system of public order policing. It is highly relevant to addressing the present challenges facing the SAPS and the POP units.”

Another former member of the panel, Gareth Newham of the Institute for Security Studies says,

“The report was completed over a two year period with inputs from various organisations including police unions. It is the most detailed review of policing in South Africa since the establishment of the SAPS in 1995. The report contains nothing that is prejudicial to any person or organisation. The recommendations of

the panel, if implemented would be likely to substantially improve policing and public safety in South Africa.”

The recent publication of the draft SAPS Act amendment Bill highlights the importance of releasing the panel report. Opportunities for comment to the Civilian Secretariat for Police on the draft Bill comes to a close this week on Friday 27 November. The failure to release the report has already limited the ability of the public to engage properly with the draft Bill.

The memorandum to the draft Bill states that parts of the Bill have been informed by recommendations made by the panel. For those concerned to understand the motivation for key provisions of the draft Bill it is therefore necessary for them to have access to the panel report.

Adele Kirsten, the Director of Gun Free South Africa, and also a former panel member says:

“Section 58 of the South African Constitution requires that opportunities be provided for meaningful public engagement with legislation. Without access to this report, a key source documents for the draft Bill, this will not be possible. The Bill will be submitted to Parliament for deliberation and finalisation, possibly early next year. The availability of the report will be critical to enable all stakeholders including MPs, the police, unions, civil society and others to engage with and debate it.”

The undersigned organisations and individuals therefore call on Minister Cele to urgently release the final report of the panel. We believe that there can be no reasonable justification for further delay in releasing the report. Releasing the report is likely to be of considerable benefit in enhancing understanding of how to address major challenges facing policing in South Africa.

Statement supported and endorsed by:

Organisations

1. African Criminal Justice Reform, University of the Western Cape
2. African Policing Civilian Oversight Forum
3. Centre for Human Rights, University of Pretoria
4. Centre for the Study of Violence and Reconciliation
5. Centre of Criminology, University of Cape Town
6. Corruption Watch
7. Council for the Advancement of the South African Constitution
8. Democracy, Governance and Rights Unit, University of Cape Town
9. Equal Education
10. Gun Free South Africa
11. Helen Suzman Foundation
12. Institute for Justice and Reconciliation
13. Institute for Security Studies
14. Lawyers for Human Rights
15. Legal Resources Centre
16. Ndifuna Ukwazi
17. Omega Research Foundation (UK)

18. Public Affairs Research Institute, University of the Witwatersrand
19. Right to Protest Project, Centre for Applied Legal Studies, University of the Witwatersrand
20. Right2Know Campaign
21. Section 27
22. Social Justice Coalition
23. Socio-Economic Rights Institute of South Africa
24. Sonke Gender Justice
25. South African History Archive
26. South African Policing Union.

Individuals

The Honourable Mr Justice Ian Farlam, former judge of the Supreme Court of Appeal, and Chairperson of the Marikana Commission

Dr Kelly Gillespie, University of the Western Cape.

Dr Mary Rayner, Research Associate University of London and 30 years of collaborations on South/southern African human rights concerns.

Prof. Christi van der Westhuizen, Associate Professor, Centre for the Advancement of Non-Racialism and Democracy (CANRAD), Nelson Mandela University

Allan Zinn, Director, Centre for the Advancement of Non-Racialism and Democracy, Nelson Mandela University

For further comment please contact:

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Gareth Newham, Institute for Security Studies, 082 887 1557, gnewham@issafrica.org

Background notes:

1. The report is titled ‘Final report’ by ‘The Panel of Experts on Policing and Crowd Management established by the Minister of Police in terms of the recommendations of the Marikana Commission.’