

**Media statement on the findings and recommendations of the Road Traffic Inspectorate
Commission by the Premier of KwaZulu-Natal Honourable Senzo Mchunu**

13 August 2014

Ladies and gentlemen of the media, I have invited you to this media briefing in order to share with you the findings and recommendations of the RTI Commission, which was appointed on the 1st of March 2013.

Before sharing with you the findings, and the corrective steps that will be taken based on these findings, I would like to state upfront and unequivocally that this unfortunate incident will be addressed with frankness and decisiveness. What went wrong on those two days of the 27th and 28th of December 2012 has to be acknowledged no matter how uncomfortable and painful for us as government. We will not hesitate to take *corrective and preventative actions where it is required*.

Therefore, I will not hesitate to acknowledge the grave errors that led to this tragedy, nor will the Provincial Government hesitate to accept blame where blame is required, and disciplinary action will accordingly be meted out. State Law advisers will be briefed to consider the recommendation including the question of compensation. Importantly remedial and corrective actions will be taken in order to ensure that such an occurrence is not repeated.

While doing so, our thoughts are with the families of those who lost their lives on those fateful days, as well as with those who suffered injuries, hardship and indignity. This morning had a meeting with families or next of kin of the deceased, again my colleagues and I convey our heartfelt condolences. As government we share their loss and grief. Similarly, I apologize unreservedly to all of those who suffered injuries, some of whom had to be hospitalized.

Let me now turn to the terms of reference of the RTI Commission, and in accordance thereof to the findings and recommendations that have been presented to me. I request your kind indulgence for going into some considerable detail about the terms of reference of the Commission and especially its findings and recommendations, but the seriousness of this incident requires our detailed attention and action.

I am sure that you will also agree with me that the public, via you, the media, deserve to be informed properly about what happened and our response thereto. That is what responsible, accountable governance is all about.

The Commission was appointed to investigate and report on the recruitment process in the Province which culminated in prospective candidates participating in a fitness test conducted on the 27th and 28th of December 2012.

The terms of reference of the Commission included, but were not limited to:

- a) The direct and indirect causes and reasons for the deaths of, and physical injury to certain prospective candidates;
- b) The appropriateness or otherwise of all planning, coordinating, management and administrative processes undertaken for the recruitment process, in general, and fitness tests in particular;
- c) The appropriateness or otherwise of all co-ordination, management and administrative processes and procedures implemented on the 27th and 28th of December 2012;
- d) The appropriateness of any contingency planning and arrangements made either prior to or during the event;
- e) Whether or not sufficient medical resources were deployed;
- f) Whether or not sufficient refreshment and ablutions facilities were provided;
- g) Whether or not all statutory requirements were adhered to; and
- h) Whether or not the act or omission of any person employed in any sphere of government, either directly or indirectly, through negligence or otherwise, contributed to the death or injury of any person.

The Commission furthermore investigated the appropriateness or otherwise of all planning, co-ordination, management and administration undertaken for the recruitment process, in general, and the fitness test, in particular, and whether or not all statutory requirements were adhered to.

Accordingly the Commission had to make the following recommendations:

- a) Toward reconciliation and possible disciplinary action or criminal prosecution, with a view to bringing closure to the families and friends of the prospective candidates who lost their lives as a result of, the fitness test conducted on 27 and 28 December 2012;
- b) On any other matter of whatsoever nature that the Commission deems necessary or appropriate.

The provisions of the KwaZulu-Natal Commissions Act, 1999, are applicable to the Commission. It determines that the Commission must produce and submit its final detailed report containing a summary of the evidence, its findings and recommendations no later than six months after the date of Proclamation.

It was stated that the Commission may in its final report and any interim report it submits, make such recommendations as it deems fit.

Also that the Commission may, where appropriate, refer any matter regarding the conduct of any person for prosecution or further investigation to the appropriate agency, department or body.

Terms of reference could be added to, varied or amended from time to time.

As it turned out the Commission took 123 days to complete its work after two extensions. The reason for this unfortunate delay is captured in the report, and was because the days of sittings were regulated by the Provincial Treasury, and the Chairperson of the Commission had no powers to arrange such dates for sittings. In the future care will be taken to avoid undue delays in matters of such importance.

The salient findings of the Commission were as follows:

That there was no compliance with the Safety at Sports and Recreational Events Act No. 2 of 2010. (Hereafter referred to as the Act). Section 4 of the Act makes provision for the categorisation of an event, and in terms thereof *recreational events* include, but are not limited to any event of entertainment, political, organisational, religious, cultural, exhibitional, charitable or similar recreational activity hosted at a stadium or a venue.

The Commission found that the fitness event was organised by a State Institution and was indeed organisational and held at a stadium. Therefore it fell, within the ambit of the Act. Accordingly the compliance with Section 4 of the Act was applicable.

The Act provides for the establishment of a Venue Operation Centre 'VOC', and the safety and security operations in respect of an event under this Act is governed by Section 17.

The person authorized to be in charge of the VOC should be a member of the South African Police Services. Section 4 of the Act enjoins the organiser of an event to put in place such measures as may be prescribed to ensure the physical safety and security of persons and their property at an event.

The Department of Transport failed to abide by these provisions and omitted to do the following:

- a) To book a stadium where the event was to be held;
- b) To comply with the provisions of the Act;
- c) To arrange for adequate medical measures. (Only two ambulances had been requested in an informal manner);
- d) To ensure the ablution facilities were adequate for the number of participants that were invited;
- e) To ensure that the capacity of the stadium which was 13,000 was not exceeded;

- f) To put measures in place to ensure that people that were inside the stadium on each day were those that had been invited for the fitness test;
- g) To ensure that there was adequate water for the participants;
- h) To search people who were entering the stadium;
- i) To control liquor within and around the route around the stadium.

It is disconcerting that the organisers of the fitness test made no projection about how many people were likely to attend the fitness event, nor did they afterwards know how many people actually attended during the two days. According to the Department of Transport they had invited 40, 7000. In terms of these invitations it is disquieting to note that the stadium capacity was exceeded by 7 350 each day.

The Commission also considered whether or not the fitness test was consistent with the legislative and constitutional imperatives, and found the following:

That the fitness test was introduced around 2009. It was decided to introduce a 2, 4 km run as a measure of testing the fitness of recruits. However, there was no policy that would authorize that people should be subjected to such fitness testing, either as a mechanism of shortlisting or simply as way of ensuring that people are medically or physically fit to be subjected to the test. Even the National Road Traffic Act, 1996 does not provide for this type of testing.

The Human Resources section was co-ordinating the fitness test for the first time. They had no experience and relied on people who were not from RTI but from Special Operations.

Based on these findings, the Commission made the following recommendations:

- a) That every recruitment drive must be consistent with the relevant prescripts and policies:
 - i. The advertisement and publication thereof must be compliant with Clause 4 of the Recruitment and Selection Procedures;
 - ii. Where the advertisement is intended for publication within the department or public service, there must be compliance with 4.2.1 thereof;
 - iii. There must be a shortlisting committee that will determine the shortlisting criteria to be followed for that purpose as prescribed in Clause 7.5 of the Recruitment and Selection procedures;
 - iv. Should the Department of Transport wish to subject applicants to strenuous physical test or exercise as a shortlisting mechanism it must develop a policy accordingly. At present the Department of Transport has no policy on fitness testing;

- v. Whenever there is an event, there must be adherence to the provisions of the Safety at Sports and Recreational Events Act, Act No 2. of 2010.
- b) The MEC for the Department of Transport and Head of the Department must consider taking disciplinary steps against the officials of the Department of Transport for their conduct.
 - c) There was no compliance with the provisions of Sections 4, 5 and 6 which constitutes an offence in terms of Section 44(1) (a) (b) and (c) of the Safety at Sports and Recreational Events Act, Act No2 of 2010. It is recommended the HOD refers the matter to the South African Police Services for investigation.
 - d) The documents submitted to the Commission as the minutes of the shortlisting committee was manufactured and fraudulent. The HOD should refer the document for investigation by the police.
 - e) The MEC for Health should investigate why an inquiry was not held in respect of the anaesthetic death of Sanele Ngcobo. There must also be an investigation into the anaesthetic death of Sanele Ngcobo by the Department of Health.
 - f) The MEC for Health must also consider three affidavits placed before the Commission which makes serious allegations against a certain doctor (known by the Government).
 - g) The Commission recommends that the dependents of those who died be compensated.
 - h) It is recommended that Thamsanqa Siphesihle Dlamini, the only victim who was hospitalised, be compensated. The Commission recommends an amount of R 10, 000. 00.
 - (i) The Commission recommends that those who did not suffer lasting effects and are listed in the main report be compensated in the sum of R 10, 000. 00 each.

On behalf of the relevant departments and the KZN Provincial government in general we reiterate our regret and apology for such failure in proper governance and administration. The findings and recommendation will be carefully studied by State Law advisers with a view of taking corrective action.

The MECS and Heads of Departments of implicated departments will be tasked with expediting finality and closure.

In conclusion it needs to be noted that the large numbers of people who attended the events on the 27th and 28th of December 2012 is an indication of how desperate our people are in search of employment. Also this incident highlights the importance of nurturing and training skilled personnel so that such incidents are buried in history.

I would like to thank the members of the Commission and support staff for the sterling and professional work. Our gratitude also goes to the witnesses who shed light to the events of 27 and 27 December 2013.

Thank you.

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