

OPEN LETTER TO EDITOR OF SUNDAY TIMES

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To : Mr Siqoko, Editor, Sunday Times

Per email

Dear Mr Siqoko

RE : YOUR APOLOGY FOR PUBLISHING 'DEATH SQUAD STORY :

SETTING THE RECORD STRAIGHT

1. This open letter stems from your decision to apologise for the Sunday Times having published the Cato Manor 'death squad' story in December 2011, and calls to reveal sources, so I feel it necessary to provide you with some background information about this story. Please note that I know nothing about the other two stories that have evoked widespread outrage, the 'Rogue Unit' and Zimbabwean renditions except for what I have read in the press (although I think that one of the Hawks members who was at one stage named in the renditions story was implicated in the malicious arrest and torture of a police member in connection with an Mpumalanga case). Nor did I have anything to do with supplying photographs accompanying the report. Perhaps I have missed something important, but having re-read the report of 11 December 2011 I could see nothing obviously false about it, and those implicated had been given the right to respond. (it was, perhaps sensationalised, but that happens frequently, given media competition to sell newspapers). I would thus like you to explain to me and the public why you apparently accept that it is 'fake news'.

I am setting the record straight, including by providing detailed background information, because there is a very real risk of the true facts of what happened – especially the wider context in which it happened - being swept under the carpet in the unseemly haste in some quarters to make political capital out of the deaths of many people, some of them undoubtedly innocent.

2. **The background :** I was contacted by one of the reporters a while before the article was published, in connection with an investigation he and others were then doing into taxi violence and killings in KZN. I have detailed knowledge of some of the taxi conflict, which I shall summarise below since it is central to the story, so I arranged for Stephan Hofstatter and Mzilikazi Wa Afrika to meet with some taxi drivers who had first-hand experience of what was happening, had lost colleagues in the conflict, and were living in fear that they would be killed. At least two of them who provided information for the story - Mthethwa

and Sangweni – were subsequently killed, and I shall detail some of the harassment they and others experienced, allegedly at the hands of some of the Organized Crime members, before they were shot dead in what follows. (It was only later that I learnt about the photos which were published, but I was not told who had supplied them).

3. A summary of the alleged police involvement in the taxi conflict in the KwaDukuza/Kranskop/Maphumulo/Mandeni area, especially between 2008 and 2011

With the exception of Kranskop, all of these stations fall under the KwaDukuza Cluster, which seemed to be the epicentre of much that was happening. There is a history of competition and conflict over routes in these areas involving, among others, an extremely powerful and politically well-connected-long distance association and those associated with it and various other associations. Some of them had permits to operate locally, and some had permits to operate further afield. Some of the conflict, e.g. in Mandeni, was linked to taxi warlords operating without permits for the specific routes on which they were harassing local operators. Most of these operators have security company employees guarding them some of whom were not registered with PSIRA, despite carrying big guns. In addition to the competition, e.g. between Stanger and Maphumulo Associations, there was also conflict within the Stanger association because a powerful faction had taken control of the association and insisted that all operators pay money for security arrangements which benefitted on them (the leadership). Operators who refused to pay what was basically extortion money were targeted. There is also a history of alleged police involvement in this taxi conflict, with some reportedly operating taxis themselves. There were also widespread allegations of police taxing kickbacks from certain operators to act against competitors. This was the context in which some members of the Durban Organized Crime unit were operating during the period in question. The general trend – which I have recorded so often, in so many situations – was that the police would fail to act against known perpetrators but harass their competitors through malicious arrests, torture (of which there is also medical evidence) and alleged killings.

This was the context in which, in March 2008, forty three guns were stolen from a storeroom at the kwaMaphumulo police station. The then station commissioner, who was not on duty that weekend, told me that he had repeatedly pointed out to the provincial office that the storeroom was not secure, but nothing had been done about it. All the guns stolen were linked to taxi violence as exhibits (other weapons, and even money, was not touched) which suggests that the theft was an ‘inside job’. The investigating officer was Snr Supt Chonco, a senior officer/station commissioner at Kranskop SAPS, who was shot dead in August 2008. When I last received an update from the SAPS several years ago none of the guns had been recovered.

4. Case studies : Taxi victims

4.1. Family B had permits to operate taxis in areas around Mandeni, and were threatened and harassed by operator C, whose operating permit excluded the B routes. In March 2010 five men armed with a variety of weapons, including an R4 or R5, opened fire on members of the family at their rural home, killing one of the adult sons and a young child, and seriously injuring another adult son, S. Some members of the family had previously been tortured by the police. In September 2010, a group of between eight and ten men, who were not in uniform, nor bearing any form of identification, arrived at the family home (headed by the frail, elderly mother of the adult sons and their children), ordered that they be let in, and pointed guns at the family. They searched the home, apparently looking for S, (who had been badly injured in the March attack). He was not there. Three of the men were white, and one of them was recognised as P, a member of the Organized Crime Unit.¹ P was also seen moving around with taxi warlord C.

4.2. Bonginkosi Mthethwa : Mthethwa, like Sangweni and Xaba (see 4.3 and 4.4.) had refused to be part of the extortion racket they claimed was being operated by members of Stanger Taxi Association with whom members of the SAPS, including in Organized Crime, were allegedly in cahoots. He spent much of his time in hiding. He was warned by a member of Organized Crime (black), who was allegedly also colluding with taxi warlord C, that he, Mthethwa was under investigation for the attempted murder of warlord C. On 9 September 2010 Mthethwa was 'arrested' by Organized Crime member P and he managed to phone me and tell me. I asked to speak to P and asked why he had been arrested and where he was taking Mthethwa. I could hear the anger in P's voice when he replied curtly that he was taking him to the local police station. Mthethwa subsequently advised me that he had been taken to the local police station where they asked why he had been brought in as there was no case against him. Mthethwa continued to receive information about plans by the police to kill him, and continued to 'duck and dive'. In September 2012 he was with two other operators, one of whom was Sangweni (see 4.3.) when they were shot and injured in KwaDukuza. They alleged that the shootings took place amidst a heavy police presence, and that the police did not intervene. They alleged that when two of their associates went to report the shooting to the station commission they were followed into the station by three men, whose names they knew, who were armed. Some time after this incident Mthethwa was shot dead.

4.3. Azarius Sangweni had formerly operated taxis in KwaDukuza, and made similar allegations to those made by the B brothers and Mthethwa about involvement of certain Organized Crime members in harassment and violence. He withdrew from the KwaDukuza association following the death of Xaba (see 4.4.) and threats to his own life by those in

¹ P features prominently in a number of cases. He also features in cases in which what was formerly known as the Murder and Robbery Unit killed supposed suspects (some were political activists) in the early 1990s. The Goldstone Commission, having analysed these dockets, expressed grave reservations, including about the shoddy investigations into the cases. There are discernible patterns in these earlier killings very similar to those carried out more recently by Organized Crime, when they claim to have been under attack.

control of the association, including its vice-chairperson, who had allegedly been implicated in the attempt to kill him and Mthethwa in September 2012. In December 2013 Sangweni was advised that the very same taxi association official had opened a case of attempted murder against him at Kranskop. It was the fourth case he had opened, and all the others had been thrown out of court. Sangweni claimed an attempt had been made to kill him when he attended court. He believed that there was collusion between certain Kranskop members and the man who had opened the case and that it was yet another attempt to kill him by arresting him. The station commissioner was requested to inspect the docket and, if it was necessary to arrest him, to do so in the presence of his lawyer and detain him in cells in Durban or Pietermaritzburg. Nothing came of these charges. Sangweni had relocated his taxi operations to the Durban West area, where he was shot dead after returning from a meeting in March 2015.

4.4. Mr R N Xaba, who had also refused to pay protection money to those who had taken over the Stanger Taxi Association, made a statement to the police on 11 March 2010 that as from 2009 he and a colleague (Mr T) had been receiving death threats from the police and the taxi association. In his statement, sent to the Stanger Taxi Association, he appealed to them to rectify matters for if they did not do so 'my life will always be in danger or cease to exist'. Xaba, too, spent most of his time in hiding. Two months later, when he was travelling with a neighbour (who had no connection to the taxi industry), who was giving him a lift to Durban, the car they were in was chased by a police vehicle and came under heavy gunfire. Both suffered multiple injuries and died. The ICD (now IPID) 'monitored' the investigations, despite it having been pointed out to them that the local investigator was not trusted because he was said to be close to the driver of the police car who was alleged to have taxi interests of his own. The driver, who was from the area, was working in another policing unit and, when the head of the unit was confronted with the vehicle registration details, provided full information about the incident and confirmed that 'During the said incident the member....was the team leader and was liaising with Organized Crime' (letter from Section Head of unit, dated 28/9/2012) Both the deceased left families and children, and the SAPS have admitted civil liability.

4.5. Bongani Mkhize : In August 2008 Snr Supt Chonco was shot dead on his way to court. A number of suspects in the killings then died at the hands of members of the Organized Crime unit, supposedly in shoot-outs, which led to the Chairperson of the Maphumulo Taxi Association seeking protection from the High Court. This Association had permits to operate in several north coast areas, and also as far as the Eastern Cape. In his affidavit applying for an interdict against the National Minister of Police, the local MEC for Community Safety and Liaison Bheki Cele, the Provincial Commissioner SAPS, and the Head of Organized Crime, Commissioner J Booyens (Case 1359/2008), Mkhize refers to the police taking sides in taxi conflict. He also states, among other things, that a security guard employed by his association, Moses Dlamini, had been taken to the Cato Manor Organized Crime offices where he had allegedly been 'tubed' (near suffocation, which is still widely

used by SAPS members despite torture being a serious crime) and badly assaulted. He had been shown a list of names of suspects in the death of Chonco, and had been told that Mkhize was also implicated. Dlamini was released without being charged.

Mkhize states that those whose names were on the list, and others, had been killed by the Unit and that he himself was the only person named who was still alive. He believed he would be killed by the Cato Manor unit and said that if he was a suspect in the murder of Chonco he was prepared to hand himself to the police in the presence of the lawyers and the ICD. Also attached to Mkhize's application is an affidavit from the wife of one of those who had already been killed, Buthelezi, who states that the police had kicked down the door of their Stanger home when they were asleep and had dragged her husband from the room ('he had nothing in his hands.....he was not armed'). She was later told by the police that her husband had died, and subsequently found a pool of blood in the other bedroom to which she had taken her husband. On 14 November 2008 the High Court ordered that the Respondents were interdicted from unlawfully killing, injuring, threatening, harassing or in any way unlawfully intimidating the Applicant'. Less than three months later Mkhize was shot dead while travelling in the centre of Durban.

5. Most of the foregoing is covered in my correspondence with the police (copied to the Minister and the parliamentary portfolio committee), so I made whatever written information was relevant available to the Sunday Times journalists. At one stage I also put them in touch with someone I shall call X who had called me expressing great concern after witnessing the shooting dead of two of the suspects, but stressed that given issues of family safety they had to remain anonymous, especially as they had taken photos. I know X by repute as an upstanding citizen who would have no possible motive in fabricating the information provided. These are X's words when we spoke 'there was no shoot-out with the police' They had pulled alongside the vehicle and 'executed the two occupants' Further detail about what happened was provided, including that the rear window of the suspects' vehicle was initially intact, but one of the police members smashed out the rear window with his gun to hide the fact that shots had only been fired into the vehicle and not out of it. I told Hofstatter this story to explain why it was virtually impossible to get witnesses to come forward and he asked if X would speak to him. I checked with X, who agreed on condition of anonymity and as far as I know that commitment was honoured (and must obviously remain so)

6. Cries for the blood of the journalists connect the story to the subsequent criminal charges against members of the unit and General Boysen (by then the SAPS had, regrettably, reverted to the use of military ranks). Of course, by the expose there was likely to be some response from police management but, as far as I am concerned, it was badly handled. I have never been able to fathom why the specific charges were made against Boysen, especially given that there had been no convictions against members of his unit. The occasional response I received to my letters from Organized Crime was from (then) Col Olivier. Regarding the individual cases, it would have been far preferable to bring charges on a case-by-case basis, based on the strength of the evidence. From the

point of view of the families of those who died, the publicity around the re-opening of the cases led to further trauma, including fears for their own safety if they were witnesses. It also led to hopes that the trials would bring some closure for them. That seems extremely unlikely. The criminal case has dragged on – apparently prolonged by all legal means by those accused – while the families of victims continue to suffer. I gather from one of the investigators (not from KZN) that the appetite for proceeding with the charges dampened when Gen Phiyega was appointed as National Commissioner.

I have been fortunate to work closely with, and learn from, highly credible police members for almost thirty years, and I am painfully aware that even with the strongest of available evidence, if investigators and/or prosecutors are incompetent, or wish to scuttle cases, it is relatively easy to do so. I was once even given details by a seasoned investigator about exactly which tactics are used to ruin a case. The police who have been charged have access to lawyers who are experts in their field. The poor do not and, in this case as so many others I personally deal with, it is probably the poor who will end up suffering doubly, first by the loss of their loved ones and secondly by the deliberate delaying strategies being used to bring these cases to finality, prolonging closure of any kind.

7. Regardless of the outcome of the cases against the accused, the following should be obvious from the information I have provided:

7.1. Why were Organized Crime members interfering in matters relating to taxi activities as, e.g. in KwaDukuza and Mandeni, when there was a Taxi Task team constituted to deal with it (not that it enjoyed much credibility)? Organized Crime claim to be top investigators – yet they could not even bring known taxi warlords to book, even when their unregistered security company employees were running around brandishing dangerous weapons. Why?

They doubtless have successes (and so they should have, given their experience and, probably, resources) but they also have conspicuous failures which receive no publicity, such as that involving the attack on the wife and daughter of King Zwelithini and the murder of a relative, in KwaMashu in April 1996.

7.2. I do not understand why Organized Crime should enjoy the spotlight when there are many good, dedicated detectives working away and getting High Court convictions in difficult cases, but there is no recognition for their work, let alone accolades. The team headed by the late Col Vilakazi springs to mind for having secured a string of high court convictions in the north coast in the 1990s and brought a halt to the political violence in Mandeni and Mtubatuba. Similarly, when in charge of a unit in the south of Durban several years ago before he retired, half of the cases of taxi violence were in court, and a key taxi warlord in Umbumbulu had been convicted in the High Court. However, Vilakazi's team did not enjoy support because it had targeted at least one person who was politically well-connected, and the unit was disbanded after his retirement.

7.3. A number of the Organized Crime members have tainted apartheid backgrounds; e.g. at least one was, according to informed police sources, a member of the security police. Under apartheid, members might move from the security police to SANAB or Murder and Robbery, and the unit was widely alleged, including by other police members, to use the same sort of tactics as are alleged to have been used in the cases for which they have been charged. In the 1990s, one former (white)

member of a Murder and Robbery Unit told me personally how his life had gone to pieces because of trauma caused by what he had witnessed in the unit where he was stationed. Old habits die hard because the new, post-1994 government did nothing constructive to transform the police. It is not only Organized Crime who stand accused of executing suspects. It is a trend that continues unchecked because of the dysfunctionality of IPID and its predecessor the ICD. There seems to be a lack of any political will to deal with it. There is often also an uncritical approach to police utterances on the part of the media. For example, instead of any further interrogation, they will simply report, as in one of the articles following the death of Chonco, 'Cop's killers die in shootout'. This is a very dangerous mindset, for those killed were suspects who had not been brought to trial and convicted.

8. In an academic paper I wrote in 1987, when nothing was being done to stop the deaths in the townships, and the media were, for the most part, presenting a completely distorted picture of what was actually happening, I quoted Bob Dylan's classic words 'How many deaths does it take till we know that too many people have died?' and asked whether action would be taken if those who were dying were white. Thirty years later, it is still pertinent to point out that excessive numbers of people continue to die at the hands of the police, or to be tortured by the same police, yet the new, black, democratic government does nothing about it, despite its continuing obsession with racial categories. Why is there no outcry? Is it because they are mainly poor, black people – like those shot by the Cato Manor police supposedly in self-defence - who are dying?

9. So, in conclusion Mr Editor, having hopefully read what I have written, please tell me if I have missed something important regarding the reporting on the Cato Manor unit, and please tell everyone why you think the journalists who wrote the Death Squad story have, like those writing during apartheid, distorted the truth - and provide us with the factual basis on which you have apparently decided that the story is 'fake news'.

Kind regards,

MARY DE HAAS

Cc Media

Zondo Commission