

Media briefing on investigations into allegations of misconduct against JMPD officials

13 August 2009

Statement by the Executive Mayor of Johannesburg, Clr Amos Maseko, at the media briefing on the investigation into allegations of misconduct against the JMPD Chief and other officials, Mayoral Parlour, Braamfontein – Johannesburg

Speaker of Council: Clr Nkele Ntingane

Chief Whip of Council: Clr Nonceba Molwele

MMC for Public Safety: Clr Elgina Ndlhovu

Members of the Mayoral Committee

Fellow Councillors

Acting City Manager: Dr Rafik Bismila

Managers and Officials of Council

The Media

Ladies and Gentlemen

The City of Johannesburg has received a comprehensive report from an independent legal team that investigated allegations of misconduct against the Chief of Police (CoP), Chris Ngcobo and other Johannesburg Metropolitan Police Department (JMPD) employees.

Background:

The investigators were appointed in February 2009 as part of an agreement between the City of Johannesburg and the South African Municipal Workers' Union (SAMWU) following a strike by JMPD officials.

The City and SAMWU jointly agreed on the terms of reference of the investigation in a document signed on the 23rd of February 2009. Two senior legal specialists, Mr Johan Olivier of the firm Brink Cohen Le Roux Inc and Adv Hamilton Maenetje were appointed to conduct the investigation.

The mandate of the investigation was to determine whether, upon evidence presented, there is a prima facie case for the officials to answer. It should be emphasised that this was a fact finding process and not a disciplinary inquiry.

The investigators invited SAMWU and other interested parties to present documentary, oral and written evidence to the investigation while the affected officials as well as witnesses were extensively engaged on various issues.

Ngcobo took voluntary leave of absence from his position as Chief of Police at the start of the investigation.

The investigators presented their findings and report to the City Manager, Mavela Dlamini, on Friday 7 August 2009. (A summary of the findings is attached).

Recommendations:

The following recommendations were made by the investigators:

The Chief of Police, Mr Chris Ngcobo, and JMPD officials, Ms E Esau, Mr A Kganyago and Mr A Nkosi should return to work as soon as possible as there is no longer any basis for them to remain on suspension or any form of special leave.

In light of the findings, there would be no basis for SAMWU or any other employee of the JMPD to go on strike to require further action be taken in relation to the issues that were investigated.

The investigators state that it was clear from evidence presented and from observing the participants in the investigation that there are relationship problems in the CoJ. These problems include issues of communication between management and employees. Some of the issues that were referred to the investigators had previously been investigated but such decision and the outcomes were not made known to employees and their trade unions. This appears to create perceptions that management in the COJ is not prepared to take action on complaints lodged especially against members of management. For this reason, there seems to be distrust between management and employees.

In view of the above, the investigators recommend an intervention to repair the relationship on problems between management and employees and their trade unions. Relationship by objectives ("RBO") could provide a suitable intervention.

Response by the City of Johannesburg.

The City welcomes the Report and wishes to thank the investigators for their time and effort to conduct a thorough probe into allegations of misconduct.

The City welcomes the findings that there is no prima facie evidence that either the Chief of Police, Chris Ngcobo, or any of the other JMPD officials are guilty of misconduct that warrant further investigations or require disciplinary actions.

The findings of the enquiry confirm the City's long-standing position on allegations of misconduct and corruption: that is to investigate any credible allegations of wrongdoing supported by substantive evidence and take a "zero tolerance" approach to corruption.

In the matter at hand, the City is however deeply concerned that none of the allegations levelled by the union against Mr Ngcobo were supported by credible and substantial evidence. It also

unfortunate that these unproven and well-publicized allegations formed the basis of strike actions called by SAMWU in February 2009. This also resulted in personal hardship for Ngcobo and other co-accused officials and their families. Sadly, the JMPD had to be temporarily restructured and this impacted on service delivery to the people of Johannesburg.

A lesson from this is that employees and organised labour should show restraint and explore all existing platforms of negotiation to verify and test information before matters are taken to the public domain or get used to justify industrial action.

The City commends Ngcobo for his decision to take voluntary leave of absence and give way for the enquiry to get underway without any possible perception of interfering with the process. His gracious stance serves as a good example of the quality of leadership entrusted with running a World Class African City by residents of Johannesburg.

Ngcobo has been in service of the City in a number of senior positions since 1996. He was appointed to the position of Chief of Police in 2001, starting with a small team of 425 officers with a budget of R274m. His team has since grown to the present 3 500 with a budget of R1.2 billion. During his leadership, the City introduced new technology to curb crime through CCTV cameras and officers on the beat in the CBD. Vigilance against by-law infringements and traffic offenders has also been stepped up.

The City takes note of the recommendations by the legal panel that Ngcobo and the other JMPD officials should return to work. The City is currently in negotiation with these officials on these arrangements.

The City takes note of the comments made in the report about communication between management and employees, especially at the JMPD. The City is committed to improve relationships, including communication, with all its employees. Any identified weaknesses will be corrected.

The City, again, commits itself to strive to build a good working relationship with organised labour. This commitment is further confirmed, amongst others, by the existence of fulltime shop stewards who are expected to dedicate energy and time to ensure sound labour relations. We will continue to train and skill all our senior managers on labour relations as part of our overall efforts to achieve industrial peace.

The City wants to assure Johannesburg ratepayers that safety and security are among its top priorities. The City commit itself to strong leadership on security issues and to implement measures, including modern technology, continuous training of officials and the strengthening of the police force to ensure the safety of residents and visitors to the best of its ability.

Allegations against JMPD Officials – summary of the findings:

Allegations against Mr Chris Ngcobo:

In the case of Mr Ngcobo SAMWU presented the investigation with a wide range of allegations of misconduct and alleged failure to perform his duties as Chief of the JMPD. All these allegations were investigated on the basis of documentation and oral testimony to the enquiry.

The findings can be summarised as follows:

Allegation: Mr Ngcobo failed to act decisively with regards to allegations about three JMPD employees. Finding: The investigators recommended that guidelines be developed for the workplace on a number of issues, but said that these are not grounds for discipline against Mr. Ngcobo.

Allegation: Mr Ngcobo promoted corruption by giving dubious allowances to some employees. Finding: The investigation received no direct evidence from SAMWU in respect of any outright unfair or arbitrary payment of allowances without reason and concluded that Mr Ngcobo does not have to answer in a disciplinary hearing.

Allegation: Mr Ngcobo failed to execute recommendations contained in a report (the Resolve Report) submitted to the City Manager in September 2004. Finding: The implementation of the report had been escalated to the office of the City Manager. The investigators can accordingly not make a finding that Mr. Ngcobo's actions in this regard constitute misconduct.

Allegation: Mr Ngcobo failed to implement a settlement agreement dated 27 June 2008. Finding: Evidence was presented that this matter was dealt with directly by SAMWU and the City Manager's office and ultimately resolved. The investigators are of the view that there is not a prima facie case of misconduct to be considered against Mr Ngcobo in this regard.

Allegation: SAMWU alleged that Mr Ngcobo failed to implement a directive to pay JMPD employees double time on Sundays. Finding: This matter is still pending at the Bargaining Council after four years. The overtime issue is a matter to be resolved by arbitration between the parties and that there is no prima facie case against Mr. Ngcobo in his personal capacity.

Allegation: SAMWU claimed that "Two Big" was paid for the whole duration of their contract with the JMPD despite the fact that their contract was terminated prematurely without the consent of the City. Finding: The investigators conclude that SAMWU was unable to prove any of the allegations they made in respect of this matter. There is no case for Mr. Ngcobo to meet.

Allegation: SAMWU claimed that Mr. Ngcobo had failed to implement the Administrative Adjudication of Road Traffic Offences Act ("AARTO") on 1 November 2008 and that this resulted in refunds to the tune of R32m to the public. Finding: The investigators find that Mr Ngcobo had to exercise his discretion on this issue and does not have a case to meet.

Allegation: SAMWU claimed that Mr Ngcobo failed to stop the Speed Tender. Finding: The decision to award the tender was not Mr. Ngcobo's or the JMPD's but that of the CoJ Executive Acquisition Committee. Mr. Ngcobo was not in a position to influence such process or the ultimate decision which was outside of his hands.

Allegation: SAMWU presented the investigation with a list of 15 allegations to support their claims that Mr Ngcobo is "not competent to head the JMPD. The union also lead evidence on the issues. Finding: The investigation could not find any issue presented to it by SAMWU to doubt Mr Ngcobo's competence or as proof that he abused his power as the Chief of Police.

Allegations against Ms E Esau:

Allegation: That Ms Esau altered the learner's test results of an applicant that failed. Finding: Ms Esau exercised her discretion to correct an administrative error. This does not constitute an offence and there is no reason to discipline her for her actions.

Allegation: She conducted a "pyramid scheme" during working hours and closed the licensing office for two hours. Finding: There is no prima facie case against Ms Esau and this was also confirmed by an investigator from Internal Affairs. The JMPD should issue clear guidelines for managers to follow in respect of requests by outside parties to address employees during working hours.

Allegation: Ms Esau victimised SAMWU members, resulting in their dismissal. Finding: The investigation found no clear link between actions taken against employees and an intention on the part of Ms Esau to "victimise" them.

Allegations against Mr A Kganyago:

Allegations: SAMWU required the investigators to determine the validity of rape allegations against Mr Kganyago; whether he used a departmental vehicle to commute to the residence of an employee and whether his actions resulted in the resignation of the employee. Findings: As agreed with SAMWU the investigators are not required to make a finding as to whether the rape allegations are valid as these are still the subject of criminal court proceedings. The investigators found that he was duly authorised to use a departmental vehicle as part of his official duties.

Allegations against Mr A Nkosi:

Allegations: The allegations referred to his actions with regards to charges of misconduct against a JMPD official and questioned whether "he is fit to head the Internal Affairs" unit of the JMPD. Findings: No evidence was presented that Mr Nkosi attempted to suppress relevant evidence during an investigation or disciplinary hearing. It also found that "no cogent evidence had been presented by SAMWU" that would have warranted a decision by Mr Nkosi to suspend senior officials prior to the conclusion of investigations into their alleged misconduct.

Thank you