

**Report of the
SAHRC National Investigative Hearing into
SAFETY AND SECURITY CHALLENGES
IN FARMING COMMUNITIES**

*15 & 16 September 2014
and 6 October 2014*



“Beyond the immediate human suffering, lack of security and stability in our rural and farming community causes serious disruption to our economy. It threatens to bring reduced growth or production, loss of wages and profits and in time unemployment. It brings the spectre of deepening poverty, and potential social instability and upheaval.”

Former President of South Africa, Nelson Mandela at the Summit on Rural Safety and Security, 10 October 1998.¹

¹ Available at http://www.mandela.gov.za/mandela_speeches/1998/981010_safety.htm

In a South African Human Rights Commission National Investigative Hearing on Safety and Security Challenges in Farming Communities

And²

The Department of Justice and Constitutional Development	First Respondent
The Department of Rural Development and Land Reform	Second Respondent
The National Development Agency	Third Respondent
The Agricultural Research Council	Fourth Respondent
The Private Security Industry Regulatory Authority	Fifth Respondent
The South African Police Service	Sixth Respondent
The Gauteng Provincial Community Police Board	Seventh Respondent
The AfriForum	Eighth Respondent
The Freedom Front Plus	Ninth Respondent
Dr. Chris de Kock	Tenth Respondent
Dr. Johan Burger	Eleventh Respondent
The Agri South Africa	Twelfth Respondent
The National African Farmers Union of South Africa	Thirteenth Respondent
The Transvaal Agricultural Union of South Africa	Fourteenth Respondent
The African Farmers Association of South Africa	Fifteenth Respondent
The Food and Allied Workers Union	Sixteenth Respondent

² As the hearing was hosted in terms of the SAHRC Complaints Handling Procedures the parties that appeared before the SAHRC are referenced to as respondents.

TABLE OF CONTENTS

Acknowledgements	6
List of acronyms and abbreviations	7
Forward	8
Executive Summary.....	9
1. Introduction	11
2. Background	12
3. Summary of proceedings	16
4. Mandate of the Commission	17
5. Legal Framework of rural safety and security in South Africa	18
5.1. The Bill of Rights.....	18
5.2. The SAPS constitutional mandate	19
6. Procedures of the SAHRC hearing	21
6.1. Composition of the panel	21
6.2. Terms of reference	21
6.3. Nature and structure of the proceedings.....	22
7. Submissions from the respondents.....	22
7.1. The Department of Justice and Constitutional Development.....	22
7.2. The Department of Rural Development and Land Reform	24
7.3. The National Development Agency.....	25
7.4. The Agricultural Research Council.....	26
7.5. The Private Security Industry Regulatory Authority	29
7.6. The South African Police Service.....	30
7.7. The Gauteng Provincial Community Police Board.....	37
7.8. The AfriForum	38
7.9. The Freedom Front Plus	41
7.10. Dr. Chris de Kock.....	44
7.11. Dr. Johan Burger.....	46
7.12. The Agri South Africa	50
7.13. The National African Farmers Union of South Africa	52
7.14. The Transvaal Agricultural Union of South Africa.....	54
7.15. The African Farmers Association of South Africa.....	62
7.16. The Food and Allied Workers Union	64

TABLE OF CONTENTS

8.	Analysis of evidence and findings	67
8.1.	Previous Commission Farm report's recommendations	67
8.2.	Definition of concepts.....	71
8.2.1.	Farms and Small holdings	71
8.2.2.	"Farm attack and/or murder"	71
8.3.	Land Tenure	73
8.4.	Root causes that lead to crime outcomes.....	74
8.5.	Statistics.....	76
8.6.	Common issues to farmer owners and farm victims	77
8.7.	Useful policing strategies	78
8.8.	Policy implementation challenges	80
9.	Recommendations and findings	80
9.1.	Findings	80
9.2.	Recommendations	83
10.	Adherence to the terms of reference.....	88
11.	Monitoring and evaluation	88
12.	Conclusion	89
	Annexures	91

ACKNOWLEDGEMENTS

The South African Human Rights Commission would like to thank all parties responsible for arranging, facilitating, and participating in the Commission's, national investigative hearing into *Safety and Security Challenges in Farming Communities*. Without their respective inputs, and ideas, this process and report would not have been possible.

First, we would like to thank the panellists, Commissioner Dr. Danny Titus, who chaired the investigative hearing, Commissioner Mohamed Shafie Ameerma, Dr. Leon Wessels, and Ms. Jabulisile Dhlamini. Their strategic guidance allowed for productive participation during the hearing, provided solid recommendations and assisted in the finalisation of the report.

Secondly, we would like to acknowledge the robust participation of the respondents, who took time to share their experiences and expertise in safety and security challenges in farming communities.

We would also like to thank the Commissions then Chief Operations Officer, Ms. Lindiwe Khumalo, and her team for the conceptualisation of the concept note that lead to the organisation of the hearing, and, Head of Legal Services, Mr. Pandelis Gregoriou and Senior Legal Officer, Ms. Thandiwe Matthews, for legal guidance during the hearing and assisting in the finalisation of the report.

Additionally, we would like to thank Ms. Gabriella Coutinho who authored the report. Lastly, we would like to thank Ms. Sizakele Ntoyi and Ms. Mpho Tsoku for their work in the administration of the hearing.

LIST OF ACRONYMS AND ABBREVIATIONS

ADR	Alternative Dispute Resolution
AFASA	African Farmers Association of South Africa
AGRISA	Agri South Africa
ANC	African National Congress
ARC	Agricultural Research Council
CEO	Chief Executive Officer
CIAC	Crime Information Analysis Centre
COO	Chief Operations Officer
CPF	Community Police Forum
CPO	Court Preparation Officer
CSF	Community Safety Forums
DoJCD	Department of Justice and Constitutional Development
DoRDLR	Department of Rural Development and Land Reform
FAWU	Food Allied Workers Union
FF+	Freedom Front Plus
ISS	Institute for Security Studies
JCPS Cluster Priority Committee	Justice, Crime Prevention and Security Cluster Priority Committee
JOINTS	Joint Operational and Intelligence Structure
NAFU	National African Farmers Union
NCCS	National Crime Combating Strategy
NGO	Non-governmental organisation
NOCOC	National Operational Coordinating Committee
NPA	National Prosecuting Authority
MTSF	Medium Term Strategic Framework
PSIRA	Private Security Industry Regulation Authority
PRVG	Promotion of the Rights of Vulnerable Groups
RPP	Rural Protection Programme
RPS	Rural Policing Strategy
RSS	Rural Safety Strategy
SACCI	South African Chamber of Commerce and Industry
SAHRC	South African Human Rights Commission
SAIJE	South African Institute for Judicial Education
SAPS	South African Police Service
TAUSA	Transvaal Agricultural Union of South Africa
UN	United Nations

FOREWORD

The SAHRC has been involved in the matter of farm safety on two previous occasions. However, it became clear that this phenomenon is still continuing unabated where farmers, farm workers and community life on farms are crudely disrupted by murders and attacks. At this third involvement of the SAHRC a numbers of witnesses appeared and testified at the public hearing. The quality of the evidence presented by all witnesses was of a high standard and the Commission expresses its appreciation for the objectivity and clarity with which witnesses expressed themselves.

To the SAHRC this is clearly a matter of human rights and the rights of farmers, farm workers and the farming community in general. Our Constitution is quite clear that South Africa belongs to all who live in it, united in our diversity. When it comes to the Bill of Rights of our Constitution it is equally as clear as it provides that:

“7. Rights.-

(1) This Bill of Rights is a cornerstone of democracy in South Africa. It enshrines the rights of all people in our country and affirms the democratic values of human dignity, equality and freedom.

(2) The state must respect, protect, promote and fulfil the rights in the Bill of Rights.”

The rights that we are concerned with at this public hearing are the fundamental human right to life and the fundamental human right to food. When we observe the brutality of the killings on farms then it is clear that there is no respect for the life of individuals that the right to life means very little and that perpetrators are operating with impunity. The criminal justice system in our country does not seem to provide any deterrent. When we observe the value of agriculture in our social and economic environment then the killings and attacks on farms do not recognize or acknowledge the crucial role of agriculture to our country. Instead evidence presented indicated how farms are perceived as soft targets where easy money can be obtained with relative ease.

South African society needs to turn this untenable situation around, not only on farms but in society in general. Respect for the Constitution, respect for the right to life, respecting the integral nature of agriculture, farmers and farm workers to our own life cycles need to return. The range of stakeholders that testified also underlined their commitment as state departments, organised agriculture, organised labour and victims in particular to turn this ship around. The SAHRC deems it a privilege and an honour to work with all South Africans to provide restoration of this grave violation of fundamental human rights.



Commissioner Dr. Danny Titus
South African Human Rights Commission

EXECUTIVE SUMMARY

After continuing to receive multiple complaints on human rights abuses in the farming communities, the South African Human Rights Commission (SAHRC) established a national investigative hearing into *Safety and Security Challenges in Farming Communities*. The public hearings were hosted in September and October 2014, with the final report published in August 2015.

Respondents varied from government departments, farming interest groups, and unions. From the submissions, the following challenges were highlighted:

- Continued issues with the policing of farming communities;
- Contention with the terminology used to describe acts of violence on farms;
- Farm owners feel that government and the police should be keeping statistics on the prevalence of 'farm attacks and/or murders'
- Farm owners feel that 'farm attacks and/or murders' should be made a priority crime by the police.
- Unacceptable high levels of violence and crime experienced by the farming community;
- Limited access of government services and adequate housing in farming communities;
- A lack of confidence in the ability of the legal system to address the extreme level of violence in farming communities; and
- The vulnerability and interdependency of the farming community.

The main recommendations stemming from the hearing focused on a need for a holistic solution to safety and security in farming communities. Some of the recommendations³ from this report are:

- The SAPS and the NPA step up their involvement in combating the crimes against farming communities.
- Particular attention is given to race relations in farming communities at the respective dialogues that are proposed.
- The stereotypes on farming in South Africa are addressed in the overall awareness raising.
- Research on safety and security challenges are important and should continue.
- The Department of Rural Development and Land Reform establish the standard, in the form of a policy document.
- The Department of Justice and Constitutional Development need to focus on farming communities, and how justice is achieved. This includes the classification of the farming community as a vulnerable group. A need for more detail explanation of the court processes and how the farming community understands it, needs to be done. Additionally, an evaluation of the victims Charter needs to be conducted.
- The police service needs to focus on developing additional policies to ensure that the Rural Safety Strategy is implemented successfully. The creation of an Agricultural Forum, with cooperation between all role players and stakeholders is needed to provide a platform for the farming community to discuss how to better police their lands.

³ A full list of recommendations can be found under Section 9.2.

- Farm Watchers should be incorporated into the Community Policing Forum.
- Farm owners need to allow government services access to their land more frequently.
- An evaluation of the programme to empower traditional leaders on safety and security in farming communities is needed.
- A special sub-committee be established by the JCPS Cluster Priority Committee to develop an action plan to address the issues raised, to engage with the community and also to monitor and evaluate the related activities of the departments.
- The SAIJE needs to provide sufficient detail as to how the court processes are attend to, the improvement of the judicial system, and in particular addressing impunity in farming communities.



1. INTRODUCTION

As expressed in the quote earlier by the first President of the democratic South Africa, the late Mr. Nelson Mandela, safety and stability within our farming communities is crucial in providing the country with food and economic stability, jobs, and in the alleviation of poverty⁴. South Africa has a history of political and/or racial violence, and thus answering questions on the motive for violence on farms is often difficult. Mr. Nelson Mandela went on to state that:

“The government deploras the cold blooded killings that have been taking place on the farms in the past few years. While killings on farms like crime in general, have been a feature of South African life in general, the incidents of murder and assault in farming areas have increased dramatically in recent years.”

The achievement of human rights for all in farming communities is paramount, as the constituent elements of farming communities are not only interdependent on each other but also responsible for the food security of South Africa. In light of this, on the 15th and 16th of September 2014, and the 6th of October 2014, the South African Human Rights Commission (hereinafter referred to as “the Commission” or “the SAHRC”) conducted a national investigative hearing into safety and security challenges in farming communities. The hearing provided an opportunity to farm owners, farm workers, violence on farms victims, civil society organisations, unions, government departments, and experts to voice their concerns surrounding the issue of safety and security in farming communities at a public platform.

The benefit of hosting this public hearing has been twofold. Firstly, the format of a public hearing allowed the Commission to deal with the multiple complaints, in one sitting. Secondly, the public hearing organised under the Commission’s legislative mandate, notably inquisitorial as opposed to accusatorial or adversarial, allowed for the submission of a wide range of information that was shared with the Commission, thus allowing the Commission to further identify and understand the challenges that inhibit the realization of rights.

Human rights violations in farming communities, which impact on the food security of the nation, appear to be an ongoing issue. This is evident from the fact that the 2014 hearing was the third time the Commission undertook to investigate human rights violations in farming communities. The previous two hearings into human rights violations in farming communities were broader in nature. Due to the Commission’s previous recommendations not being implemented to their full extent, and that the safety and security challenges facing farming communities are ongoing, the Commission constituted this third farm hearing. Briefly speaking, the current hearing focused on considering the extent of the implementation of the Commission’s recommendations in the previous two farm hearings, accumulating relevant statistics showing the incident of violent crimes in farming communities, recommending further actions that the State, and other role players, should implement to reduce crime which affects farming communities.

The current hearing thus limited its focus to the challenges regarding safety and security in farming communities in particular. However, this is not to say that other crucial human rights concerns contextualised in farming communities and/or rural areas will not be investigated by the Commission at a later stage. In fact, more recently, in 2014, the Commission conducted a hearing into the Monitoring and Investigating the Systemic Challenges Affecting the Land Restitution Process in South Africa.

⁴ Available at http://www.mandela.gov.za/mandela_speeches/1998/981010_safety.htm; and Reducing poverty and hunger: The critical role of financing food, agriculture and rural development. Available at <http://www.ifad.org/events/monterrey/e/jointe.pdf>

The Commission therefore recognises that issues pertaining to farming communities are nuanced and complex, and should always be approached from a holistic manner, in order for solutions to be implementable and the realisation of rights achieved.

During the three days of hearings, various challenges facing the farming community were presented to the Commission by a wide variety of respondent stakeholders, including representatives from the State, civil society and business community. The presentations by the respondents were discussed extensively with the view of making recommendations. As per the prescribed procedures of the Commission, and in accordance with the South African Human Rights Commission Act, 40 of 2013 (hereinafter referred to as “the SAHRC Act”), the Commission has compiled this report, which encompasses the procedures of the hearing, a summary of all the submissions made by respondents, an analysis of the submissions made, and recommendations to assist in identifying factors that lead to the continuation of violations. The Commission recognises that the issues affecting safety and security in farming communities are broad and need continuous evaluation.

2. BACKGROUND

In 2003, the Commission released the report titled an “Inquiry into Human Rights Violations in Farming Communities” (hereinafter referred to as the “2003 report”). In terms of the 2003 report, which detailed research and information gathered over a two year period commencing in 2001, special focus was drawn to land, labour, safety and security, and economic and social rights⁵. The 2003 report was extensive, detailing information gathered in national and provincial hearings, which culminated in the production of the final report. The 2003 report outlined that after the Commission visited farming communities in 2001 during Human Rights Week, and after extensive consultation and an analysis of the numerous complaints received from people living and working in farming communities, including farm owners, that a public hearing was to be conducted. These complaints concerned forced evictions, lack of social services, lack of access to education and health care, lack of social security grants, and the safety and security of people working on and owning farms. The 2003 report thus aimed at reflecting on the broad trends and the underlying causes of human rights abuses that occur within farming communities⁶.

Notably, the aim of the inquiry was to address the needs of the people who were in the view of the Commission, yet to benefit from the Constitution of the Republic of South Africa, 1996 (hereinafter referred to as the “Constitution”). Moreover, it was not the purpose of the 2003 Report to apportion any guilt or blame to any party, but rather it aimed to understand how human rights have been advanced since the advent of the Constitution, and the obstacles and challenges that may lead to the non-realisation of human rights. Moreover, it aimed to understand whether these challenges related to policy or the implementation thereof⁷.

Briefly, the 2003 report found that all forms of violence and crime perpetrated against members of the communities constitute human rights violations that should be abhorred and condemned; levels of violent crime continue to escalate against both farm dwellers and farm owners and are unacceptable; the culture of violence in farming communities operate in an environment of criminal impunity; levels of service delivery of the SAPS were poor and ineffective, and that as a consequence, criminal acts were under reported; and that there was a lack of agreement amongst stakeholders as to the root causes leading to violence in farming communities⁸.

5 South African Human Rights Commission, Final Report on the Inquiry into Human rights Violations in Farming Communities. 2003.

6 South African Human Rights Commission, Final Report on the Inquiry into Human rights Violations in Farming Communities. 2003.

7 Ibid

8 Ibid

Among the recommendations made by the Commission in the 2003 report, the SAPS was to hold a summit under the auspices of the Farming Community Forum in order to take measures to address the expectations and perception of the SAPS in rural areas. In addition, it was also recommended that the SAPS take further initiative with respect to the Rural Protection Programme (hereinafter referred to as “RPP”); that proactive and practical policing strategies needed to be developed, which would in turn lead to the SAPS creating greater accountability and responsiveness to handle community complaints; the SAPS should engage with civil society to determine the root causes of violence within farming communities; that there was a need for awareness initiatives to be conducted to ensure that victims are adequately informed of court processes and adequately informed of progress of their case; and that the Private Security Industry Regulation Authority (hereinafter referred to as “PSIRA”) should ensure that all arrests and detentions of persons are done within the confines of the Constitution⁹.

Following on from the 2003 report, a second investigative hearing was convened by the Commission. The investigative hearing into “Progress made in terms of Land Tenure Security, Safety and Labour Relations in Farming Communities since 2003” (hereinafter referred to as the “2008 report”) was established to analyse whether there was any progress made since the publication of the 2003 report , and if so, to what extent¹⁰. The 2008 report focused on land tenure security, safety and labour relations in farming communities.

The 2008 report also made more targeted findings, which included, *inter alia*, that the underlying cause of ‘farm attacks’ was predominantly attributed to criminal motive; the use of the nomenclature of “farm killings” was stereotypical and divisive in that it served to suggest that farm owners who were victims of crime were more important; and that it did not include many of the other forms of violence (e.g. violence against women, domestic violence, abuse and assault of women and children) that were prevalent in farming communities¹¹.

Recommendations made by the Commission in the 2008 farm report included, *inter alia*, that it was necessary for a nationwide discussion to be carried out between the state and civil society to agree on the true underlying causes of “farm attacks” in order for effective strategies to be developed to address these causes; that the RPP should remove all reference to “farm attacks” or “farm killings” from its text as this nomenclature served to create a perceived hierarchy of crimes that was racially defined in terms of who the victim was; that the RPP should address all forms of crime, including domestic violence, violence against women and children, farm dweller attacks on farm owners; farm owner attack on farm dwellers; that the RPP should address all forms of crime; and more importantly, that the recommendations of the Commission should receive the highest possible support from the State, and the implementation of the recommendations should be based in the Office of the State President¹².

Despite the previous two hearings pertaining to human rights in farming communities, the Commission continued to receive complaints about human rights violations in these communities. These complaints stemmed from organisations such as AfriForum and official complaints lodged by farm workers at the Commission’s Western Cape Provincial Office. With these complaints, in conjunction with consistent media reporting and other anecdotal accounts, the Commission noted that safety and human rights protection in farming communities still remains a significant challenge.

9 Ibid
10 South African Human Rights Commission, Progress made in terms of Land Tenure Security, Safety and Labour Relations in Farming Communities, 2007.
11 Ibid
12 Ibid

In April of 2013, AfriForum requested a meeting with the Chairperson of the Commission, Advocate Mbedle Lourence Mushwana. AfriForum is a civil rights organisation with a strong Afrikaner membership, but does claim to include a diverse demographic membership. The meeting request was granted, and was held on the 6th of May 2013. The Commission was represented by Commissioner Dr. Danny Titus and Ms. Lindiwe Khumalo, the Commission's then Chief Operating Officer (hereinafter referred to as "COO").

During the aforementioned meeting, key issues of concern for the AfriForum leadership included:

- a) The apparent increase of farm owner murders and the violent nature of these killings; in addition, the impact that these killings have on the capacity of the farming community, economy and food security of South Africa;
- b) Although AfriForum accepts that many of these murders and attacks are motivated by a criminal element, nevertheless, certain private investigations conducted by AfriForum show that a disproportionate amount of the farm murders and attacks are hate or racially motivated;
- c) Without success, AfriForum had in the past attempted to discuss its concerns with the SAPS with the hope of increasing police presence in farming communities. Furthermore, the efficiency of SAPS in the police investigation process, state prosecutorial processes and judicial outcomes needed to be improved;
- d) The lack of farm attacks and killings as a priority crime by government and the SAPS; and
- e) A lack of government and political condemnations of the murders and attacks in the farming community.

In concluding the meeting between AfriForum and Commission, AfriForum mentioned that:

- a) AfriForum approached the Commission in an attempt to seek redress and as a platform to investigate the issues and causes of escalating incidents of farm murders and attacks. In addition, there appeared a need for an exploration of available strategies and plans to improve the effectiveness of rural safety plans and overall sector policing.
- b) It had become a matter of urgency that the Commission convenes a public hearing into the matter. The hearing should include an expansive range of stakeholders that will be able to develop a sophisticated response to violence in farming communities.
- c) By the end of May 2013, AfriForum would submit a portfolio of evidence that would encompass numerous complaints from AfriForum members regarding farm murders and farm attacks, additional documentation, and research studies.

Taking into account the concerns raised by AfriForum, in conjunction with the additional complaints received, the Commission recognised that the current concerns pertaining to farm attacks and/or murders, as well as the lack of faith in the criminal justice system are issues that concern both farm owners and farm works. The Commission resolved to address the complaints stemming from AfriForum in the form of a public hearing, as opposed to the Commission receiving numerous separate complaints. Furthermore, the Commission resolved that the matter would be addressed in a more holistic manner, noting that human rights violations do not occur in isolation from the context in which they arise, and that all parties and stakeholders must be afforded the opportunity to speak at the 2014 farm hearing.



3. SUMMARY OF PROCEEDINGS

Acting in terms of its enabling legislation, the Commission undertook to conduct a national investigative hearing into the safety and security challenges in farming communities. The hearing was inquisitorial with the purpose of informing research and to educate, with an emphasis on gathering information for it to effectively make recommendations.

The Commission requested that submissions be made by farm owners, farm workers, and victims of violence on farms, civil society organisations, unions, government departments, the SAPS, and experts. The hearing aimed to explore the challenges relating to safety and security in farming communities and the perceptions of the causes of crime, which included crime experienced by farm owners and farm workers, regardless of race. It also aimed to explore the impact of safety and security instability in farming communities, which leaves damaging effects for rural development. The Commission also requested that respondents identify possible strategies that could improve rural safety and sector policing, particularly in rural areas. Lastly, questions regarding the SAPS ability to provide effective service delivery were put to the respondents.

The Commission identified broad themes and put questions to the respondents to answer thereto, which were set out in the letter of invitation to attend the hearing. These included, but were not limited to the following questions:

- 1) Experience – What is your experience with violence and human rights violations committed against farm owners and workers?
- 2) Motive for violence in farming communities – Do you think that ‘farm attacks and/or murders’ are committed for criminal reasons, or do you think it is based on hate and/or race?
- 3) Impact of instability in farming communities – What is the impact of ‘farm murders and/or attacks’ on the farming community, economy, and food security in the country and globally? Can you please give a brief outline of farming in South Africa? Can you please identify the overall status of food security in South Africa?
- 4) Human rights violations of farm workers – Do you have any experience relating to brutality towards farm workers, living conditions, and labour practices (including child labour) on farms? Are there any policies to protect farm workers from crime? Do farm workers have access to safe working conditions? Do farm workers have access to unions, the criminal justice system, social grants, education, and adequate health care and housing?
- 5) Role of the PSIRA – Do private security firms adhere to constitutional principles in effecting their mandate? What is the relationship between the PSIRA and the SAPS?
- 6) The SAPS - has the service delivery experienced from the SAPS improved since the 2008 Report? What is the role between the Community Policing Forum (hereinafter referred to as “CPF”) and the SAPS?
- 7) Strategies to improve conditions – Can you provide strategies to improve the effectiveness of rural safety plans and overall sector policing? What steps have you taken to ensure that victims are adequately informed of court process and adequately informed of progress of their case? What strategies could be implemented to improve effectiveness of the judicial system and to end impunity in farming communities? Can the SAPS provide comment on the planned summit under the auspices of the farming community? Are state departments involved with civil organisations in attempting to find a solution? Are there any current awareness campaigns for victims of crime?

The panel received formal submissions and heard oral testimonies from:

- AfriForum
- The Department of Rural Development and Land Reform (hereinafter referred to as “DoRDLR”)
- The Department of Justice and Constitutional Development (hereinafter referred to as “DoJCD”)¹³
- The Gauteng Provincial Community Police Board, PSIRA;
- The National Development Agency (hereinafter referred to as “NDA”)
- Dr. Chris de Kock
- AGRI South Africa (hereinafter referred to as “AGRISA”)
- The National African Farmers Union of South Africa (hereinafter referred to as “NAFU”)
- The Transvaal Agricultural Union of South Africa (hereinafter referred to as “TAUSA”)
- The Agricultural Research Council (hereinafter referred to as “ARC”)
- Dr. Johan Burger
- The SAPS
- The Food and Allied Workers Union (hereinafter referred to as “FAWU”)
- The African Farmers Association of South Africa (hereinafter referred to as “AFASA”)
- The Freedom Front Plus (hereinafter referred to as “FF+”)

The panel aimed to understand the safety and security challenges in farming communities in particular, and where appropriate, make recommendations. This investigation allowed for panel members to ask for updates in the implementation of the recommendations made in the Commission’s 2003 and 2008 Reports, as well as current suggestions for improving farm safety and security. The purpose of the hearing was to research and educate on this crucial human rights concern.

4. MANDATE OF THE COMMISSION

The Commission is a Chapter 9 institution. The Commission is established in terms of section 181 of the Constitution and is described as “state institutions supporting constitutional democracy”. In terms of section 184 (1) of the Constitution is mandated to:

- a) To promote respect for human rights and a culture of human rights;
- b) To promote the protection, development and attainment of human rights; and
- c) To monitor and assess the observance of human rights in the republic.

¹³ Since the 2014 South African Elections, the Ministry of Justice and Constitutional Development merged with the Ministry of Correctional Services. As the SAHRC is informed, when referring to the Ministers office, all correspondence should refer to the (Deputy) Minister of Justice and Correctional Services, but when referring to the Department under the Minister it is either the Department of Justice and Constitutional Development or the Department of Correctional Services.

The Commission has the power to:

- a) Investigate and report on the observance of human rights;
- b) Take steps to secure appropriate redress where human rights have been violated;
- c) Carry out research; and
- d) Educate.

The mandate and responsibilities of the Commission are further extended through the SAHRC Act; Section 15 of the SAHCR Act prescribes the rules and procedures for conducting an investigative hearing.

The Commission's Complaint's Handling Procedure further articulates the internal processes to be followed for the Commission prescribes to carry out its constitutional and statutory mandate. According to article 21, in resolving a complaint, the Commission is entitled, *inter alia*, to conduct hearings. This may be done:

- i. if a complaint cannot be resolved by way of conciliation, negotiation or mediation;
- ii. if a hearing will offer an appropriate solution regarding the complaint;
- iii. if it is in the public interest;
- iv. if the complaint cannot be fairly decided on the basis of documentary evidence or written statements submitted by the parties or any other person having information relevant to the complaint only; or
- v. if a party requesting a hearing supplies reasonable grounds.

5. LEGAL FRAMEWORK OF RURAL SAFETY AND SECURITY IN SOUTH AFRICA

5.1. The Bill of Rights

The South African Bill of Rights enshrines the rights of all people in South Africa and affirms the democratic values of human dignity, equality and freedom¹⁴. Section 12 (1) (c) of the Bill of Rights states that every person in South Africa has the right "to be free from all forms of violence from either public or private sources". The section is equally applicable to people residing in urban, peri-urban and rural areas. The SAPS is mandated under the Constitution to protect and ensure the safety of all persons within the Republic of South Africa.

Farming communities are vulnerable to violence because of their isolated residence, and consequently, as heard during the submissions, their lack of access to effective and timeous service delivery, particularly relating to safety and security. The realisation of human rights in farming communities, including the right to safety and security is of concern to the Commission. The apparent lack thereof was thus a significant contributing factor to the consideration for the current hearing.

¹⁴ Bill of Rights of the Constitution of the Republic of South Africa. (1996). Government Gazette. (No. 17678).

Although not of direct relevance to the current hearing, due to the interconnectedness of human rights, rights such as the right to life and food security are also applicable. The impact of security challenges in farming communities' results in people not being able to enjoy the freedoms entrenched in the Constitution.

5.2. The SAPS constitutional mandate

Currently in South Africa, only the SAPS have the constitutional mandate to protect all persons within the Republic and to investigate crime. The preamble of the South African Police Service Act, 68 of 1995 (hereinafter referred to as "the SAPS Act") states the following:

"Whereas the Constitution of the Republic of South Africa, 1996, requires national legislation to provide for the establishment, powers and functions of the South African Police Services to function in accordance with national policy and the directions of the Cabinet member responsible for policing:

Whereas there is a need to provide a police service throughout the national territory to-

- a) ensure the safety and security of all persons and property in the national territory;*
- b) uphold and safeguard the fundamental rights of every person as guaranteed by Chapter 3 of the Constitution;*
- c) ensure co-operation between the service and the communities it serves in the combating of crime;*
- d) reflect respect for victims of crime and an understanding of their needs; and*
- e) ensure effective civilian supervision over the Service*

And whereas there is a need to provide for a directorate in the Service that is dedicated to the prevention, investigation and combatting of national priority offences, in particular serious organised and transnational crime, serious commercial crime and serious corruption, and that enjoys adequate independence to enable it to perform its functions"¹⁵.

Since 1994, two major policies on rural safety have been implemented by the SAPS. In October of 1997, the SAPS implemented the RPP. While the RPP could have been successful, it was primarily structured around the commando systems, which were disbanded in 2003. The RPP was structured around two guiding principles; namely, area bound reaction services and home-and hearth protection forces¹⁶.

In 2011, the SAPS launched the Rural Safety Strategy (hereinafter referred to as "RSS")¹⁷. The main aims of the RSS are to:

- Respond to the needs of rural communities to support food security and economic development;
- Strengthen relationship building within the rural community; and

¹⁵ Preamble amended by s.20 of Act 10 of 2012.

¹⁶ Martin Schönreich & Johnny Steinberg, Attacks on farms and smallholdings: an evaluation of the Rural protection Plan. 2000.

¹⁷ The South African Police Service, Rural Safety Strategy. 2011.



- Encourage all stakeholders in rural safety to work together in a coordinated and integrated manner and engage in joint planning, implementation, monitoring, development, and evaluation to combat crime in rural areas as determined by the National Crime Combating Strategy (hereinafter referred to as “NCCS”).

The RSS is built upon four guiding pillars, namely, enhanced service delivery, integrated approach, community safety awareness, and rural development¹⁸. Within the RSS there is an integrated approach to policing in all rural areas, and not a specific plan for policing in farming communities nor an indication of the need to prioritise “attacks and farm murders” against farm owners and workers. Rather term “acts of violence against person/s on farms and small holdings” is used. This term encompasses all violent activity perpetuated against all persons on farms and small holdings, excluding interpersonal violence such as domestic violence, liquor abuse, or crimes resulting from common place societal interact between persons.

6. PROCEDURES OF THE SAHRC HEARING

The following subsections outline the composition of the hearing panel, the terms of reference, and the nature and structure of the proceedings.

6.1. Composition of the panel

The hearing panel consisted of the following members:

- **Commissioner Dr. Danny Titus** – Responsible for the Human Rights in Law Enforcement and the Prevention of Torture Portfolio at the SAHRC: Chairperson
- **Commissioner Mohamed Shafie Ameermia** – Responsible for the Right to Adequate Housing and Access to Justice Portfolio at the SAHRC: Panellist
- **Dr. Leon Wessels** – Former Commissioner at the SAHRC: Panellist
- **Ms. Jabulisile Dhlamini** – Assistant Director, City of Johannesburg Public Safety Department: Panellist

6.2. Terms of reference

The terms of reference for the hearing were as follows:

- a) To consider the recommendations made in the Commission’s 2003 and 2008 Reports regarding the safety and security of persons living in farming communities;
- b) To call for reports from relevant state departments reflecting comparative year on year statistics showing either an escalation or decline of incidences of violent crimes occurring in farming communities;
- c) To call for reports from relevant state departments on the measures taken since 2008 to implement the Commission’s recommendations; and
- d) To recommend further specific, measurable and time-bound measures for the State to implement to reduce the incidences of violent crimes and increase the reporting of same, in farming communities.

¹⁸ Challenges with the RSS are further documented section 7.13.

6.3. Nature and structure of the proceedings

As described, the proceedings were inquisitorial in nature. Respondents were obligated to make written and oral submissions. Before the respondents could make their submissions to the Commission, they were formally placed on record, by either taking the prescribed oath or affirming that their submissions were true and binding on their conscience. The submissions made by the respondents were in response to the questions posed in their respective invitations. After hearing the oral submissions, the panellists had the opportunity to ask further questions of clarity pertaining to the submissions. On the 17 October 2014, further follow up letters were sent to the identified respondents, who had until the 31 October 2014 to provide written feedback. The Commission received the final follow-up written submission on the 14 November 2014. However, not all of the respondents submitted their respective submissions, despite being asked to submit further information. The respondents that did not provide follow up written submissions were the PSIRA, NDA, DoRDLR, and NAFU.

7. SUBMISSIONS FROM THE RESPONDENTS

The following section outlines the respondents' submissions received by the Commission and discussions held during the hearing process. Oral and written submissions were received by the Commission. The submissions detailed below do not reflect the views of the Commission or of the panel appointed in this matter. The Commission decided which of the relevant sections from the respondents' submission to include in the report.

7.1. The Department of Justice and Constitutional Development

The information below was provided in a written follow up submission after the initial oral submission. Parts of the relevant oral discussion are captured thereafter.

- **What steps does the Department take to ensure that victims are adequately informed of court processes and progress of their cases?**
 - The DoJCD's Programme on the Promotion of the Rights of Vulnerable Groups (hereinafter referred to as "PRVG") currently applies and implements the Victims Charter in matters relating to victims of domestic violence, sexual offences and the abuse of older persons. The PRVG at present does not deal with victims of crimes falling outside of the above scope and mandate of the DoJCD. To the extent that members of farming communities may be victims of crime, they will be covered by the Victims Charter. However, the DoJCD, through its PRVG, does not currently implement the Victims Charter with a specific focus on farming communities.
 - From the National Prosecuting Authority (hereinafter referred to as "NPA") perspective, safety in farming communities is particularly difficult to address and requires significant participation by the community, both from a safety perspective as well as an awareness perspective. Where communities are alert, there is an awareness of strangers in the community and significant social cohesion, the likelihood of attacks on farm owners and farm workers is reduced.
 - Community Safety Forums (hereinafter referred to as "CSF") are important components in the strategy of making sure that there is such cohesion. The police and the criminal justice system cannot bear the burden alone. The crime rate in farming communities is significantly lower than in urban communities.

- The investigating officers are the first point of contact between complainants and victims. The SAPS have an electronic notification system which provides the official SAPS reference numbers to complainants and victims. As part of the Medium Term Strategic Framework (hereinafter referred to as “MTSF”), SAPS have undertaken to expand on this to provide computer-generated investigation progress reports to complainants and victims of crime. This is to be developed by the end of 2015/16.
 - The release of the accused on bail can be opposed if there is evidence that there is some risk to the complainant/s or victim/s. In this regard the investigating officer remains the first point of contact for the complainant/s and/or victim/s and where there is a formal bail application, and provides testimony of the risks.
 - Prosecutors direct investigating officers to subpoena witnesses only when the matter is ready for trial. Attendance of court by complainants/victims at any other time is at the individual’s own discretion and is not a requirement. The Court Preparation Officer (hereinafter referred to as “CPO”) assists the victim in preparing to appear before the court.
- **What steps have been taken to address unlawful evictions in farming communities?**
 - The issue of evictions in farming communities falls more squarely within the mandate of the DoJCD.
 - It was recommended that a special Justice, Crime Prevention and Security JCPS Cluster Priority Committee (herein after referred to as the “JCPS Cluster Priority Committee”) be established to develop an action plan to address the issues raised, to engage with the community and also to monitor and evaluate the related activities of the departments.
- **What strategies could be implemented to improve the effectiveness of the judicial system and to end impunity in farming communities?**
 - South African Institute for Judicial Education (hereinafter referred to as “SAIJE”), established in order to promote the independence, impartiality, dignity, accessibility and effectiveness of the courts by providing judicial education for judicial officers, provided contextualised training to Magistrates in the Boland area on the *Extension of Security of Tenure Act, 62 of 1997* (herein after referred to as the “ESTA”).
 - On-going and sustained human rights awareness campaigns are taking place.
- **How has the Victims Charter been implemented?**
 - Currently, the DoJCD does not have a component that implements Victims Charter to all victims of crime. To the extent that members of farming communities may be victims of crime, they are covered by the Victims Charter. They do not currently implement the Victims Charter with a specific focus on farming communities.

Interaction with the panel

The respondent stated that the situation regarding the progressive realisation of rights is still challenging both in peri-urban and rural areas, where there can be many forms of discrimination. Only a small minority of rural persons receive human rights education.

Further, the panel enquired about the link between social development and justice. The response provided was that the link is currently minimal. With respect to whether it is known why there appears to be a lack of performance in relation to farming communities; the concern raised regarding crimes committed against the farming community; and the apparent lack of training of police officers and court officials having never been trained on the Victims Charter were highlighted by the DoJCD. The panel raised the concern as to whether there is any sense of urgency in addressing the issues under review. The respondent explained that there are pilot projects currently being implemented that can possibly be used as a mechanism throughout South Africa.

Lastly, a panellist spoke on the experiences of a previous witness, who was attacked on her farm, and the consequent negative experience received from the court. The panel therefore enquired about the response to the Victim's Charter of the past 20 years. The respondent stated that magistrates and judges are being trained on the victims and service charter.

Evaluation of the submission

The Commission appreciates the response from the DoJCD. However, after evaluating the written submission, the Commission is concerned about the implementation of the Victim's Charter and the Service Charter. It is apparent from numerous respondents' submissions that the DoJCD is not fulfilling its role towards the farming community. This includes the alleged lack of information sharing towards the victim and their families, in addition to the non-dissemination of information regarding trial dates, court procedures, and witness preparation.

The Commission notes that the response from the DoJCD in response to the questions were lacking in certain areas. For example, the SAHRC notes that DoJCD should incorporate more concretely the farming community. Additionally, the SAHRC notes that the NPA should be more sensitive to farming communities in particular. The NPA needs to have basic knowledge of the farming communities' circumstances and more particularly, the responsibility of the NPA within the criminal justice system.

It is further evaluated that the DoJCD has stated that it cannot bear the burden of forming cohesion in the farming community alone. The Commission would have preferred to hear how the DoJCD cannot bear this burden alone, and its strategy for the future. The Commission notes that the DoJCD has indicated that it interacts with the SAPS in the prosecution of crime in farming communities as well as awareness raising projects. The Commission further notes that the DoJCD and NPA does not seem aware that with the farming community, a need for an explanation on where bail is necessary needs to be discussed with the community. A need for a more specialised focus on the farming communities' situation is needed.

The Commission further notes that in regards to the DoJCD relationship with SAIJE is lacking and does not provide sufficient information. A greater need for the DoJCD and SAIJE to detail the process set out, and the improvement of the judicial system and how it plans to be addressed the impunity in farming communities needs to be addressed.

7.2. The Department of Rural Development and Land Reform

The submission from the DoRDLR was conducted orally with no formal presentation. No written submission was presented to the Commission afterwards as was requested.

Interaction with the panel

The DoRDLR works mainly with policy and legislation relating to commercial farming. Current statistics show that there are approximately 2.4 million people residing on farms. Due to the nature of the DoRDLR, the focus during the oral submission was on land tenure, but questions were answered on safety and security challenges in farming communities when posed by the panellists.

A commitment was made by the respondent that new legislation will be forthcoming in the next year, and this will lead to the development of a department that deals specifically with criminal cases. Currently, the DoRDLR does not have the mandate to investigate criminal cases within farming communities. The respondent alerted the panel to the fact that the DoRDLR belongs to the social and economic cluster as well as the justice cluster, and safety of farmers and workers is a consistent agenda item.

The role of farmers in providing the country with food security was raised by the panel. This was answered by stating that land owners have the right to safety and security of property and being, and that due to the discipline of farm owners and farm workers there is food security in South Africa, and to some certain extent other countries due to food imports.

The DoRDLR currently has in place an alternative dispute resolution (hereinafter referred to as "ADR") mechanism that is proving to be successful in mediating the talks between farm owners and farm workers. Currently the aforementioned ADR mechanism is used for any problem facing farming communities, but mainly focuses on issues concerning forced evictions and land tenure.

The DoRDLR focuses much of its resources on the plight of farm workers and associated violence. There needs to be a balance between farm owners, and their respective workers. The DoRDLR does not get involved in personal or cultural practices, but is only interested in the manner in which legislation is implemented, and the effects thereof on the farming community.

Evaluation of the submission

The panel welcomes the submission made by the DoRDLR. However, the panel notes with concern that the DoRDLR submission failed to speak adequately to the safety and security of the farming community. Additionally, the submission did not articulate how rural development and land reform have an impact on food security as well as the rights of the farming community. At the time of printing the report, the panel had not received any additional submissions, despite two requests for the department to do so.

7.3. The National Development Agency

No formal presentation was delivered; rather an oral submission was made. No written submission was submitted to the Commission afterwards either.

Interaction with the panel

The panel raised questions regarding the NDA's experience in dealing with attacks and murders on farms. The respondent responded by stating that happens in about one out of ten cases. Currently, a major concern of the NDA is land invasions and forced evictions.

Additionally a concern about the high dropout rate from school for children of farm workers was mentioned. The respondent made a recommendation that government services need easier access to schools, as well as a better school transportation method. Further, in farming communities, there appears to be more room for crime to ensue, and that is the cause of 'farm attacks and/or killings'.

Furthermore, farm workers are often the target of social exclusion. In Gauteng, for example, because it is a peri-urban setting, there is limited access to health care, education, and the farming terrains are challenging. Also, there is a high level of poverty in farming areas, which is often made worse by prevalent drug problems.

The NDA stated that a possible strategy to assist in the prevention of crime was for farm owners to allow government services access to land more frequently, and that by education and uplifting the community, a reduction in violence is anticipated. The strategies to reduce the violence in farming communities need to be multi-pronged, which include an improvement of the attitude towards human rights, based culture. Politically, there needs to be an encouragement of social cohesion.

Further identified was the fact that small scale black farmers are also the victims of stock theft, and this has a negative effect. There is the assumption that small scale farmers are making money, but this is often not the case, as small scale farmers only receive a once-off compensation from the NDA. There appears to be theft from one small scale farmer by another. The respondent stated that small scale farmers are also experiencing farm attacks, and there are allegations that the SAPS are not efficient in dealing with their cases. Moreover, there appears to be labour disputes between the small scale farmers on a similar basis as larger farm operations. The NDA focuses on labour cooperatives, but does not resolve labour disputes on farms.

Evaluation of the submission

The panel thanks the NDA for its submission. The NDAs submission focused largely on the broader context of socio economic rights and how it relates to farming communities, rather than specifically focusing on safety and security of the farming community alone. The perspective on small-scale farmers was quite useful in that they provided a context which was distinct from the stereotypical perception of farming communities. The lack of access to health, education, transport and experiences of poverty broadly, as evidenced in the submission are providing valuable insights to the process of the hearing. The Commission understands that the farming community is interconnected, and thus the challenges that need to be addressed, need to be done so holistically.

7.4. The Agricultural Research Council

The ARC is a public entity established in terms of the Agricultural Research Act, 86 of 1990, and is mandated to conduct research, information dissemination on agriculture, and to contribute to better quality of life, etc. Some of the values of the ARC are truth, accountability, growth, and trust. An oral presentation was made to the Commission, no written submission was provided.

Interaction with the panel

In answering one of the questions asked in the invitation letter, the respondent claimed that South Africa is currently ranked 40th out of 125 countries for food that is affordable and good in quality. Currently 12 million people are food insecure, as statistics from Statistics South Africa shows. The panel asked for clarity on this statement, and it was responded that food insecurity refers to certain percentage of the population are not eating enough to meet their daily requirements, for example, no meals before bed, or only one meal a day, which could also be inadequate.

Currently, South Africa produces in high volume meat, grains, fruit and wine, and that these items are exported as well. The challenge with South Africa is not just about individual food security, but also of malnutrition. This means that the food is not of a good enough standard, and does not meet daily requirements. This has a negative impact on children, resulting in poor memory, learning problems, amongst others. The ARC stated that this information has been published in numerous articles, stating that the first two years of childhood, food intake is important.

Further, South Africa is a free market system, meaning that anyone is able to buy anything on sale. This has implications for food purchasing, as there are inequalities in the income of individuals. There is also discrimination. The ARC mentioned that South Africa does produce enough food and that is why we are able to export. It is pointed out that a significant amount of agricultural production is lost by waste, post-harvest on farms, post-harvest handling and storage, processing, incorrect packaging, and a lack of consumption. Worrying, it is stated that some restaurants will throw away food, and some shops will throw away food that has not been bought recently.

Globally, about 20% of food in the market is wasted. The panel asked for clarity on the South African statics. Currently, there are no figures in South Africa, but similarities do exist.

The respondent added the following. In:

- 1993 there were 52 000 farming units producing 20 million tons of food;
- 2002 there were 42 000 farming unit producing 53 million tons of food; and
- 2007 there were 40 000 farming units producing 79 million tons of food.

Further emphasised was that 10 years ago, per hectare of maize, there would be six million tons produced, if the conditions were favourable. Recently, South Africa has the ability to produce about 10-13 tons per hectare. Productivity has increased, and the efficiency in farming can be attributed to increased technology, for example, seed technology.

In South Africa, the recent trend is that the number of employees is declining, but the actual income for the farming units has increased and market value of the products has increased. Since productivity has increased, it is very difficult to stipulate that if the number of farmers has decreased has affected productivity.

Further, the ARC does not currently have a survey that monitors the number of farmers, but that they are interested in that type of prospect. This is because the ARC needs to be aware of whom they deliver technology to. The ARC does have experimental farms in rural South Africa.

In this situation, they are like any other entity acted upon, including crime. Alarmingly, the ARC is currently spending R10 million each year on private security services. This is money that could be going to research. Furthermore, the ARC has farm workers who have experienced some discomforts in the rural farming communities. Also, the ARC cares about the minimum wage, and where possible, it provides living quarters.

The panel enquired about the cost of private security and if there are no police stations nearby or any CPFs. There many areas that the police and the ARC are currently engaged in, and especially during the holiday season. Some of the farming units have dogs, as this will keep away the criminals. The ARC is about one hundred (100) years old, and in 'those' days these institutions were in the rural areas, but now they are either in urban or peri-urban. Seed theft is a growing problem. Moreover, the ARC does work with local leaders and communities, but the priority is the safety of the farmers in the units.

The panel further enquired about research into safety and security on farms. Although the primary focus of the ARC is on science, they have been working with the Human Science Research Council (hereinafter referred to as "HSRC") on researching the issue. The ARC has broadened its focus to social economic research, and within this focus, there has been several studies, as from the ARC perspective, food security is paramount. The ARC will also focus on land reform models that focus on food security, and access to the market. The ARC needs investment that could enhance the quality and quantity of food; this will reduce the food price, and there is a further need to focus on a safe environment for farms.

The panel raised a question on the development of human capital by the ARC. This is responded with an explanation of the current three hundred postgraduate students, who are working towards to masters and/or PhD, and the ARC is providing them with research expertise. Additionally, there are farmers' workshops.

Further information was provided in terms of wasting food. Currently, there is a focus on the post handling of food (especially during packaging). There has been training provided to farmers on how to better handle food, sometime waste does happen, but the handling of food can minimize this. Furthermore, the ARC has a mechanism to redistribute food that is not wanted. In terms of the numbers of persons who are food insecure, we do not have South African numbers, but the figures provided are from the United Nations. A comprehensive food management system is needed.

The panel postulated that if farms are efficient does that mean they are safe as well. The ARC responded by stating that farms are efficient, and that just because the number of farms is reduced, does not mean production has decreased, it is the opposite. Additionally, the question about the motive for farm attacks is asked, and this is answered that the ARC does not conduct that type of research. Also, a question was asked about the impact of violence on farms. The ARC has had some concerns, and that they have been asked to express to the political arenas. Just to name some of the effects from this, recently the minister of agriculture expressed condemnation towards farm attacks and murders. The ARC is accountable to the Minister of Agriculture.

In addition, the panel enquired about the ARC potential strategies that can be implemented to secure farms. This was replied to, in that farmers and their workers have to work together to ensure successful agriculture. In working together they will produce an abundance of food that will lower food prices. It is known that by increasing production and productivity and access to food should lower the cost of food. This in turn will reduce the need to steal the food.

Evaluation of the submission

The panel is appreciative of the substantial information shared by the ARC. The Commission notes that food security is important to the ARC and that despite the decrease in farmers, there has been an increase in food production. Additionally, the panel acknowledges that the ARC does own farms where research is conducted, and that their farmers, workers and families based in the farming communities are too affected by crime, and theft in particular, and the further need for private security.

7.5. The Private Security Industry Regulatory Authority

The PSIRA objectives are to regulate the private security industry and to exercise effective control over the practice of the occupation of a security service provider in the public and national interest and in the interest of the private security industry itself¹⁹. An oral and written presentation was made to the Commission.

a) What is the relationship between the PSIRA and the SAPS

- The PSIRA and the SAPS both reports to the Minister of Police. All investigations into the PSIRA are conducted by the SAPS as the PSIRA does not have the mandate to conduct criminal investigations. However, joint investigations are done on occasion. PSIRA only thus only has the power of inspection.
- The licensing of firearms to a security company is done by the SAPS in consultation with the PSIRA. This includes the business competency, individual security competency, individual security officers, and only use of business provided firearms. The PSIRA is does not license firearms as that is mandated to the SAPS.

b) What are the possible strategies for effective crime combating of farm attacks?

- PSIRA made the following recommendations were made:
 - The RSS and sector policing needs to be implemented;
 - The communication of the same needs to be heard;
 - There needs to be safety education;
 - Effective training colleges;
 - Ongoing security training;
 - Further training on site will avoid limited general training;
 - PSIRA needs to ensure that compliance with the PSIRA Act is in both urban and rural areas; and
 - There also needs to be improved cooperation between PSIRA, SAPS, State departments and stakeholders.

¹⁹ <http://www.psira.co.za/psira/index.php/about-us/overview>

Interaction with the panel

A panellist requested to know why private security is often viewed as the preferred service provider over the SAPS. The respondent simply answered that some farms are in far removed areas, and the insecurity felt since the commando system was disbanded led to some farmers feeling that private security was the best option.

Another comment from the panel related to the perception that private security has more money than the SAPS. The respondent responded by stating this may be due to private security having approximately double the current staff component to that of the police. In addition, the industry generates billions of Rands.

Further mentioned by the respondent was the need for all private security companies to comply with the legislation, as well as the policies on humane treatment and the prevention of torture. The private security guards have the power of civilian arrest, and as such have to comply with the laws of South Africa.

Further mentioned was the need for the curriculum that trains private security guards to be adapted to include specialised focus areas. The redevelopment of the curriculum is occurring in 2015, and rural security is a proposed focus area for further study. The panel suggested that the curriculum be sent to the Commission, to ensure that human rights standards are adhered to.

Evaluation of the submission

The Commission welcomes the submission by the PSIRA. Although further information is required, the panel is appreciative of the evidence, specifically that relating to the interaction between the SAPS and the PSIRA. The panel is of the view that private security requires more training, especially in regards to the policies of the SAPS on rural safety.

7.6. The South African Police Service

The presentation focused on the progress made since the Commissions 2003 and 2008 farm hearings, as well as the questions posed. Additionally, a copy of the presentation was forwarded to the Commission for record purposes.

Discussions

SAPS actions in response to the Commission's previous recommendations

- During the State of the Nation Address in 2004, it was announced that the Commando System of the South African National Defence Force would be phased out.
- This required that the RPP had to be revisited to align it with structures within the South African Police Service.

Following completion of the phasing out of the Commando system during 2009, an assessment of the Rural Protection Plan was conducted jointly by all role players (SANDF, Agricultural Unions - NAFU, AGRI SA, TLU, Department of Agriculture and Land Affairs) to develop an operational policing strategy to ensure rural safety.

- The resulting new operational strategy was consulted with all internal and external role players and approved by the former Minister of Police and National Commissioner during a National Management Forum in 2011, for implementation from 2011 – 2014.

The SAPS provided a brief overview of the current aim of the RSS (annexure A), the principles of the RSS (annexure B), the strategy pillars of the RSS (annexure C), the operational approach to the RSS (annexure D), and the multi- disciplinary approach to rural safety (annexure E).

SAPS actions in response to recommendations are the following:

- Operational information about crimes affecting the rural and farming community is shared during the Rural Safety Priority Committee meetings in order to promote awareness. Information in general indicated a constant decrease in crimes on farms and small holdings since 2006.
- The definition of a “farm attack” was amended to be defined as acts of violence against person/s on farms and small holdings refer to acts aimed at person/s residing on, working on or visiting farms and small holdings, whether with the intent to murder, rape, rob or inflict bodily harm. In addition, all acts of violence against the infrastructure and property in the rural community aimed at disrupting legal farming activities as a commercial concern, whether the motive/s are related to ideology, land disputes, land issues, revenge, grievances, racist concerns or intimidation is included. The basis for the amendment was as an acknowledgement that attacks are not specifically directed against the residents of a farm but that it is mostly crime in the general sense.
- CPFs have been established at police stations, including stations in rural areas. The farming community, farmers and farm workers, participate in Community Policing Forums at station level, as well as in the Sector Forums, as part of Sector Policing.
- Rural Safety Plans are in place in the provinces as a tool to assist police stations to prevent crime in the rural and farming community as part of the Rural Safety Strategy.
- Rural Safety Priority Committees are functioning at national, provincial and cluster levels and all role players in the rural and farming community, departmental and civil society are involved in the committees (this includes the SANDF, Agricultural Unions - NAFU, AGRI SA, TLU, Departments of Agriculture, Rural Development and Land Reform, Traditional Affairs and all relevant units of the South African Police Service).
- The Rural Safety Priority Committees meet on a quarterly basis to monitor incidents of violent crime in the rural community and to establish trends and new developments and plan interventions.
- The priorities committees are open to all stakeholders and do not operate behind closed doors. As such the priority committees present an opportunity for, inter alia, organised agriculture and farmers’ unions to keep their members briefed on security-related matters.

Operational Information: 2010/2011 – 2013/2014 (Incidents of Violence on farms and smallholdings)

PERIOD	NUMBER OF MURDERS	NUMBER OF INCIDENTS
2010/2011	71	665
2011/2012	56	514
2012/2013	60	556
2013/2014	58	492

Briefly mentioned was Operation Sizanani, which is a national multi-faceted and integrated rural safety operation involving all Government Departments and other role players implemented from 1 August 2014 to 31 October 2014 in all provinces to address the safety of the rural community and to address stock theft. The purpose of the operation is to:

- enhance education and awareness in respect of legislation relating to stock theft;
- enhance community involvement, trust and confidence;
- enhance availability of intelligence to support an intelligence drive approach
- combat and prevent serious crimes in the rural areas;
- stabilise hotspot areas in the rural areas;
- address stock theft;
- improve cooperation and coordination amongst all internal and external role players; and
- prioritise investigations for finalisation

SAPS Responsibilities regarding land invasions and evictions are:

- Divisional Directives clarifying the roles and responsibilities of members of the SAPS in respect of land invasions and eviction in terms of the ESTA were developed and distributed and was further included in the Rural Safety Strategy Implementation Toolkit for communication and adherence.
- Involvement of Traditional Leadership in Safety and Security

A need was also identified to establish a collaborative partnership between the Department of Traditional Affairs and the SAPS to involve and empower Traditional Leaders in safety and security to give effect to government policies, strategies and legislative principles. A partnership was subsequently approved by the Directors General concerned and the Chief Executive Officer (herein after referred to as “CEO”) of the NHTL for implementation to:

- enhance interdepartmental collaboration;
- facilitate the involvement of Traditional Leadership Structures in safety and security; and
- promote an integrated and multi-disciplinary approach.

A quick review of sector policing was given:

- It is recognised that the infrastructure in rural areas inhibits the full implementation of the sector policing, but all efforts to bring policing closer to the community are being made. An assessment and review of sector policing was recently conducted and minimum implementation criteria were developed to also enable police stations in rural areas to implement sector policing as policing approach. As part of the review process it was acknowledged that: a “one size fits all” Sector Policing approach cannot be adopted.
- Sector Policing is not the only operational policing methodology/tool. Police stations should be given the discretion to determine which the most suitable policing approach, depending on the community they serve.
- Some police stations, especially in deep rural areas policing station areas, cannot implement Sector Policing to the same standard as an urban police station with well-developed infrastructure and vastness of the area.
- Sector Policing is not a sustainable policing approach if its success only depends on huge numbers of human and physical resources.
- Sector Policing should be used as a policing approach to encourage community mobilisation, interaction and building a culture of mutual cooperation and trust.

Crimes against women and children were briefly explained as:

- Crime against women and children are prioritised by the SAPS and is included in their Annual Performance Plan.
- SAPS includes a five day Domestic Violence Learning programme in basic training and continues to provide the same and the following programmes as part of in-service training:
 - Domestic Violence Learning Programme;
 - Victim Empowerment Learning Programme;
 - Vulnerable Children Learning Programme;
 - First responders to Sexual Offences Learning programme; and
 - In addition, specialised training is also provided for investigators attached to Family Violence, Child Protection and Sexual Offences Units.

a) What is the relationship of the SAPS with private security firms in responding to criminal and violent incidents?

- The private security industry is considered a potential force multiplier in supporting the fight against crime in our country.

- A partnership was established between SAPS and PSIRA at strategic level to enhance cooperation, coordination and control, as well as sharing and exchange of knowledge and skills.
- Working relationships further exist at the local level between the SAPS and private security companies to strengthen joint operations in order for private security to act as the eyes and ears of the SAPS, to support the prevention of crime and to eradicate non-compliance by both individual security officers and security companies. The SAPS is mandated from the Constitution, Section 205 (3), as the only national Police Service to:
 - prevent, combat and investigate crime;
 - maintain public order;
 - protect and secure the inhabitants of the of the Republic and their property; and
 - uphold and enforce the law
- Private security companies may only respond to criminal and violent incidents in policing areas if a panic alarm is activated by any of their subscribed clients, where after the SAPS must be contacted immediately to take control of the crime scene for apprehending the suspects and investigation purposes.
- The mandate of private security companies and officials are prescribed in the Private Security Regulations Act, 56 of 2001. Private security officials do not have any arresting or other policing powers, such as responding and investigation of crime, except for powers allocated to private citizens to conduct arrest, searches and seizure of goods in terms of Section 42 of the Criminal Procedure Act, 51 of 1977.

b) Would you estimate a large number of violent incidents are racially motivated, or criminally motivated, or both?

- Analysis and research have indicated that the modus operandi of criminals are primarily crime related and that minimal instances can be linked to other malicious motives, and that rural areas are not specifically targeted.
- Docket analyses conducted by Crime Information Analysis Centre (hereinafter referred to as "CIAC") in 2007 further indicated that approximately 75% of all incidents on farms are social by nature, such as liquor abuse, domestic violence. In comparison to the national picture in respect of murders, only 0.6% of murders occur on farms, including farmers and farm workers or dwellers.

c) The SAHRC Report recommended that SAPS hold a summit under the auspices of the Farming Community Forum to take measures to address the expectations and perceptions of the SAPS in rural areas. Was a summit held, and if so, please elaborate on the content and outcome of the summit.

- A summit was not hosted. The Farming Community Forum which was required to be established under the auspices of the Office of the President, to bring together government, organised culture and farm workers, was not established.
- Several structures in the SAPS facilitate interaction with community members through a problem solving approach to address their expectations and perceptions by identifying

causes and contributing factors and developing and implementation of joint programmes and projects at the police station level, such as the Community Police Forum, Sector Forums and Rural Safety Priority Committees.

- The SAPS is also in the process of rolling out a national Community Outreach Programme. This programme has been implemented in 7 provinces to date.

d) The above-mentioned report also recommended that the SAPS engage with civil society to determine the root causes of violence within farming communities. Has the SAPS, and does it continue, to engage with civil society in this regard and in its experience, what are the main causes of violence in farming communities.

- Mechanisms for engagement through rural safety priority committees, CPF and sector forums are in place. Crime analysis is conducted at station, cluster, provincial and national level and discussed at these forums.
- Rural areas are more vulnerable due to specific dynamics like vast areas, sparse population, older people, and longer distances to services including police stations and neighbours. Farms in particular are also vulnerable due to the perception that farmers are rich and keep firearms and cash on the premises (for example to pay wages).

e) What awareness programmes have been led to ensure that victims of crime are adequately informed of court processes and adequately informed of progress of their cases? Have these initiatives been successful, and is there room for improvement?

- SAPS and other Departments in the Justice, Crime Prevention and Security Cluster conduct public awareness campaigns and provide public information on the court process.
- SAPS directives further require that victims are informed of their rights and the criminal justice procedures that apply in the case they are reporting.
- Victims and complainants must further be kept informed of progress with their cases throughout the court process.
- Procedures in terms of parole further require that victims and SAPS must be informed if offenders are eligible for parole and allowed to make representations at parole hearings.

f) Is any action taken against individuals from private security companies who carry out arrests in a manner which amounts to assault, and similar offences?

- Any contraventions of the law or common law reported to SAPS a must be investigated with a view of prosecution and conviction of the offenders.
- This applies to any alleged offenders, including private security employees.

g) Has the Rural Protection Plan been amended in line with the Commission's recommendations in 2008?

- Yes, a comprehensive RSS was developed involving all role players and stakeholders (Government, civil society and business) in an integrated manner.

- The RSS will be reviewed during the 2014/2015 financial year through intensive stakeholder engagement to enhance the RSS to address community needs and expectations.
- Stakeholder engagement will take place in all provinces, followed by a national indaba before the Rural Policing Strategy (hereinafter referred to as the “RSP”) will be finalised.

h) What strategies could be implemented to improve the effectiveness of rural safety plans and overall sector policing strategies?

- Strategies which support and promote community interaction and participation, as well as improved co-operation and accountability by all role players and stakeholders. Strategies which are based on local level knowledge and which would improve service delivery. In this regard SAPS is busy with the following initiatives:
 - Implementation of a Frontline Service Delivery programme;
 - Development and implementation of a national Crime Detection Strategy;
 - Development and Implementation of a Community Outreach Strategy; and
 - Review of the rural safety strategy and development of rural policing strategy.

Interaction with the panel

The panel enquired as to why the statistics are not published anymore. According to the SAPS this was because of the fact that in order for them to be incorporated, they need to be audited. Additionally, these farm attacks are on-going, and that during these attacks the language is foul, but the attack itself is not motivated by racism.

Further mentioned by the respondent was that a need to measure feelings of safety among all communities. It is perplexing that with these strategies, rural communities still feel exposed. The RSS talks to the perceptions and the feelings, and “what we are doing in that regards, we start designing products and tools on measuring this”. This project will go back towards rural safety. The respondent stated that there is a mystery visitor project, and this has occurred by visiting the different police stations. Currently, the SAPS are only starting the pilot phase of this project. Once this is completed, then the SAPS will roll it out. This project will measure people’s feelings on safety.

The SAPS spoke on how the data is kept on farm attacks and statistics, but that it is regarding serious crimes. This is because the SAPS track seventeen serious crimes, and murders are one of them. The SAPS have figures from station, cluster, provincial and national level. Further the SAPS are working towards having the correct vehicles for rural terrains. The SAPS need to be able to create policing access for all persons. The SAPS should be able to create an atmosphere for all persons to access their services. Where gaps exist, the SAPS should find ways to address them timeously. The SAPS stated that it cares for all citizens of the country. The SAPS mentioned that they are concerned about the issue of language during the attack. Moreover, there are also labour and people relations on the farms and this needs to be addressed. There is also a current trend of foreigners and farm workers who are not registered as being employed.

Evaluation of the submission

The panel expresses its appreciation for the detailed submission from the SAPS. It is clear that the SAPS is quite serious in addressing safety of farming communities. However, the panel expresses its concern over the continued complaints of lack of efficient service delivery models that focus on farming communities within rural communities. However, the panel further acknowledges that in a further submission, the SAPS have agreed to host a national rural policing indaba in the second quarter of 2015/2016, which seeks to focus on rural safety and how the RSS will be implemented.

The Commission notes that the SAPS and the Department of Traditional Affairs is working together in order to improve the safety and security felt by persons living and working on farms. This type of integrated and multi-disciplinary approach is useful, and the Commission feels that this type of engagement is beneficial. Additionally, the SHARC notes that the SAPS Community Outreach Programme targeting farming communities is progressing.

The Commission acknowledges the steps taken to introduce programmes such as the Family Violence, Child Protection, and Sexual Offences. The SAPS states that such programmes requires motivation as to the steps taken to ensure that such programmes are in place at police stations close to farming communities. Furthermore, the Commission is encouraged by the SAPS and PSIRA interaction. Lastly, the Commission expresses its dissatisfaction that the previous SAHRC Farm Reports recommendations were not followed. In particular, the failure of the Farming Community Forum not being established and the resulting rural safety summit not taking place.

7.7. The Gauteng Provincial Community Police Board

The Gauteng Provincial Community Police Board provided the information below by way of a written submission. Additionally, an oral submission was made. The Gauteng Provincial Community Police Board and the Gauteng Community Policing Forum (hereinafter referred to as "CPF's") are mandated under the SAPS Act to provide civilian oversight.

a) What is the relationship with the SAPS and the private security companies?

- There is no legally binding relationship with the CPF and private security companies. The CPF's are only involved when assisting the SAPS.

b) What are the mechanisms put into place to ensure that arrests and detentions by members of the CPF are within the confines of the law?

- Members of the CPF are legally authorized to affect an arrest. Patrollers from the Community Watch go out under the leadership of the SAPS only.

c) Are violent incidents criminally or racially motivated? Or both?

- All violent incidents are criminally motivated as is presented by yearly statistics.

d) Strategies that can improve sector policing and the implementation of the RSS?

- Mobilisation of Communities in the implementation of successful community policing strategies must involve members of the community.
- An integrated approach by all government departments is essential.

e) Provide and outline of the CPF interventions in the rural communities.

- In Boschkop and Muldersdrift there are current initiatives underway. This includes neighbourhood watches and patrollers assigned by the Department of Community Safety.

Interaction with the panel

A panellist asked how many CPFs are currently present in rural areas. The respondent answered by stating that there are currently six in the rural areas of Gauteng, but is unsure of the number nationwide. A further question was asked about the composition of the CPFs. The CPFs are inclusive of political organisations, church goers, school students and teachers, and ward councillors.

A panellist asked a question about the ability of the CPF to measure their impact; this was answered in the affirmative and by indicating that the SAPS statistics are showing that the CPFs having an effect. Further, the successful joint operations in rural communities are leading to a decrease in visible violence.

Evaluation of the submission

The panel welcomes the submission by the Gauteng Provincial Community Police Board. The panel is of the view that the CPFs around the country play a crucial role in crime prevention, and are important role players in any crime prevention/reduction strategy.

7.8. The AfriForum

AfriForum is a non-governmental organisation, registered as a non-profit company, with the aim of protecting the rights of minorities²⁰. AfriForum called a victim of a 'farm attack' to testify during their presentation. An oral and written submission was made to the Commission.

a) What is the impact of these killings on the farming community, economy and food security in the Country, with a focus on workers and farmers?

- The impact is far reaching and complex. Unfortunately, because of its complexity, there is a lack of reliable and valid research on the consequences of attacks.
- In March 2010, the South African Chamber of Commerce and Industry (hereinafter referred to as "SACCI") released a statement which focused on the cost to the economy resulting from farm attacks. Using the nominal Gross Domestic Product (hereinafter referred to as "GDP") figure for 2009 of R2.4 trillion, a 3.22 per cent contribution of agriculture to GDP and an estimate of 39 982 farms (as at 2007)

²⁰ <https://www.afriforum.co.za/about/about-afriforum/>

in South Africa, the cost of a murder/attack on a farm, to the economy, is R1 932 869 per annum. This estimate assumes a permanent loss of the farming unit. Assuming that there is only a temporary loss of productivity of the farming unit, the loss to GDP is an estimated R161 072 per month. This is a modest, conservative approach to the impact of farm attacks on economic output. It is by no means a comprehensive estimate of the economic impact of the attacks on farms or the direct, indirect and opportunity costs of such farm attacks.

SACCI further stated that the estimates did not factor in the different types of farming, the impact on domestic food security, the repercussions for the competitiveness of the South African agricultural sector, the impact on job security, and the opportunity cost of discouraging potential farmers. The calculation by SACCI also assumes that “all farming units contribute equally towards GDP and that the attack and/or murder always results in a productivity impact/down-time at the farm.”

- There is currently no valid research on the impact of farm owner attacks on the psychological, economic, and safety and stability of farm workers. It should be noted that farm workers are often the sole breadwinners in their families.

b) Do private security firms adhere to constitutional principles in effecting their mandate?

- Private security firms play a vital and important role in the safety of rural areas. Although private security firms are utilised in more urban areas, they are successfully utilised in areas with small holdings. In AfriForum’s experience, farms do not often make use of private security firms because of the location and size of the farms that needs to be covered.

c) What strategies could be implemented to improve the effectiveness of rural safety plans and overall sector policing strategies?

- A list of ten recommendations was made to the Commission. Recommendations included:
 - Recognition of the problem and accountability;
 - Farm attacks should be treated as a priority crime;
 - Transparency regarding statistics;
 - Replacement of the commando system;
 - Politicians should be called to order;
 - The RSS should be revised and implemented;
 - Support for victims;
 - Establishment of specialist units for rural safety;
 - Support of local safety networks; and
 - Completion of prosecutions.

Interaction with the panel

The panel asked if AfriForum had yet to conduct any substantial research into the motive for attacks on farm owners and farm workers. This was answered in the negative, but that they are currently conducting case study research into the matter. Currently, the biggest challenge is the 'speculation' of course. Moreover, statistics are the only real verification of data, particularly in terms of their own data. Consequently, AfriForum did agree with the then governments Committee of Inquiry 2001, set up by order from the then Minister of Police directed the SAPS National Commissioner, that farm attacks are criminally motivated, and are not specific to race. A question arose from the panel regarding the safety and security of black farmers. This was answered by explaining that the issues under review are a problem facing all farm owners and farm workers, regardless of race. It was identified that farm attacks are unique, and therefore deserve their own crime category. This is mainly because of their frequency, unique levels of brutality, and the role of farmers in the South African community, and the unique circumstances of the farmer.

The respondent continued by explaining that government departments do not effectively mobilise resources that are geared toward rural communities, and this leads to poorly funded rural police stations that do not have access to the correct off terrain vehicles and enough active police officials. Another point of issue was the lack of complete prosecutions from the NPA. Also mentioned was the lack of victim support services offered by the criminal justice system.

A victim, associated with AfriForum, who was a victim of violence on a farm, was allowed to testify. The victim spoke about how her husband was shot in front of her, while he was on his knees posing no threat. Further mentioned was the fact that there was no evidence collected from the scene of the crime. Eventually, due to poor crime scene administration, the case was dismissed due to a technicality. The victim has unique experiences with the SAPS and the RSS because her farm is partially in the North West and partially in Gauteng thus raising conflicts with jurisdiction, and further impacting sector policing, of which, allegedly, is minimal.

The pain caused by the violence was evident when the victim was asked about her view on the punishment for offenders. She stated that if South Africa still had the death penalty, then that is what the offenders should get. Further, the victim felt that the farming community is contributing taxes to keep offenders housed, clothed, and fed within the Department of Corrections, while the victims of the attack were left without a loved one or injuries that negatively impacted on their lives. The victim had a sense that justice was not prevailing when it comes to 'farm attacks and murders'.

Evaluation of the submission

The panel acknowledges the submission made by AfriForum, and appreciates the personal submission made by a victim of crime. The questions raised during the submission were noted, and were used as a basis for many questions throughout the hearing process. However, the panel is concerned that the submission solely focused on farm owners and their families, and not the broader farming community. The panel notes that while farm owners are important to maintaining food security in the country, the farming community as a whole is interdependent on each other, and it is as a collective that maintaining food security and the realisation of human rights is achieved. The current research being undertaken by AfriForum regarding violence on farms is acknowledged by the Commission.

The Commission notes that a number of cases referred to by AfriForum have a very different experience to that as presented by the SAPS and the DoJCD. The Commission notes that there are victims who have had negative experiences with the criminal justice system, and that according to the Victim's Charter, their rights were not upheld. Additionally, the lack of information regarding the investigation is a concern. It appears as though the services the SAPS and the DoJCD provide do not reach individual cases. The NPA have a role to play, and from the concerns raised by AfriForum, they are doing a poor job in regards to the Victim's Charter, victim support, and information sharing.

7.9. The Freedom Front Plus

The Freedom Front Plus (herein after referred to as the FF+) is a registered political party committed to the realisation of communities', in particular the Afrikaner's, internationally recognised right to self-determination, territorial or otherwise; the maintenance, protection and promotion of their rights and interests, as well as the promotion of the right of self-determination of any other community, bound by a common language and cultural heritage in South Africa²¹. This submission was made in writing and the Freedom Front Plus was not present before the panel.

Written submission

South Africa, like nearly all other countries in the world, views food security as a priority. The agricultural sector of a country is therefore a strategic enterprise which does not only guarantee food security, but also contributes to job creation, economic growth, success and prosperity of a country.

The importance of agriculture for government is reflected in the National Development Plan for 2030 (hereinafter referred to as "NDP"). The NDP refers specifically to the security of rural and agricultural communities. It is stated as follows on p. 405 of the NDP:

"Access to justice and the safety of rural and farming communities demand special attention. Farming communities and rural areas are very far from national and provincial government, business and non-governmental resources which expose them to crime and safety risks."

With this the current government recognises that farming and rural communities require special attention. Further discussed were the recommendations of the Commission of Inquiry, established by the Government in 2001. This finding and recommendation of the Committee was that farm murders and attacks were dealt with by a specialist unit in the Police. The recommendation was that the Commando System should be replaced with an "Area Crime Combating Unit and Sector Policing". An extremely important aspect was that the replacement of the Commando Units should take place on the precondition that the transfer should be dealt with correctly. Another important recommendation was the optimal use of police resources and the development of investigators (detectives) in rural areas.

The FF+ uses the definition of neither farm attacks, nor violence on farms. And the definition is from the Commission of Inquiry. Further discussed in their submission were the challenges of rural security and the phasing out of the Commando system. In addition, concerns that it took more than nine years to fully implement the policy after the commandos were disbanded.

²¹ <http://www.vfplus.org.za/mission>

Spoke about the issue of the lack of crime statistics. Crime statistics are kept by the Police and released and the main reason for this is to assist the Police in getting an indication of the extent of a specific crime and where it appears the most. Special actions by the Police can then be planned in order to combat a specific crime. Crime statistics also give an indication to the Police of whether a specific crime is escalating or whether it is being effectively combated. Certain crimes are viewed by the Police as priorities, as it could have a larger impact on society and the economic development of South Africa.

Violent crimes such as murder, robberies, assaults and rapes are viewed as serious. Transit robberies are viewed as priority crimes by the SAPS due to the impact on the banking sector and the economy of the country.

Crime statistics of the Police had a separate category for farm attacks and murders which was published annually together with other crime statistics. The reason was that it was an important sector, which affected the economy and if the agricultural community was to be destabilised, it would have a negative effect on food security. Statistics of farm murders and attacks by the Police were published for the last time in 2007.

The argument of the SAPS is now that it forms part of the general murder figures. The Commissioner of Police, General Riah Phiyega, said in her submission to the Commission in consideration of farm murders stated that “Whether you are murdered in a shebeen or a farm, murder is murder. We have to combat it²²”. Nobody can differ that murder is murder and should be combated, regardless of where it is committed. The reality is that the strategy and method to combat murder in a shebeen in an urban area, and a murder on a farm in a rural area, differs vastly. The Police distinguish in their crime statistics between ordinary robbery, robbery with aggravating circumstances, robberies at homes and robberies at businesses. Should the argument of Gen. Phiyega be applied, robbery is robbery; it does not matter where it takes place. Yet the Police are prepared to distinguish between it and the question is why this cannot also be done with farm murders and attacks. It should however be mentioned that the Police does keep statistics of farm attacks and murders, but does not want to release it. In the same submission to the Commission, General Phiyega confirmed it and released farm murder statistics of 2011/2012 – 2013/14. The underlying reason is that it is said that the keeping of separate statistics for farm murders and attacks creates the impression that a largely white group is receiving specialist treatment by the government and the Police, which makes it politically unacceptable. With this, the impression was created that it is only white people who die in farm attacks.

According to Prof. Marekwa Legotlo, a black farmer close to Mahikeng in the Northwest, and the chairperson of the National Association for Emerging Red Meat Producers (hereinafter referred to as “NERPO”), black farmers and farm workers are often the targets of farm attacks, but it is not always so well documented as those of white farmers²³. In the budget debate of 2014 of the Minister of Police, Mr. Nkosinathi Nhleko, he stated in a reply to a question of Dr. Pieter Groenewald (MP) about farm murders, that the government would prioritise farm murders and attacks. He said as follows: “We are extremely concerned about it. We view these murders in a very serious light, as it does not only affect the families of victims, but it also has a negative impact on the economy and food provisioning²⁴”.

22 Beeld, 7 October 2014

23 Beeld, 6 October 2014

24 Beeld, 22 July 2014

The real victims of farm murders and attacks is not only about black or white, but about rural communities which are affected and in the end the economy of South Africa is affected by it. The murder ratios (based on 2013 figures) for the general population compared to two other identifiable groups (for which data – baseline total and number of murders – is available), can be expressed as follows:

- General population - 16 259 (ratio = 31.1 per 100 000)
- Police officials - 84 (ratio = 54.0 per 100 000)
- Farmers - 43 (ratio = 132.8 per 100 000).

According to these figures it is basically two and a half times more dangerous to be a farmer than it is to be a member of the Police. As a group, farmers' chances of being murdered as opposed to that of ordinary South African citizens are four times higher. This in itself makes farmers an exceptional group when it comes to farm murders and attacks. If any of the other groups (former Police Officials) were to be attacked and murdered at this rate, a national outcry will arise.

There are certain radical comments which are being made which create uncertainty in agriculture. We must hear that "whites have stolen all the land they have; stolen because every grain of sand in South Africa initially belonged to blacks." These statements are made by radicals, but the ANC leaders who are present do not repudiate them. ANC Youth League leaders were found guilty, but not because they made these statements.

Recommendations

- The party believes that as a first step, the ANC leadership should condemn the comments made by radicals in their party and at their policy conference ensure that the issue of land reform and agriculture is not used in its policy formulations as a political tool to obtain short term gains for individual leaders. This would bring back certainty to the agricultural industry and ensure that food security is no longer threatened by political expediency.
- The vacuum that arose in rural safety should be corrected immediately by the Police and Government by the actual full implementation of sector policing in all police stations in rural areas.
- The appointment of reservists in rural areas should be made a priority and as a separate category as initially proposed by the Rural Protection Plan.
- The recommendations of the Committee of Inquiry into Farm Attacks that specialist units should be created for rural security and specifically for farm attacks and murders should be implemented.
- Crime statistics on farm attacks and murders which are kept by the Police should be released to the public to bring the extent and importance of it to the attention of the public. It is also an important sector which affects the economy and if the agricultural community was to be destabilised, it would have a negative effect on food security.
- The perception that victims of farm murders and attacks are only white should be changed and rural security should stabilise the community.

Evaluation of the submission

The panel acknowledges that the FF+ took the initiative to supply a submission without being formally requested to do so. The panel chose to incorporate the submission, as it spoke to many topics that were brought up during the hearing, including the failure of the police to effectively police rural crime, the failure of the judicial system in dealing with the cases, and in the fear griping farming communities.

The references in the submission to statistics, food security and the vulnerability of farmers are points well taken. Additionally the Commission welcomes the reference to the vulnerability of black farmers and how they are similarly vulnerable.

7.10. Dr. Chris de Kock

Dr. Chris de Kock²⁵ is an expert consultant and analyst on crime, violence and crowd behaviour. An oral and written submission was made to the Commission.

a) Background

- Dr. de Kock used to head the SAPS CIAC until his retirement in late 2000s.
- Statements from political members such as ‘one bullet one settler’ and ‘kill the farmer, kill the boer’ are aggravating the situation further.
- The poor and slow management of land redistribution has further aggravated the problem.

b) Background of crime statistics and research on acts of violence against the farming community

- There is one database that records the attacks and murders relating to farm attacks and murders.
- There are no more statistics on ‘farm attacks/killings’ because:
 - It is difficult to near impossible to monitor the reliability of standalone databases. If statistics are in the annual report of the SAPS then it indicates that they were audited. The Auditor General wants assurance that statistics are valid and/or reliable and this is impossible to prove.
 - Standalone databases are also very labour intensive and expensive to maintain.
 - It would also be unfair to many other minority/interest groups. The murders of the farming community are only eighty five per year, and therefore only accounts for 0.5 per cent of the annual number of murders. If the SAPS were to publish statistics of violence in the farming community, then by all fairness, it should also publish statistics of gay murders, femicide, the murder of children, murder of older persons, vigilante murders, or xenophobia, for example.

²⁵ Full name: Dr. Chris Paul De Kock.

c) What challenges are facing the farming community currently?

- Commercial farm owners and workers face the threat of house and business robberies, rape, assault, stock theft, theft of a motor vehicle, malicious damage to property, amongst others;
- Traditional farmers on communal land, especially those that live on a boarder, facing stock theft disproportionately;
- A proper crime threat analysis needs to be conducted in farming communities; and
- Farming communities are part of South Africa and thus are affected by the same crime trends.

d) The ratio comparison of murders on farms against that of the general population is problematic, and therefore invalid. South African Farmers are not twice more likely to be murdered than the general public, nor do they have the most dangerous job in the world.

- The statistics are invalid because of the difference in population sizes, which is included in the definition of farms, and the unknown reliability of which inhabitants are included in the statistics.
- Another issue is the locality of the police station, and how they choose to classify the crime.

e) Would you estimate that a large number of violent incidents in farming communities is racially motivated, or criminally motivated or both?

- Research shows that a large percentage of the incidences are criminally motivated. But it cannot be ruled out that when the incident occurs and 'in the heat of the moment' racism takes over. This can be applied to all crimes in South Africa.

f) Is the threat bigger today than previously? What are your solutions for solving this problem?

- No, figures suggest that the situation is improving.
- The RSS is a good policy, but it is too broad. In depth research needs to occur in order to determine the causes of violence in farming communities. After this is done better solutions can be found.

Interaction with the panel

Apanellist identified that police communication is poor, and they often do not respond adequately. Further stated was that information is needed to conduct proper police services, and that part of the panel's purpose is to establish what this information is. Dr. Chris de Kock stated that he struggles to understand the constant emphasis on statistics. Generally speaking, statistics are for the operational planning of police. In addition, proactive policing is required, rather than ad hoc initiatives. Further mentioned is how in depth research is needed, including, docket analysis, the victims of violence on farms are interviewed, and perpetrators are interviewed to ask why they committed the crime, in order to understand the root cause and motive for the attack. Dr. de Kock does not believe the government has that capacity.

Evaluation of the submission

The panel recognises the substantial experience of Dr. de Kock and is appreciative of the submission made. Further, the panel is of the opinion that while the need for effective policing strategies is needed to ensure the safety and security of all persons in rural communities, there is an obvious gap, currently, in the SAPS' ability to effectively police rural communities. The panel is in agreement that a more concrete strategy is needed from the SAPS, and that government alone cannot be responsible for this.

7.11. Dr. Johan Burger

Dr. Johan Burger is an expert and senior researcher from the Institute for Security Studies (hereinafter referred to as "the ISS"). Dr. Burger has written extensively on matters relating to safety and security. An oral and written submission was made to the Commission.

A basic background on farming was provided. This includes the government's turn-around response to violence of farms, to the current situation of a non-prioritised crime. Further, Dr. Burger outlined the difficulty in defining 'farms'. Dr. Burger stated that one of the most difficult aspects of the idea of farm attacks is to define it. A 'farm attack' or 'an attack on a farm' is not officially defined as a specific crime category, but can be considered as a planned and violent action by one or more perpetrators against persons on a farm or smallholding with the primary intention to commit a robbery. Very often, however these attacks are accompanied by extreme acts of violence resulting in crimes such as murder, attempted murder, rape, assault and torture. This type of criminal activity is in many ways similar to, and generally recorded by the police as, 'robbery at residential premises' (also known as 'house robbery'). House robbery is a sub-category of 'aggravated robbery'. According to the police's official definitions house robbery is defined as "... the unlawful and intentional forceful removal and appropriation of property from the residential premises of another person²⁶".

Additionally, Dr. Burger stated that it is obvious that farmers, their families and their workers are considered soft targets by criminals. Farm houses are geographically more isolated than houses in urban areas and therefore further removed from the possible deterrent presence of close neighbours, the police and other security institutions and an immediate response from them. There is also a popular perception that all farmers are rich or at least relatively wealthy, and therefore lucrative targets.

Statistics on how farmers are twice as more likely to die as police officers was given and explained. Dr. Burger continued by stating that the current definition, in the RSS of 2011, is only slightly different and refers to 'acts of violence' rather than 'farm attacks': Acts of violence against persons on farms and smallholdings refer to acts aimed at persons residing on, working on or visiting farms and smallholdings, whether with the intent to murder, rape, rob or to inflict bodily harm. In addition, all acts of violence against the infrastructure and property in the rural community aimed at disrupting legal farming activities as a commercial concern, whether the motives are related to ideology, land disputes, land issues, revenge, grievances, racist concerns or intimidation are included. Cases related to domestic violence or liquor abuse, or resulting from commonplace social interaction between people are excluded from the definition²⁷.

²⁶ South African Police Service, Manual for crime definitions, *Consolidation Notice 2/2012*, Pretoria: National Commissioner, March 2012, 188.

²⁷ South African Police Service, National Rural Safety Strategy, Pretoria: Division Visible Policing, 2011, 8.

Dr. Burger explained the extent of the problem, and that currently there are three open sources of data that include statistics on 'farm attacks' and 'farm murders'. They are:

- The Report of the Committee of Inquiry on Farm Attacks (2003);
- The SAPS Annual Reports (2001/02 – 2006/07); and
- The Transvaal Agricultural Union of South Africa (currently).

Figure 2: Farm attacks and farm murders according to SAPS in 2014



The Committee of Inquiry into Farm Attacks in 2003 found that of the 1 398 victims of farm attacks during the period

- 61.6% were white
- 33.3% were black
- 4.4% were Asian
- 0.7% were coloured; and
- 71% of the 12.3% rape victims were black.²⁸

The RPP itself was structured primarily around the commando system. It was based on two concepts: area bound reaction forces and 'home-and-hearth' protection forces. The area bound reaction forces were staffed by local commando members who were called up regularly or in times of crises for paid duty. They were issued with the necessary uniforms and other equipment to perform their commando responsibilities. They were also trained jointly with the police and police reservists to conduct patrols, roadblocks, follow-up operations, cordon-and-search operations and farm visits. The home-and-hearth protection forces comprised of two sub-groups: the home-and hearth protection reaction force members and the home-and-hearth protection members. The first sub-group was staffed by farmers, smallholders and their workers, who were responsible for assisting other farmers and smallholders in the event of a farm attack. They would be the first to react to an attack or call for help and remain in action until they could hand over to the area-bound reaction force. The second sub-group was also staffed by farmers, smallholders and their workers, but they were responsible only for their own

²⁸ Report of the Committee of Inquiry into Farm Attacks, Summary, 418-419.

protection. The effectiveness of the RPP is reflected in the notable decrease in farm attacks which fell by 40.5% from 1 069 incidents in 2001/02 to 636 incidents in 2005/06. Similarly, farm murders decreased by 41.4% from 140 cases in 2001/02 to 82 cases in 2004/05. This achievement attests to the impact of the RPP and the work of the Priority Committee. However, with the phasing out of the commandos in 2003 and a clear change in government's perception of the problem, the early indications were that the situation was again deteriorating. In 2006/07, the last financial year for which the police reported on farm attacks and related murders, there was a 24.8% increase in the number of attacks (from 636 to 794) and the number of murders increased from 82 in 2004/05 to 88 in 2005/06.²⁹

The commando system and its composition was always a contentious issue in South Africa's recent history. This was reflected in the serious debate during the development of the new South African defence policy through the White Paper and Defence Review processes in 1995 and 1998 respectively. The African National Congress (hereinafter referred to as "the ANC") had been opposed to the continuation of the commando system, partly because of the role these units had played in support of the apartheid system, but also because the commandos were perceived to represent the security interests of the white farming community only³⁰. There was, however, no indication at the time that plans were underfoot to close down the commandos. These units were undoubtedly the cornerstone of the RPP and given the structure and staffing of the RPP the closing down of the commandos would clearly mean the end of this plan. It is against this background that it came as a complete surprise when on 14 February 2003 the President of the Republic of South Africa, in his State of the Nation address at the opening of Parliament, announced that the commando system would be phased out.

The disbandment of the Commandos meant that the police were required to replace not only the 'system', but also that a new plan or strategy had to be developed to replace the RPP. The undertaking was that the police would replace the commandos by putting in place the following alternatives:

- a revised SAPS reservist system based on an amendment of the National Instruction for Reservists;
- a substantial increase in SAPS personnel figures;
- the implementation of sector policing;
- the restructuring of specialised investigation units; and
- the establishment of area crime combating units

In 2014 National Instruction, 1 of 2002, was replaced by National Instruction, 3 of 2014 – The Reserve Police Service. The latter instruction provides for only two categories of police reservists, namely:

- Category 1 Reservists: Functional Policing; and
- Category 2 Reservists: Specialized Operational Support.

²⁹ South African Police Service, Annual Report 2006/2007, 50.

³⁰ Johan Burger & Henri Boshoff, The state's response to crime and public security in South Africa

As a consequence, the provision for dedicated rural and urban sector police reservists disappeared. Subsequent to this analysis, Parliament's Portfolio Committee on Police requested the SAPS to conduct an extensive review of the current Sector Policing Strategy. As a consequence the SAPS reported in their Annual Report 2012/13 as follows on the outcome of the review

- Sector policing cannot be regarded as the only operational policing approach or tool and police stations should be given discretion to determine which policing approach is the most suitable, depending on the geographical area to be policed (e.g. deep rural areas cannot implement sector policing to the same extent as urban areas);
- Sector policing is not a sustainable policing approach if its successes depend on large numbers of human and physical resources;
- Sector policing should be used as a policing approach to encourage community mobilisation, interaction and building a culture of mutual cooperation and trust. In addition, the following minimum implementation standards were determined if/or police stations, including police stations in urban and rural communities;
- The police station area must be demarcated into manageable sectors containing a minimum of two sectors;
- A permanent member must be appointed as a sector commander to manage and coordinate all crime related activities in the demarcated sectors;
- The appointed sector commander must compile a sector profile for each demarcated section;
- Operational members and resources must be deployed in accordance with the crime pattern and threat analysis to perform policing duties in the demarcated sectors; and
- A sector forum must be established to facilitate community interaction and participation.

Interaction with the panel

The panel opened the discussion by stating that at the beginning of the hearing, the panel was given evidence that showed and expressed hatred was made during the 'farm attack'. Dr. Burger replied in that there is no proof that farm, attacks and murders are racially motivated.

Further, the panel enquired as to whether these statistics were stopped or not available. Dr. Burger replied that these statistics are available, but that perhaps one of the reasons they are no longer published is because of the credibility issue. The SAPS needs to address these concerns, and once they are able to sort out the credibility of these statistics, then it will be continued. A follow up question on if between 2001 and 2007 the credibility of these statistics was ever questioned. Dr. Burger responded in that they were never questioned, and that it is strange then to stop publishing it. An additional question was asked about whether the perpetrators rob with intention to kill. Dr. Burger stated that while it may appear as though this was general case, it can vary from individual assault cases.

In responding to a question about the RSS, Dr. Burger stated that the SAPS have to drive it through the priority communities of rural safety. If the SAPS were serious about its job, it would have made the issue of resources redundant. A pillar for sector policing and reservists, but the reservists are underutilized. Dr. Burger stated that there will always be a need for specialised units.

The panel enquired whether the leap from the commando system to where farming communities are now has caused a lot of anxiety and expectation on what to follow to fill the gap since the Commandos were disbanded. Firstly, where there is a police visibility it helps in combating of crime. Secondly, the accessibility of the police is important. And lastly, the SAPS availability to respond is important.

Additionally a brief discussion was had on the use of Dr. Burger's ratios, which concluded the following comparative ratios based on the universal practice to base such ratios on the 100,000 baseline for 2012 / 2013:

- National murder average in the general population: 31.1
- SAPS members murdered: 54.0
- Farmers murdered: 132.8

Evaluation of the submission

The panel acknowledges Dr. Burger's substantial insight into the issue of rural safety. The panel notes that Dr. Burger's opinion on the ratio of 'farm attacks and/or murders' and the need for a specific crime category are in contrast to that of Dr. Chris de Kock. This notwithstanding, the information provided is useful in understanding the policing of rural communities, as well as the incident of crime in these communities.

In considering the submission made by Dr. Burger relating to the commando system, the Commission interrogated the challenges which have been documented extensively. No information was provided which evidenced the need to alter any of the Commissions previous positions in relation to the disbandment of the commando system.

7.12. The Agri South Africa

AgriSA promotes, on behalf of its members, the development, profitability, stability and sustainability of commercial agriculture in South Africa by means of its involvement and input on national and international policy level³¹. An oral and written submission was made to the Commission.

a) Are the crimes in farming communities the result of hate/racial disharmony?

- AgriSA indicated that crimes in farming communities are not the result of hate or racial disharmony. Their concern was focused on the level of violence shown during attacks.
- Stock theft is a growing concern.
- The respondent believes that hate speech with strong racial undertones, can be perceived as one of the reasons for the murders of farmers and workers. In some cases, hate speech can be seen to contribute to violence on farms.

³¹ www.agrisa.co.za/about-us/agrisa-mission/

b) What are your recommendations and solutions to reducing violence in farming communities?

- Some of the recommendations are:
 - That the SAHRC must support priority committees;
 - There must be no political utterances about farmers;
 - A need for a non-racial and effective police is needed;
 - The police capacity should be established in rural communities;
 - To effectively implement the RSS in all police stations; and
 - All vacant positions in the stock theft position in the SAPS needs to be filled.

Interaction of panel

A panellist asked about the relationship between local government and farming communities. The answer provided was that it was sporadic and inefficient. AgriSA mentioned that a possible way to close the gap is for farmers to become reservists if possible, and that this can be a solution to compensate for the lack of service delivery from the SAPS.

One of the panellists remarked that for AgriSA, food security is their core business. As such do they feel that their concerns are being addressed? This was answered positively, as it can be seen in the incorporation of their suggestions in the RSS. Further, private security should be available to the farming community. This is because there is poor service delivery by police. Often farmers prefer to engage with private security over the SAPS, primarily due to previous experiences of private security arriving at the scene earlier than the police. In some cases private security has benefited the farming community, especially in rural areas. It should be noted that AgriSA stated that in certain instances, it is preferred to rely on government structures over private security. This is particular to the rural community, and those farms that cannot afford private security.

The panel further enquired about AgriSAs trust in the SAPS. This was responded favourably because of the 'open door' approach between the two organisations. AgriSA has assisted in the revision of the reservist policy. Further, meetings between AgriSA, the Police Ministry and the SAPS National Commissioner have occurred. AgriSA always endeavours to solve problems on the lowest level first, before escalating it to a national level.

The panel also enquired about AgriSAs experiences with the CPFs. AgriSA has more experience with the Rural Safety Priority Structures, as very few CPFs operate in the rural areas. CPFs are more prevalent in urban and peri-urban areas.

One key area of concern to AgriSA is that while there is a good relationship between the executives of the SAPS and themselves, filtering down to a grassroots level, there are still issues. The problem is not the RSS, but rather the implementation thereof. Also the metro police, who are responsible for crime prevention, are often not visible.

Evaluation of the submission

The panel thanks AgriSA for their submission. The information provided has assisted the panel significantly in forming recommendations, particularly in relation to how the lack of safety and security in farming communities impacts on other issues pertaining to human rights. The panel notes the challenges in ensuring that the farming community is safe, especially considering the state of food security in the country.

7.13. The National African Farmers Union of South Africa

The NAFU was established in 1991 with the aim of creating a “home” for thousands of black farmers who had previously been excluded from mainstream agriculture³². An oral and written submission was made to the Commission.

The presentation echoed that the challenges are a global problem that needs global solutions. Further, this presentation emphasised the importance of forming an opinion for black farmers, thus highlighting that the concerns and issues raised regarding, murder, assault, and theft have a negative impact on all farmers residing on farms. The resounding echo left by NAFU was that farms are businesses, and successful businesses are not possible with social and labour tensions.

a) NAFU Experience in realisation to violence committed against farm owners and farm workers.

- There is no doubt that there violence against farmers and their workers are real and occur regularly.
- Safety and security in farming communities is a unique problem, with unique circumstances. Farming communities are not islands and there needs to be a very constructive discussion to address this issue, as this community feeds Africa. If this community is negatively affected then it affects everyone.
- There are still violent crimes in urban areas (like townships), and these crimes are just as important. However, if there is lack of food, that goes against our constitution, and food security. This is important and has to be dealt with.
- NAFU as an organisation has, and continues to experience violence, and South Africa is slowly approaching a critical point, where there might be lack of farming, as farmers are either leaving the business or country altogether.
- Safety and security on farms is combined with the issue of farm occupancy. It is impossible to move or evict farm workers who no longer work on the farm, and this can lead to conflict.

b) NAFU's experience in violence committed against farm owners and farm workers.

- Myth that farm violence is only racially motivated, and is of the opinion that it affects black and white farmers and their workers equally.
- However, there can be little doubt that racial disharmony is a contributing factor. It is NAFU's stance that the prevailing economic situation also contributes in a huge way to the criminal element. Farmers are not really making money, which means that the remuneration of farm workers is even more dismal. Farmers suffer heavy losses

³² www.nafu.co.za

competing with cheap imports and with huge infrastructural costs. The presence of people on farms who are not working creates friction. So too does the obligation of the farmer to allow the worker or ex-worker his livestock to graze on the farm.

c) NAFU's experience relating to living conditions and labour practices employed on farms.

- All top structures of the farm belong to the farmer. This is a disincentive to the worker to invest in their homes. This means that most farmers are dependent on the farmer as a benefactor to create and maintain living quarters. Unless the farmer contributes, workers are confined to old buildings with no electricity, toilets or water available. The problem is twofold.
- The economic situation of the farmer dictates against lavish spending, but secondly the legislative protection of labour tenants has a perverse incentive. The farmer may argue that it is not sensible to improve living conditions, as this may convince the worker to stay, particularly when the economy is not doing well.

d) NAFU's experience to private security firms and their adherence to constitutional principles affecting their mandate.

- As with any service provider, there are good and bad private security firms. Their employment seems to be confined to the wealthy and corporate farmers, although many of NAFU's members do employ such companies, albeit in a limited way. Their employment has become a necessity to combat thieving, stock thefts, and break-ins and for personal protection, due to the SAPS being unable to provide their personal preventative services.

e) NAFU experience to service delivery offered by the SAPS

- The conditions under which the SAPS have to operate are not favourable – fuel shortages, vehicles in disrepair, vast areas, difficult accessibility of some farms, poor roads and other infrastructure, low salaries, and personal danger. Members of the SAPS are generally dedicated, but community involvement and cooperation with private security firms on a regular basis is required.

f) NAFU's proposal to improve the effectiveness of rural safety plans and overall sector policing strategies.

- A subsidised communication network should be created, linking farmers and their workers with the SAPS and such private security firms that take part community policing;
- An anonymous early-warning system should be provided;
- Communities on farms should be trained on how to deal with such emergencies, and how to effectively use the communication system; and
- Laws of tenure should be revised.

Interaction with the panel

The panel asked about the membership size of the NAFU, and in how many sectors it is present in. The respondent stated that NAFU currently has about forty six thousand (46 000) members, but that they have experienced a forty percent drop in membership. The NAFU used to be the largest union of its kind. The NAFU have been involved in grain farming, fruit farming, game farming, and beef farming.

The panel enquires as to whether the NAFU has any plans on advising the community about poverty on farms. The NAFU responded by stating that since 1948, and then in 1952 the creation of the Agricultural Board was established. This is an effective model to enable farmers. At the same time, workers on farms have decreased from about 1.5 million to between 500 000 – 600 000. Further identified was that the causes of poverty in the agriculture sector, and in comparison to other sectors, is decreasing. Additionally, funding from banks for the buying and maintaining of a profitable farm is decreasing, and in some cases only loans of 60 percent are given. This has a ripple effect in that the incomes from farms are decreasing leading to economic farming business collapsing.

The NAFU identified that the only way to deal with poverty on farms is for government and the private sector to come together and find a solution. It has gotten to the point where the farmer cannot afford to look after his own workers. If the NAFU looks at history, the National Party had a budget for farming that is nearly double what the budget is now. Investments can also make positive impacts.

The NAFU spoke about the plight of helplessness experienced by farm workers, who are often so underprivileged that they have nowhere to go. A dialogue on this issue needs to be conducted, and the SAHRC should be involved.

Lastly, the panel enquired as to whether the NAFU had any funding from the NDA; this was answered in that the NAFU funds itself. Investment in farms is minimal by government. The life for the farmer is hard. Another concern raised was how the import tax for foreigners is at a better rate than the duty tax for the farmer. This problem needs to be solved.

Evaluation of the submission

The panel thanks the NAFU for its submission. Further, the panel acknowledges that the rights of African farmers are just as important as white farmers, and notes that violence on farms is occurring in all spheres of farming regardless of race.

7.14. The Transvaal Agricultural Union of South Africa

TAUSA is an organisation that campaigns for its members' interests in order to create a survival and development regime for its agricultural community³³. An oral and written submission was made to the Commission.

³³ <http://translate.google.co.za/translate?hl=en&sl=af&u=http://www.tlu.co.za/&prev=search>

a) What is your experience in relation to violence committed against farm owners as well as against farm workers?

- TAUSA analysis of the issue confirms that irrespective of the race of farmer owners, far less farm workers are victims of violent crimes. What also needs to be recorded is the abnormal high level of brutality during the attacks, which is a major concern.
- In a significant number of instances, the perpetrator is known to the victim.
- Repeated accusations in the past from ministerial level as well as from state departments, made mention of a variety of crimes ranging from murder to illegal evictions committed against farm workers. Despite repeated efforts to substantiate such accusations, very little factual confirmation was forthcoming, isolated cases are highlighted to deliberately create the perception that such practices are widespread.

b) Would you estimate that a large number of violent incidents are racially motivated, or criminally motivated or both?

- Very little, if any, evidence exists of whites being the perpetrators of farm attacks. In the same breath, the vast majority of victims of crimes are white whilst the overwhelming numbers of those who commit the crimes are black. The obviously racial composition of the two groups conveys a message in itself, which leaves very little space for arguments other than in the case of farm attacks that racial bias, which can be interpreted as hatred is prevalent. This is furthermore supported by reported racial utterances by the criminals addressing their victims such a white pig, white dog.
- It needs to be pointed out, however, that in the Summary Report of the Committee of Inquiry in 2001, set up by the SAPS National Commissioner, found that the degree of violence and cruelty present during farm attacks was exceedingly high and most state advocates attributed this extreme violence to racial hatred. There is no recent evidence contradicting this finding.
- The level of physical abuse (including confirmed cases of deliberate torture) counters the popular statement that the motive for the crime is common assault, robbery of theft. In most cases there is little resemblance of an acceptable relationship between the level of violence used against the victims and the superficial motive for the crime. A formal request to the National Priority Committee on Rural Safety to include the possibility of “muti”, which is the South African use of natural products by traditional leaders for medicinal use³⁴, or the role of traditional healers (which played a role in the Marikana incident) in the investigation of serious violent crime produced no results other than uncomfortable silence after the request was tabled.
- A case in point is the recent murder of Mr. and Mrs. Lens of the farm Elim in the Groenvlei district. Both unarmed victims were killed “execution style” by being shot in the back of the head at close range. What is disturbing is the fact that the late Mr. Lens formally reported a threat by a farm dweller to kill him during an earlier altercation to the police but no action whatsoever was taken.
- It cannot be argued that the perceived motives for violent crimes on farms and smallholdings are not related to the robbery / theft of firearms, cash or other valuables, but irrespective of the application of the 2011 Rural Safety Strategy and the (theoretical) priority thereof, little seems to have changed and the level of brutal assault and murder remains at the post 2004 average. At the same time, the number of farmers is declining.

³⁴ <http://www.oxforddictionaries.com/definition/english/muti>

- The extreme level of unemployment causes the unemployed to regard the farm dweller as an easy target due to remoteness and distance from immediate support in the case of being attacked.
- The comment begs to be made that during the duration of the 2010 Soccer World Cup a dramatic drop in violent crimes on farms and smallholdings were recorded and not a single murder took place during the six week period before and after the event. No sooner had the last foreign visitors left, when the familiar pattern of farm attacks resumed.

c) What is your experience relating to living conditions and labour practices employed on farms?

- Within the ranks of organised agriculture, the conformation with legal requirements pertaining to labour and providing proper housing, is generally accepted and applied. A recent statement by the Department of Labour confirmed that the vast majority of commercial farmers comply with the letter of the law.
- It should be borne in mind that no standard exists to define “proper housing” on farms. Such structures are constructed at the cost to the farmer. In this regard the cumulative implications of ESTA, and the fact that many farm dwellers are in fact no longer in the employ of the farmer, but remain entitled to the houses which were occupied during their service. Additional houses therefore require to be constructed when new workers are employed.
- The agricultural sector is currently the only sector of the national economy where continued security of tenure is legally enforced. Not only does this create strained relations between the landowner and people not in his employ, but it gradually erodes the property to which he is entitled.
- Compared to other job seekers and employees, farm workers are far better off than many people struggling with poor accommodation far removed from their workplace which in itself creates additional expenditure in the form of transport costs.

d) In your experience, do private security firms adhere to constitutional principles in effecting their mandate?

- With the exception of large commercial agricultural enterprises who can afford the services of security companies, the vast majority of farmers in rural areas are unable to do so. This is primarily due to the fact that the time and distance factor in outlying areas in relation to the potential number of clients considerably adds to the cost of the service when compared to the same in high density urban areas. This situation is exacerbated due to the significant number of absent and part - time farmers who have little concern for the safety and well-being of the wider community within which their properties are located.
- There are however, a number of companies active in providing safety and security services to the farming community. Such enterprises are legally bound to be accredited to PSIRA and as such subject to regular inspections and control measures. In this regard they have no option than to be legally compliant.

e) In your experience, has the service delivery offered by the South African Police Service improved since the last hearing was held by the Commission in 2008?

- Based on the continued levels of violent crime as reflected in the database of TAUSA, the net effect of service delivery has not improved. In this regard they question whether SAPS members at station level realise that violent crimes on farms (irrespective of who the victims might be) should be treated as a priority could well be raised. Too many reports are forthcoming of SAPS members either being unwilling to register complaints or to respond to such complaints within an acceptable time and manner.
- Furthermore, it seems as if too many priority crimes (rural safety, rhino poaching, precious metals, non-ferrous metals, ATM bombings, cash in transit, elections, etc.) and insufficient resources to address the challenges and obligations result in low priority being treated like a priority crimes.
- Delays experienced with the SAPS Reservist Policy contributed to the creation of a void which had a detrimental effect on rural safety (and probably on other areas of policing as well). The lack of funds results in a shortage of critical equipment such as firearms, radios, bullet proof vests, handcuffs, torches, etc. as well as functional training in disciplines required within the rural safety environment. The latter applies in particular to the protection of crime scenes before forensic evidence has been collected.
- A major communication challenge exists between farmers and SAPS members unable to communicate effectively and clearly (especially in emergencies) with each other when they are both used to mother tongues not understood by the other. The assumption that all are fluent in a common language is removed from reality. No progress in this regard has been made.
- Rather than regarding Farm Watches, who are either associated with the CPFs or the SAPS as beneficial to the maintenance of law and order, especially as far as farm safety is concerned, there is a perceived and unnecessary suspicion amongst some officials which prevents co-operation, creates friction and thus neutralises efficiency.
- A belief exists within the farming community that pre-emptive action based on crime intelligence, which could have prevented murder and serious injury, does not exist, irrespective of the community's willingness to report situations which could escalate to violent crime. In fact, it is seriously questioned whether the police are capable of generating timely intelligence aimed at crime prevention in all aspects related to crime on farms.
- The original focus of prioritising and preventing farm attacks was lost within the wider spectrum of "rural crime" occurring within the bigger rural community and which could include many transgressions of the law, not specifically contained in the initial and the subsequent definition of a "farm attack". Resources, already unable to cope with policing the rural area at large is therefore further watered down having to attend to social crimes which are not regarded as having "priority" status.
- The distance from the nearest SAPS station in rural areas to the scene of the incident, is generally significant and is a major constraint to react to a reported incidence. Furthermore, poor maintenance of gravel roads, affects the time to respond as well as availability of serviceable vehicles.

f) What strategies could be implemented to improve the effectiveness of rural safety plans and overall sector policing strategies?

- Clear and unambiguous political condemnation of farm attacks by the President and cabinet ministers, in the same vein as similar condemnations of SAPS members murdered in the execution of their duties is urgently and consistently required. Their obvious silence in this regard could be interpreted as non-verbal approval thereof, thus resulting in a continuation of murder and mutilation. In the minds of some, the 1986 declaration of farmers as “legitimate targets” may still be in force.
- The protection of isolated and vulnerable farmers and farm dwellers and the rural economy in general should be regarded as a national and strategic imperative to ensure food security.
- In essence the recognition of farm related violent crimes and the application of deliberate actions as contained in the Rural Safety Strategy will go a long way to improve the current situation.
- The current situation could be improved by the following additional considerations:
 - Redefining the issue of “Rural Safety” to ensure alignment with the original intention of focusing on farm attacks and agriculture-related crime;
 - Ensuring that sufficient resources (both of the human and logistical kind) are allocated to servicing the core of the priority;
 - A higher degree of sensitivity regarding the “land issue” which is causing tremendous uncertainty in certain quarters is required. Irrespective of formal policy developments, ideological utterances from political and extra-parliamentary groups which implies totally unacceptable repercussions perceptually based on restitution, security of tenure, etc. could create an explosive situation should land- and farm occupations and threats against legal land- and property owners materialise in the absence of statutory protection of law-abiding citizens;
 - The introduction of a decentralised crime intelligence capability to service and support the Rural Crime functionaries;
 - Closer cooperation between the SAPS, security companies, organised agriculture and farm watches;
 - Greater emphasis on the combating of so-called less serious crimes such as arson, malicious damage to property, trespassing and illegal hunting whilst at the same time being supportive of landowners protecting their property and livelihood against these crimes;
 - The necessity to rely on security measures specifically catering for isolated and vulnerable people beyond the rapid response of the nearest police presence, require due consideration of the possibility to subsidise the acquisition of related alarm- and security systems as well as appropriate firearms suitable for self-defence against criminals often armed with semi-automatic weapons;
 - Whilst this input is provided from an agricultural perspective, the need for public policing of both formal and informal settlements in rural areas should also be emphasised. In many cases criminally orientated and unemployed persons create a potential criminal presence which could spill over to farms and agricultural holdings;

- Increased visibility of crime prevention authorities through all hours of the day. This necessitates that arrangements and structures to be in place to allow local inhabitants to participate in these actions thus enhancing capacity; and
- At national level, government needs to ensure policies are in place to allow society, which includes the agricultural sector, to flourish economically thus creating an environment for increased employment.

Interaction with the panel

During the discussions the respondent stated that the response from government was dismal, in particular because the violence against farm dwellers has increased since 1994. Further, the available statistics show a steady increase in attacks and fatalities. Further a brief history of how farm security evolved was given. This included:

- South African Agricultural Union in 1997 that government should address the situation as a matter of urgency.
- In October 1997, a comprehensive RSS was jointly produced by the SAPS and the SA National Defence Force. This strategy utilised the resources of both departments, supported by the capabilities and capacities of other stake holders which were jointly integrated in joint operational structures which were responsible for the planning and execution of operations. The capacity available in the Commando system of the SANDF, augmented by SAPS resources, was primarily utilised to create a nation-wide presence in rural areas. The mere fact that Commando members were predominantly local residents who knew the area and who served on a voluntary basis without expecting compensation was a huge advantage.
- The late President, Mr. Nelson Mandela, convened a national summit in October 1998 during which the issue of rural safety in general, but the occurrence of violent crimes against farm dwellers in particular, was discussed. This impetus impacted positively on the execution of the Rural Safety Strategy which was already in operation and resulted in the refinement of the system.
- In the period immediately following the summit, it became apparent that the continuation of the problem necessitated the establishment of a National Priority Committee for Rural Safety. Both the SAPS and the SANDF were represented on this committee by senior officials whilst organised agriculture was also co-opted and thereafter regularly attended Priority Committee meetings.
- In April 2001, former President, Mr. Thabo Mbeki, appointed a Committee of Inquiry, chaired by Advocate C. F. du Plessis and consisting of seven academics and researchers, to investigate farm attacks. Before the report was made public on 31 July 2003, the then President, Mr. Thabo Mbeki, announced the closing down of the Commandos on 14 February 2003. The President's announcement indicated furthermore that a new SAPS Sector Policing system would seamlessly be introduced to ensure the continuation of service delivery. Much emphasis was placed on the recruitment of sufficient reservists to replace the loss of human resources which was previously available from the ranks of the Commandos.
- The findings of the Committee of Inquiry into Farm Attacks were made public on 31 July 2003.
- As a result of the President's announcement, the military withdrew in a phased process from the internal security situation and in time the SAPS also took over the border protection duties of the SANDF. Whereas the Sector Policing system was well designed and implemented in an increasing number of metropolitan, peri-urban- and

rural areas, to date the effective implementation thereof in agricultural areas leaves much to be desired. During this process, valuable know-how and experience was lost with the disbandment of the commando system, as these persons in general did not continue serving under the SAPS command system by becoming reservists, due to the procedural requirements to be integrated into the SAPS. Very little progress was made with the recruitment of reservists which gradually led to a loss of interest.

- Further identified was the issue of definition of farm attacks “In the absence of formal definitions of what constitutes a “farm” and what a “smallholding”, the so-called Thursday Committee (a sub-committee of the Priority Committee on Rural Safety which meets on Thursdays to evaluate all reports of violence against farms and smallholdings) is totally dependent on the information provided by the Provincial, area and station offices to determine whether the premises on which an act was perpetrated are to be classified as either a farm or a smallholding. This distinction is also necessary for the separation of statistics pertaining to acts of violence against farms and smallholdings.

TAU SA's database was established after statistics specifically pertaining to farm attacks in the SAPS National Commissioner's annual report, was omitted in 2006 / 2007 and thereafter. TAU SA is dependent on the reports from its structures in the various provinces, media reports as well as other data bases in the social media to compile its own statistics. The publication of the book “Land of Sorrows” in 2011 was also jointly utilised by TAU SA and Solidarity to invite the public to report cases of farm attacks not reflected in the publication. New cases of confirmed incidents were included in a second edition published in 2012.

Whilst it is acknowledged that not all cases of violent crimes on farms are included, the cases reflected therein represent a conservative confirmed record of crimes meeting the definition. It is also submitted that the number of non-fatal attacks in particular, should be regarded as extremely conservative because not all cases of attempted murder, assault to do grievous bodily harm, rape and common assault are reported in the media unless the injuries were considered to be extremely serious or the victim was a well-known personality.

A total of 1734 murders and 3341 attacks since January 1990 to 15 September 2014 are reflected in the TAU SA data base. It should also be noted that after a peak in reported murders during 2004 (115) the situation has stabilised at a still-unacceptable level of an average of 62 murders annually.

Based on this analysis and other available statistics, Dr. Johan Burger from the ISS concluded the following comparative ratios based on the universal practice to base such ratios on the 100 000 base line for 2012 / 2013:

- National murder average in the general population: 31.1
- SAPS members murdered: 54.0
- Farmers murdered: 132.8

Based on the available statistics, the priority target areas are the following:

Province	Murders	Attacks	Total
Gauteng	382	698	1080
Mpumalanga	239	646	885
North West	251	573	824
Limpopo	184	391	575

It is equally noticeable that in comparison the high levels of violent crime on farms and agricultural smallholdings in the Northern provinces, the situation in the Western and Northern Cape Provinces is comparatively less violent.

Also, farming areas where an effective safety- and security capability exists either in the form of a security company or a farmer watches, are avoided by criminals and the prevalence of violent crime is noticeably lower compared to other areas.

A number of other crimes committed on farms and agricultural small holdings relevant to the current situation are vastly underreported primarily because such complaints are not regarded as serious by the SAPS. These include the following:

- Arson (even though it is included in the current definition and causes extremely serious and wide-spread danger to life and damage to livestock, crops and property);
- Malicious Damage to Property;
- Trespassing;
- Illegal hunting; and
- Stray dogs.

The fact that these issues, which could be underlying causes for conflict which may result in more serious consequences, are often either ignored, rejected or underestimated by the authorities (including the police) as to the damage which could be caused by unanticipated outcomes. It has repeatedly been stated that the inhuman or harsh treatment of farm workers could well be the cause of retribution against the farmer. This motive has not been validated and therefore demands due consideration.

Evaluation of the submission

The panel acknowledges the substantial submission made by the TAUSA. Additionally, the panel notes that the TAUSA do keep their own statistics on the matter. Despite the limitations of the TAU SA statistics, they are very similar to the official statistics kept. However, it is of concern to the panel that the statistics are not for the rural community at large, but rather for white farm owners and their families.

The Commission acknowledges TAUSA recommendations. The Commission recognises that the TAUSA are the only respondents that believe that white farmers are targeted because of race. The Commission does not agree that white farmers are targeted because of their race, but that rather, as evident in expert opinion by Dr. Burger and Dr. de Kock, that the degree of violence in some instances can be attributed to racial hatred, the motive for the crimes is criminal.

Of concern to the Commission is that the issue of victim support or the lack thereof is submitted. Additionally, the Commission recognises that private security can be costly, and thus only wealthy farmers can afford it. As submitted, the issue of the SAPS having no problem training in rural safety, unwillingness to register complaints, and no proper investigation, is acknowledged by the Commission. Lastly, the Commission understands the issue of land tenure, and the tensions this can cause on farms.

7.15. The African Farmers Association of South Africa

The AFASA mission is to facilitate the development of African farmers in order to increase their meaningful participation in the agricultural sector³⁵. A presentation was made during the hearing; no official submission was supplied to the Commission.

a) What is your experience in relation to violence committed against farm owners and well as against farm workers?

- There is a number reported in the papers and we have experienced some violent crime amongst our members.

b) Would you estimate that a large number of violent incidents are racially motivated, or criminally motivated, or both?

- The estimate is that they are mostly criminally motivated.

c) What is your experience relating to living conditions and labour practices employed on farms?

- Living conditions on farms vary depending on the farmers' income. Those who can afford to provide good accommodation do so. The small scale farmers who at times might be leasing a grazing farm with very few buildings, no building at all or an old farm house would not provide as good accommodation for employees.

e) In your experiences, has the service delivery offered by the South African Police Service improved since the last hearing was held by the Commission in 2008?

- It seems there is increased effort to handle crime in rural areas. From what we hear from members, one of the challenges in farming communities is the sparse population. By their nature, farming households are sparsely distributed.

f) What strategies could be implemented to improve the effectiveness of rural safety plans and overall sector policing strategies?

- Neighbourhood watch as happens amongst some farming communities; where farmers are interconnected by a radio service. Good relations and communications between the farmers and employees; farmers and workers should have emergency numbers to which to report crime and such contact stations should be able to initiate a speedy response, either from the neighbourhood watch or the police themselves.

³⁵ http://www.afasa.za.org/afasa_about.html

Interaction with the panel

The discussion was based on how farm attacks and murders are no longer a white person issue. AFASA was originally the National African Federation of Unions (hereinafter referred to as "NAFU") and the current membership number is 37 000 farmers. AFASA is attempting to introduce a community sense among farmers and workers. AFASA is a cooperative movement. There is discourse in the agriculture arena, with the domination of the race issue being central to problems. The respondent stated that there is an erosion of the trust between the workers and the farm owners. Farm workers are exploited, but this does not explain farm attacks. The majority of farm workers are black, and are often seen as doing the dirty work. It was identified that the common stereotype is that the definition of a good worker is that he is meek. There is name calling, and this can lead to the dehumanisation of those workers.

It was stated that in some instances, legislation has enhanced an acquired behaviour. There are instances of challenging conditions leading to the workers abusing alcohol and in certain instances becoming alcoholics. This type of behaviour may also lead to a troubled relationship with the police. An example was cited where a Zimbabwean worker who had not been paid, only returned to work the following morning but was shot by the farmer. Violence can manifest in death. AFASA being a neutral force has strong connections to the police. As AFASA membership constitutes black farmers, they want to reverse what apartheid has done, and that no farmer should treat farm workers badly. Further mentioned was the issue of internal stock theft.

Currently, there is the land reform proposal of the 50/50 percent share in the farms by workers. Farmers need to be proactive in this. There are common challenges shared between AFASA and AgriSA. The respondent spoke to a lack of trust between unions. A possible way forward is in creating an Agricultural Forum so that there is one voice and that everyone is working together.

A panellist asks why AFASA is not popular in the media, only AgriSA. This is true, but that the challenges are the same. Clear objective is needed in order to speak to the governance structures and hold them accountable. Publicity is not the problem, but the perception of the members is that AFASA is influencing things from the inside.

There also appear to only be security for white farmers. Further, identified AFASA that there is a lack of individual identifies for the worker, they are seen as a collective. It is agreed in that the only way forward is an integrative approach. This must be from the subsistence farmer, to the large scale farmer. The workers need to know their value. In some instances, by just provide providing ablution facilities is a good start to restoring their dignity. There is a tense relationship between the farm worker and the farm owner.

The panel asked if AFASA has experience with farm attacks. It was responded to in the negative. There is a link between farm attacks and the former workers and these, need to be explored. A follow-up question about the relationship between AFASA and the other labour organisations, such as AgriSA and TAUSA was asked. It was responded to by stating that they do have relationships, but with AgriSA there are some issues. The only way forward is together. There are also different types of farmers and they have different commodities. AFASA is playing this role, and they have been threatened by the policy.

Farm attacks have been decreasing, but that the causes are internal, and the attitude of the farmer towards the workers has a lot to do with it. The panel asked about his view of the SAPS presentation, it was stated that this is disturbing, as the term cluster was not explained. A discussion for growth creation is needed. Furthermore, AFASA feels the SAPS National Commissioner avoided the issue of farm attacks and murders.

A panellist asks if AFASA has a solution to violence on farms a way forward, to normalise relations, and to bring forth the issue of farm workers. It was stated that the plan is starting to work. In a way it is a gradual process of changing, in a bad environment. Mr. Pitso Sekhoto, a member of AFASA is a commercial farmer and has about thirty five (35) people who live on his personal farm. There are no temporary workers on his farm and the staff are happy, as he has given them fifteen percent (15%) of his farm. It is in AFASA view that in the long run, people will change their mind sets. It is believed that it is for a farmer to give the workers responsibilities. There should be no one on the farm that is not working.

Evaluation of the submission

The panel thanks the AFASA for the submission made. The information shared greatly assisted in contextualising the problem of violence on farms, and how it affects the whole rural community. Further, the discussions on a resolution to violence on farms are welcomed. The discussion incorporated the land restitution, the use of farm dwellers, the use of permanent employees, and the collaboration with the SAPS, is a holistic approach, and one that takes the interdependency of the rural community into consideration. The Commission recognises that the name calling of farm workers, and the perception that a “good farm worker is a meek one” is detrimental to environment in which farming occurs.

7.16. The Food and Allied Workers Union

The FAWU core functions are recruiting and servicing its members and bargaining with employers over labour matters on its members’ behalf³⁶. A presentation was given, no official submission was made.

Interaction with the panel

A discussion followed on the ability of FAWU to work together with strategic partners both national and internationally focusing on the plight of farm workers. The FAWU has used substantial resources to address the plight of farm workers and dwellers, including the building of rural offices.

The aims of the FAWU are to liberate farm workers, improve working and living conditions, amongst others. Mr. Mbana mentioned that the civil and political rights, which include the power relations between farmer and worker are strained. This is because of the cases of wide spread human rights violations by farm owners, including beatings, poor investigation by the SAPS, low rate of prosecution, denial of the right to vote, amongst others. These are just some of the things that farm owners are alleged to be doing. The panel sought clarity on what a farmer and dweller are. Further, the living conditions on farms for the workers and dwellers are poor. In certain situations the farm workers have limited access to social services and grave sites cemeteries. There is also no affordable electricity, water and/or food. Often farmers have reacted badly to policy and have increased evictions.

³⁶ <http://www.fawu.org.za/show.php?ID=222>

Continued is the issue of social services. Farms are private property, limits social service developments, community workers to not have access to grants and services farm areas. Children are also without appropriately schooling. The world over, farm workers and forestry workers are considered vulnerable and often work under hazardous conditions. This includes women and children. There is also trend to exploit foreign nationals, including those without proper documentation.

In some cases, farm owners do not comply with the labour laws, for example, they pay less than minimum standard, no personal protective clothing, nor comply with the Employment Equality Act and Skills Development Act, harass and intimidate workers, dismissal if workers joins a trade union, claiming private property laws, hardly ever collective bargaining to improve condition, etc. South Africa has a history of political and/or racial violence. This makes the question of motive hard to answer.

The panel enquired as to whether the motive for farm attacks is political or criminal? Mr. Mbana responded that it depends on the person, and their history, from a political standpoint the answer is no.

Additionally, private security firms are employed to be used to serve the interest of the farmer. They are not in the interest of labour relations. Even though the quality of service provided by security firms has improved, it has been observed that the better the relations between the workers and the owner of the property, the more secure the property ends up being. The private security firms act according to the instruction of the employer (farmer).

Some recommendations which are to ensure regular inspection of farms without providing advanced notice to farm owners when responding to specific complaints. Secondly, farm workers are to be included in government housing plans, if needed government must devise actionable plans that address the short term shelter needs of evicted persons. Thirdly, government must ratify of relevant covenants and conventions³⁷.

Lastly, the Commission needs to regularly investigate and report on crimes in the farming community. There is a need to allocate resources to strengthen trade unions organising farm workers, to speed up the labour reform process, and to conduct annual farm visits with specific targets. National government should invest in the infrastructure and services where farm workers are, and to ensure land reform. All of government must implement the resolutions of the summit on farm workers in July 2010. The FAWU and other trade unions must create a platform where they can discuss relevant matters to the sector and economy.

There must be collaboration with the Department of Labour and the Department of Justice to ensure effective investigation and prosecution of any crime in farms. There are many research reports to confirm the experiences of the farm workers. Challenges facing farm workers and dwellers are complex, and therefore need a collective response.

A panellist asks about the claim that the FAWU has seven hundred 700 000 unaffiliated farm workers. Yes, but only three to four percent are affiliated with a Union. Farm workers need to be sensitised of their rights. All these issues need to be highlighted. We just need a space as a trade union to do it.

³⁷ South Africa has yet to ratify the Covenant on Economic, Social and Cultural Rights.



Evaluation of the submission

The panel thanks the FAWU for making a submission, and highlighting the concerns of farm workers. Further, the panel acknowledges that only a very small minority of farm workers belong to a union, and that this is a challenge.

8. ANALYSIS OF EVIDENCE AND FINDINGS

The following section provides an analysis of the submissions made in accordance with the hearing's Terms of Reference.

8.1. Previous Commission Farm report's recommendations

As stated earlier, the Commission hosted two hearings investigating challenges pertaining to farming communities in 2003 and 2008 respectively. While these hearings had broad terms of reference to include other areas of human rights concerns in farming communities, the current hearing limited its focus to safety and security within these communities, although it was also identified that these challenges intersect with South Africa's current social, political and economic context.

Briefly mentioned below are some of the recommendations made during the previous two farm hearings reports, particularly those that remain relevant to the discussion surrounding safety and security in farming communities. Additionally, after each recommendation, as brief mention of what has been conducted so far with the Commissions knowledge, will be outlined.

Safety and Security recommendations from the Commissions 2003 farm hearing³⁸:

	Previous Recommendations	The Commissions current opinion
a)	All role players should consistently condemn all acts of violence perpetrated against members of the farming communities.	Currently, the Commission acknowledges the work that has been done by the SAPS and other role players in condemning all acts of violence, including those perpetuated against vulnerable groups and persons in rural communities. The Commission further notes, that since 2003, there have been isolated cases of racial and political utterances against white farmers, but that this is not the norm.
b)	The SAPS Rural Victim Survey (part of the Rural Protection Programme [RPP]) is welcomed and they are to keep the SAHRC informed of the outcomes.	The Commission notes that since the RPP was scrapped, no further mention of the Rural Victims Survey has been mentioned. The Commission agrees that the RPP is replaced with the RSS, but that there is a need for the Rural Victims survey to better research causes and responses to crime. Additionally, Victims of crime surveys also focus on fear of crime, which in turn affects the right to safety and security of person as enshrined by the constitution.

³⁸ South African Human Rights Commission. The Final Report of the Inquiry into Human Rights Violations in Farming Communities, 2003, pg187- 193.

	Previous Recommendations	The Commissions current opinion
c)	<p>The SAPS should hold a summit to discuss the Farming Safety Summit (Should be as part of the Farming Communities Forum):</p> <ul style="list-style-type: none"> • The SAPS needs to be proactive and practical strategies need to be developed to hold the SAPS members accountable for their actions towards farm dwellers; • The SAPS needs to engage with civil society to determine root causes of skewed perceptions; • Civil Society needs to support the SAPS; • The SAPS needs to address issues of access and participation in the CPF; • Civil society should encourage and assist in facilitating the involvement of farm dwellers in CPF; • Sector policing needs to be demographic of the South African population; and • The SAPS Reservist recruiting needs to be accomplished with the assistance of farming communities (the role of traditional leaders needs to be explored). 	<p>The Commission notes that the SAPS never held the Farming Safety Summit. During the SAPS submission it was noted that this did not happen as the Farming Communities Forum was never established by civil society. Although the SAPS have confirmed that a rural safety summit will be taking place in the second quarter of 2015/2-16 financial year. The Commission requests an invitation to the summit.</p> <p>Additionally, there has been no further discussions on the behaviour of the SAPS towards farm dwellers, it is envisaged that should the SAPS implement sensitization programmes for their police officials, better community relations will be grasped. The Commission notes that civil society is involved with the SAPS and on a positive note, with the Minister of Police. The Commission acknowledges this positive step forward.</p> <p>It is with concern that more than ten years after the release of the 2003 report, access to farm dwellers remains problematic. An inclusive crime prevention strategy has to include all affected members, and thus by not having access to farm dwellers, additional strain, and limited research can be conducted.</p> <p>Further the Commission understands, from submissions made in the 2014 Farm hearing, that sector policing and the reservist policy is not being implemented successful, and in some areas, not at all. This means that vulnerable communities, do not have access to the SAPS when needed, and thus, additional violations against their human rights are conducted, even if it unintentional.</p>
d)	<p>The South African Law Commission needs to undertake research on the criminal and civil liability of owning vicious dogs;</p>	<p>The Commission notes that this invitation to conduct research was never undertaken. The Commission will follow up on the request.</p>

	Previous Recommendations	The Commissions current opinion
e)	Research needs to be undertaken on the perception of farm dwellers towards the criminal justice system.	The Commissions notes with concern that this request has not been attended to. The Commission will follow up on the request, in view of the larger picture of a need for more research on safety and security in farming communities.
f)	The Private Security Regulatory Authority needs to follow up on complaints of abuse of power in farming communities. Especially the issues of arrest and detention of persons.	The Commission notes that the PSIRA is still actively involved in the farming community. It is commendable that PSIRA have a policy of arrest and detention, but that this still has not been normalised throughout the different private security agencies.
g)	The SAHRC endorses the decision to withdraw the Commandos from the rural areas.	The Commission continues to agree with this statement. Additionally, the Commission notes that the SAPS have to implement policies that have implementable objectives so that the farming communities, and by larger, the rural communities have access to better service delivery for the SAPS and that their rights are achieved.
h)	<p>With regards to farm attacks:</p> <ul style="list-style-type: none"> • All role players need to agree on the underlying cause of farm attacks in order for better strategies to be tabled and implemented; • The RPP should be revisited and the term 'farm attacks' removed from it; • The RPP should address all forms of crime in the farming communities (no hierarchy); • Violent crime in farming communities must be addressed in an inclusive and holistic manner; • Farm dwellers and their representatives need to be include at all levels to help combat crime; and • There is no basis for the perception that the SAPS are not doing enough. 	The Commission is concerned to realise that despite the recommendation for all role players to agree on the underlying cause of 'farm attacks and/or murders', there are still utterances being made that it is racially motivated. The Commission continues to agree with the removal of the term 'farm attacks' from policies and that all forms of violence in farming communities are equally important. The Commission acknowledges that the SAPS have attempted to do this with the RSS.
i)	The RPP fails to be inclusive for all who live in farms.	The Commission is pleased that the SAPS have rather implemented the RSS, which is an inclusive and holistic approach to rural safety. The Commission is in the view that more work needs to be conducted on the RSS so that it can implemented successfully and so that achieved for rights can occur for all in rural communities.

	Previous Recommendations	The Commissions current opinion
j)	Land invasions must be condemned by all.	It is with concern that the Commission notes that this has not been the case, and that there is a growing rhetoric for increased land invasions, despite new legislation for land tenure and land redistribution in effect.
k)	The SAPS are to control the crime of stock theft by investigating and arresting those who are responsible.	The Commission acknowledges that the SAPS have implemented programmes in an effort to combat stock theft, but that this needs to be accelerated in order to combat this growing problem

Safety and Security recommendations from the Commissions 2008 farm hearing³⁹:

	Previous Recommendation	The Commissions current opinion
a)	There continues to be unacceptably high levels of violent crime which persist in farming areas, with serious consequences for farm owners and dwellers. After a steady decline in reported crime figures between 2001 and 2006, crime levels on farms have increased by 25% over the last year for which statistics are available. There is no commonly agreed explanation for the recent spike in crime figures.	The Commission notes that high crime rates are a concern around the country, and not just in rural communities. It is also with further concern that the Commission understands that no further large scale research has been undertaken to understand the causes, implication, and effects of crime in rural communities.
b)	Concerns have been expressed about the capacity of sector policing to adequately deal with the safety and security in farming areas, which requires further investigation.	The Commission heard during the 2014 farm hearing that this is still a concern, and urges the SAPS to train all officials on sector policing and the RSS. Additionally, the Commission urges the SAPS to implement a policy of the usage of rural vehicles by SAPS.
c)	At the same time there are positive examples of joint work between government, organised agriculture, NGOs, Unions and other stakeholders. This has resulted in the negotiation of self-regulatory codes of conduct together with mechanisms for transparent monitoring and implementation.	The Commission acknowledges this positive development that continues into 2015. The Commission laments that farm dwellers and farm workers are not a bigger part of such a process, and encourages that this happen.
d)	Of their own admission the South African Police Service (SAPS) has to improve their service delivery, credibility and trustworthiness to secure the confidence of farm owners and dwellers in many farming communities.	The Commission notes that this is still a concern. The SAPS have attempted to improve this, but the rural community, and in particular, the farming communities are still not receiving the service delivery they are entitled to

³⁹ South African Human Rights Commission. Progress made in terms of land tenure, security, and safety and labour relations in farming communities since 2003. 2008 pg10.

8.2. Definition of concepts

A particular area of concern is the wide range of definitions being used to define, “farm attacks” and crime “victims”. This section will explore the terms used, and their limitations.

8.2.1. Farms and Small holdings

According to the SAPS RSS a farm is defined as “An area of land and its buildings used for agricultural and livestock purposes, including cattle posts and rural villages where subsistence farming takes place”⁴⁰. Additionally, small holdings are defined as “An agricultural holding that is smaller than a farm, excluding smallholdings where no agricultural activities take place and that is predominantly residential”⁴¹.

The area of concern, as indicated by the respondents, is in regards to the definition of farms and smallholdings. It is not in their definition per se that concerns the respondents, but rather in the fact that in the classification of what constitutes a “farm attack and/or murder”, and that it is inclusive of the term smallholdings, which as explained previously, where there is no agricultural activity, are predominately residential, and are situated in peri urban areas. The majority of respondents would prefer to have statistics that were inclusive only of farms.

According to the National Treasury’s provincial budgets and expenditure review: 2010/11 till 2016/17 “smallholder agriculture this covers an estimated 14 million hectares, involving between 300 000 to 400 000 predominantly black farmers. It is mainly located in the former homelands, which lack good soil, water and infrastructure. Production efficiency is generally low”⁴².

The Commission acknowledges these concerns about the definitions, but also acknowledges that rural safety is a concern and a fundamental right for all. While the definition of ‘farm murder and attacks’ is problematic in that they could possibly incorporate the definition of small holdings, the Commission notes that the SAPS no longer maintains the database for these crimes, but rather has an inclusive strategy about recording what is submitted. As per the SAPS submission, recording of crimes is conducted at a station level, then at a cluster level and then finally at a national level. It is thus the position of the Commission that the recording of crimes should accurately reflect the nature of the crimes, and that this should be done efficiently to ensure that investigations are conducted to the highest standards.

8.2.2. “Farm attack and/or murder”

Several respondents raised issue with the way in which the term “farm attack and/or murder” is defined⁴³. Of particular concern is the inclusion of smallholdings into the definition, this is primarily because of the peri-urban nature of smallholdings, and in that some cases, smallholdings do not constitute farms, because there are no agricultural activities taking place, and that it is predominately residential in nature. Many of the respondents felt that by including smallholdings in the definition of “farm attack and/or murders” that the already perceived constraint resources of the SAPS in peri urban and rural areas would not be utilised effectively towards the rural areas, and in particular, the farming community.

40 The SAPS National Rural Safety Strategy. 2011.

41 Ibid

42 Provincial budgets and expenditure review: 2010/11 – 2016/17.

43 The Commission is of the view that the term violence on farms should be used.

The SAPS National Operational Coordinating Committee (hereinafter referred to as “NOCOC”) defines attacks on farms and smallholdings as:

“... acts aimed at the person of residents, workers and visitors to farms and smallholdings, whether with the intent to murder, rape, rob or inflict bodily harm. In addition, all actions aimed at disrupting farming activities as a commercial concern, whether for motives related to ideology, labour disputes, land issues, revenge, grievances, racist concerns or intimidation should be included⁴⁴”.

As previously stated by Dr. Johan Burger, farm attacks or attacks on farms is not a specific crime category within the SAPS. Furthermore, attacks on farms are similar to, and generally recorded by the police as ‘robbery at residential premises’. House robbery is a sub-category of ‘aggravated robbery’. According to the police’s official definitions house robbery is defined as “the unlawful and intentional forceful removal and appropriation of property from the residential premises of another person⁴⁵”. The Commission is aware that this definition should be sufficient to describe a robbery at the residence of a farm or smallholding, but it would obviously not be descriptive of all the other acts of violence and crimes that are committed in the process. The same argument would of course be applicable to house robberies. The commission of this type of crime is often accompanied by various other crimes and acts of extreme violence.

In addition, Dr. Johan Burger states in an article in 2012⁴⁶ and in the current hearing, that it is obvious that farmers, their families and their workers are considered soft targets by criminals.

Farm houses are geographically more isolated than houses in urban areas and therefore further removed from the possible deterrent presence of close neighbours, the police and other security institutions and an immediate response by them. There is also a popular perception that all farmers are rich or at least relatively wealthy, and therefore lucrative targets⁴⁷.

Currently, the SAPS RSS uses the term “acts of violence against person/s on farms and small holdings”. The definition is stated as:

“Acts of violence against person/s on farms and small holdings refer to acts aimed at person/s residing on, working on or visiting farms and small holdings, whether with the intent to murder, rape, rob or inflict bodily harm. In addition, all acts of violence against the infrastructure and property in the rural community aimed at disrupting legal farming activities as a commercial concern, whether the motive/s are related to ideology, land disputes, land issues, revenge, grievances, racist concerns or intimidation are included. Cases related to domestic violence or liquor abuse, or resulting from commonplace social interaction between people is excluded from the definition⁴⁸”.

The most limiting aspect of the definition provided above appears to be the exclusion of victims of domestic violence, or specific reference to violence inflicted on farm owners by farm workers. But the definition is applicable to all races of farm owners, farm workers, and farm dwellers.

44 Report of the Committee of Inquiry into Farm Attacks Part 1: The nature of farm attacks. Available at: http://www.saps.gov.za/statistics/reports/farmattacks/_pdf/part1.pdf

45 www.saps.gov.za

46 An overview of farm attacks in South Africa and the potential impact thereof on society. 2012. Available at <http://www.navorsing.co.za/wp-content/uploads/2012/11/An-overview-of-farm-attacks-in-South-Africa-and-the-potential-impact-thereof-on-society.pdf>

47 Ibid

48 <http://www.agrisa.co.za/wp-content/uploads/2014/02/Rural-Safety-Strat.pdf>

The Commission notes that the definition of 'farm attacks and murders' is problematic because it is a grouping of crimes against farms and small holdings, as opposed to legally defined crime. The drawback can be that when such crimes are prosecuted, they are under the definition of murder, assault, arson, etc. The Commission acknowledges, as do some of the respondents, that this can make research into the causes of farm attacks and murders a challenge.

8.3. Land Tenure

In November and December 2013, the Commission hosted an investigative hearing into Monitoring and Investigating the Systemic Challenges Affecting the Land Restitution Process in South Africa (hereinafter referred to as "Land Tenure hearing"). The terms of reference for the hearing were to⁴⁹:

- a) To receive information and to hear evidence from the respondents and other relevant parties relating to the systemic challenges affecting the land restitution process in South Africa;
- b) To analyse evidence brought before the panel;
- c) To make appropriate findings; and
- d) To enable the Commission to make recommendations.

During the land tenure hearing, the panel heard that the role of the Land Rights Management Facility (hereinafter referred to as "LRMF") initiated by the DRDLR in 2008 " motivated by the need to remedy evictions, threats of eviction and human rights violations in rural areas ... aimed at improving access to justice in rural areas. The rationale behind the LRMF... was to provide legal and mediation services to poor, marginalized and indigent people in rural farming areas, to support land tenure reform programs and to contribute to stabilising and improving social relations in rural communities⁵⁰. Additionally, the Land Reform hearing heard that the DRDLR submitted that the strategic thrust underlying decisions relating to land reform, including land restitution, is that there should be minimal or no disruption to food production. It is not clear how food production can be a valid determination for a legal claim of ownership. In addition, the issue of food production appears to be used only in cases where there is no intention to use land for mining. The DRDLR submitted that while the policy thrust is food security, this does not mean that when restitution happens, the state only deals with food production. It would depend on the type of land. The DRDLR could accept situations wherein the land-use prior to restitution would be acceptable such as mining⁵¹.

The Commission thus emphasises that any comprehensive rural safety and security strategy must factor in the role of the DRDLR in finding sustainable solutions required of the present findings. This will definitely be of assistance to the farm owner as well as the farm worker on issues of safety, security in rural communities, including addressing the issue of food security in a sustainable way.

49 Report of the SAHRC investigative hearing into Monitoring and Investigating the Systemic Challenges Affecting the Land Restitution Process in South Africa, 2013, pg 25

50 Report of the SAHRC investigative hearing into Monitoring and Investigating the Systemic Challenges Affecting the Land Restitution Process in South Africa, 2013, pg 37,38,47,48.

51 Ibid, pg 45.

8.4. Root causes that lead to crime outcomes

Issues affecting safety and security in farming communities are broad. The one area that raised significant concern among some respondents was the lack of prioritisation of farming by the government. The NAFU made a statement indicating that when one analyses South African history, it can be noted that the National Party government, had a budget for farming that is nearly double the current budget allocated under the current government. By way of indication, it shows that farmers were always a priority under the National Party government, and that they want to continue to be a priority under the new government. However, the economic priorities of government may have changed, and this can be why the agriculture business and farmers in particular, feel as though they are no longer a priority.

This comment can be disputed by analysing the South African national government expenditure. From between 2010/11 and 2013/14 they spent about R48.8 billion on agriculture and land reform; this is projected to total R44.5 billion from 2014/15 to 2016/17⁵². Additionally, the appointment of Thoko Didiza as Minister of Agriculture and Land Affairs, in 1999, coincided with an increased focus of an emergent commercial farming sector becoming the over-arching priority⁵³.

The TAUSA raised the issue of ESTA, and how farm dwellers affect the safety and security of farming communities. This sentiment was echoed by the NAFU, and other respondents. The use of land and houses by farm dwellers, when they are no longer in the employ of the farm seems to indicate a rise in violence against them, as stated by the TAUSA. There is a link to poverty, as farm dwellers often have nowhere to go when they are no longer in the employ of the farm. No standard exists to define 'proper housing' on farms. Additionally, all structures are constructed at the cost of the farm owner. In this regard the cumulative implications of ESTA, and the fact that many farm dwellers are in fact no longer in the employ of the farmer, but remain entitled to the houses which were occupied during their service. Additional houses therefore require to be constructed when new workers are employed.

Additionally, in a 2013 report on land tenure in Limpopo it was stated that "Tenure to housing depends on employment, and the quality of housing is kept at a minimum to counteract the effect of government wage legislation⁵⁴".

From a historical perspective, some farm dwellers might be entitled to land redistribution, as their ancestors may have always occupied the land. It should be noted that rural areas, to a certain extent, remain underdeveloped, and as such, the only form of security farm owners, farm workers, and farm dwellers have is the farm itself. It raised the question of where farm dwellers are to go should they be evicted, and this can lead to further tension. This can create tension between all persons within the farm. An example was given in the form of allowing farm dwellers' livestock to graze freely, which could possibly lead to the destruction of produce that could be sold. Additionally, the Unions mentioned that there is an irrational fear from farm owners that should they develop the land for the farm workers and farm dwellers; they will not leave should there no longer be work for them. This statement is not the view of the Commission, and no substantial research has been conducted on the matter in order to confirm the assertion expressed.

⁵² Provincial budgets and expenditure review: 2010/11 – 2016/17.

⁵³ Ward Anseeuw & Chris Alden. From Freedom Charter to Cautious Land Reform -The Politics of Land in South Africa. Discussion paper, 2011.

⁵⁴ Poul Wisborg, Ruth Hall, Shirhami Shirinda, Phyllan Zamchiya. Farm workers and farm dwellers in Limpopo, South Africa: Struggles over tenure, livelihoods and justice. 2013.

Additionally, as all top structures of the farm belong to the farmers. This can possibly lead to the disincentive to the farm worker to invest in their homes. This means that most farm workers are dependent on the farmer as a benefactor to create and maintain living quarters. Unless the farmer contributes, workers are confined to old buildings with no electricity, toilets or water available. Notably, the respondents, especially the Unions, noticed that in certain areas there is a trend to exploit non-nationals of South Africa, including those without proper documentation. There are concerns of the poor treatment of farm workers, including temporary workers.

Nearly all the respondents indicated that by increasing the economic viability of farming communities, and by investing in farming, the environment could lead to increased employment. Dr. Chris de Kock mentioned that often economic inequality continued to impact and effect crime in South Africa, and that by improving socio economic conditions, crime could decrease. It should be noted that in the FAWU submission, it was stated that farm workers and forestry workers, including women and children, are considered vulnerable and often work in hazardous conditions. Another issue raised was the lack of social services provided to farm workers and farm dwellers. The particular problem is that farms are private property, and thus farm owners are allowed to limit social service developments. In certain instances, community workers do not have access to social grants and services. There are also issues in providing these children with adequate education. In Gauteng, for example, because most farming occurs in a peri-urban setting, there is limited access to health care, education, and the farming terrains are challenging.

Further highlighted was the concern about the high dropout rate for school children of farm workers. This could be alleviated by the education department gaining easier access to these areas, as well as better school transportation. The impact of land invasion and force eviction on children in farming communities needs to be further studied. In the Commission 2003 and 2008 farm hearing reports, the impact on vulnerable groups, such as children, extends beyond having safety and security at home, but also on the children's ability to love their daily lives and attend school.

Dr. Burger stated that it is obvious that farmers, their families and their workers are considered soft targets by criminals. Farm houses are geographically more isolated than houses in urban areas and therefore further removed from the possible deterrent presence of close neighbours, the police and other security institutions and an immediate response by them. There is also a popular perception that all farmers are rich or at least relatively wealthy, and therefore lucrative targets. This is seen as an economic driver, and not a race motive, which has been echoed by nearly all the respondents.

This above insight is important, because it feeds into the Commission's complaints from farm workers in the Western Cape, and previous Commission farm hearings. Although the State is responsible for the delivery of socio economic rights such as water and electricity etc., on privately owned land, it is the owner's responsibility to ensure that workers are living in good conditions. But this is also dependent on the income of the farm owner, which is why there is a need for a holistic approach to the issue that involves the State and all stakeholders to the safety and security of farming community.

The Commission unequivocally states that the causes for 'farm attacks and murders' is not race. The statement is made bearing in mind all research conducted in previous hearings and government commissions of inquiries. Racial tensions have been present in South Africa for many decades and continue to be the case in democratic South Africa. As stated in the National Development Plan 2030, "the relationship between farmers and farm workers is difficult and

needs to be far better to achieve agricultural expansion, higher employment and better living conditions⁵⁵.

The power relations that affect the farming community are broad and need to be understood in the context of racial segregation, land tenure, and economic empowerment when attempting to consider the root causes of crime which occur in farming communities.

8.5. Statistics

According to the DoJCD submission, the crime rate in farming communities is significantly lower than that in urban communities. In relation to the statistics on farm attacks and/or murders, there is significant debate regarding the validity of categorising a distinction between crime committed in farming communities and those committed in urban communities. Currently, the SAPS does not keep statistics on farm murders and/or attacks. This is due to the fact, that in order for the statistics to meet the strict criteria for publication in the SAPS annual reports, they need to be audited. This cannot be done successfully for two reasons. Firstly, “farm attack and/or murders” are captured at a station level through a questionnaire, which is eventually sent to the SAPS’ CIAC. Secondly, as mentioned by the National Commissioner of the SAPS during the hearing, the issue regarding the recording of crimes is that they are recorded at a police station level first. It is then solely on the police officials to either record it as a farm attack or murder, or as a robbery at a residential property. Additionally, police stations often serve several different areas, of which not all are farming communities.

The CPFs in rural areas, and in particular, in farming communities are to be informed of crime sensitive information. This includes the current statistics on crime categories within the area, so as to better assist the SAPS in crime prevention, and patrols.

Two experts who presented to the panel had contrasting views of statistics and the validity thereof. Dr. de Kock, a now retired Major General of the SAPS who used to head the SAPS CIAC, stated that statistics should not be kept on farm murders and attacks. This is because of the cost of independent databases being high, and the role of auditing of the crime statistics. Additionally, the other issue preventing “farm attacks and murders” not being recorded is that they do not have their own crime category; it is solely reliant on the police station sending the information to the SAPS CIAC independently of the other crime recording systems of the SAPS. Also, should an independent database be kept for farm attacks and/or murders, and then all other crimes, such as attacks on the elderly, xenophobia, femicide, LGBTI community, and the killing of children for ‘muti’ independent databases need to be kept.

Dr. Burger on the other hand stated that it was a shock that crime statistics were no longer published. It came as a shock to the community, because the concerns with the auditing of the statistics had never been raised. Dr. Burger made mention that in his ratio’s and calculations that farmers are twice more likely to die than a police officer. Dr. de Kock contrasts this by stating that the ratio is not statistically relevant because of the vast difference in population size (there are only about 32 000 farmers), the definition of farms and small holdings, the unknown reliability of which inhabitants are included, and the issue of police stations and how they chose to classify the crime.

The Commission notes Dr. Burger and Dr. de Kock’s views on the matter of statistics. Additionally, the need for accurate statistics is always of importance, as it furthers research, and that such research betters policy development which leads to a progressive realisation

⁵⁵ South Africa, National Development Plan 2030, pg 233.

of rights. While the Commission notes that there are no annually released statistics on “farm murders and/or attacks” the Commission also notes that there are no annual statistics released on the numbers of attacks or murders of farm workers or farm dwellers. Furthermore, the Commission welcomes the release of the statistics on “farm attacks and/or murders” by the SAPS during the hearing acknowledging the constraints referred to the ability to be able to inform such statistics.

8.6. Common issues to farmer owners and farm victims

Another issue raised by some of the respondents that could lead to crime, was the extreme level of unemployment. TAU SA brought to the panel’s attention the fact that persons (farm owners) who reside on farms are often viewed as easy targets due to their remoteness and distance to immediate government support structures. The Commission firmly believes that despite the current state of available statistics where no distinction is drawn between crimes which occurs within farming communities and those which do not, farm attacks and/or murders are not only an issue of race but more of class. This is evidenced by the submissions made during the hearing.

The unions who presented at the hearing gave testimony on farm violence, unfair labour practices, and harsh work environments. Violence on farms is a special issue, but it is not because of race, but rather because of the unique geographical and social situations. There are also concerns of farms not receiving adequate social services, either from the SAPS or government, because they are situated on the boarder of two provinces.

A concern raised during the submission was the fact that farms are responsible for food security, and that the current safety and security threat towards farming communities is threatening the food security of the country. This was counter stated by the ARC, who asserted that South Africa does produce enough food, as evident in the food exports. Food security is not a problem currently; it is the cost of food that is the problem. Currently, according to the ARC, no research is available on the increasing price of food because of the challenges regarding safety and security on farms. Food insecurity exists not because farmers are leaving the country because of crime, but because the cost of agriculture is getting expensive world over, thus increasing prices. This is exacerbated by issues surrounding safety and security. However, this notwithstanding, South Africa does produce enough food to feed its population. It should be noted that AfriForum acknowledged that there is currently no valid research on the impact of farm owner attacks on the psychological, economic, and safety stability of farm workers. Despite this, there is an atmosphere created by farm owners, that they alone are responsible for the profit of farms, and the food security of the country. Yet, farm workers do the actual work that allows the profit to be made. Additionally, several respondents referred to victims of “attacks and/or murders”, but were not clear about who are classified as victims. The inclusion of farm workers needs to be advanced.

Lastly, it should be mentioned that some respondents felt that the SAPS avoided the issue of farm attacks and/or murders. It appears that to these respondents, the SAPS are disappointing many factions of the same community. The issue is relevant to the entire community, and not only one sector of farming communities, i.e. farm owners. In response, the SAPS continued to emphasise that they are committed to the whole of the farming community, and not just to farm owners. The SAPS have stated that violence in rural and farming communities continue to be less than urban areas, but that the police are available to assist rural and farming communities. In addition, the SAPS mentioned that despite the resource constraints in some sectors, the SAPS are committed to ensuring the safety and security of all persons in farming communities.

8.7. Useful policing strategies

One aspect that resounded throughout the hearing was that there needs to be a holistic strategy in solving the unique problem of safety and security in farming communities. An integral approach by all government departments is essential. This can be achieved by the mobilisation of farming communities in the implementation of successful community policing strategies, and this must include all members of the community. Briefly speaking, the SAPS' RSS is a good strategy to achieve this, but more is needed from the SAPS, that would allow the RSS to be implemented smoothly and quickly. Even though the crime rate in farming communities is significantly lower than urban communities, community members are still entitled to the right to dignity and the right to safety and security.

During the hearing, it was noted that while the crimes in farming communities are not racially motivated, submissions were made, that during the attack, negative racial language is used. The SAPS is aware of this and, like the other respondents, stated that this cannot be the sole responsibility of police. It shows that South African society has failed to properly to transform and that there is still racial disharmony. NAFU and AFASA made mention to the unique circumstances of farming communities and that black farmers have also made a link between the unique circumstances of safety and security on farms, the link to food security and the broader economy.

TAUSA was the only respondent who stated that the majority of "farm attacks and/or murders" were racial, "the obvious racial composition of the two groups conveys a message in itself which leaves very little space for arguments other than in the case of "farm attacks" that racial bias, which can be interpreted as hatred, is prevalent". The Commission notes that during the hearing, some respondents gave evidence that black farmers are also experiencing crime. This further supports the position that safety and security challenges in farming communities is more criminal in nature than racial.

Importantly, one cannot view the farming community without acknowledging the role of private security. Farms are often in far removed areas and that since the commandos had been disbanded, some farmers are feeling that private security is the better option as opposed to the distant police stations. Furthermore, in AfriForum's experience, farmers do not often make use of private security firms because of the location and size of the farms that need to be covered. One of the main arguments by farmers for using private security is the lack of resources available from the SAPS. The Commission notes that if violence on farms were made a priority crime, which it currently is not, then the SAPS would have to allocate more resources to farming communities which may lead to the reduction in the level of crime in. The farming community is co-dependent on each other, and the scourge of violence being experienced in farming communities needs to be addressed holistically, where role players work together to assist in the such a reduction in the crime rates. What can be deduced is that some farmers do have the resources and capacity to hire private security.

Private security companies only have the power of civilian arrest and only the SAPS have the power of formal investigation of crime. Further, a grey area emerges in the detaining of suspects by private security firms and how to ensure the humane treatment of all detainees. However, it is essential that the PSIRA is regulated and complies with human rights standards. Some of the standards that all private security companies have to adhere to are the policies on humane treatment and the prevention of torture.

PSIRA, CPFs and the SAPS all report to the Police Ministry. The CPFs are mandated under the SAPS Act and may include functions as the monitoring of the effectiveness and efficiency of the SAPS, advising police on priorities in the neighbourhood and promoting the accountability of the SAPS to local communities⁵⁶. For example, CPFs work closely with the SAPS, as forum members see where the gaps are and attempt to rectify the situation. CPF members are not allowed to arrest persons or to write down statements but they can still take on a range of activities that will make policing more effective, for example, raise donations or solicit for equipment, like cars or cell phones. CPFs are to always act within the confines of the law and should they fail to do so, they will be investigated by the SAPS.

Particularly, the joint operations between the CPFs and the SAPS seem to be effecting change. This is seen in the crime statistics published by the SAPS. Those farming communities that have prevalent CPFs and the SAPS cooperation are recording lower crime rates.

PSIRA regulates the registration of all private security companies and members. All legal and above board private security members have strict training, as approved by the PSIRA. Additionally, all registered private security members are graded in terms of their skills and abilities. Should any member of private security fail to act within the law, they are to be investigated by the SAPS. The SAPS is mandated to protect South African society, and that private security should provide an auxiliary and complementary service to the SAPS. As evident in the submission, the farming community prefers to rely on government structures for safety and security, as opposed to private security.

As mentioned earlier, the SAPS do not recognise a crime category for farm murders and/or attacks because of the nature of the crime. It is recorded as robbery at a residence. Rather the SAPS recognise the importance of an inclusive strategy in relation to rural communities, as is shown in the development of the RSS.

Generally, many members of the farming communities, as heard by the panel from the respondents on behalf of their constituency, that the majority of the SAPS members are dedicated, but that community involvement and cooperation with private security firms on a regular basis is required. Unfortunately, there are complaints that the SAPS members are either unwilling to register complaints or respond to complaints within an acceptable time and manner.

One should note, that the complaints about the SAPS member refusing to act reasonably and within the ambit of law can be generalised to crime broadly, and not just safety and security in farming communities. The nature of statistics is that they are relied on to show a reduction of crime, and police do not always record all complaints. Similar complaints have been raised by victims of rape. Additionally, there is no guarantee that by making farm attacks and/or murders a priority crime that anything will change. There seems to be too many priority crimes and insufficient resources and collaboration to address the challenges and obligations.

Additionally, a concern raised was that there is a major communication challenge between farmers and the SAPS. This is especially the case during emergencies when there is a lack of understanding. The assumption that all members of the SAPS are fluent in languages commonly spoken in areas that they are responsible for is removed from reality. This is not unique to farming communities only, as South Africa has eleven official languages and many others that are spoken.

⁵⁶ http://joburg.org.za/index.php?option=com_content&task=view&id=88&Itemid=9#ixzz3Ts4c5rHV

It is a requirement that the SAPS officials speak at least official languages, but the Commission notes that in some incidents language may pose a barrier which impacts on the ability to ensure an effective and expeditious police service.

8.8. Policy implementation challenges

Policy implementation issues are similar among many departments, but one aspect that is constant is that the solution to violence in farming communities is achieved through a holistic approach. Such a holistic approach would include the productive engagement and collaboration between government, private, and civil society who should work together in an attempt to reduce crime in farming communities. The Commission notes that the below mentioned policy implementation challenges are complex, and the solution is often not found in one department, organisation or person. They have been proposed not as a closed list due to the complex nature of the issues which the hearing was created to consider. Briefly speaking the following policy implementation challenges were identified:

- Access to adequate policing, and this includes loss of confidence in the visibility of police, availability of police, and police investigations;
- Access to farms by the DoJCD, this includes the access to the criminal justice system;
- Inadequate redistribution of land; and
- Access to health, social grants, and education for children of farm workers and farm dwellers.

9. RECOMMENDATIONS AND FINDINGS

9.1. Findings

The Commission findings are as follows:

General

- i. The report began with a quotation by former State President Mr. Nelson Mandela when he addressed a Summit on Rural Safety and Security in Midrand in 1998. In the quotation he refers to:
 - the immediate human suffering, lack of security and stability in our rural and farming community;
 - the serious disruption to our economy;
 - the threat of reduced growth and production, loss of wages and profits, and in time unemployment; and
 - the spectre of deepening poverty and potential social instability and upheaval.

As quoted above, Mr. Nelson Mandela also stated that:

- the government deplores the cold blooded killings that have been taking place in farms in the past few years;

- Killings on farms, and crimes in general, have been a feature of South African life for many decades; and
- The incidents of murder and assault in farming areas have increased dramatically in recent years.

While it has been testified that the figures have not “increased dramatically” as in 1998, it concerns the Commission that there are still so many incidences of violence and murder on farms. The clear interdependence between the right to life and the right to food in farming communities demonstrates with clarity the low level of respect for human rights and for the Constitution in our country.

South African society in general and the South African government in particular, will do well to heed the insights and approach of Mr. Mandela.

The SAHRC hosted two investigations into farm safety, one in the report of 2003 and one in 2008. Yet it became imperative to have this public hearing in 2014/2015. While on the first reading it indicates the limited impact of recommendations by Chapter 9 Institutions and the SAHRC in particular, it also reflects the deeply ingrained nature of crime in our country, lawlessness and the feeling amongst criminals that they will not be caught, and even if they are caught, that the criminal justice system is not enough of a deterrent. We urge all stakeholders, the law enforcement agencies in particular to turn around this untenable situation of lawlessness in the country. This is where the social fabric of our young democracy is falling apart and it can reach a point where the turnaround process will become almost difficult to achieve.

- ii. Reflecting on the latest number of farm killings since the Commission’s hearing there appears to be almost gay abandon with which farms are approached with the clear intent to cause harm to innocent citizens. The right to life is one of the more prominent fundamental human rights in our Constitution and in society in general. While there may be doubt about other human rights, this is the one right that is rooted through the ages and in all societies. It is therefore our pressing concern that awareness around this right to life is increased at all levels. There can be no justification for the taking of life particularly the brutality and violent nature of it.
- iii. The perception of farms being places of easy money will have to be countered with the fact that our country’s food security is dependent on the outputs of farming, the co-dependence of the farm workers with farm owners as well as the broader South African society. South Africans will do well to embrace the notion that farms produce so that we may eat. South African society needs to affirm to the all farmers that they are appreciated as part and parcel of this country, its democracy and its Bill of Rights.
- iv. The Commission acknowledges the concerns around race in safety of farming communities. We also acknowledge the development of our democracy and that the country is making significant process in its transformation. The deep racial divide that has characterised this country twenty years ago has abated and it is the Commission’s experience that fundamental human rights are respected increasingly more than before. With racism having been so ingrained in our society over centuries it remains imperative to be remain vigilant in addressing this scourge in our society.
- v. The Commission has been presented with evidence from victims of attacks and murders. While perpetrators of these heinous crimes on farms need to be subject to the full might of the law, this cannot be done without giving full effect to the plight of the victims of these crimes. It has been testified that particularly the SAPS and the NPA have been found wanting when it comes to the support of victims. A much clearer framework on

the treatment of victims in general and victims of crimes on farms in particular needs to be developed between the SAPS and the NPA. The NPA needs to be sensitised to the needs of the farming communities. Basic understanding of their circumstances and more particularly of the NPA within the criminal justice system has been identified by the farming communities as an area that needs specific focus.

- vi. Safety and security challenges persist in farming communities. Violence in farming communities is not based on the ground of race but reflects a reality where issues of racial segregation, land tenure, and economic empowerment provide the context for considering the root causes of crime which occur in farming communities. In addition, the Commission notes that the term “farm attacks and/or murder” is appropriate.
- vii. There is a lack of research being undertaken on the issue of safety and security challenges in farming communities. From the limited research available the Commission finds that the standard of housing being provided to farm workers and farm dwellers is inadequate and insufficient, this is not applicable to all farms and smallholdings.
- viii. The Commission finds that there is a lack of adequate and effective collaboration between all members of farming communities to secure their safety and security.

The Afriforum concerns (which formed the basis for the initial consideration for the hearing)

- ix. The increase of farm murders and the violent nature of these killings are unacceptable and a clear violation of fundamental human rights. The impact these killings have on the capacity of the farming community, the economy and food security of South Africa is underestimated and concrete steps need to be taken by all concerned to ensure the fundamental relevance of farms as the food basket of the country. The perception that farms are easy targets and that the lives of the farming community are worthless needs to be combated vigorously.
- x. The Commission does not dispute the fact that there are farm murders and attacks that are motivated by hate or racial hostility. Evidence placed before the Commission however, weigh rather heavily on a preponderance of the criminal element. This however, is an ongoing process of transformation in our country that needs the attention of all relevant role players. The Commission also notes the evidence by organised black farmers who clearly underlined the fact that safety on farms is not the preserve of one racial group.
- xi. The evidence presented indicated clearly a commitment to an increased efficiency in farming communities by the SAPS, the state prosecutorial services and the judicial outcomes. Much more needs to be done in this area of criminal justice to restore the confidence of the farming communities.
- xii. The Commission has been informed of the complex nature of policing in the country. However, there was also a commitment to improve in the area of farm attacks and killings.
- xiii. The Commission agrees with Afriforum that stronger government and political condemnations of the murders and attacks in the farming community is required by the government and political parties. The clear voice of former President Nelson Mandela in this regard in 1998 on this matter needs to be heard again with frankness, direction and awareness raising by government and political parties.
- xiv. Ongoing dialogue at provincial and municipal levels in and amongst stakeholders of the farming community has been pointed out as taking the public hearing of the Commission further and finding local solutions for local challenges.

- xv. The Commission will continue to keep monitoring watch over the processes and will keep abreast of research on these processes.

The DoRDLR

- xvi. The Commission notes that a standard on the specification of housing being provided to farm workers and farm dwellers does not currently exist.

The DoJCD

- xvii. The Commission finds that the DOJCD's PRVG fails to include farming communities and the particularities of their existence and livelihoods.

The SAPS

- xviii. Inadequate policy formulation surrounding the SAPS RSS impacts on the realisation of rights in the farming communities.
- xix. CPFs in farming communities would be a good means to combat crimes in such localities.

The NDA

- xx. The Commission affirms the NDAs possible strategy to assist in crime prevention is for farm owners to allow government services access to land more frequently, and that by education and uplifting the community, a reduction in violence is anticipated.

9.2. Recommendations

The reality of farm safety is still of major concern. Despite the clear language of Mr. Nelson Mandela in 1998, farms are still unsafe and farm killings still continue. Many of the recommendations from the Commissions 2003 and 2008 hearings are still relevant. In consideration of the above mentioned and the submissions made, the Commission makes the following recommendations.

Recommendation one - The Commission acknowledges that should violence in farming communities be addressed in a comprehensive manner, the human rights of all members of these communities shall be entrenched and upheld. South Africa needs to turn the untenable situation regarding safety and security in farming communities to the right to life for all and the implications of food production and the well-being of our farming communities. The Commission will, promote the need for respect of and adherence of human rights in farming communities in its human rights advocacy and awareness programmes. This will be done by involving the identified role players at follow-up dialogues, keeping the matter on our national human rights agenda, highlighting the many human rights that are in play in farming communities. In addition, the Commission will assist in the facilitation of farming dialogues at provincial and sectoral levels.

Recommendation two - With crime and criminality being established as the major cause of violence against farming communities and farm owners in particular, the Commission recommends that law enforcement agencies such as the SAPS and the NPA step up their

involvement in combating these crimes against farming communities. It has been testified by the SAPS in particular that including farming communities in their comprehensive strategies is part of their practice; the Commission recommends that periodic progress reports by the SAPS are provided to the Commission.

Recommendation three - The Commission is aware that in certain instances racist overtones are used during incidents of violence on farms. Further, the Commission agrees with Dr. de Kock, in that South Africa in general has a history of racism and that the use of racial speech during the commission of a crime is not indicative of a racially motivated crime but rather a symptom of a larger problem. The Commission recommends that particular attention is given to race relations in farming communities at the respective dialogues that are proposed.

Recommendation four - The Commission recommends that the stereotypes on farming in South Africa be addressed in the overall awareness raising. The increasing role of black farmers needs to be acknowledged more. The good relations on many farms between farm owners and farm workers are also not sufficiently highlighted. South African society in general still sees farming as separate from their daily existence. This stereotype is not valid in our continuing, transforming society.

Currently, there are positive examples of joint work between government, organised agriculture, Non-Governmental Organisations (hereinafter referred to as “NGO”), Unions and other stakeholders. This has resulted in the negotiation of self-regulatory codes of conduct together with mechanisms for transparent monitoring and implementation. This is still being observed in 2014, for example, AgriSA’s relationship with the SAPS. The Commission recommends that these types of relationships be fostered so that the participation of members of farming communities becomes integral in their own safety.

A process, as is witnessed in the Solms-Delta farm, is an indication that the farming community can use their own initiative in attempting to redress the plight of farm dwellers and farm workers. The Solms-Delta farm and a neighbouring farm, took out bonds on their properties to secure a loan for the workers to buy the adjacent Deltameer farm. Solms-Delta is now made up of three farms, and all three share in the profits. Solms, Astor and the farm workers and residents are all beneficiaries. Of the combined Solms-Delta, Solms, Astor and the trust each own a third. Profits from Solms-Delta, allow the workers and tenants to pay for health care, school fees, and a social worker to tackle issues of alcoholism and domestic violence. Further, the Commission notes that there are many farms in the country where there are good relations and a high regard for food security amongst all involved. The Commission continues to recommend that the negative stereotypes about farms feeds into the criminal psyche and need to be fiercely combatted.

Recommendation five - The Commission is in the opinion that research on safety and security challenges are important and should continue. Additionally, the Commission makes the following recommendations:

- The Commission recommends that additional research needs to be conducted on the experiences of farm dwellers, farm workers, and farm owners. The research should aim to be conducted in a holistic manner, incorporating the experiences of all components that constitute the farming community, and lead to the realisation of rights for all aspects of the farming community. Land reform is an integral part of restoring the dignity damaged during the apartheid era. The public needs to be aware of how farming communities interact with each other, and how interdependent they are of each

other. Additionally, for the nation to have food security, a need to approach the issues holistically is needed. Since the Commission's 2008 farm hearing report, there is still no commonly agreed explanation for the recent crime figures. Community participation with government is important in finding the solution. The Commission is available to collaborate with suitable experts to ensure that further research is conducted.

- It is recommended that the ARC extends its research into the safety of farms either by themselves or in partnership with others. It is quite valuable to observe the fuller picture relating to food security for the country. The link between food security and the safety of farming communities needs to be communicated more substantially. The farming communities deserve the respect and appreciation by all South Africans as crucial to our food security.
- As heard during the hearing, the AfiForum is conducting research in the causes of 'farm attacks and/or murders'. Therefore, The Commission requests that Afriforum provide a submission on the status of their research into the causes of farm attacks.
- The Commission recommends that AgriSA should continue providing information relating to how the lack of safety and security in farming communities impacts on other issues pertaining to human rights. The Commission supports this idea, and will therefore assist where necessary.

Recommendation six - The Commission notes that a standard on the specification of housing being provided to farm workers and farm dwellers does not currently exist. The Commission recommends that the DoRDLR establish the standard, in the form of a policy document. The standard needs to be guided by the principles of dignity. Additionally, DoRDLR should further provide a policy brief on the current status of land tenure in the farming communities.

Recommendation seven - The Commission recommends to the DoJCD the following:

- The inclusion of farming communities more concretely in the PRVG programme.
- Provide a report on the current and previous programmes the DoJCD conducts jointly with the SAPS or any other role players in the farming communities.
- The NPA needs to be clear on its presentation of the case against the providing of bail. In the case of the farming communities, the courts seem to be not aware of the circumstances of the farming communities, and this should be brought to the courts' attention by the NPA.
- The court preparation officers need to be better prepared to attend to victim support with specific regard to farming communities. The Commission requests a report from the Department highlighting the training which is to be provided to the court preparation officers and the impact of it within 12 months after issuing of the Hearing Report.
- An evaluation of the Victims' Charter appears to be urgent. The Commission recommends that the matter be explored. This evaluation must pay attention to marginalised communities, rural communities, and farming communities. One area of concern that needs to be addressed is the information sharing with victims, this includes regular and consistent information on the progression of the case.

Recommendation eight - The Commission notes that an inclusive SAPS RSS is integral in reducing crime rates in rural communities. Further, the Commission notes that there are valid arguments in developing different policies in how to deal further with murders and/or attacks on farmers, violence against farm workers, domestic violence, child abuse, child labour, etc.

The RSS is a valid and innovative way of dealing with rural safety, but further policies could assist in the better implementation of the RSS, which would lead to the realisation of rights in the farming community. For these reasons, the Commission recommends the following:

- The Commission agrees with the intention of the SAPS to review the RSS as stated during the hearing. The Commission requests that it be part of the review process and be provided with the outcome of the review. Additionally, the Commission should be informed of when the national indaba on the RSS shall be taking place.
- The Commission proposes that the SAPS considers creating an Agricultural Forum. This will be in cooperation with all role players and stakeholders. The forum will provide a platform for the farming community to communicate with role players and the SAPS on how to better police their land. This will allow for the SAPS to better understand the challenges that are currently facing the farming community. The SAPS should consider hosting the Agricultural Forum within the Dialogues initially proposed.
- The Commission recommends that the SAPS considers conducting a crime threat analysis for farming communities. The SAPS should inform the Commission of the outcome of its deliberations regarding this recommendation. It is in the view of the Commission that such an analysis could benefit the farming community, as well as the SAPS. It is envisaged that once a crime threat analysis is done, better policing methods can be applied in an attempt to reduce crime.
- The Commission notes that the SAPS never held the Farming Safety Summit as recommended in the earlier Commission Report. During the SAPS submission it was noted that this did not happen as the Farming Communities Forum was never established by civil society. Although the SAPS have confirmed that a rural safety summit will be taking place in the second quarter of 2015/2-16 financial year. The Commission would like to participate at this summit.
- The Commission acknowledges the steps taken to introduce programmes in police stations on family violence, domestic abuse, and sexual offences. The Commission requests the SAPS to provide the steps taken to ensure that such programmes are in place at police stations close to farming communities.
- The SAPS are to issue guidelines for visible policing of rural and farming communities. In the Khayelitsha Commission of Inquiry, a similar recommendation is made, but with emphasis on the informal communities of Khayelitsha. The Commission notes that sector policing is a challenge in informal communities and in rural and farming communities, and thus recommends that the SAPS to issue guidelines for visible policing. Police officials operating in rural and farming communities are to be properly trained on the guidelines. Further, the guidelines are to be distributed to the CPFs and farming community. The Commission will follow up on this in a separate meeting.
- The Commission acknowledges the challenges that the SAPS had with the commando system. In addition the Commission acknowledges that the SAPS are under resourced in the farming communities, but that implementation of the RSS that is inclusive of and sensitive to the needs of the many different facets of the rural communities, and by implication, farming communities, is needed urgently. As mentioned in the Commission's 2003 hearing, violent crime in farming communities must be addressed in an inclusive and holistic manner.
- The Commission recommends that the SAPS are to establish and implement sensitisation programmes for police officers working with vulnerable groups in rural communities. This may be one of the ways that the SAPS makes use of to ensure that the realisation of rights is achieved. By sensitising police officers, community relations could improve, which could lead to better service delivery. The Commission further

recommends that all police officers be trained on the RSS. As stated in the SAPS presentation at the hearing, the Commission looks forward to receiving the Frontline Service Delivery Programme documents.

- Again, the Commission notes, and agrees with TAUSA's recommendation, that the SAPS need to implement effective policies on dealing with stock theft which includes the appointment of personnel into vacant positions.
- The Commission requests it be informed of all programmes and outcomes on safety in farming communities. This will be included in the Commission's continued discussions with SAPS.

Recommendation nine - In light of the success of certain CPFs in farming communities, more should be established to better combat crime within these areas. As the CPFs are established by the SAPS they should also be incorporated into crime prevention strategies. Farm Watchers should be formalised into the CPFs so that a holistic approach to crime prevention can be implemented. Additionally, the Commission recommends that a more formalised relationship be established with the Rural Safety Priority Committees, which are currently operating in certain rural areas of our country.

Recommendation ten - The Commission agrees with the NDAs possible strategy to assist in crime prevention is for farm owners to allow government services access to land more frequently, and that by education and uplifting the community, a reduction in violence is anticipated. The strategies to reduce violence in farming communities need to be multi-pronged, which includes an improvement of the attitude towards a human rights based culture. Politically, there needs to be an encouragement of social cohesion.

In the National Development Plan it states that "Access to justice and the safety of rural and farming communities demand special attention. Farming communities and rural areas are very far from national and provincial government, business and non-governmental resources which expose them to crime and safety risks⁵⁷".

Recommendation eleven – The Department of Cooperative Governance and Traditional Affairs is requested to take note of this report. The Commission will provide a copy of the report, and is open to communication regarding its contents. The Commission acknowledges and is appreciative of the current programmes between the Department of Cooperative Governance and Traditional Affairs and the SAPS. The Commission requests that it be kept abreast of the programmes progression. Additionally, it is noted that there is a need for an evaluation of the programme to empower traditional leaders on safety and security in farming communities.

Recommendation twelve - The Department of Labour is requested to take note of this report. The Commission will provide a copy of the report, and is open to communication regarding its contents.

Recommendation thirteen – It is recommended that a special sub-committee be established by the JCPS Cluster Priority Committee to develop an action plan to address the issues raised, to engage with the community and also to monitor and evaluate the related activities of the departments. This Committee's working procedures need to be referred to the Commission for its consideration and comment. The Commission requests to attend meetings on regular bases to determine the effectiveness of public awareness campaigns and highlight the information provided on court process.

⁵⁷ South African National Development Plan, page 405.

Recommendation fourteen – The Commission is of the view that the SAIJE needs to provide sufficient detail as to how the court processes are attend to, the improvement of the judicial system, and in particular addressing impunity in farming communities.

10. ADHERENCE TO THE TERMS OF REFERENCE

As mentioned earlier, the hearing was bound by the following terms of reference:

- a) To consider the recommendations made in the Commission’s 2003 and 2008 Reports regarding the safety and security of persons living in farming communities;
- b) To call for reports from relevant state departments reflecting comparative year on year statistics showing either an escalation or decline of incidences of violent crimes occurring in farming communities;
- c) To call for reports from relevant state departments on the measures taken since 2008 to implement the Commission’s recommendations; and
- d) To recommend further specific, measurable and time-bound measures for the State to implement to reduce the incidences of violent crimes and increase the reporting of same, in farming communities.

With regards to point (a) of the terms of reference, the panel has considered the previous recommendations. The previous hearings relevant recommendations have been outlined in section 8.1 and the Commissions remarks on them is outlined. The Commission continues to agree with the recommendations made previously, and that a holistic approach to farm violence is needed.

Point (b) of the terms of reference did not materialise, as there are no current comparative statistics of violence on farms. This was explained during the hearing, and how only TAUSA keep informal statistics. The SAPS do not include the statistics of ‘farm attacks and/or murders’ into their annual report because the statistics cannot be audited.

Point (c) of the terms of reference is achieved. The panel received numerous submissions of work done since the 2008 report. The Commission notes with concern that the majority of respondents did not implement the Commission’s recommendations to their full extent. In terms of the last point of term of reference, the Commission has endeavoured to recommend strategies and policy changes that are implementable, and that can be monitored and evaluated.

11. MONITORING AND EVALUATION

As is integral in all reports that offer recommendations, a monitoring and evaluation policy must be outlined. Monitoring and evaluation can be undertaken for a variety of purposes, including to measure impact, outputs, efficiency, effectiveness or change; to strengthen accountability; to support advocacy efforts; or to influence an organisation’s culture. Monitoring the extent of the fulfilment and violation of human rights is a fundamental approach to promoting human rights⁵⁸.

⁵⁸ Rights-based Monitoring and Evaluation: A Discussion Paper. Joachim Theis, 2003.

The Commission will evaluate all information in the following way:

- All information in the report, except the submissions from the respondents, and in so far as the Commission is concerned, is correct; and
- All monitoring and tracking of recommendations will be conducted by the Commission;

The Commission will monitor all information in the following way:

- Presenting the finalised report to respondents;
- Presenting the finalised report to the Parliamentary Portfolio Committee on Police;
- Answering questions from the media;
- Providing information to the respondents;
- Contact all government departments regarding implementation stages of the recommendations; and
- Provide press release within one (1) year on the current status of its recommendations. This can either be in the form of a written press release or oral presentation.

12. CONCLUSION

Seventeen years (17) later, the quote mentioned at the beginning of the report by previous president, Nelson Mandela, at the Rural Safety summit in 1998, is still relevant. Victimisation of people within farming communities is still as serious of a problem as it was then. It is only through the collaboration of all relevant parties – both from government and the private sector – that a meaningful and sustainable solution will be found. Violent crime within farming communities is not isolated to specific geographical regions with South Africa, nor any specific socio economic group, nor any specific race. It is thus essential that collaborative effort is put forward for the future food security and the realisation of human rights for all in South Africa.

It is clear gaps exist in the rural development and safety and security within farming communities. While the hearing was a crucial step forward, we may find ourselves discussing this same problem for years to come should decisive, effective, and sustainable solutions not be found. Effective policing is only one part of the solution. Education, rural development, and land restitution are also essential parts of the solution. It is only through efforts targeted at these challenges that the transformation of farming communities, securing of their rights, and the restoration of their dignity, can be achieved.

In terms of Articles 26(1)(3) of the Commission's Complaints Handling Procedures the panel must:

- (1) (a) consider the evidence submitted at the hearing in conjunction with all other available information and evidence obtained otherwise;*
- (b) make a finding on the facts and giving full reasons for the decision reached; and*
- (c) make a finding regarding remedial action, if necessary.*
- (2) The Chairperson of the panel must, at the conclusion of the hearing, summarise the evidence contemplated in (1)(a) and state the finding, including any proposed remedial action.*
- (3) The finding of the Panel at the hearing is final and is not subject to an appeal as provided for in Chapter 9 of the Procedures."*

The Commission is satisfied that these prescribed formalities have been complied with.

According to Article 26(3) of the SAHRC Complaints Handling Procedures, this finding is not subject to appeal. The Commission will, however, undertake to constructively engage with all parties affected by the recommendations espoused in this document so as to ensure maximum implementation of these recommendations.

It is the sincere hope of the Commission that this investigation and its findings will be of assistance in resolving some of the issues and challenges in safety and security in farming communities. The Commission will follow up with all parties in respect of whom recommendations were made, to facilitate their implementation. This report will also be sent to Parliament and, as indicated, made available to the public.

Signed at Johannesburg on the 14th day of August 2015.

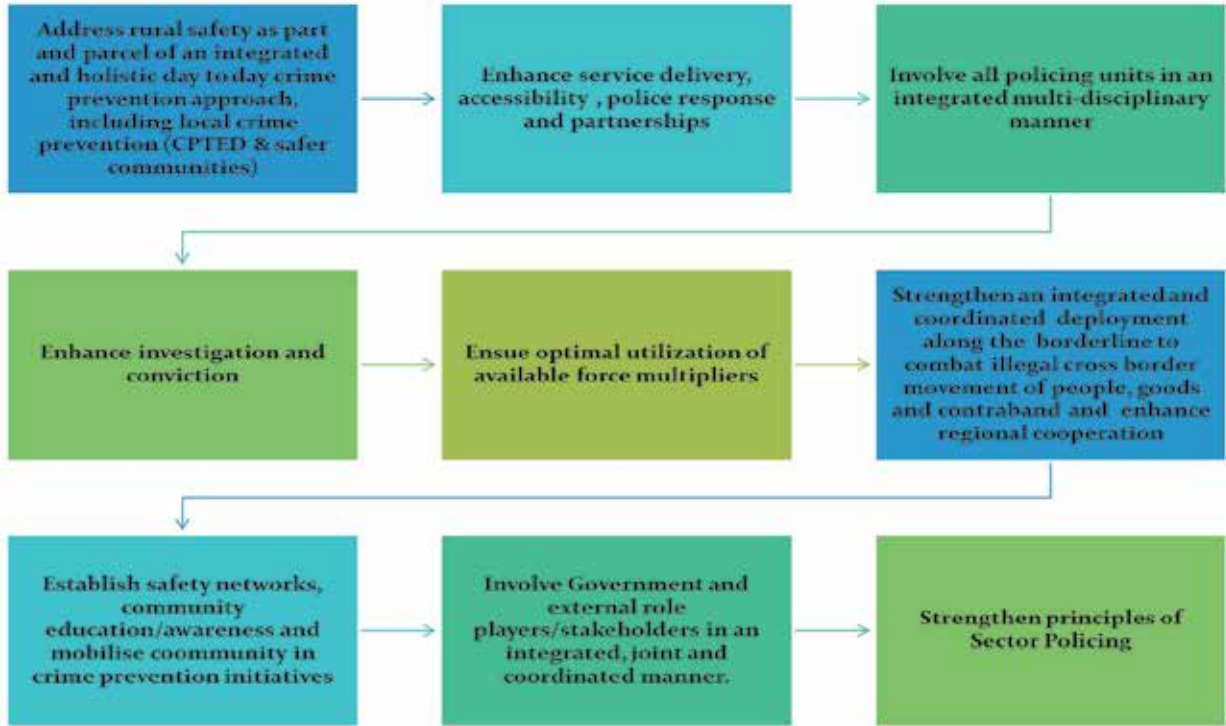
A handwritten signature in black ink, appearing to read 'Danny Titus', with a stylized flourish at the end.

Commissioner Dr. Danny Titus

ANNEXURES

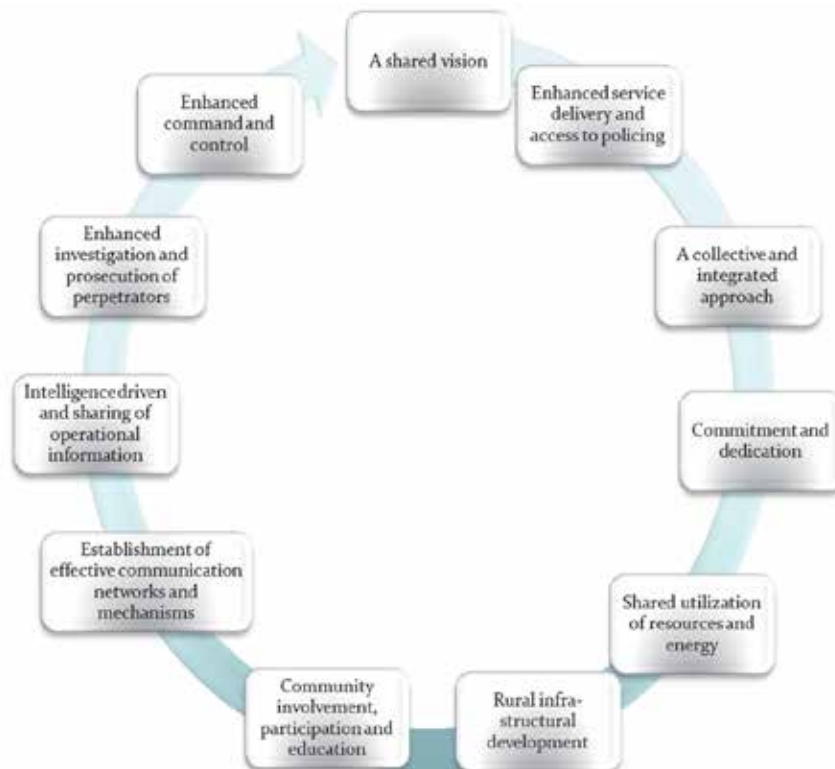
Annexure A

Current Situation: Aim of SAPS Rural Strategy



Annexure B

Principles: SAPS Rural Strategy



Annexure C

Current Situation: Implementation SAPS Rural Strategy: Strategy Pillars

1. Service Delivery	2. Integrated Approach	3. Community Safety Awareness & networks	4. Rural Development
<ul style="list-style-type: none"> • Defining rural areas • Classification of police stations • Review Sector Policing • Review reservist system • Appointment Rural Safety Coordinators • Approved enabling mechanism • Alignment Stock Theft Units • Stock Theft Project • Implementation guidelines • NI: Contact Points • CCF: CPA/CTA • Crime analysis: modus operandi/trend/hot spots • Sector Profiles • Community mobilisation • NI: Contact Points • Spatial analysis to inform development rural accessibility model 	<ul style="list-style-type: none"> • Multi-stakeholder collaboration • Rural safety & contingency Plans • Rural Safety Priority Committees • CPF & Sector Forums • Partnership DTA & NHTL • National Rural Safety Operation: Operation "Sizanani" • Standing Operating procedures • Involvement all Government Departments and civil society 	<ul style="list-style-type: none"> • Safety hints in 11 official languages • Stock Theft Prevention Pamphlets • Community Safety Pocket Guide • CPF's & Traditional Councils • Community Outreach Programmes • Crime Prevention Initiatives (Patrollers, street committees, crime watches) 	<ul style="list-style-type: none"> • Local crime prevention initiatives • Crime Prevention through environmental design • CPF & Traditional Leaders • Support Comprehensive Rural Development Plan

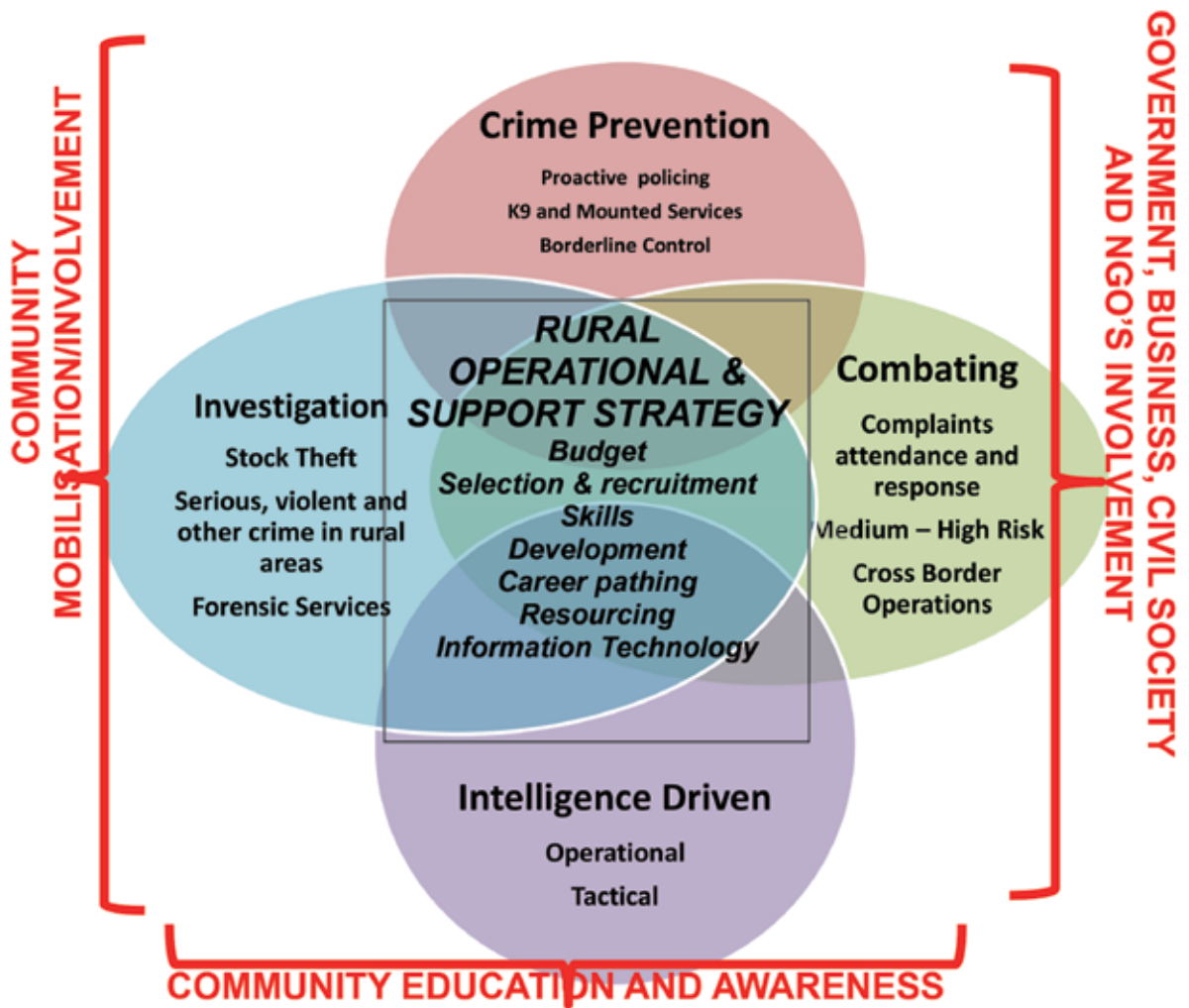
Annexure D

Operational Approach



Annexure E

Multi-disciplinary Collaboration



NOTES

A series of horizontal dashed lines for writing notes.

South African Human Rights Commission

•
Forum 3, Braampark Office Park, 33 Hoofd Street, Braamfontein
Private Bag 2700, Houghton, Johannesburg 2041

•
Tel: +27 11 877 3600

Fax: +27 11 403 6621

•
www.sahrc.org.za

info@sahrc.org.za

